

Crown Commercial Service

**TRAFFIC MANAGEMENT TECHNOLOGY FRAMEWORK SCHEDULE 4F – TEMPLATE CALL OFF
AGREEMENT (INCORPORATING THE NEC3 SUPPLY SHORT CONTRACT), CONTRACT DATA
AND Z CLAUSES**

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Contract Data – Supply Contract (Short Form)

Part One – Data provided by the Purchaser

The Purchaser is

Name Secretary of State - Ministry of Defence

Address UK Strat com Commercial Branch, C Block, HQ BFC, BFPO 53

Telephone

E-mail address

The Purchaser requires the Supplier to Provide the Services as detailed in the Statement of Requirements and Pricing Schedule.

The *services* are ANPR related equipment services including maintenance and support.

The Services Information is in the documents entitled – Statement of Requirement and Pricing Schedule

The *end date* 24 October 2024.

Options. There are 2 priced option years in this Contract (1+1) that are irrevocable and subject to further financial approval.

The law of the *contract* is English

The *starting date* is 25 October 2021

The *premises* are As detailed in the associated Contract documentation

The *Supplier's* liability to the *Purchaser* for indirect or consequential loss, including loss of profit, revenue and goodwill is limited to replacement costs related to the equipment in question (inclusive, but not limited to delivery and installation).

The *Purchaser* provides this insurance Third Party Public and Products Liability Insurance in line with Framework terms and conditions

Payment

Payment in line with DEFCON 522. Refer to Clause Z35 MOD Defcon requirements. Services are to be paid retrospectively. The Supplier shall complete a detailed TAF Part B (Annex B to Statement of Requirement) and return to the Purchaser. Once the Purchaser has considered and verified TAF Part B

(Annex B to Statement of Requirement) it will then be loaded on to the CP&F e-procurement tool for receipting (by the Purchaser) and Invoicing (by the Supplier)..

The *conditions of contract* are the NEC3 Supply Short Contract April 2013 and the following additional Z clauses listed within this contract.

Part Two – Data provided by the Supplier

The *Supplier* is

Name Cleartone Telecoms Limited

Address Pontyfelin Industrial Estate, New Inn, Pontypool, NP4 0DQ

Telephone [REDACTED]

E-mail address [REDACTED]

The Supplier offers to Provide the Services in accordance with the *conditions of contract*.

The Contract Limit of Liability is [REDACTED]

Price Schedule

SERVICE AND MAINTENANCE OF BFC SBAP ANPR EQUIPMENT

Serial	Description	Year 1 Firm Price £ (ex VAT)	Year 2 Firm Price £ (ex VAT)	Year 3 Firm Price £ (ex VAT)	Year 4 Firm Price £ (ex VAT)	Year 5 Firm Price £ (ex VAT)
1	Maintenance and Service support package as detailed in the SOR for all items listed on the Inventory List Appendix 1 to the SOR					

CALL OFF ITEMS TO STATEMENT OF REQUIREMENT

Serial	Description	Year 1 Firm Price £ (ex VAT)	Year 2 Firm Price £ (ex VAT)	Year 3 Firm Price £ (ex VAT)	Year 4 Firm Price £ (ex VAT)	Year 5 Firm Price £ (ex VAT)
2	Provision of 1 st line training as detailed in the Statement of Requirement (SOR) Serial 1. (on request only). Training will take 2 days Excludes all travel, hotel and subistence					

AD HOC TASKS NOT INCLUDED IN MAINTENANCE & SERVICE SUPPORT PACKAGE

Serial	Description	Year 1 Firm Price £ (ex VAT)	Year 1 Firm Price £ (ex VAT)	Year 1 Firm Price £ (ex VAT)	Year 1 Firm Price £ (ex VAT)	Year 1 Firm Price £ (ex VAT)
		HOURLY RATE €				
1	QUALIFIED ENGINEER (normal working hours as defined in the Statement of Requirement)					
2	QUALIFIED ENGINEER (out of normal working hours as defined in the SOR).					

INSTALLATION (OPTIONS)						
3	(Fixed) - 2 Engineers					
4	Mobile/Vehicle					
5	Fixed Cameras - 2 Engineers					
6	Mobile cameras (service vehicles)					
7	Call out where it is found that the fault is not related to failure of Cleartone equipment					

POST WARRANTY MAINTENANCE WITH SUPPORT FOR FUTURE PURCHASES NOT INCLUDED ON THE INVENTORY LIST AT APPENDIX 1 TO THE STATEMENT OF REQUIREMENT (TO BE USED ON A CALL OFF BASIS AS REQUIRED)

Serial	Description	Year 1 Firm Price £ (ex VAT)	Year 2 Firm Price £ (ex VAT)	Year 3 Firm Price £ (ex VAT)	Year 4 Firm Price £ (ex VAT)	Year 5 Firm Price £ (ex VAT)
1						
2	Vehicle Computer System with speed detection software (2 cameras)					
3	vehicle computer System without speed detection software (2 cameras)					

Statement of Requirements

Serial	User Requirement
1	<p><u>TRAINING</u></p> <p>a. Internal 1st line of support capability development – attachment to Cleartone UK for training of 3 x officers to be able to deliver 1st line support and maintenance.</p>
2	<p><u>MAINTENANCE SERVICES – FIXED AND MOBILE CAMS</u></p> <p>Maintenance Services shall consist of:</p> <p>1. (a) The provision of telephone support (help desk) for all hardware and software fault reporting. Contactable by telephone or e-mail the help desk will provide access to qualified staff that will be able to resolve general operational issues related to the products supplied.</p> <p>(b) All reported fault calls will be allocated an SFL (Service Fault Log) number which will remain as a reference for that specific issue until fully resolved. If the problem requires escalation to further engineering resources, then an engineer will contact the Designated Officer within 4 hours to attempt to resolve the problem.</p> <p>(c) If the problem cannot be resolved over the phone then an on-site repair visit will be requested and the help desk will arrange a suitable date and time with the Designated Officer for an engineer to attend site. The engineer will repair the faulty product to good working order. If the engineer is unable to fully rectify the fault, then a temporary repair, including but not limited to providing a swap unit so as not to lose capability, will be implemented where possible.</p> <p>Where it is found on site visit that the fault is due to 3rd party and not Cleartone systems then the standard ad hoc Tasks engineer attendance charge as listed in serial 1 of AD Hoc items will apply.</p> <p>(d) When required the Contractor will return faulty equipment back to the factory (properly packed) and in addition after the repair re-install back to their physical location.</p> <p>(e) The Contractor at any given time for demo or temporary purposes will have available the following equipment:</p> <ol style="list-style-type: none"> 1. One camera (used in checkpoints) 2. One pc used in checkpoints 3. One multi-lane Raven camera 4. One complete Cougar system (including cables, tablet etc) <p>2. The Contractor may release from time to time updates or enhancements to the Software for its products. These updates will be provided to the Designated Officer for them to install at their convenience.</p>

MAINTENANCE SERVICES BOF

Maintenance Services shall consist of:

1. (a) The provision of telephone support (help desk) for all hardware and software fault reporting. Contactable by telephone or email the help desk will provide access to qualified staff that will be able to resolve general operational issues related to the products supplied.

b) Helpdesk contact will only be accepted from authorised Customer technical representatives, not from end users.

c) A condition of the provision of Maintenance Services is that the Designated Officer has remote access capability to the equipment on the Designated Officer's site in order to diagnose and identify fault conditions

d) All reported fault calls will be allocated an Incident Number which will remain as a reference for that specific issue until fully resolved. The helpdesk will agree the Severity (Cosmetic, Minor, Major, Critical) and Priority (Low, Medium, High) of the incident with the Designated Officer and record this in the Incident Log.

Critical Fault: Complete software failure with system inoperable

Major Fault: Partial software failure, no workaround possible

Minor Fault: Partial software failure with workaround to maintain functionality

Cosmetic Fault: Visual error only, no functionality lost

e) If the Helpdesk is unable to rectify any reported fault via telephone diagnostics support, an engineer will be authorised to diagnose the problem via remote access.

f) Once the repair is fully complete, the engineer will request the Designated Officer to confirm that the fault has been remedied to the Designated Officer's satisfaction.

g) A full log shall be maintained of all faults reported and the actions taken by help desk and service engineers, including details of the fault repairs.

4.2. The Contractor shall from time to time release updates or enhancements to the Software.

There are 3 types of release:

- Scheduled,
- Service Pack,
- Emergency

Scheduled releases will take place every 12 months. These will be provided to the Designated Officer in the form of an MSI installation package, installation

	<p>instructions and a set of release notes detailing the areas of the system affected. The Contractor shall apply the upgrade at a time mutually agreed with the Designated Officer. Upgrades are usually applied via remote access although the Contractor with the agreement of the Designated Officer may, at its discretion, choose to attend site to perform a scheduled release.</p> <p>Service Pack releases may take place between Scheduled releases if the Contractor deems it necessary. This would usually only happen if several minor faults have been reported in a short period, or if a major fault affects a large area of system operation. The Contractor shall apply the upgrade via remote access at a time mutually agreed with the Designated Officer.</p> <p>Emergency releases may take place at any time if a fault is reported that has a critical impact on the system. The Contractor shall apply the upgrade via remote access at a time mutually agreed with the Designated Officer. All releases are subject to a build, test and deployment process before being made available to the Designated Officer.</p>
3	<p><u>TIMES FOR MAINTENANCE SERVICES – FIXED AND MOBILE CAMS</u></p> <p>a. Standard Maintenance Services described above will be provided upon request by the Contractor between the hours of 08.00- and 17.00-hours (local Cyprus time) Monday to Friday (excluding bank and other public holidays). Subcontract local hours are 08:00 Monday to Friday (excluding bank and other public holidays). Subcontractor local hours are 08:00 Monday to Friday (excluding bank and other public holidays).</p> <p>b. Ad-hoc maintenance Services (other than those described above) shall be provided at such times during normal business hours as agreed between the Contractor and the Designated Officer.</p> <p>c. Equipment returned to the Contractor shall be repaired and dispatched back to the Designated Officer within 1 month from receipt of product by the Contractor.</p> <p><u>TIMES FOR MAINTENANCE SERVICES – BOF</u></p> <p>Standard Maintenance Services provides the maintenance services described above between the hours of 08.00 and 17.00 hours Monday to Friday (excluding bank and other public holidays). Subcontractor local hours are 08:00 Monday to Friday (excluding bank and other public holidays).</p> <p>If the initial contact with the Helpdesk is unable to resolve the fault an engineer will contact the Customer within 8 working hours. If the telephone contact & remote access by the engineer is unable to resolve the fault and a site visit is authorized this will take place within 5 working days or at a mutually agreed time in writing between the Customer and the Company. The following targets apply to the Standard Maintenance Service.</p>

	<p>Fault Type Time to Fix:</p> <p>Critical Fault: Next Working Day Major Fault: 5 Working Days Minor Fault: Next available software upgrade Cosmetic Fault: Next scheduled release</p>
4	<p><u>GENERAL SYSTEM ANNUAL MAINTENANCE AND INSPECTION</u></p> <p>Scheduled work (once a year as per below) to check, clean, or fix 'bugs' that are less urgent. To also include enhancements, new features, security upgrades, patches – to issue a relevant inspection certificate at the end of each inspection.</p> <ol style="list-style-type: none"> Open in-vehicle PC cover and clean computer from dust Check if fan is spinning properly (replace if needed) Measure in-vehicle PC power feeds if within limit Check front camera operation (alignment if needed) Check front camera focusing Check rear cameras operation (alignment if needed) Check rear cameras focusing Check tablet operation within 30m distance. If not operating re-adjust or replace in-Vehicle PC router. Permanent in car Check wi-fi operation both in Vehicle and Premises Check Vehicle power status and voltage parameters Check vehicle's Wi-Fi connectivity Check vehicle's RAS connectivity Check server's database operation Check management Console program operation
5	<p><u>OBSOLESCENCE</u></p> <ol style="list-style-type: none"> The Contractor is required to repair any defect or malfunction of the equipment or software (subject to this maintenance agreement) which is discovered by the Contractor during routine maintenance checks or is reported to the Contractor by the Designated Officer from time to time. Where hardware / third party OEM items are no longer available or OEM's manufacturers warranty has expired then costed replacement options will be offered.
6	<p><u>FUTURE INSTALLATIONS</u></p> <ol style="list-style-type: none"> On all service vehicles (and all that entails; configuration, etc.) as directed by the Authority. New and existing fixed cameras sites (and all that entails; configuration, etc.) IT hardware (and all that entails; configuration, etc.)

	<ul style="list-style-type: none">d. Additional software acquired from time to time as operational requirements stipulate, i.e. 'Cleartrac' that was introduced for tracking Ravens, etc.e. Any new installation or re-configuring, modifying existing systems already installed would be chargeable as per the attached schedule.f. New installations or modifications outside the current installed equipment is chargeable as per the attached pricing schedule.
7	<p><u>DATA SHARING</u></p> <ul style="list-style-type: none">a. In the event of a future agreement with the ROC for data exchange/sharing set-up and configuration of Foreign Back-office (FBI) server. <p>This shall be a separate costed option details of which can only be agreed with configuration / hardware conditions are known.</p>

***Annex A to Statement of Requirements
Inventory List as at 14 Sep 21***

REDACTED

**Annex B to Statement of Requirements
Tasking Form**

<u>TASK APPROVAL FORM (TAF)</u> <u>FOR AD HOC TASKS OR INSTALLATION OPTIONS NOT INCLUDED IN</u> <u>THE MAINTENANCE AND SERVICE SUPPORT PACKAGE</u>				
TAF PART A				
1.	TAF Number:	TAF () To be numbered sequentially		
2.	Description		Ad Hoc Task	<input type="checkbox"/>
			Installation	<input type="checkbox"/>
3.	Serial Number of equipment:			
4.	Requested by:	(Role)		
5.	Email address:	(Role)		
6.	Telephone No:			
7.	Requirement:			
8.	Required Start Date for this TAF:		Required End Date for this TAF:	
9.	Signed by the Authority's ANPR Project Manager:			
	Role Name:			
	Signed:			
	Title:	ANPR Project Manager		
	Email:	(Role)		
	Date:			

On completion this TAF form (Parts A and B) shall be emailed to:

[REDACTED]

The helpline telephone number is: **[REDACTED]**

TAF PART B – to be completed by the Contractor.				
1.	TAF Number:	TAF () Number as per TAF Part A		Ad Hoc Task <input type="checkbox"/>
2.	Description			Installation <input type="checkbox"/>
3.	Price (£): (EX VAT):			
4.	Full Price cost breakdown:			
5.	TAF start date/time and duration:		TAF completion date/time:	
6.	Details of all deliverables provided by this TAF:			
7.	Details of all assumptions & dependencies, including any Authority dependencies (if any):			
10.	Signed by the Contractor			
	Name:			
	Signed:			
	Title:			
11.	Approved by ANPR Manager for payment			
	Role Name:			
	Signed:			
	Date			

On completion of the Task – TAF Part B shall be returned to the ANPR Manager whose details can be found at Part A

Annex C – to Statement of Requirement
Defform (DF) 111 – Appendix – Addresses and Information

DEFFORM 111
(Edn 07/21)

Appendix - Addresses and Other Information

1. Commercial Officer

Name: [REDACTED]

Address: [REDACTED]

Email: [REDACTED]

☎ + [REDACTED]

8. Public Accounting Authority

1. Returns under DEFCON 694 (or SC equivalent) should be sent to DBS Finance ADMT – Assets In Industry 1, Level 4 Piccadilly Gate, Store Street, Manchester, M1 2WD
 ☎ 44 (0) 161 233 5397

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

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

Name: [REDACTED]

Address: [REDACTED]

Email: [REDACTED]

☎ [REDACTED]

9. Consignment Instructions

The items are to be consigned as follows:

3. Packaging Design Authority

Organisation & point of contact:

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

☎

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

Branch/Name:

☎

(b) U.I.N.

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

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

Air Freight Centre

IMPORTS ☎ 030 679 81113 / 81114 Fax 0117 913 8943

EXPORTS ☎ 030 679 81113 / 81114 Fax 0117 913 8943

Surface Freight Centre

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

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

B. JSCS

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

JSCS Fax No. 01869 256837

Users requiring an account to use the MOD Freight Collection Service should contact UKStratCom-DefSp-RAMP@mod.gov.uk in the first instance.

5. Drawings/Specifications are available from

11. The Invoice Paying Authority

Ministry of Defence ☎ 0151-242-2000

DBS Finance

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

Liverpool, L2 3YL

Website is:

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

6. Intentionally Blank

12. Forms and Documentation are available through *:

Ministry of Defence, Forms and Pubs Commodity Management

PO Box 2, Building C16, C Site

Lower Arncott

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

Applications via fax or email:

Leidos-FormsPublications@teamleidos.mod.uk

7. Quality Assurance Representative:

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

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

*** NOTE**

1. Many **DEFCONs** and **DEFFORMs** can be obtained from the MOD Internet Site:
<https://www.aof.mod.uk/aofcontent/tactical/toolkit/index.htm>

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

Supply Short Contract - Conditions of Contract**NEC3 SUPPLY Contract (April 2013) Core Clauses.**

The terms and conditions of contract applied at call-off for the Traffic Management Technology 2 Framework Agreement are the core clauses of the NEC Supply Short Contract.

Additional Z Clauses including MOD DEFCON Requirements have been listed below.

Supply Contract Short – Optional Z Clauses

Identified and defined terms	A Subcontractor is a person or organisation who has a contract with the <i>Supplier</i> to Provide the Services.
Clause Z1	Corrupt practices Z1.1 The <i>Supplier</i> does not <ul style="list-style-type: none">• offer or give to any person in the service of the <i>Purchaser</i> any gift or consideration of any kind as an inducement or reward in relation to the obtaining or execution of this contract or any other contract with the <i>Purchaser</i> or for showing favour or disfavour to any person in relation to this contract or any other contract with the <i>Purchaser</i> or• enter into this contract or any other contract with the <i>Purchaser</i> if, in connection with this contract or any such other contract, commission has been paid or an agreement for the payment of commission has been made by him or on his behalf or to his knowledge. Z1.2 A failure to comply with this condition is treated as the <i>Supplier</i> having substantially failed to comply with this contract.
Clause Z2	Euro (e) functionality Z2.1 The <i>Supplier</i> Provides the Services: <ul style="list-style-type: none">• so that the <i>Purchaser</i> is not prejudiced by the implementation of the Euro,• in such a way as to comply with all legal requirements applicable to the Euro in the United Kingdom, including the rules on conversion and rounding set out in the EC Regulation 1103/97,• so that they are capable of utilising all symbols and codes adopted by the EU Commission in relation to the Euro and• in accordance with the <i>Purchaser's</i> requirements both for Sterling and for the Euro.

Clause Z3**Recovery of sums due from *Supplier***

Z3.1 Where under this contract any sum of money is recoverable from or payable by the *Supplier*, such sum may be deducted from or reduced by the amount of any sum or sums then due or which at any time after may become due to the *Supplier* under this contract or any other contract with any Department or Office of Her Majesty's Government.

Clause Z4**Assignment and Novation**

Z4.1 The *Supplier* does not assign, transfer or charge the benefit of this contract or any part of it or any benefit or interest under it without the prior agreement of the *Purchaser*.

Z4.2 The *Purchaser's* ability to assign this contract or any part of it or any benefit or interest under it is unrestricted.

Z4.3 If requested by the *Purchaser*, the *Supplier* executes an agreement in a form specified by the *Purchaser* to novate the benefit and burden of this contract to

- another Department or Office of Her Majesty's Government,
- an organisation established to take over the *Purchaser's* functions or part of them
- a local authority or
- any other body (including private sector body) exercising similar functions

The novation agreement is in the form set out in the Services Information or such other form as the *Purchaser* may reasonably require.

Clause Z5**Discrimination**

Z5.1 The *Supplier* does not discriminate directly or indirectly or by way of victimisation or harassment against any person contrary to the Equality Act 2010, any predecessor statute of it or any amendment or re-enactment of it from time to time (the "Discrimination Acts").

Z5.2 In Providing the Services, the *Supplier* co-operates with and assists the *Purchaser* to satisfy its duty under the Discrimination Acts to eliminate unlawful discrimination and to promote equality of opportunity between persons of different racial groups and between disabled people and other people.

Z5.3 Where any employee or Subcontractor employed by the *Supplier* is required to carry out any activity alongside the *Purchaser's* employees in any premises, the *Supplier* ensures that each such employee or

Subcontractor complies with the *Purchaser's* employment policies and codes of practice relating to discrimination and equal opportunities.

Z5.4 The *Supplier* notifies the *Purchaser* in writing as soon as he becomes aware of any investigation or proceedings brought against the *Supplier* under the Discrimination Acts in connection with this contract and

- provides any information requested by the investigating body, court or tribunal in the timescale allotted,
- attends (and permits a representative from the *Purchaser* to attend) any associated meetings,
- promptly allows access to any relevant documents and information and
- cooperates fully and promptly with the investigatory body, court or tribunal.

Z5.5 The *Supplier* indemnifies the *Purchaser* against all costs, charges, expenses (including legal and administrative expenses) and payments made by the *Purchaser* arising out of or in connection with any investigation or proceedings under the Discrimination Acts resulting from any act or omission of the *Supplier* or any of his staff.

Z5.6 The *Supplier* includes in the conditions of contract for each subcontract obligations substantially similar to those set out above.

Clause Z6

Disclosure of information

Z6.1 A Disclosure Request is a request for information relating to this contract received by the *Purchaser* pursuant to the Freedom of Information Act 2000, the Environmental Information Regulations 2004 or otherwise.

Z6.2 The *Supplier* acknowledges that the *Purchaser* may receive Disclosure Requests and that the *Purchaser* may be obliged (subject to the application of any relevant exemption and, where applicable, the public interest test) to disclose information (including commercially sensitive information) pursuant to a Disclosure Request. Where practicable, the *Purchaser* consults with the *Supplier* before doing so in accordance with the relevant Code of Practice. The *Supplier* uses its best endeavours to respond to any such consultation promptly and within any deadline set by the *Purchaser* and acknowledges that it is for the *Purchaser* to determine whether or not such information should be disclosed.

Z6.3 When requested to do so by the *Purchaser*, the *Supplier* promptly provides information in its possession relating to this contract and assists and co-operates with the *Purchaser* to enable the *Purchaser* to

respond to a Disclosure Request within the time limit set out in the relevant legislation.

Z6.4 The *Supplier* promptly passes any Disclosure Request which it receives to the *Purchaser*. The *Supplier* does not respond directly to a Disclosure Request unless instructed to do so by the *Purchaser*.

Z6.5 The *Supplier* acknowledges that the *Purchaser* is obliged to publish the provisions of this contract in accordance with the Cabinet Office Efficiency Reform Group Guidance Procurement Policy Note entitled "Published guidance on implementing requirements for greater transparency in central Government procurement and contracting" (or any later revision) except to the extent that any information in it is exempt from disclosure pursuant to the Freedom of Information Act 2000. The *Purchaser* consults with the *Supplier* before deciding whether information is exempt, but the *Supplier* acknowledges that the *Purchaser* has the final decision. The *Supplier* co-operates with and assists the *Purchaser* to publish this contract in accordance with the *Purchaser's* obligation.

Clause Z7**Data Protection**

27.1 In this Clause Z7, the following terms take the following meanings:

Supplier Personnel: means all directors, officers, employees, agents, Suppliers and Suppliers of the Supplier and/or of any Sub-Supplier engaged in the performance of its obligations under this Agreement

Controller takes the meaning given in the Data Protection Legislation.

Data Loss Event: any event that results, or may result, in unauthorised access to Personal Data held by the Supplier under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Contract, including any Personal Data Breach.

Data Protection Legislation: (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 [subject to Royal Assent] to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy;

Data Protection Impact Assessment: an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.

Data Protection Officer takes the meaning given in the Data Protection Legislation.

Data Subject takes the meaning given in the Data Protection Legislation.

Data Subject Access Request: a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.

DPA 2018: means the Data Protection Act 2018

GDPR: the General Data Protection Regulation (*Regulation (EU) 2016/679*)

Law: means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Supplier is bound to comply;

LED: Law Enforcement Directive (*Directive (EU) 2016/680*)

Party: a Party to this Agreement ;

Personal Data takes the meaning given in the Data Protection Legislation.

Personal Data Breach takes the meaning given in the Data Protection Legislation.

Processor takes the meaning given in the Data Protection Legislation.

Protective Measures: appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it.

Sub-processor: any third party appointed to process Personal Data on behalf of the Supplier under this Contract

Z7.2 Removed

Z7.3 The Supplier shall notify the Purchaser immediately if it considers that any of the Purchaser's instructions infringe the Data Protection Legislation.

Z7.4 The Supplier shall provide all reasonable assistance to the Purchaser in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Purchaser, include:

Z7.4.1 a systematic description of the envisaged processing operations and the purpose of the processing;

Z7.4.2 an assessment of the necessity and proportionality of the processing operations;

Z7.4.3 an assessment of the risks to the rights and freedoms of Data Subjects; and

Z7.4.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

Z7.5 The Supplier shall, in relation to any Personal Data processed in connection with its obligations under this Contract:

Z7.5.1 process that Personal Data only in accordance with Clause Z7.2 unless the Supplier is required to do otherwise by Law. If it is so required the Supplier shall promptly notify the Purchaser before processing the Personal Data unless prohibited by Law;

Z7.5.2 ensure that it has in place Protective Measures, which have been reviewed and approved

by the Purchaser as appropriate to protect against a Data Loss Event having taken account of the:

1. nature of the data to be protected;
2. harm that might result from a Data Loss Event;
3. state of technological development; and
4. cost of implementing any measures;

Z7.5.3 ensure that :

1. the Supplier Personnel do not process Personal Data except in accordance with this Contract (and in particular Clause Z7.2);
2. it takes all reasonable steps to ensure the reliability and integrity of any Supplier Personnel who have access to the Personal Data and ensure that they:
 - i. are aware of and comply with the Supplier's duties under this clause;
 - ii. are subject to appropriate confidentiality undertakings with the Supplier or any Sub-processor;
 - iii. are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Purchaser or as otherwise permitted by this Contract; and

- iv. have undergone adequate training in the use, care, protection and handling of Personal Data; and

Z7.5.4 not transfer Personal Data outside of the European Economic Area unless the prior written consent of the Purchaser has been obtained and the following conditions are fulfilled:

1. the Purchaser or the Supplier has provided appropriate safeguards in relation to the transfer;
2. the Data Subject has enforceable rights and effective legal remedies;
3. the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
4. the Supplier complies with any reasonable instructions notified to it in advance by the Purchaser with respect to the processing of the Personal Data;

Z7.5.5 at the written direction of the Purchaser, delete or return Personal Data (and any copies of it) to the Purchaser on termination of the Contract unless the Supplier is required by Law to retain the Personal Data.

Z7.6. Subject to clause Z7.7, the Supplier shall notify the Purchaser immediately if it:

- Z7.6.1. receives a Data Subject Access Request (or purported Data Subject Access Request);
- Z7.6.2 receives a request to rectify, block or erase any Personal Data;
- Z7.6.3 receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
- Z7.6.4 receives any communication from the Information Commissioner or any other regulatory Purchaser in connection with Personal Data processed under this Contract;

Z7.6.5 receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or

Z7.6.6 becomes aware of a Data Loss Event.

Z7.7 The Supplier's obligation to notify under clause Z7.6 shall include the provision of further information to the Purchaser in phases, as details become available.

Z7.8 Taking into account the nature of the processing, the Supplier shall provide the Purchaser with full assistance in relation to either party's obligations under Data Protection Legislation and any complaint, communication or request made under Clause Z7.6. (and insofar as possible within the timescales reasonably required by the Purchaser) including by promptly providing:

Z7.8.1 the Purchaser with full details and copies of the complaint, communication or request;

Z7.8.2 such assistance as is reasonably requested by the Purchaser to enable the Purchaser to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;

Z7.8.3 the Purchaser, at its request, with any Personal Data it holds in relation to a Data Subject;

Z7.8.4 assistance as requested by the Purchaser following any Data Loss Event;

Z7.8.5 assistance as requested by the Purchaser with respect to any request from the Information Commissioner's Office, or any consultation by the Purchaser with the Information Commissioner's Office.

Z7.9 The Supplier shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Supplier employs fewer than 250 staff, unless:

Z7.9.1 the Purchaser determines that the processing is not occasional;

Z7.9.2 the Purchaser determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and

Z7.9.3 the Purchaser determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.

Z7.10 The Supplier shall allow for audits of its Data Processing activity by the Purchaser or the Purchaser's designated auditor.

Z7.11 The Supplier shall designate a Data Protection Officer if required by the Data Protection Legislation.

Z7.12 Before allowing any Sub-processor to process any Personal Data related to this Contract, the Supplier must:

Z7.12.1 notify the Purchaser in writing of the intended Sub-processor and processing;

Z7.12.2 obtain the written consent of the Purchaser;

Z7.12.3 enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause Z7 such that they apply to the Sub-processor; and

Z7.12.4 provide the Purchaser with such information regarding the Sub-processor as the Purchaser may reasonably require.

Z7.13 The Supplier shall remain fully liable for all acts or omissions of any Sub-processor.

Z7.14 The Purchaser may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Contract).

Z7.15 The Parties agree to take account of any non-mandatory guidance issued by the Information Commissioner's Office publishes guidance. The Purchaser may on not less than 30 Working Days' notice to the Supplier amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Officer.

Clause Z8

Conflict of interest

Z8.1 The *Supplier* does not take an action which would cause a conflict of interest to arise in connection with this contract. The *Supplier* notifies the *Purchaser* if there is any uncertainty about whether a conflict of interest may exist or arise.

Z8.2 The *Supplier* immediately notifies the *Purchaser* of any circumstances giving rise to or potentially giving rise to conflicts of interest relating to the *Supplier* and or the *Purchaser* (including without limitation its reputation and standing), of which it is aware or anticipates may justify the *Purchaser* taking action to protect its interests.

Clause Z9

Official Secrets Act

Z9.1 The Official Secrets Act 1989 applies to this contract from the *starting date* until the defects date or earlier termination.

Z9.2 The *Supplier* notifies his employees and Subcontractors of their duties under the Official Secrets Act 1989.

Z9.3 A failure to comply with this clause is treated as a substantial failure by the *Supplier* to comply with his obligations.

Clause Z10

Records and Audit Access

Z10.1 The *Supplier* keeps documents and information obtained or prepared by the *Supplier* or any Subcontractor in connection with this contract for a period of 6 years after the *end date*.

Z10.2 The *Supplier* permits the *Purchaser*, Comptroller, Auditor General and any other auditor appointed by the *Purchaser* to examine documents held or controlled by the *Supplier* or any subcontractor.

Z10.3 The *Supplier* provides such oral or written explanations as the *Purchaser* or the Comptroller and Auditor General considers necessary.

Z10.4 The *Supplier* acknowledges that, for the purpose of examining and certifying the *Purchaser's* accounts or any examination pursuant to Section 6(1) of the National Audit Act 1983, the Comptroller and Auditor General or any other auditor appointed by the *Purchaser* may examine documents held or controlled by the *Supplier* or any Subcontractor and may require the *Supplier* to provide such oral or written explanations as he considers necessary. The *Supplier* promptly complies with any such requirements at his own cost. This clause does not constitute a requirement or agreement for the purposes of section 6(3)(d) of the National Audit Act 1983 for the examination, certification or inspection of the accounts of the *Supplier* and the carrying out of an examination under Section 6(3)(d) of the National Audit Act 1983 in relation to the *Supplier* is not a function exercisable under this contract. The *Supplier* permits the Comptroller and Auditor General to examine documents held or controlled by the *Supplier* or any Subcontractor. The *Supplier* provides such oral or written explanations as the Comptroller and Auditor General considers necessary.

Clause Z11

Extension of the End Date

Z11.1 The *Purchaser* shall notify the *Supplier* no later than three (3) months prior to the expiry date of the Contract if Option Years are to be taken

Options. There are 2 priced option years in this Contract (1+1) that are irrevocable and subject to further financial approval.

Clause Z12

Appointment of Adjudicator

Z12.1 The *Adjudicator's* appointment under the NEC3 Adjudicator's Contract (April 2013) includes the following additional condition of contract:

"The *Adjudicator* complies, and takes all reasonable steps to ensure that any persons advising or aiding him comply, with the Official

Secrets Act 1989. Any information concerning the Contract obtained by either the *Adjudicator* or any person advising or aiding him is confidential, and may not be used or disclosed by the *Adjudicator* or any such person except for the purposes of this Agreement."

Clause Z13

Confidentiality

- Z13.1 A new Clause 70.3 is added as follows:

"The *Supplier* keeps (and ensures that his employees and Subcontractors keep) confidential and does not:

- disclose to any person the terms of this contract nor
- use (except for the purposes of this contract) or disclose to any person any confidential or proprietary information (including Personal Data) provided to or acquired by the *Supplier* in the course of Providing the Services

except that the *Supplier* may disclose information

- to his legal or other professional advisers,
- to his employees and Subcontractors as needed to enable the *Supplier* to Providing the Services,
- where required to do so by law or by any professional or regulatory obligation or by order of any court or governmental agency, provided that prior to disclosure the *Supplier* consults the *Purchaser* and takes full account of the *Purchaser's* views about whether (and if so to what extent) the information should be disclosed,
- which it receives from a third party who lawfully acquired it and who is under no obligation restricting its disclosure,
- which is in the public domain at the time of disclosure other than due to the fault of the *Supplier* or
- with the consent of the *Purchaser*."

Z13.2 The *Supplier* may only disclose the *Purchaser's* Confidential Information to its personnel who are directly involved in Providing the Services and who need to know the information, and shall ensure that such personnel are aware of and shall comply with these obligations as to confidentiality.

Z13.3 The *Supplier* may only disclose the *Purchaser's* Confidential Information to its personnel who need to know the information, and shall ensure that its personnel are aware of, acknowledge the importance of, and comply with these obligations as to confidentiality. In the event that any default, act or omission of any of the *Supplier's* personnel causes or contributes (or could cause or contribute) to the *Supplier* breaching its obligations as to confidentiality under or in connection with this contract, the *Supplier* shall take such action as

may be appropriate in the circumstances, including the use of disciplinary procedures in serious cases. To the fullest extent permitted by its own obligations of confidentiality to any of the *Supplier's* personnel, the *Supplier* shall provide such evidence to the *Purchaser* as the *Purchaser* may reasonably require (though not so as to risk compromising or prejudicing the case) to demonstrate that the *Supplier* is taking appropriate steps to comply with this clause, including copies of any written communications to and/or from the *Supplier's* personnel, and any minutes of meetings and any other records which provide an audit trail of any discussions or exchanges with the *Supplier's* personnel in connection with obligations as to confidentiality.

Z13.4 At the written request of the *Purchaser*, the *Supplier* shall procure that those members of the *Supplier's* personnel identified in the *Purchaser's* notice signs a confidentiality undertaking prior to commencing any work in accordance with this contract.

Z13.5 Where the *Purchaser* supplies the *Supplier* with press cuttings provided to the *Purchaser* under the terms of the *Purchaser's* licence with the Newspaper Licensing Agency ("NLA"), the *Supplier* does not reproduce the cuttings or forward them to any third party unless the *Supplier* has first entered into an agreement with NLA authorising it to do so.

Clause Z14**Publicity**

Z14.1 The *Supplier* may publicise this contract only with the *Purchaser's* written agreement.

Clause Z15**Parent Company Guarantee**

Z15.1 In this contract

- **Change of Control** is an event where a single person (or group of persons acting in concert)
 - acquires Control of the *Supplier* or
 - acquires a direct or indirect interest in the relevant share capital of the *Supplier* and as a result holds or controls the largest direct or indirect interest in (and in any event more than 25% of) the relevant share capital of the *Supplier*.
- **Control** has the meaning set out in section 1124 of the Corporation Tax Act 2010.
- **Controller** is the single person (or group of persons acting in concert) that
 - has Control of the *Supplier* or

- holds or controls the largest direct or indirect interest in the relevant share capital of the *Supplier*.
- **Parent Company Guarantee** is a guarantee of the *Supplier's* performance in the form set out in the Services Information.

Z15.2 If required by the *Purchaser* at any time, the *Supplier* within four weeks gives to the *Purchaser* a Parent Company Guarantee from

- the Controller or
- if the *Purchaser* (in its discretion) agrees, a company other than the Controller.

Z15.3 The *Supplier* notifies the *Supply Manager* immediately if a Change of Control has occurred or is expected to occur.

Z15.4 The *Supplier* notifies the *Purchaser* immediately of

- any material change to the direct or indirect legal or beneficial ownership of any shareholding in the *Supplier*. A change is material if it relates directly or indirectly to a change of 3% or more of issued share capital of the *Supplier*,
- any material change in the composition of the *Supplier's* partnership. A change in the composition of the partnership is material if it directly or indirectly affects the performance of this contract by the *Supplier*.
- any change or proposed change in the name or status of the *Supplier*

Z15.5 The *Purchaser* may treat any of the following as a substantial failure by the *Supplier* to comply with this contract

- the *Supplier* does not give to the *Purchaser* a Parent Company Guarantee within four weeks of the *Purchaser's* request,
- the *Supplier* fails to notify the *Purchaser* of a Change of Control or a Change of Control will not allow the *Supplier* to provide the Services.
- the *Supplier* does not notify the *Purchaser* in accordance with clause Z15.4

Clause Z16

The *Purchaser's* liability

Z16.1 The *Purchaser's* total liability to the *Supplier* for all matters arising under, or in connection with this contract, other than the excluded matters, is limited to £5M, and applied in contract, tort or delict or otherwise to the extent allowed under the *law of the contract*.

Z16.2 The excluded matters are the amounts payable to the *Supplier* as stated in this contract for

- the total of the Prices.

Z16.3 The *Purchaser's* liability to the *Supplier* is limited to that proportion of the *Supplier's* losses for which the *Purchaser* is responsible under this contract.

Clause Z17

Purchaser's Codes of Conduct

Z17.1 The *Supplier* complies (and ensures that any person employed by him or acting on his behalf complies) with the *Purchaser's* Anti Bribery Code of Conduct and Anti Fraud Code of Conduct, collectively "the Codes". The *Supplier* complies with the Codes until the *delivery date* and the latest date for the correction of Defects after Delivery and with

- paragraph 4 of the *Purchaser's* Anti Bribery Code of Conduct
- paragraph 3 of the *Purchaser's* Anti Fraud Code of Conduct

for a period of 6 years after the later of the end of the *delivery date* and the latest date for the correction of Defects after Delivery.

Z17.2 A failure to comply with this condition is treated as the *Supplier* having substantially failed to comply with this contract

Clause Z18

Prevention of fraud and bribery

Z18.1 The *Supplier* represents and warrants that neither it, nor to the best of its knowledge any of its employees, have at any time prior to the Contract Date:

- committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; and/or
- been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.

Z18.2 During the *services period* the *Supplier* does not:

- commit a Prohibited Act; and/or
- do or suffer anything to be done which would cause the *Purchaser* or any of the *Purchaser's* employees, consultants, suppliers, sub-suppliers or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements

Z18.3 During the *services period* the *Supplier*:

- establishes, maintains and enforces, and requires that its SubSuppliers establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the

Relevant Requirements and prevent the occurrence of a Prohibited Act;

- keeps appropriate records of its compliance with this contract and make such records available to the *Purchaser* on request;
- provides and maintains and where appropriate enforces an anti-bribery policy (which shall be disclosed to the *Purchaser* on request) to prevent it and any *Supplier's* employees or any person acting on the *Supplier's* behalf from committing a Prohibited Act.

Z18.4 The *Supplier* immediately notifies the *Purchaser* in writing if it becomes aware of any breach of clause Z18.1, or has reason to believe that it has or any of the its employees or SubSuppliers have:

- been subject to an investigation or prosecution which relates to an alleged Prohibited Act;
- been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act; and/or
- received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this contract or otherwise suspects that any person or Party directly or indirectly connected with this contract has committed or attempted to commit a Prohibited Act.

Z18.5 If the *Supplier* makes a notification to the *Purchaser* pursuant to clause Z18.4, the *Supplier* responds promptly to the *Purchaser's* enquiries, co-operates with any investigation, and allows the *Purchaser* to audit any books, records and/or any other relevant documentation in accordance with this contract.

Z18.6 If the *Supplier* breaches Clause Z18.3, the *Purchaser* may by notice require the *Supplier* to remove from Providing the Service any *Supplier* employee whose acts or omissions have caused the *Supplier's* breach.

Z18.7 In this Clause Z18, Prohibited Act means any of the following:

- a) to directly or indirectly offer, promise or give any person working for or engaged by the *Purchaser* a financial or other advantage to:
 - i) induce that person to perform improperly a relevant function or activity; or
 - ii) reward that person for improper performance of a relevant function or activity;
- b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this contract;

- c) committing any offence:
 - i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or
 - ii) under legislation creating offences concerning fraud; or
 - iii) at common law concerning fraud; or
 - iv) committing (or attempting or conspiring to commit) fraud.]

Clause Z19**Reporting: Small and Medium Enterprises**

Z19.1 In this Clause Z19 SME is

- a Subcontractor or
 - a subcontractor to a Subcontractor
- and is a company that
- is autonomous
 - is a European Union company not owned or controlled by a non-European Union parent company,
 - for a medium sized enterprise (medium class) employs fewer than 250 staff, has turnover no greater than 50 million Euros and does not have a balance sheet greater than 43 million Euros
 - for a small sized enterprise (small class) employs fewer than 50 staff and has turnover no greater than 10 million Euros and does not have a balance sheet greater than 10 million Euros
 - for a micro sized enterprise (micro class) employs fewer than 10 staff and has turnover no greater than 2 million Euros and does not have a balance sheet greater than 2 million Euros

Z19.2 For each SME employed, the *Supplier* reports to the *Purchaser* each quarter from the *starting date* Codes until the *delivery date* and the latest date for the correction of Defects after Delivery

- the name of the SME,
- the class of the SME (medium, small or micro),
- the value of the contract undertaken by the SME,
- the monthly amounts paid to the SME in the quarter and
- the aggregated value paid to the SME since the *starting date*.

Z19.3 The *Supplier* acknowledges that the *Purchaser* may

- publish the information supplied under Z19.2, along with the *Supplier's* name and this contract name and
- pass the information supplied under this clause Z19 to any Government Department who may then publish it along with the names of the SMEs, the *Suppliers* name and this contract name.

Z19.4 The *Supplier* ensures that the conditions of contract for each subcontractor who is an SME include

- a term allowing the *Purchaser* to publish the information supplied under Z19.2 and
- obligations substantially similar to those set out in this clause Z19.

Z19.5 The *Supplier* further ensures that the conditions of contract for each subcontractor include a requirement that the conditions of contract for any subcontractor engaged by the subcontractor who is an SME include obligations substantially similar to those set out in Z19.4.

Z19.6 The *Supplier* keeps accounts and records of his charges and expenses and allows the *Purchaser* to inspect them at any time within working hours.

Clause Z20

Not Used

Clause Z21

Fair payment

Z21.1 The *Supplier* assesses the amount due to a Subcontractor without taking into account the amount assessed under this contract.

Z21.2 The *Supplier* includes in the contract with each Subcontractor

- a period for payment of the amount due to the Subcontractor not greater than 19 days after the date on which payment becomes due under this contract. The amount due includes, but is not limited to, payment for work which the Subcontractor has completed from the previous assessment date up to the current assessment date in this contract,
- a provision requiring the Subcontractor to include in each subsubcontract the same requirement, except that the period for payment is to be not greater than 23 days after the date on which payment becomes due under this contract and
- a provision requiring the Subcontractor to assess the amount due to a subsubcontractor without taking into account the amount paid by the Supplier.

Z21.3 The *Supplier* notifies non-compliance with the timescales for payment through the Efficiency and Reform Group Supplier Feedback Service. The *Supplier* includes this provision in each subcontract, and

requires Subcontractors to include the same provision in each subsubcontract.

Clause Z22 Not Used

Clause Z23 Subcontracting

Z23.1 Before

- appointing a proposed Subcontractor or
- allowing a Subcontractor to appoint a proposed subsubcontractor
the *Supplier* submits to the *Purchaser* for acceptance
- a European Single Procurement Document (as described in regulation 59 of the Public Contracts Regulations 2015) in respect of the proposed Subcontractor or subsubcontractor or
- other means of proof that none of the mandatory or discretionary grounds for exclusion referred to in regulation 57 of the Public Contracts Regulations 2015 applies to the proposed Subcontractor or subsubcontractor.

Z23.2 The *Supplier* does not appoint the proposed Subcontractor (or allow the Subcontractor to appoint the proposed subsubcontractor) until the *Purchaser* has accepted the submission. A reason for not accepting the submission is that it shows that there are grounds for excluding the proposed Subcontractor or subsubcontractor under regulation 57 of the Public Contracts Regulations 2015.

Z23.3 If requested by the *Purchaser*, the *Supplier* provides further information to support, update or clarify a submission under clause Z23.1.

Z23.4 If, following the acceptance of a submission under clause Z23.2, it is found that one of the grounds for excluding the Subcontractor or subsubcontractor under regulation 57 of the Public Contracts Regulations 2015 applies, the *Purchaser* may instruct the *Supplier* to

- replace the Subcontractor or
- require the Subcontractor to replace the subsubcontractor.

Clause Z24 Merger, takeover or change control

Not used

Clause Z25 Intellectual Property Rights

Z25.1 Intellectual Property Rights are any current and future legal and equitable interests in patents, trademarks, design rights, copyright, know-how and other similar rights, whether or not registered or capable of registration

Z25.2 All Intellectual Property Rights in documents and other materials created by or on behalf of the *Purchaser* in connection with the contract are the property of the *Purchaser* or the Crown.

Z25.3 The *Supplier* hereby assigns to the *Purchaser* all present and future Intellectual Property Rights in all documents and other materials created by or on behalf of the *Supplier* or any Subcontractor in performing its obligations under, or otherwise in connection with, the contract. The *Supplier* obtains from Subcontractors equivalent rights over the documents and other materials prepared by the Subcontractors. This assignment takes effect either on the *starting date* or as a present assignment of future rights that will take effect immediately on the coming into existence of the relevant Intellectual Property Rights, as appropriate.

Z25.4 Background IPR means Intellectual Property Rights owned by the *Supplier*, a Subcontractor or a third party and which are not assigned to the *Purchaser* pursuant to clause Z25.3. In respect of Background IPR, the *Supplier* grants a non-exclusive, world-wide, perpetual, irrevocable, royalty free licence (including the right to sub-licence) to the *Purchaser* to use the Background IPR for all purposes of the *Purchaser*. Each licence granted under this clause Z25.4 by the *Supplier* survives the termination or expiry of this contract and cannot be terminated by the *Supplier* or its assignees. The *Supplier* obtains from the Subcontractors or third parties equivalent rights over Background IPR owned by the Subcontractors or third parties

Z25.5 The *Purchaser* grants to the *Supplier*, or procures the direct grant to the *Supplier* of, a non-exclusive, non-transferable, revocable licence to use all Intellectual Property Rights and Background IPR owned (or capable of being so licensed or procured without cost) by the *Purchaser* and reasonably required by the *Supplier* in order to Provide the Services. Any such licence is granted for the duration of this contract solely to enable the *Supplier* to comply with its obligations under this contract.

Clause Z26**Currency of contract**

Z26.1 Payments are in the *currency* of this contract unless otherwise stated in this contract

Clause Z27**Changes to rates and prices**

Z27.1 The Parties may at any time agree a reduction to the Prices in the Price List.

Z27.2 The reduced rates or Prices apply to any services delivered after the reduction is agreed.

Z27.3 If the *Supplier* does not agree a reduction requested by the *Purchaser*, the *Purchaser* may terminate the *Supplier's* obligation to Provide the Services by notifying the *Supplier*.

Clause Z28**Termination and omission of work**

Z28.1 If the *Purchaser* instructs a change to the Services Information which involves the omission of part of the *services*, the *Purchaser* may engage other people to carry out the part omitted. The instruction is assessed as a compensation event, except that if the instruction is given for insolvency or a default by the *Supplier*, the assessment includes a deduction of the forecast additional cost to the *Purchaser* of completing the *services*.

Z28.2 The following are treated as the *Supplier* having substantially failed to comply with this contract

- a key resource needed by the *Supplier* to Provide the Services is no longer available and the *Supplier* does not propose an alternative resource acceptable to the *Purchaser*.

Clause Z29**Not Used****Clause Z30****Termination - PCRs, Regulation 73**

Z30.1 The *Purchaser* may terminate the *Supplier's* obligation to Provide the Services if one of the mandatory or discretionary grounds for exclusion referred to in regulation 57 of the Public Contracts Regulations 2015 applied to the *Supplier* at the *starting date*. This is treated as a termination because of a substantial failure of the *Supplier* to comply with his obligations.

Z30.2 The *Purchaser* may terminate the *Supplier's* obligation to Provide the Services if

- this contract has been subject to substantial modification which would have required a new procurement procedure pursuant to regulation 72 of the Public Contracts Regulations 2015 or
- the Court of Justice of the European Union declares, in a procedure under Article 258 of the Treaty on the Functioning of the European Union, that a serious infringement of the obligations under the European Union Treaties and the Public Contracts Directive has occurred.

If the modification or infringement was due to a default by the *Supplier*, this is treated as a termination because of a substantial failure of the *Supplier* to comply with his obligations.

Clause Z31**Value Added Tax (VAT) Recovery**

British Forces Cyprus is exempt from payment of VAT on goods and services received in Cyprus for the official use. Therefore, all prices quoted in the Schedule of Requirements are Zero rated. A Republic of

Cyprus VAT Department VAT form V6A shall be issued to the Supplier upon acceptance of the Contract if applicable

The Supplier shall also cross refer to DEFCON 513 (Edn 07/21) for further guidance

Clause Z32**Not Used****Clause Z33****Collateral Warranty Agreements**

Z33.1 The *Supplier* enters into the *collateral warranty agreements* in the formats appended in the Services Information in favour of the parties identified in the Contract Data and delivers executed copies in duplicate to the *Purchaser* no later than ten Working Days after the *Purchaser* has provided the *Supplier* with appropriate collateral warranty agreements suitable for execution.

Z33.2 The *Supplier* procures from the Subcontractors identified in the Contract Data collateral warranty agreements in the formats appended in the Services Information in favour of the parties identified in the Contract Data and delivers executed copies in duplicate to the *Purchaser* no later than fifteen Working Days after the *Purchaser* has provided the *Supplier* with appropriate collateral warranty agreements suitable for execution.

Z33.3 If the *Supplier* fails to deliver the required collateral warranty agreements in the manner and within the time stipulated by this contract, one quarter (1/4) of the amount due (as assessed pursuant to clause 51) is retained in assessments until the *Supplier* has remedied the failure.

Clause Z34**Access to MOD sites**

Z34.1 In this clause only:

- "Site" includes any of Her Majesty's Ships or Vessels and Service Stations; and
- "Officer in charge" includes Officers Commanding Service Stations, Ships' Masters or Senior Officers, and Officers superintending Government Establishments.

Z34.2 The *Purchaser* issues passes for those representatives of the *Supplier* who are approved for admission to the Site and a representative is not admitted unless in possession of such a pass. Passes remain the property of the *Purchaser* and are surrendered on demand or on completion of the *service*.

Z34.3 The *Supplier's* representatives when employed within the boundaries of a Site comply with such rules, regulations and requirements (including those relating to security arrangements) as may be in force for the time being for the conduct of personnel at that Site. When on board ship, compliance is with the Ship's Regulations as interpreted by the Officer in charge. Details of such rules, regulations and requirements are provided on request to the Officer in charge.

Z34.4 The *Supplier* is responsible for the living accommodation and maintenance of its representatives while they are employed at a Site. Sleeping accommodation and messing facilities, if required, may be provided by the *Purchaser* wherever possible, at the discretion of the Officer in charge, at a cost fixed in accordance with current Ministry of Defence regulations. At Sites overseas, accommodation and messing facilities, if required, are provided wherever possible. The status accorded to the *Supplier's* personnel for messing purposes is at the discretion of the Officer in charge who, wherever possible, gives his decision before the commencement of this contract where so asked by the *Supplier*. When sleeping accommodation and messing facilities are not available, a certificate to this effect may be required by the *Purchaser* and is obtained by the *Supplier* from the Officer in charge. Such certificate is presented to the *Purchaser* with other evidence relating to the costs of this contract.

Z34.5 Where the *Supplier's* representatives are required by this contract to join or visit a Site overseas, transport between the United Kingdom and the place of duty (but excluding transport within the United Kingdom) is provided for them free of charge by the Ministry of Defence whenever possible, normally by Royal Air Force or by MOD chartered aircraft. The *Supplier* makes such arrangements through the Technical Branch named for this purpose in this contract. When such transport is not available within a reasonable time or in circumstances where the *Supplier* wishes its representatives to accompany material for installation which it is to arrange to be delivered, the *Supplier* makes its own transport arrangements. The *Purchaser* reimburses the *Supplier's* reasonable costs for such transport of its representatives on presentation of evidence supporting the use of alternative transport and of the costs involved. Transport of the *Supplier's* representatives locally overseas which is necessary for the purpose of this contract is provided wherever possible by the Ministry of Defence or by the Officer in charge and, where so provided, is free of charge.

Z34.6 Out-patient medical treatment given to the *Supplier's* representatives by a Service Medical Officer or other Government Medical Officer at a Site overseas is free of charge. Treatment in a Service hospital or medical centre, dental treatment, the provision of dentures or spectacles, conveyance to and from a hospital, medical centre or surgery not within the Site and transportation of the *Supplier's* representatives back to the United Kingdom, or elsewhere, for medical reasons, is charged to the *Supplier* at rates fixed in accordance with current Ministry of Defence regulations.

Z34.7 Accidents to the *Supplier's* representatives which ordinarily require to be reported in accordance with Health and Safety at Work Act 1974 are reported to the Officer in charge so that the Inspector of Factories may be informed.

Z34.8 No assistance from public funds, and no messing facilities, accommodation or transport overseas is provided for dependants or members of the families of the *Supplier's* representatives. Medical or necessary dental treatment may, however, be provided for dependants or members of families on repayment at current Ministry of Defence rates.

Z34.9 The *Supplier*, wherever possible, arranges for funds to be provided to its representatives overseas through normal banking channels (e.g. by travellers' cheques). If banking or other suitable facilities are not available, the *Purchaser*, upon request by the *Supplier* and subject to any limitation required by the *Supplier*, makes arrangements for payments, converted at the prevailing rate of exchange (where applicable), to be made at the Site to which the *Supplier's* representatives are attached. All such advances made by the *Purchaser* are recovered from the *Supplier*.

Clause Z35**MoD DEFCON Requirements**

Z35.1 This clause is to incorporate MoD special terms and conditions in the form of DEFCONs and DEFORMs as detailed in:

DEFCON 76 (Edn 6/21) Contractor's Personnel at Government Establishments

DEFCON 513 (Edn 07/21) Value Added Tax

DEFCON 522 (Edn 11/17) Payment and Recovery of Sums Due

DEFCON 611 (Edn 2/16) Issued Property

DEFCON 658 (Edn 09/21) Cyber –

The Cyber Risk profile for this requirement identified by the Cyber Risk Assessment is RAR - 8BGUXAHH - Moderate

Clause Z36**Contracts (Rights of Third Parties) Act 1999**

Z36.1 A person or organisation who is not a party to this contract may enforce a term of this contract under the Contracts (Rights of Third Parties) Act 1999 only if the term and the person or organisation are stated in the Contract Data.

Clause Z37**Payment**

DEFCON 522 (Edn 11/17) applies

Clause Z650 Offshoring of data

Z650.1 In this clause

Risk Assessment is a full risk assessment and security review carried out by the *Purchaser* in accordance with HMG Security Policy Framework (SPF) including HMG IA Standard No. 1 - Technical Risk

Assessment, October 2009, Issue No: 3.51 and ICT Offshoring (International Sourcing) Guidance dated July 2011 or any later revision or replacement.

Z650.2 The *Supplier* does not store any of the *Purchaser's* data that is classified as Official or higher in accordance with "Government Security Classifications" dated April 2014 (or any later revision or replacement)

- offshore or
- in any way that it could be accessed from an offshore location until the *Project Manager* has confirmed to the *Supplier* that either
- the *Purchaser* has gained approval for such storage in accordance with "Offshoring information assets classified at OFFICIAL" dated November 2015 (or any later revision or replacement) or

such approval is not required.

Z650.3 The *Supplier* ensures that no premises are used in Providing the Works until

- such premises have passed a Risk Assessment or

the *Project Manager* confirms to the *Supplier* that no Risk Assessment is required.

Z650.4 The *Supplier* complies with a request from the *Project Manager* to provide any information required to allow the *Purchaser* to

- gain approval for storing data or allowing access to data from an offshore location in accordance with Z650.2 or

conduct a Risk Assessment for any premises in accordance with Z650.3.

Z650.5 The *Supplier* ensures that any subcontract (at any stage of remoteness from the *Purchaser*) contains provisions to the same effect as this clause.

Z650.6 A failure to comply with this condition is treated as a substantial failure by the *Supplier* to comply with his obligations.

Annex 1 to Clause Z22 - Trust Deed

Not Used

Annex 2 to Clause Z22 - Joining Deed

Not Used

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