



MINISTRY OF DEFENCE DEFENCE EQUIPMENT AND SUPPORT

CONTRACT NUMBER: 700007115

DESCRIPTION: CHALLENGER 2 LIFE EXTENSION PROJECT (CR2 LEP) -
DEMONSTRATION, MANUFACTURE AND INITIAL IN-SERVICE (DM&I)

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1. SCHEDULE OF REQUIREMENTS

DEFFORM 110

Name & Address of Contractor: Rheinmetall BAE Systems Land Limited Hadley Castle Works TF1 6QW Telford	MINISTRY OF DEFENCE CHALLENGER 2 LIFE EXTENSION PROJECT (CR2 LEP) - DEMONSTRATION, MANUFACTURE AND INITIAL IN-SERVICE	CONTRACT No: 700007115
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Table I – Articles Required

Item No	Description	Qty	Price Ex VAT FIRM PRICE	Price Ex VAT FIXED PRICE	Price Ex VAT TOTAL PRICE (Firm + Fixed)
1	All Demonstration Phase Activities				
1.a	All Demonstration Phase Activities GBP (Pound Sterling)	All			
1.b	All Demonstration Phase Activities EUR (Euro)				
1.c	All Demonstration Phase Activities CHF (Swiss Francs)				
2	Manufacture, Installation of the CR2 LEP System and Delivery of CR2 Mk2 Platform				
2.a	Manufacture, Installation of the CR2 LEP System and Delivery of CR2 Mk2 Platform GBP (Pound Sterling)	148			
2.b	Manufacture, Installation of the CR2 LEP System and Delivery of CR2 Mk2 Platform EUR (Euro)				

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2.c	Manufacture, Installation of the CR2 LEP System and Delivery of CR2 Mk2 Platform CHF (Swiss Francs)				
3	Initial In-Service Phase Support in accordance with Annex B (excluding provision of Spares and STTE)	All			
4	Completion of New Modular Armour Phases 3b and 4a in accordance with the Annex B. (Pounds Sterling)	All			
5	Emergent Work (Tasking) in accordance with Clause 4.12 (Pounds Sterling)				
6	Enhanced Kinetic Energy				
	Enhanced Kinetic Energy (Pounds Sterling)				
	Enhanced Kinetic Energy EUR (Euro)				
7	Bid Costs	All			

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2. DEFCONs

This Contract incorporates the following DEFCONS.

DEFCON 5J (Edn. 18/11/16)	Unique Identifiers
DEFCON 14 (Edn. 09/20)	Inventions and Designs – Crown Rights and Ownership of Patents and Registered Designs
DEFCON 15 (Edn. 02/98)	Design Rights And Rights To Use Design Information (excluding Chobham Armour - see Clause 6.1)

DELETE existing Clause 12 of DEFCON 15 and INSERT:

"In the event the rights under sub-clause 4.f) are exercised, the Authority shall, upon receipt of a written request from the Contractor, ensure that the Contractor is provided with one copy of all Information delivered to the Authority in relation to any such Modification. The Authority shall grant or procure for the Contractor the right to be granted a licence to use, have used and sub-license in any part of the world any Intellectual Property covering such Information for the purposes of manufacturing, selling and supporting any Article on fair and reasonable terms as between willing licensee and willing licensor."

See Annex D for DEFFORM 315 Contract Data Requirement

DEFCON 16 (Edn. 10/04)	Repair And Maintenance Information
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See Annex D for DEFFORM 315 Contract Data Requirement

DEFCON 21 (Edn. 10/04)	Retention Of Records
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See Annex D for DEFFORM 315 Contract Data Requirement

DEFCON 23 (Edn. 08/09)	Special Jigs, Tooling and Test Equipment
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DEFCON 68 (Edn. 02/19)	Supply of Data for Hazardous Articles, Materials and Substances
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DEFCON 76 (Edn. 12/06)	Contractor's Personnel at Government Establishments
DEFCON 82 (Edn. 11/16)	<p>Special Procedure for Initial Spares</p> <p>The Initial Spares requirement will be agreed during the Demonstration Phase and Annex N (Spares Catalogue) shall be amended in accordance with DEFCON 620 (Contract Change Procedure) to reflect the agreed list of Spares.</p>
DEFCON 90 (Edn. 11/06)	Copyright
DEFCON 91 (Edn. 11/06)	Intellectual Property Rights In Software
DEFCON 113 (Edn 02/17)	Diversion Orders
DEFCON 117 (Edn. 10/13)	Supply of Information for NATO Codification and Defence Inventory
DEFCON 126 (Edn. 11/06)	International Collaboration (the period referred to in Clauses 2 & 3 of this Condition shall be 15 years)
DEFCON 129 (Edn. 07/19)	<p>Packaging (For Articles Other Than Munitions)</p> <p>Packaging standards will be agreed during the Demonstration Phase and following delivery of the Bill of Material. Unless otherwise agreed commercial packaging standards will be used.</p>
DEFCON 129J (Edn. 18/11/16)	The Use of Electronic Business Delivery Form
DEFCON 130 (Edn 04/18)	<p>Packaging for Explosives</p> <p>Packaging standards will be agreed during the Demonstration Phase and following delivery of the Bill of Material. Unless otherwise agreed commercial packaging standards will be used.</p>
DEFCON 501 (Edn. 11/17)	Definitions and Interpretations.
DEFCON 502 (Edn. 05/17)	Specification Changes
DEFCON 503 (Edn. 12/14)	Formal Amendments to Contract

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DEFCON 507 (Edn. 10/18)	Delivery
DEFCON 513 (Edn. 11/16)	Value Added Tax
DEFCON 514 (Edn. 08/15)	Material Breach
DEFCON 515 (Edn. 02/17)	Bankruptcy and Insolvency
DEFCON 516 (Edn. 04/12)	Equality
DEFCON 518 (Edn. 02/17)	Transfer
DEFCON 520 (Edn. 05/18)	Corrupt Gifts and Payments of Commission
DEFCON 522 (Edn. 11/17)	Payment and Recovery of Sums Due
DEFCON 524 (Edn. 02/20)	Rejection
DEFCON 524A (Edn. 02/20)	Counterfeit Materiel
DEFCON 525 (Edn. 10/98)	Acceptance
DEFCON 526 (Edn. 08/02)	Notices
DEFCON 527 (Edn. 09/97)	Waiver
DEFCON 528 (Edn. 07/17)	Import & Export Licences
DEFCON 529 (Edn. 09/97)	Law (English)
DEFCON 530 (Edn. 12/14)	Dispute Resolution (English Law)
DEFCON 531 (Edn. 11/14)	Disclosure of Information
DEFCON 532A (Edn. 04/20)	Protection of Personal Data (Where Personal Data is not being processed on behalf of the Authority)

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DEFCON 534 (Edn. 06/17)	Sub Contracting and Prompt Payment
DEFCON 537 (Edn. 06/02)	Rights of Third Parties
DEFCON 538 (Edn. 06/02)	Severability
DEFCON 550 (Edn. 02/14)	Child Labour & Employment Law
DEFCON 601 (Edn. 04/14)	Redundant Materiel DEFCON 601 shall only apply to Government Furnished Assets provided under DEFCON 611 (Issued Property) as detailed at Annex E (Government Furnished Assets).
DEFCON 602A (Edn. 12/17)	Quality Assurance (with Quality Plan)
DEFCON 604 (Edn. 06/14)	Progress Reports
DEFCON 606 (Edn. 06/14)	Change and Configuration Control Procedure
DEFCON 607 (Edn. 05/08)	Radio Transmissions
DEFCON 608 (Edn. 10/14)	Access and Facilities to be Provided by the Contractor
DEFCON 609 (Edn. 08/18)	Contractor's Records
DEFCON 611 (Edn. 02/16)	Issued Property
DEFCON 612 (Edn. 10/98)	Loss of or Damage to the Articles
DEFCON 620 (Edn. 05/17)	Contract Change Control Procedure
DEFCON 621A (Edn. 06/97)	Transport (If the Authority Is Responsible for Transport)
DEFCON 621B (Edn 10/04)	Transport (If Contractor Is Responsible for Transport)
DEFCON 624 (Edn 11/13)	Use of Asbestos in Arms, Munitions or War Materials

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DEFCON 625 (Edn. 10/98)	Co-Operation on Expiry of Contract
DEFCON 627 (Edn.12/10)	Quality Assurance - Requirement for a Certificate of Conformity
DEFCON 632 (Edn. 08/12)	Third Party Intellectual Property – Rights & Restrictions
DEFCON 637 (Edn. 05/17)	Defect Investigation and Liability
DEFCON 642 (Edn. 06/14)	Progress Meetings
DEFCON 644 (Edn. 07/18)	Marking of Articles
DEFCON 647 (Edn. 04/19)	Financial Management Information
DEFCON 649 (Edn. 12/16)	Vesting
DEFCON 654 (Edn. 10/98)	Government Reciprocal Audit Arrangements
DEFCON 656B (Edn. 08/16)	Termination for Convenience – Over £5M
DEFCON 658 (Edn. 10/17)	Cyber
DEFCON 659A (Edn. 02/17)	Security Measures
DEFCON 660 (Edn. 12/15)	Official-Sensitive Security Requirements
DEFCON 670 (Edn. 02/17)	Tax Compliance
DEFCON 678 (Edn. 09/19)	SME Spend Data Collection
DEFCON 694 (Edn. 07/18)	Accounting for Property of the Authority
DEFCON 703 (Edn. 08/13)	Intellectual Property Rights - Vesting In The Authority
DEFCON 800 (Edn. 12/14)	Qualifying Defence Contract

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DEFCON 801 (Edn. 12/14)	Amendments to Qualifying Defence Contracts – Consolidated Versions
DEFCON 802 (Edn. 12/14)	QDC: Open Book on sub-contracts that are not Qualifying Sub-contracts
DEFCON 804 (Edn. 03/15)	QDC: Confidentiality of Single Source Contract Regulations Information

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3. GENERAL CONDITIONS

3.1. Definitions and Interpretations

3.1.1. Notwithstanding, and in addition to, the provisions contained in DEFCON 501 (Edn. 11/17), the following expressions shall, in the Contract, have the meaning hereby respectively assigned to them, except where the context requires otherwise:

A2 Condition (Material Condition)	As defined in Defence Logistics Framework, as where the item has been used, however, deemed fit for use and capable of performing its designed function.
AAR	has the meaning given to it in Clause 5.2.1 and the words “Appropriate”, “Attributable”, “Reasonable” and Allowable shall have the meaning set out in the Version 5 (issued 16 March 2020) of the Single Source Regulations Office Allowable Cost guidance document
ADR	means Alternative Dispute Resolution
Active Protection System	means the Active Protection System referred to in Clause 3.11.1.3.
Acknowledgement Message	means an acknowledgement message issued by the Contractor in response to the Authority’s Purchase Order Message as part of the Contracting, Purchasing and Finance (CP&F) electronic procurement process as described in Clause 9.1.2.
AESPs	means Army Equipment Support Publications.
Anchor Milestone	are those milestones which are critical on the path as referenced in Condition 3.5 (Anchor Milestone) and listed in Annex I (Milestone Payment Plan).
Authority's Project Manager	is as identified in Box 2 of DEFFORM 111 Appendix to Contract.
Bill Paying Branch	is as identified in Box 11 of DEFFORM 111 Appendix to Contract.
Business Days	shall have the meaning set-out in DEFCON 501 (Edn. 11/17).
Certificate of Conformity	shall mean a certificate of conformity in accordance with DEFCON 627.
CEI	means Contract Embodied Item as referred to in Clause 7.1.3.2.
Chobham Armour	means the special composite ceramic armour on the Challenger 2 Vehicle.
Commercial Exploitation Agreement	means a commercial exploitation agreement entered into between the parties in a form substantially as set out in Annex H (Commercial Exploitation agreement).
Configuration Management Plan	means the Contractors Configuration Management Plan reference number 40095783, as may be amended by agreement in writing between the parties from time to time.
Contract Award	means the date the Contractor accepts the Authority’s contract offer as signified by the signature and issue to the Authority of a DEFFORM 10.
Contract Year	<p>(a) a period of 12 months commencing on Contract Award; or</p> <p>(b) thereafter a period of 12 months commencing on each anniversary of Contract Award;</p> <p>provided that the final Contract Year shall end on the expiry or termination of the Contract duration as referred to in Clause 3.9.</p>

Contract Data Requirements	means the contract data requirements set out in Annex D (Contract Data Requirements).
Contract System Requirements Document or CSRD	shall mean the Contract System Requirements Document set out at Annex A (Contract System Requirements Documents (CSRD) Version 7).
Contractor Deliverables	means the Articles to be delivered by the Contractor to the Authority under the Contract.
Contract Schedule of Requirements	means the items identified in Table 1 to Clause 1.
CP&F	means Contracting, Purchasing and Finance as referred to in Clause 9.1.2.
CR2 Mk2 System	shall have the meaning set-out in Annex A (Contract System Requirements Documents (CSRD) Version 7).
CSI	means Contract Support Item as referred to in Clause 7.1.3.1.
CWI	means Contract Work Item as referred to in Clause 7.1.3.3.
Tier 1 Sub-contract	<p>Means for the purposes of Clause 3.3.2 and Clause 3.3.3 a sub-contract placed by the Contractor with:</p> <div data-bbox="532 856 990 1071" data-label="Image"> </div> <ul style="list-style-type: none"> • The supplier of the Drivers Indirect Vision Systems (DIVS)
CR2 Mk2 Vehicle	means all variants of the CR2 Mk2 Vehicle as defined at paragraph 1.3.1 of the CSRD.
CR2 LEP Solution	means the CR2 LEP Solution as defined at paragraph 1.3.1 of the CSRD.
Delivery Schedules	shall have the mean Annex K (Project Delivery Milestones).
Demonstration Phase	shall mean the demonstration phase of the Contract as set out in Contract Schedule of Requirements.
DSTL	means the United Kingdom Defence Science and Technology Laboratory.
Enhanced Kinetic Energy	means the Enhanced Kinetic Energy programme referred to in Clause 3.11.1.1.
EVMS	means Earned Value Management System in accordance with the Contract Annex M (Earned Value Management System Requirements).
FAT	means Factory Acceptance Tests set out in Appendix 1 to Annex G.
Firm Price	shall have the meaning set-out in DefCon 501 (edn 11/17).
Fixed Price	shall have the meaning set-out in DefCon 501 (edn 11/17).
Force Majeure	shall have the meaning set out in Clause 8.3.

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Security Aspect Letter (SAL)	Means the letter referred to Clause 3.3.1 and which is dated 03 March 2021
Fitted For But Not With (FFBNW)	is as defined in Appendix 10 of the Contract System Requirements Document at Annex A (Contract System Requirements Documents (CSRD) Version 7).
GAT	means General Acceptance Tests as set out in Appendix 2 Annex G.
Generic Vehicle Architecture	shall mean the Generic Vehicle Architecture as set-out in Annex B (Statement of Requirement SoR).
GFA	means the government furnished assets listed at Annex E and includes: <ul style="list-style-type: none"> • GFF means Government Furnished Facilities as defined in DEFCON 501 (edn 11/17) • GFR means Government Furnished Resources as defined in DEFCON 501 (edn 11/17) • GFI means Government Furnished Information as defined in DEFCON 501 (edn 11/17)
GQA	means Government Quality Assurance as referred to in Clause 4.3.6.
GQAR	means the Government Quality Assurance Representative as referred to in Box 7 of DEFFORM 111 Appendix to Contract or its authorised representative, as may from time to time be notified by the Authority.
Installation Provision Made in Design (IPMD)	is as defined at Appendix 10 of Annex A (Contract System Requirements Documents (CSRD) Version 7).
ISC	shall mean the Incident Sentencing Committee as referred to in Clause 4.5.6 and 4.6.10.
Items	means the items identified in Table 1 to Clause 1.
ITAR	means the United States International Traffic in Arms Regulations.
New Modular Armour	means the New Modular Armour programme referred to in Clause 3.11.1.2.
Narrative Conditions	means the conditions set out in the Contract numbered 3 through to 11.
Manufacture Phase	shall mean the demonstration phase of the Contract as set out in Contract Schedule of Requirements.
Manufacturing Plan	means the manufacturing plan reference KSCBAM-XK3T-WEW-LP as may be amended by agreement in writing between the parties from time to time.
Material Breach	shall have the meaning set out in Clause 3.4.11.
Milestone Payment Scheme	shall have the meaning set out in Annex I (Milestone Payment Plan).
Obsolescence	shall have the meaning set out in the Obsolescence Management Plan.
Obsolescence Management Plan	means the obsolescence management plan reference 40097605 as may be amended by agreement in writing between the parties from time to time.
Obsolescence Strategy	shall have the meaning set out in the Obsolescence Management Plan.

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Parent Company Guarantee	shall have the meaning set out in Clause 3.6.
Party or Parties	means the Contractor and/or the Authority.
Provisional Price	means a price which may be adjusted by mutual agreement of the parties to a greater or lesser value.
PRT	means Production Reliability Tests in accordance with the scope identified in Statement of Requirement at Appendix 3 to Annex B (Statement of Requirement SoR).
Purchase Order	means the Purchase Order issued by the Authority as part of the Contracting, Purchasing and Finance (CP&F) electronic procurement process as described in Clause 9.1.2.
Purchase Order Message	means the Purchase Order Message issued by the Authority as part of the Contracting, Purchasing and Finance (CP&F) electronic procurement process as described in Clause 9.1.2.
QAWG	means the Quality Assurance Working Group as referred to in Clause 4.3.7.
QMS	means the Contractor's Quality Management System certified to ISO 9001.
total price	for the purpose of DEFCON 656B 'total price' shall mean 'the contract price' as defined at DEFCON 501.
Warranted Deliverables	shall mean the CR2 LEP Solution as incorporated on each vehicle, item of training equipment and material, the Technical Data Pack and the Contractor Deliverables under Initial In-Service Support.
General Change in Law	shall mean where the effect of that General Change in Law on the Contract is reasonably foreseeable at Contract Award;
Specific Change in Law	shall mean where the effect of that Specific Change in Law on the Contract is reasonably foreseeable at Contract Award.
S&TE	means Support & Test Equipment
Schedule of Requirements or SOR	means the Contract Schedule of Requirements.
Special Tools and Test Equipment	means the Special Tools and Test Equipment (including Spares) referred to at Clause 3.11.1.4.
Spares	means the Initial Spares requirement to be agreed by the Authority and the Contractor during the Demonstration Phase and subsequently included in Annex N (Spares Catalogue) of the Contract in accordance with DEFCON 620 (Contract Change Procedure).
Statement of Requirement	means the statement of requirement set out in Annex B.
System Qualification Review	means Anchor Milestone 2 listed in Annex I to the Contract.
ToR	means terms of reference as referred to in Clause 4.3.7.

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Unique Order Identifiers	means the Unique Order Identifier issued by the Authority as part of the Contracting, Purchasing and Finance (CP&F) electronic procurement process as described in Clause 9.1.2.
Variation of Price	shall mean a variation to the Contract Price as determined in accordance with Clause 5.3.
VVRM	shall have the meaning set out in Annex G.

Documentation and Precedence

- 3.1.2. The Contractor shall check all Authority supplied documentation and immediately notify the Authority of any discrepancy, inconsistency or error.
- 3.1.3. Should there be any conflict in the Contract documentation, the order of precedence shall be as follows:
 - 3.1.3.1. DEFCON 537;
 - 3.1.3.2. Narrative Conditions;
 - 3.1.3.3. DEFCONs (other than DEFCON 537);
 - 3.1.3.4. DEFFORM 110 – Contract Schedule of Requirements;
 - 3.1.3.5. Annex A (Contract System Requirements Documents (CSRD) Version 7);
 - 3.1.3.6. Contract Annex B to Annex Q; and
 - 3.1.3.7. Any other documents referenced in the Contract.
- 3.1.4. In the event of any conflict within any document, or any conflict between documents with the same order of precedence, the Parties shall agree the order of precedence of the documentation. Should the Parties be unable to agree a resolution to the conflict, the Authority shall be entitled to give direction, which the Contractor will follow, as to which part of the relevant document or which document (as the case may be) shall take precedence over which other part or which other document. Where there is a resultant disagreement the Contractor may refer this to the dispute resolution procedure at Clause 3.8 (Dispute Resolution).

3.2. Sub-Contracting

- 3.2.1. The Contractor shall be responsible to the Authority, subject to the provisions of this Contract, for the timely, economic and proper execution of the Contract as described in the Contract Schedule of Requirements. The Contractor's responsibilities shall apply equally to work carried out by sub-contractors in respect of the requirements of the Contract. Nomination of a sub-contractor does not relieve the Contractor of its responsibilities. The Contractor shall make such arrangements with its sub-contractors, and they with theirs, to ensure that the sub-contracted elements are satisfactory and meet the requirements of the Contract.

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- 3.2.2. The Contractor shall not amend and/or terminate any Tier 1 Sub-contract and/or enter any new Tier 1 Sub-contract without first consulting the Authority in accordance with Clauses 3.2.3 and 3.2.4.
- 3.2.3. Where the Contractor proposes to enter into a new Tier 1 Sub-contract and/or to amend or terminate any existing Tier 1 Sub-contract, the Contractor shall inform the Authority in writing, which shall include sufficient details of the proposed sub-contract, amendment or reasons for termination to enable the Authority to understand:
- 3.2.3.1. the identity of the proposed sub-contractor;
 - 3.2.3.2. the value of the proposed sub-contract or amendment and the pricing mechanism on which such value is based;
 - 3.2.3.3. the proposed sub-contractor's or existing sub-contractor's current, complete and accurate cost and pricing data;
 - 3.2.3.4. a description of the supplies or services to be sub-contracted;
 - 3.2.3.5. whether Government Furnished Assets would be used by the proposed sub-contractor or existing sub-contractor in connection with the sub-contract or amendment to an existing sub-contract;
 - 3.2.3.6. confirmation that the relevant provisions of this Contract have been flowed down into the proposed sub-contract or amendment to an existing sub-contract in accordance with Clause 3.2.10;
 - 3.2.3.7. the reasons for termination and the alternative arrangements proposed by the Contractor in relation to the relevant activities; such information as may be reasonably necessary to allow the Authority to assess the ability of a proposed sub-contractor to meet the requirements of the Contract Security Aspects Letters (reference 20201223-CR2_ DMI_SAL_RBSL dated 03/03/21); and evidence to show that the Contractor has acted in accordance with the Make or Buy Decision Tree as set out in the Contractor's Manufacturing Plan (reference KSCBAM-XK3T-WEW-LP), except as otherwise agreed expressly in writing between the Parties.
- 3.2.4. The Authority shall have ten (10) business days from receipt of the information in accordance with Clause 3.2.3 above to raise any concerns it may wish to raise about the proposed change to a Tier 1 Sub-contract. Any concerns raised by the Authority shall be discussed between the Contractor and the Authority prior to any changes being made to the Tier 1 Sub-contractor. The Authority shall have the right to instruct the Contractor not to change the Tier 1 Sub-contract.
- 3.2.5. The Authority may, from time to time, notify the Contractor of concerns in relation to the Contractor's sub-contract arrangements which arise from the Authority's belief that the United Kingdom's national security may be affected by such sub-contract arrangements. The Authority shall be entitled by notice in writing to instruct the Contractor to terminate such sub-contract in accordance with its terms. Fair and reasonable revisions of the Contract Price, delivery schedule or both shall be made as may be appropriate provided that the Contractor has taken all reasonable measures to mitigate the consequences of any such instruction.

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- 3.2.6. The Contractor agrees to consider in good faith all concerns raised by the Authority in relation to the Contractor's sub-contract arrangements which arise from the Authority's belief that the United Kingdom's operational sovereignty may be affected by such sub-contract arrangements. The Parties agree to cooperate fully and in a spirit of openness and transparency with a view to finding a mutually acceptable and effective solution to such concerns. However, the Authority shall be entitled by notice in writing to instruct the Contractor to terminate such sub-contract in accordance with its terms. Where the Parties agree to do so, the Contractor will terminate such sub-contracts in accordance with their terms. Fair and reasonable revisions of the Contract Price, delivery schedule or both shall be made as may be appropriate provided that the Contractor has taken all reasonable measures to mitigate the consequences of any such instruction.
- 3.2.7. Notwithstanding any concerns that the Authority may raise in accordance with Clause 3.2.5 and Clause 3.2.6, the Contractor shall remain responsible and liable to the Authority at all times for the performance of its obligations under this Contract.
- 3.2.8. Informing the Authority of the award of a sub-contract or of an amendment to a sub-contract shall not:
- 3.2.8.1. automatically guarantee or constitute the Authority's approval of any terms and conditions of the proposed sub-contract or amendment which could not in the reasonable opinion of the Authority be ascertained from the information provided by the Contractor pursuant to Clause 3.2.3 above; or
 - 3.2.8.2. relieve the Contractor of any responsibility for performing those aspects of the Contractor's obligations under this Contract which form the subject matter of the proposed sub-contract or amendment.
- 3.2.9. The obligations of the Contractor shall not be affected in any way by the Authority entering into any agreement directly with a sub-contractor or proposed sub-contractor in connection with Intellectual Property Rights or otherwise and/or by the Authority giving its approval to the pricing or other terms of any sub-contract or proposed sub-contract or to the identity of any sub-contract or proposed sub-contractor.
- 3.2.10. The Contractor shall ensure that the sub-contracts contain provisions which are substantially the same as the provisions in this Contract to the extent relevant to the sub-contract and necessary to enable the Contractor to fully meet its obligations under this Contract, and the Contractor shall ensure the sub-contractors comply with such provisions.

3.3. Security Measures

- 3.3.1. For the purpose of DEFCON 659A, the "Secret Matter" of the Contract shall be as defined in the Authority's Security Aspects Letter (reference 20201223-CR2_DMI_SAL_RBSL dated 03/03/21). Any changes in these classifications will be notified by the Authority with an amendment to the Security Aspects Letter.

3.4. Anchor Milestones

- 3.4.1. The Anchor Milestones are the key project milestones as listed at Annex J (Milestone Entry and Exit Criteria) to the Contract.

- 3.4.2. It is a requirement of the Contract that the Contractor shall successfully achieve each of the Anchor Milestones by the respective dates specified in Annex K (Programme Delivery Milestones) to the Contract.

Rectification Plan Process

- 3.4.3. In the event that the Contractor fails to achieve an Anchor Milestone or either Party acting reasonably considers it likely that the Contractor will fail to achieve an Anchor Milestone in accordance with to Annex J (Milestone Entry and Exit Criteria) to the Contract:
- 3.4.3.1. within five (5) business days of becoming aware of this, the Contractor shall issue a written notification to the Authority's Commercial Officer (Box 1 DEFFORM 111 Appendix to Contract); or
 - 3.4.3.2. on the Authority becoming aware of this the Authority shall issue a written notification to Contractor's Commercial Manger.
- 3.4.4. The Contractor shall submit a draft rectification plan to the Authority for it to review as soon as possible and in any event within ten (10) business days (or such other period as may be agreed between the Parties) after the original notification, issued in accordance with Clause 3.4.3 above. The Contractor shall submit a draft rectification plan even if the Contractor disputes that it is responsible for the actual or anticipated Anchor Milestone failure.
- 3.4.5. The draft rectification plan shall set out:
- 3.4.5.1. full details of the Anchor Milestone failure that has occurred or is anticipated to occur, including a root cause analysis;
 - 3.4.5.2. the actual or anticipated effect of the Anchor Milestone failure; and
 - 3.4.5.3. the steps which the Contractor proposes to take to rectify the Anchor Milestone failure or anticipated failure and to prevent such a failure or situation creating an anticipated failure from recurring, including timescales for such steps and for the rectification of the Anchor Milestone failure or anticipated failure.
- 3.4.6. The Contractor shall promptly provide to the Authority any further documentation that the Authority reasonably requires to assess the Contractor's root cause analysis. If the Parties do not agree on the root cause set out in the draft rectification plan, either Party may refer the matter to the Dispute Resolution Procedure at Clause 3.8 (Dispute Resolution).
- 3.4.7. The Authority may reject the draft rectification plan by written notice to the Contractor if, acting reasonably, it considers that the draft rectification plan inadequately addresses the, actual or likely, Anchor Milestone failure, for example because the draft rectification plan:
- 3.4.7.1. is insufficiently detailed to be capable of proper evaluation;
 - 3.4.7.2. will take too long to complete;
 - 3.4.7.3. will not prevent occurrence or reoccurrence of the Anchor Milestone failure.

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- 3.4.8. The Authority shall notify the Contractor in writing within fifteen (15) business days of the date of submission of the draft rectification plan (or such other period as may be agreed between the Parties) whether it consents to the draft rectification plan.
- 3.4.9. If the Authority rejects the draft rectification plan, the Authority shall give reasons, in accordance with Clause 3.4.7, for its decision and the Contractor shall take the reasons into account in the preparation of a revised rectification plan. The Contractor shall submit the revised draft of the rectification plan to the Authority for review within five (5) business days (or such other period as agreed between the Parties) of the Contractor's receipt of the Authority's notice rejecting the first draft.
- 3.4.10. If the Authority consents to the rectification plan:
 - 3.4.10.1. the Contractor shall immediately start work on the actions set out in the rectification plan; and
 - 3.4.10.2. except as set out in Clause 3.4.11, the Authority may no longer terminate this Contract in whole or in part on the grounds of the relevant Anchor Milestone failure.
- 3.4.11. Subject to Clause 3.4.10, in the event that the Contractor fails to successfully implement the agreed rectification plan then, 6 (six) months after the date of the relevant failed Anchor Milestones, this shall result in a material breach for which the Authority shall have the right to terminate the Contract in accordance with DEFCON 514 (Material Breach). In the event the Authority reserves its right to terminate the Contract in accordance with DEFCON 514 (Material Breach) the Parties will meet to assess the projects viability.

3.5. Termination

- 3.5.1. On the date of termination or expiry of this Contract, the Contractor shall:
 - 3.5.1.1. provide access (subject to meeting any relevant security access requirements or restrictions applicable to the Contractor's premises) for the Authority and/or a third party (or any such agent of either) nominated by the Authority to Government Furnished Assets as may reasonably be required for the orderly and timely transition for the delivery of the Contractor Deliverables from the Contractor to a third party nominated by the Authority and/or the Authority (or any such agent of either) so as to prevent or mitigate any inconvenience to the Authority or disruption to its operations;
 - 3.5.1.2. following reasonable notice, and during the Contractor's normal business hours, provide access, for a period of no longer than twenty (20) business days (and subject to meeting any relevant security access requirements or restrictions applicable to the Contractor's premises), for the Authority and/or a third party (or any such agent of either) nominated by the Authority, to Contractor personnel who have been involved in the provision or management of delivering the Contractor Deliverables who are still employed or engaged by the Contractor, for the purpose of providing reasonable assistance with the prompt knowledge transfer; and

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- 3.5.1.3. if and to the extent it is able and required, assign to the Authority (or as they may direct) the benefit of any sub-contracts which the Contractor may have entered into for the supply of materials or services or for the execution of any work under the Contract.

3.6. Parent Company Guarantee

- 3.6.1. The Contractor shall provide Parent Company Guarantees in the form of a deed of indemnity. The effectivity of the Contract is dependent on the Authority's acceptance of the Parent Company Guarantees. The Parent Company Guarantees shall remain in place for the duration of the Contract.
- 3.6.2. Should there be any change in control of the Contractor in accordance with Clause 3.12 (Change of Control of Contractor), the Parent Company Guarantees and the liabilities, undertakings and guarantees therein shall be adopted in full by the new parent company of the Contractor. Where the change in control means there is no parent company to adopt the Parent Company Guarantee, the Parties shall agree a mutually acceptable alternative which meets the intent of the Parent Company Guarantee.

3.7. Amendments to Contract

- 3.7.1. In addition to the terms of DEFCON 503 only the Authority's Commercial Officer (Box 1 DEFFORM 111 Appendix to Contract) or its authorised representative shall be authorised to vary the Contract, including Annexes forming part of the Contract.
- 3.7.2. Nothing said, done or written by any person, nor anything omitted to be done, said or written by any person, including, but without limitation, any servant or agent of the Authority, shall in any way affect the rights of the Authority, modify, affect, reduce or extinguish the obligations and liabilities of the Contractor under the Contract, or be deemed to be a waiver of rights of the Authority.
- 3.7.3. Nothing said, done or written by any person, nor anything omitted to be done, said or written by any person, including, but without limitation, any servant or agent of the Contractor, shall in any way affect the rights of the Contractor, modify, affect, reduce or extinguish the obligations and liabilities of the Authority under the Contract, or be deemed to be a waiver of rights of the Authority, unless as may be expressly stated in writing and signed by the Contractor or its authorised representatives.

3.8. Dispute Resolution

- 3.8.1. If any dispute, difference or question arises out of the performance of this Contract, then the Parties shall attempt to resolve it in good faith and in a timely and expeditious manner.
- 3.8.2. Any dispute, difference or question shall be referred, in writing setting-out the reasons for the dispute, difference or question, firstly to the decision of the Authority's Commercial Officer (Box 1 DEFFORM 111 Appendix to Contract) and the Contractor's Commercial Manager or such other persons as the Parties may respectively designate for this purpose from time to time by notice to the other.

- 3.8.3. If within forty (40) business days the Parties have failed to reach agreement, then the dispute, difference or question shall be referred, in writing setting-out the reasons for the dispute, difference or question, to the Authority's Head of Land, Concept & Assessment Team and Managing Director of the Contractor or such other persons as the Parties may respectively designate for this purpose from time to time by notice to the other.
- 3.8.4. If within thirty (30) business days after referral of any dispute, difference or question under Clause 3.8.3 above, the Authority and the Contractor have failed to reach agreement the Parties may seek to resolve the dispute through the use of any Alternative Dispute Resolution ("ADR") procedure on which they may agree. If the Parties choose not to use an ADR procedure, or if the ADR procedure does not resolve the dispute within a reasonable timescale to the satisfaction of both Parties, the dispute shall be referred to arbitration in accordance with DEFCON 530.
- 3.8.5. For the purposes of DEFCON 530, any arbitration shall take place under the rules of the London Court of International Arbitration (the LCIA Rules) in London in English.
- 3.8.6. Neither Party shall be entitled to suspend performance of the Contract merely by reason of the reference of any dispute to the procedures set out in this Condition or to arbitration.

3.9. Duration

- 3.9.1. The Contract shall commence on Contract Award and shall, subject to the terms of the Contract, expire once all work required against the Contract Schedule of Requirements has been completed and all Contractor Deliverables in Annex D (Contract Data Requirements) and Annex K (Project Delivery Milestones) have been accepted by the Authority in accordance with Condition 4.6 (Acceptance) and Condition 4.7 (Acceptance of Documentation and Information).
- 3.9.2. Save to the extent that any provision of the Contract expressly states otherwise, termination of the Contract shall not affect any rights or liabilities that the Parties have accrued under it.
- 3.9.3. On termination or Expiry of this Contract, the following provisions of this Contract shall continue in force:
 - 3.9.3.1. DEFCON 14, DEFCON 15, DEFCON 16, DEFCON 21, DEFCON 90, DEFCON 91, DEFCON 501, DEFCON 513, DEFCON 522, DEFCON 529, DEFCON 530, DEFCON 531, DEFCON 611, DEFCON 625, DEFCON 632, DEFCON 703, DEFCON 800, DEFCON 804, Clause 3.1 (Definitions and Interpretations), Clause 3.3 (Security Measures), Clause 3.5 (Termination), Clause 3.8 (Dispute Resolution), Clause 4.11 (Warranty), Clause 6.6 (Commercial Exploitation), Clause 8.6 (Limitations on Liability), Clause 9.2 (Advance against the Contract Price), Annex F (Intellectual Property Rights - DEFFORM 315).
- 3.9.4. Termination or expiry of this Contract howsoever caused shall not affect any provision of this Contract which is expressly or by implication intended to come into effect on, or to continue in effect after such termination or expiry.

- 3.9.5. Termination or expiry of this Contract shall not affect any rights, remedies, obligations or liabilities of the Parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.

3.10. Cyber Security

- 3.10.1. The Cyber Risk Profile of the Contract is [REDACTED] as defined in Def Stan 05-138.

3.11. Future Work

- 3.11.1. The Authority and Contractor shall be committed to extending the scope of work of the Contract, subject to DEFCON 620 to include, but not limited to;
- 3.11.1.1 Enhanced Kinetic Energy;
 - 3.11.1.2 New Modular Armour;
 - 3.11.1.3 Active Protection System;
 - 3.11.1.4 Provision of Special Tools and Test Equipment; and
 - 3.11.1.5 DEFCON 82 spares.

3.12. Change of Control of Contractor

- 3.12.1. The Contractor shall notify the Authority, as soon as practicable, in writing of any intended, planned or actual change in control of the Contractor, including any direct sub-contractors. The Contractor shall not be required to submit any notice which is unlawful or is in breach of either any pre-existing non-disclosure agreement or any regulations governing the conduct of the Contractor in the UK or other jurisdictions where the Contractor may be subject to legal sanction arising from issuing such a notice.
- 3.12.2. For the purposes of this Clause 3.12:
- 3.12.2.1. 'control' means the power of a person to secure that the affairs of the Contractor are conducted in accordance with the wishes of that person:
 - 3.12.2.1.1 by means of the holding of shares, or the possession of voting powers in, or in relation to, the Contractor; or
 - 3.12.2.1.2 by virtue of any powers conferred by the constitutional or corporate documents, or any other document, regulating the Contractor. and
 - 3.12.2.2. a change of control occurs if a person who controls the Contractor ceases to do so or if another person acquires control of the Contractor, provided that a change of control will not occur if

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- 3.12.2.2.1 the cessation of control occurs as a part of a corporate restructuring of the Contractor's Group; or
- 3.12.2.2.2 the person acquiring control of the Contractor is a member of one the Contractor's Parent Companies,
- 3.12.2.3. provided in both cases that such change of control does not result in the Contractor ceasing to be a part of the same corporate group as the Guarantors or otherwise prejudice the Authority's ability to exercise its rights under the Parent Company Guarantees.
- 3.12.3. Each notice of change of control shall be taken to apply to all contracts with the Authority.
- Notices shall be submitted to:
Mergers & Acquisitions Section
Strategic Supplier Management Team
Spruce 3b #1301
MOD Abbey Wood
Bristol
BS34 8JH
and emailed to: DefComrcISSM-MergersandAcq@mod.gov.uk
- 3.12.4. The Authority shall consider the notice of change of control and advise the Contractor, in writing of any concerns the Authority may have. Such concerns may include potential threats to national security, the ability of the Authority to comply with its statutory obligations or matters covered by the declarations made by the Contractor prior to Contract Award. Following receipt by the Contractor of the Authority's response to such notice, the Contractor shall be given a reasonable time period in which to address and resolve the Authority's concerns, during which the Parties shall meet to discuss the relevant change of control and the Authority's intention (if any) to exercise any of its rights under Clause 3.12.5 below. Such time period shall end:
- 3.12.4.1. 2 (two) months from receipt of the Authority's response; or
- 3.12.4.2. in the case of a change of control of the Contractor, on the date on which the notified change of control takes effect, if earlier.
- 3.12.5. Subject to Clause 3.12.4:
- 3.12.5.1. where there is a change of control of the Contractor, the Authority may terminate the Contract in writing within 6 (six) months of the Authority being notified in accordance with Clause 3.12; or
- 3.12.5.2. where there is a change of control of a direct sub-contractor of the Contractor:
- 3.12.5.2.1 the Contractor shall within 60 (sixty) Business Days of the Authority being notified in accordance with Clause 3.12 notify the Authority of any alternative suitably competent Sub-Contractor capable of supplying the goods and/or services supplied by the relevant Sub-Contractor and such notification shall include:

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- 3.12.5.2.1.1. identification of any change required to the Contract to allow the Contractor to enter into the alternative Sub-Contract (a “Change of Supply”); and
- 3.12.5.2.1.2. a fully costed proposal for such Change of Supply, including identification of any validation activities required to be carried out to allow the Contractor to sub-contract with the alternative suitably competent Sub-Contractor;
- 3.12.5.2.2 where an alternative suitably competent sub-contractor is acceptable to the Authority and no Change of Supply is required, the Contractor shall promptly terminate the relevant Sub-Contract and enter into the replacement Sub-Contract;
- 3.12.5.2.3 where an alternative suitably competent Sub-Contractor is acceptable to the Authority and a Change of Supply is required:
 - 3.12.5.2.3.1. the Authority shall respond within 6 (six) calendar months to confirm whether the Change of Supply is approved;
 - 3.12.5.2.3.2. the Contractor shall co-operate with the Authority and shall use its reasonable endeavours to provide any further information or documentation reasonably requested by the Authority to assist with the Authority’s assessment of the proposed Change of Supply;
 - 3.12.5.2.3.3. if the Change of Supply is approved, the Authority shall approve the change in accordance with Defcon 620 and instruct the Contractor to undertake any required validation activities for the alternative approved sub-contractor; and
 - 3.12.5.2.3.4. following completion of the validation activity the required change shall be implemented and the Contractor shall promptly terminate the relevant sub-contract and enter into the replacement sub-contract;
- 3.12.5.2.4 where:

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- 3.12.5.2.4.1. no alternative suitably competent sub-contractor notified to the Authority by the Contractor is acceptable to the Authority; and
- 3.12.5.2.4.2. the Contractor, having complied with its obligations under this Clause 3.12.5.2, is unable to identify and/or enter into a sub-contract with an alternative suitably competent Sub-Contractor; or
- 3.12.5.2.4.3. the Authority does not approve a proposed Change of Supply, the Contractor shall submit a change proposal in accordance with Defcon 620, which may include a change to the Statement of Requirements, and, subject to Clause 3.12.5.2.5 below, the Contractor shall be entitled to claim for schedule relief in respect of the deliverable(s) to which the relevant Sub-Contract relates only; and

3.12.5.2.5 if the Parties are unable to agree an appropriate change pursuant to Clause 3.12.5.2.4 by the date falling on the later of 6 (six) calendar months of the Contractor's notification pursuant to Clause 3.12.1 or 2 (two) calendar months from the start of the discussions pursuant to Clause 3.12.5.2.4 (or such longer time period as may be agreed between the Parties), the Authority may terminate the Contract with immediate effect.

The Authority shall act reasonably in exercising its right of termination under this Clause 3.12.

- 3.12.6. Notification by the Contractor of any intended, planned or actual change of control or termination by the Authority of the Contract in accordance with Clause 3.12.5 shall not prejudice the existing rights of the Authority or the Contractor under the Contract nor create or imply any rights of either the Contractor or the Authority additional to the Authority's and Contractor's rights set out in this Clause 3.12.

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4. Specification and Plans

4.1. Performance of Work

- 4.1.1. The Contractor shall execute and complete all Contract Schedule of Requirements in accordance with the Contract including (without limitation) Annex A (CSRD), Annex B (Statement of Requirement) Annex D (Contract Data Requirements) and Annex K (Project Delivery Milestones).
- 4.1.2. The Contractor shall be responsible for meeting the performance and capability requirements for the CR2 LEP Solution stated in Annex A (CSRD) to the Contract. FFBNW and Installation Provision Made in Design (IPMD) equipment is to be accommodated in the design so as to satisfy the requirement detailed at Annex A (CSRD).
- 4.1.3. The Contractor shall, whenever required by the Authority's Project Manager (Box 2 DEFFORM 111 Appendix to Contract), submit details of the arrangements and methods which the Contractor proposes to adopt for the execution of the work including whether the same differs from the Contract Schedule of Requirements, Annex B (Statement of Requirement) or Annex G (VVRM).
- 4.1.4. Except as expressly provided in and without prejudice to the Authority's obligations under Condition 7.1 (Supply of Government Furnished Assets), the Contractor shall be responsible for obtaining all information and data necessary for the carrying out of its obligations under the Contract.
- 4.1.5. Even though the Authority may from time to time formally or informally verify or express satisfaction with any design, drawing or data or if the Authority at any stage gives any advice or makes any suggestion relating to any design, drawing or data, or the work comprising the phases under the Contract, the Authority shall not thereby incur any liability and the Contractor shall remain solely responsible for fully meeting the requirements of the Contract.

4.2. Risk Assessment

- 4.2.1. The Contractor acknowledges that any risk assessment which has been, or may be, undertaken in connection with this Contract has been, or will be, a project management function only. Such risk assessment does not affect the legal relationship between the Parties. The issuing of any risk assessment questionnaire and the process of risk assessment, including without limitation, the identification of (or failure to identify):

- 4.2.1.1. particular risks and their impact; or

- 4.2.1.2. risk reduction measures, contingency plans and remedial actions

shall not in any way limit or exclude the Contractor's obligations under this Contract and shall be entirely without prejudice to the Authority's rights, privileges and powers under this Contract. The risks identified as a result of any risk assessment questionnaire and risk assessment process generally remain the risks of the Contractor and are not assumed by the Authority except to the extent that the Authority expressly and unequivocally accepts those risks under the Contract. Any risk assessment questionnaire released was or will be issued by the Authority solely on this basis.

4.3. Quality Assurance

- 4.3.1. All work under the Contract shall be carried out in accordance with the provisions of this Condition 4.3.
- 4.3.2. The Contractor is responsible for ensuring that:
 - 4.3.2.1. The quality planning and management activities conform to Contract requirements.
 - 4.3.2.2. Sub-contractor controls conform to Contract quality assurance requirements. The Contractor shall assure the supply chain; ensuring that the contract quality assurance requirements are flowed down to all sub-contractors.
- 4.3.3. The Contractor shall maintain a Quality Management System (QMS) certified to ISO 9001:2015 (or equivalent), the scope shall cover all activities carried out under the contract and shall be maintained for the duration of the Contract. The certification shall be awarded by a nationally accredited third party certification body.
- 4.3.4. The Contractor shall inform the Authority of any planned changes to the certified QMS which materially and adversely impact on the Contractor's ability to deliver Annex D (Contract Data Requirements) and Annex K (Project Delivery Milestones). Upon request the Contractor shall provide the Authority with reports pertaining to their certification.
- 4.3.5. The quality standards and requirements at Annex O (Standards) to the Contract shall apply, and the Contractor's shall deliver compliance with these standards and requirements. Where Government Quality Assurance is performed against this Contract it will be in accordance with AQAP 2070 Ed. B Ver. 4.
- 4.3.6. For the purpose of the Contract, the Government Quality Assurance Representative (GQAR) shall be referred to as the Authority (Box 2 DEFFORM 111 Appendix to Contract) or its authorised representative, as may from time to time be notified by the Authority. The Authority shall retain the right to access all facilities, documentation and information pertaining to the contract. The Authority shall provide ten (10) business days written notice that they wish to conduct GQA at either the Prime Contractor or the sub-contractor sites within the UK or outside of the UK and the Authority shall be able to enter such Contractor sites or sub-contractor sites during normal business hours.
- 4.3.7. A quality liaison meeting will be held in within four (4) weeks of Contract Award to conduct a review of the deliverables under the Contract and establish the Terms of Reference (ToR) for a Quality Assurance Working Group (QAWG).
- 4.3.8. Where a sub-contractor is not based in the UK, this does not waive their responsibility to comply with the Contract requirements.
- 4.3.9. The deliverables to the Authority identified in Annex K (Project Delivery Milestones) shall be accompanied by a Certificate of Conformity in accordance with DEFCON 627, confirming conformance to contract requirements including listing deviations (agreed by the Parties) in accordance with Defence Standard 05-061 Part 1 Issue 6.

- 4.3.10. The standards to which work shall be completed may not necessarily be referred to in this Condition 4.3 (Quality Assurance). They will, however, be referred to in the appropriate Condition and/or at Annex O (Standards) to the Contract.

4.4. Standards of Performance

- 4.4.1. The Contractor shall neither be relieved of its obligations to supply the Articles in accordance with the terms and conditions of this Contract nor be entitled to a revision of the Contract Price as the result of:
- 4.4.1.1. a General Change in Law;
 - 4.4.1.2. a Specific Change in Law
- 4.4.2. If a Specific Change in Law or a General Change in Law occurs or will occur during the Contract duration (other than as referred to in Clause 4.4.1.1 and Clause 4.4.1.2, the Contractor shall:
- 4.4.2.1. notify the Authority as soon as reasonably practicable of the likely effects of that change, including:
 - 4.4.2.1.1 whether any Change is required to the Contract Price, delivery schedule or both; and
 - 4.4.2.1.2 whether any relief from compliance with the Contractor's obligations is required, including any obligation to Achieve an Anchor Milestone; and
 - 4.4.2.2. provide the Authority with such evidence as may be reasonably be required:
 - 4.4.2.2.1 that the Contractor has minimised any increase in costs or maximised any reduction in costs, including in respect of the costs of its Sub-contractors;
 - 4.4.2.2.2 as to how the Specific Change in Law or the General Change in Law has affected the cost of delivering the Contract obligations.
- 4.4.3. Any variation in the Charges or relief from the Contractor's obligations resulting from a Specific Change in Law or a General Change in Law (other than as referred to in Clause 4.4.1.1 and Clause 4.4.1.2) shall be implemented in accordance with the Contract Change Control Procedure (DEFCON 620). If the Parties fail to reach agreement on the changes to be made to the Contract resulting from a Change in Law, then the dispute or difference in question shall be referred for resolution in accordance with Clause 3.8 (Dispute Resolution).

- 4.4.4. The Contractor shall give all notices, pay all taxes, duties and fees, and obtain and maintain all permits, licences and approvals, as required by UK Legislation in relation to the design, execution and completion of the work required for the CR2 LEP Solution. The Authority shall be responsible and liable for securing any exemptions that may be required for any sub-systems or components outside of the CR2 LEP Solution. Any legislative exemptions identified and presented to the Authority during the Assessment Phase contracts (700005473 and AVPISP/00134) are acceptable for the purpose of this Contract. The Contractor shall comply with all such permits, licences and approvals including the discharging of all conditions of the same.

4.5. Testing

- 4.5.1. For the System Safety Commissioning and System Proving test, trial or demonstrations which the Contractor intends to undertake as identified in Sections 3 and 4 respectively of Annex G (VVRM), the Contractor shall use all reasonable endeavours to provide the Authority not less than thirty (30) business days written notice, setting out the date, time and place when each test, trial or demonstration shall be carried out. Subject to compliance with export, security and commercial confidentiality considerations the Authority shall be entitled to invite third parties to attend to witness any such test, trial or demonstration in addition to representatives from the Authority.
- 4.5.2. The Contractor shall be entitled to proceed with each test, trial, or demonstration notwithstanding that the Authority or its representatives may not be in attendance provided that the Contractor has provided the relevant notice in accordance with Clause 4.5.1.
- 4.5.3. For System Safety Commissioning and System Proving test, trials or demonstrations, the Contractor shall record the results by completing a report (the format of the report shall be at the discretion of the Contractor), which shall include evidence of whether or not the test, trial or demonstration was conducted in accordance with the agreed test specification. The process on determination on whether or not the relevant Acceptance Trial Criteria has been met is defined in the ITEAP (document reference 40098501 Issue 05, February 2021).
- 4.5.4. Subject to Clause 4.6.8, if any test, trial or demonstration does not meet the agreed test specification, the Contractor shall at its own expense and discretion:
- 4.5.4.1. complete such corrective action and other modifications as is necessary to overcome the deficiencies identified in the report; and
 - 4.5.4.2. if deemed appropriate by the Contractor repeat the test, trial or demonstration as soon as reasonably practicable.
- 4.5.5. The provisions of Clause 4.5.1 to 4.5.4 inclusive shall apply to such repeat test, trial or demonstration except that the Contractor shall endeavour to provide the Authority ten (10) business days' notice, or such other period as agreed between the Parties, of the date, time and place of any such repeat test, trial or demonstration recognising the need for the trials to be attended by the relevant representatives from both Parties.
- 4.5.6. Incidents arising from testing undertake as part of the VVRM at Annex G (VVRM) will be subject to formal Incident Sentencing by the Incident Sentencing Committee (ISC) in accordance with Annex L (Contract Governance).

4.6. Acceptance

Demonstration Phase

- 4.6.1. Demonstration Phase (Contract Schedule of Requirements Item 1) shall commence on Contract Award and shall complete with successful achievement of Anchor Milestone 2 (System Qualification Review). Acceptance shall be in accordance with the criteria set out at Annex J (Anchor Milestone Entry and Exit Criteria).

Manufacturing Phase

- 4.6.2. Acceptance of each vehicle converted with the CR2 LEP Solution under Contract Schedule of Requirements Item 2 shall occur following successful completion of the Factory Acceptance Tests (FAT) in accordance with Clauses 4.6.3 to 4.6.4 below and successful achievement of the General Acceptance Tests (GAT) in accordance with Clause 4.6.5 below.
- 4.6.3. The Contractor shall, prior to delivery to the Authority, carry out the FAT stated in the Annex G Appendix 1. The Authority will use Quality Assurance (QA) procedures in accordance with Condition 4.3 (Quality Assurance) to assure these tests, and will, at the Authority's discretion, witness selective tests, up to and including the FAT.
- 4.6.4. The Authority shall have the right to attend each FAT; the Contractor shall provide the Authority a minimum of five (5) business days written notice of the commencement of FAT. Subject to such notice having been given, failure of the Authority to attend the FAT shall not be a valid reason for rejection.
- 4.6.5. The Authority shall undertake a GAT (Annex G Appendix 2) on all CR2 Mk 2 Vehicles delivered under the Contract in accordance with the scope at Annex G (VVRM) and whilst the Authority shall endeavour to complete GAT within twenty (20) business days of successful completion of FAT, it will have forty (40) business days after successful completion of the FAT in which to conduct a GAT. Unless rejected by the Authority in accordance with Clause 4.6.8, Acceptance of each CR2 Mk 2 Vehicle shall automatically occur forty (40) business days after successful completion of the FAT or the successful achievement of the GAT whichever is the sooner. The Contractor shall be entitled to claim the final payment for each CR2 Mk 2 Vehicle on successful completion of the GAT (or within forty (40) business days after successful completion of the FAT if sooner and in the absence of a rejection in accordance with clause 4.6.6).
- 4.6.6. In the event a CR2 Mk 2 Vehicle fails the GAT when it is undertaken, and a CR2 Mk2 vehicle has not otherwise been accepted, the terms of Clause 4.6.10 shall apply. For the avoidance of doubt, should a CR2 Mk2 Vehicle be unable to undergo the GAT following the FAT due to the fault of the Contractor then the GAT will be deemed to have failed.
- 4.6.7. In the event the Authority has paid a final payment for a CR2 Mk2 Vehicle through Acceptance by not conducting the GAT within forty (40) business days and the Vehicle subsequently fails GAT, the terms of Clause 4.11 (Warranty) shall apply.

- 4.6.8. In the event that the Authority rejects the Contractor Deliverables, the Authority shall inform the Contractor in writing of the detailed reasons for the rejection. The Authority's rights of rejection of each vehicle converted with the CR2 LEP Solution shall be limited to the failure of such vehicle to successfully pass the FAT (Appendix 1 to Annex G) and the GAT (Appendix 2 to Annex G).
- 4.6.9. The Authority shall not have accepted a CR2 Mk 2 Vehicle in accordance with DEFCON 525 and this Condition 4.6 (Acceptance), unless otherwise specified in the Contract, merely because the CR2 Mk 2 Vehicle has been delivered.

CR2 Mk 2 Vehicle Acceptance Rectification Process

- 4.6.10. In the event that a CR2 Mk 2 Vehicle is not accepted in accordance with Clause 4.6.2 and it is sentenced by the ISC in accordance with Annex L (Contract Governance) that the Contractor is liable for this failure, then the Authority shall have the right, without prejudice to any other right or remedy it may have under the Contract, to request the Contractor to submit a rectification plan. Any such request is to be made in writing, setting out the reasons for the request. The rectification plan, including any revision to the FAT and GAT testing regimes for future CR2 Mk 2 Vehicles, shall be agreed by the Parties within ten (10) business days of submission. In agreeing the rectification plan the Parties shall not act unreasonably. In the event that the Parties are unable to agree a rectification plan within the ten (10) business days period or the rectification work is not completed by the date agreed within the rectification plan:
- 4.6.10.1. the Authority shall have the right to reject the CR2 Mk 2 Vehicle in question, in accordance with DEFCON 524; and
- 4.6.10.2. until such rectification work has been completed and the Vehicle accepted by the Authority (in accordance with Clause 4.6.2) the Authority shall be under no obligation to pay the final milestone payment (in accordance with Annex I (Milestone Payment Plan) and Clause 9.1 (Payments)) for the CR2 Mk 2 Vehicle in question.

In circumstances where it is sentenced by the ISC in accordance with Annex L (Contract Governance) that the Contractor is not liable for the failure to achieve CR2 Mk 2 Vehicle acceptance then both Parties shall, acting reasonably, seek to address failure and repeat the respective acceptance test within 10 working days. Where the issue cannot be resolved (via the emergent work process as set out at Clause 4.12 within 10 working days then the associated acceptance test shall be rescheduled.

In the event that the acceptance test of a CR2 Mk 2 Vehicle is rescheduled in accordance with 4.6.10.2, the milestone payment for the remaining CR2 Mk 2 vehicle(s) within the batch which have passed FAT or have been accepted in accordance with Clause 4.6.2, shall be made by the Authority on a pro-rata basis.

Contractor Support to User Led Trials

- 4.6.11. The Contractor shall provide support during the GAT in accordance with the scope identified in Appendix 2 to Annex G (VVRM) and support to the Production Reliability Test (PRT) in accordance with the scope identified in Annex B (Statement of Requirement).

4.7. Acceptance of Documentation and Information

- 4.7.1. The Authority's acceptance of any documentation or information delivered in accordance with Annex D (Contract Data Requirements) shall be against the acceptance criteria for that Contractor Deliverable in terms of scope, format, evidence contained, and its suitability for purpose. The relevant acceptance criteria shall be as defined at Annex D – Appendix 1 (Contract Data Requirements - DIDs) to the Contract. The Authority shall notify the Contractor of acceptance or rejection of any document within twenty (20) business days, such acceptance not to be unreasonably withheld. In the event that the Authority rejects the Contractor Deliverable, the Authority shall inform the Contractor of the detailed reasons for the rejection of a document or information deliverable to the Contractor in writing at the time of rejection. The Authority feedback will be provided in the form of the feedback sheet in accordance with the process stated at Annex L (Contract Governance).

4.8. Configuration Control

- 4.8.1. The Contractor shall conduct Configuration Management in accordance with DEF STAN 05-57 Issue 7 and the Configuration Management Plan (reference 40095783). The Contractor shall ensure that the Authority's Project Manager (Box 2 DEFFORM 111 Appendix to Contract) or its authorised representative(s) has full and free access to the Contractor's records of the configuration items and the configuration process.

4.9. Safety and Environmental Case

- 4.9.1. The Contractor shall:
- 4.9.1.1. ensure that in performing the Contract it complies with all statutory duties and obligations relating to safety and the environment and shall be responsible for ensuring that no Contract requirement causes the Contractor to be in breach of any statutory duty or obligation relating to safety and the environment;
 - 4.9.1.2. within three (3) business days draw to the Authority's attention if it appears that any Contract specification or Condition may render the Contractor in breach of any statutory duty or obligation relating to safety and the environment;
 - 4.9.1.3. ensure that where the Authority has been granted exemption from specific regulations, health and safety standards and arrangements will be, so far as reasonably practicable, at least as good as those required by statute;
 - 4.9.1.4. ensure that all safety targets detailed in the CR2 Mk 2 Vehicle Safety and Environmental Case Report Part 1 (Reference CR2-LEP-A5-700-0010 dated July 2020) and the Safety Requirements within the Contract System Requirement Document have been met and all risks have been reduced to a level that is as low as reasonably practicable prior to the operation of the system by in service personnel; and

- 4.9.1.5. ensure that all environmental targets detailed in the CR2 Mk 2 Vehicle Safety and Environmental Case Report Part 1 (Reference CR2-LEP-A5-700-0010 dated July 2020) and the Environmental Requirements within the Contract System Requirement Document have been met and all impacts have been reduced to best practicable environmental option prior to the operation of the system by service personnel.
- 4.9.2. The Authority may, without prejudice to any of its rights which may have arisen under Clause 4.9.1 above, require the Contractor to vary each such Contract specification or Condition in a manner acceptable to the Authority and which will not render the Contractor in breach of any statutory obligation relating to safety and/or the environment. In such instances, and provided the Contractor has taken all reasonable measures to mitigate the consequences, fair and reasonable revision to the Contract Price, delivery schedule or both shall be made as appropriate.
- 4.9.3. Nothing in the Contract or in any other document created or signed on behalf of the Authority shall constitute a written undertaking for the purposes of Section 6(8) of the Health and Safety at Work Act 1974 relieving the Contractor of any of its duties under Section 6 of that Act.

4.10. Obsolescence

- 4.10.1. The Contractor shall be responsible for the management of Obsolescence in accordance with the latest agreed version of the Obsolescence Management Plan (Reference 40097605).
- 4.10.2. The Authority shall, in writing, notify the Contractor of acceptance or rejection of the Contractor's proposals submitted in accordance with the Obsolescence Management Plan, referred to in Clause 4.10.1. This notification shall be provided within thirty (30) business days of receipt of such proposals. If rejected the Authority shall give reasons for its decision and the Contractor shall take the reasons into account in the preparation of a revised rectification plan. The Contractor shall submit a revised proposed within thirty (30) business days of the Authority's rejection.
- 4.10.3. The Contractor shall report to the Authority the status and progress of obsolescence management in accordance with the requirements defined in the Obsolescence Management Plan referred to in Clause 4.10.1.
- 4.10.4. Where an obsolescence issue arises prior to Anchor Milestone 2 (System Qualification Review), the Contractor shall be responsible for all costs associated with implementing its proposed solution to resolve the obsolescence issue. Such costs include, but are not limited to:
 - 4.10.4.1. all new design equipment within the CR2 LEP Solution, the management of obsolescence (including design mitigation and material implementation);
 - 4.10.4.2. all retained and modified Equipment within the CR2 LEP Solution, the design mitigation of obsolescence;
 - 4.10.4.3. updating those elements of the training package generated under the Contract which are impacted by obsolescence issues;

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- 4.10.4.4. the S&TE supplied under the Contract which is impacted by obsolescence issues;
- 4.10.4.5. updating AESPs supplied under the Contract which are impacted by obsolescence issues;
- 4.10.4.6. updating any plans supplied under the Contract which are impacted by obsolescence issues; and
- 4.10.4.7. modifying any packaging designs developed under the Contract which are impacted by obsolescence issues.

If the Contractor requires support from the Authority to implement its proposed solution, such as if a waiver is required, then the Authority shall not unreasonably withhold such support.

- 4.10.5. Where an obsolescence issue arises in the Manufacture Phase and the Contractor could not have reasonably foreseen this, the Contractor shall not be responsible for costs associated with implementing its solution to resolve the obsolescence Issue or obsolescence concern
- 4.10.6. Where the Authority accepts a proposal (in accordance with Clause 4.10.4) that requires Authority resources to enable the solution to be implemented, the Authority shall be responsible for the provision of and associated costs for such resources.
- 4.10.7. For all proposals submitted in accordance the Obsolescence Management Plan, referred to in Clause 4.10.1, the Contractor shall generate a Change Proposal Form in accordance with DEFCON 620 and the provisions of Clause 3.7 (Amendments to Contract) shall apply to any proposed change.
- 4.10.8. Any configuration changes due to Obsolescence shall be approved in accordance with Clause 4.8 (Configuration Control). Where the proposed solution does not involve a configuration change and does not alter the form, fit or function then the Contractor shall be entitled to adopt its proposed solution.
- 4.10.9. The Contractor shall be responsible for all costs of any changes necessary under this Contract due to the Contractor's failure to submit proposals to the Authority, in accordance with the Obsolescence Management Plan, referred to in Clause 4.10.1, within five (5) business days of the Contractor becoming aware of the obsolescence issue. This shall include, but not be limited to, changes to the long lead items, spares, plans, publications, support and test equipment, packaging, training, and any other costs incurred by the Authority.
- 4.10.10. The Authority shall be responsible for all costs of any changes it proposes under this Contract which result in a change or modification to the Contractor Deliverables, or any element of the Contractor Deliverables which leads to an obsolescence issue. This will be managed in accordance with DEFCON 620 and Clause 4.8 (Configuration Control).

4.11. Warranty

Introduction

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- 4.11.1. Subject to the provisions of this Clause 4.11 (Warranty) the Contractor shall ensure that the Warranted Deliverables (and all parts thereof) shall be designed, manufactured, supplied, tested and accepted in accordance with the requirements of the Contract and that they shall be free from defect in parts, materials, workmanship, and design. Where this is not the case, the remedy of the Authority in relation to any defect in, loss of, or damage to, the Warranted Deliverables shall be that the Contractor shall be responsible for making good by repair or replacement and/or re-design of any resultant defect or failures in any Warranted Deliverables or part of any Warranted Deliverables which may appear or occur during the warranty periods set out in this Clause 4.11 (Warranty) in accordance with the terms set out below.
- 4.11.2. The warranties set out in this Clause 4.11 (Warranty) shall apply worldwide. The Authority shall return Articles which are subject to a warranty claim to the Contractor's Telford premises at its own cost and expense.

Design Warranty

- 4.11.3. The Contractor warrants the Warranted Deliverables in the Contract Schedule of Requirements including software and warrants the integration of GFA where such GFA is installed in accordance with the GFA technical manuals or the GFA manufacturer's reasonable instructions and the Contractor has properly discharged its obligations pursuant to Clause 7.1 (Supply of Government Furnished Assets) against failures or defects in design under the terms stated below:
- 4.11.3.1. Against failures or defects in design for a period of 5 (five) years from the date of the Acceptance of the first CR2 Mk 2 Vehicle modified with the CR2 LEP Solution and will undertake any re-design necessary to rectify such failures or defects;
- 4.11.3.2. Against failures or defects in design for a period of 5 (five) years from the date of the delivery of the first CR2 Mk 2 Vehicle modified with the CR2 LEP Solution of Warranted Deliverables incorporating a re-design or modification arising under DEFCON 620 and will undertake any re-design necessary to rectify such failures or defects;
- 4.11.3.3. In the event that the Contractor carries out a re-design in order to rectify a failure or defect under the warranty as set out at Clauses 4.11.3.1 and 4.11.3.2 such re-design shall be warranted against failures or defects in design for the balance of the 5 (five) year warranty set out at Clause 4.11.3.1 and 4.11.3.2 and will undertake any further re-design as necessary to rectify such failures or defects. The Authority will return Warranted Deliverables to the Contractor within 6 (six) months once a design defect has been identified, unless otherwise agreed;
- 4.11.3.4. The Contractor shall be responsible for completing any design investigation required for any design failure as sentenced by the Incident Sentencing Committee; and

- 4.11.3.5. In the event that the Contractor carries out a re-design in order to rectify a failure or defect under the warranty as set out at 4.11.3.1 or 4.11.3.2 or 4.11.3.3 such re-design shall be warranted against failures or defects in design for an additional period of time equivalent to the period of time from receipt of a valid warranty claim by the Contractor until completion of the re-design activity by the Contractor and acceptance of such by the Authority
- 4.11.3.6. For the avoidance of doubt, the Authority may choose at its sole discretion to subject the Warranted Deliverables to a lesser testing regime than that set out in Clause 4.6 (Acceptance).
- 4.11.3.7. The Contractor shall undertake all valid warranty claims made during the warranty period;

Parts and Labour Warranty

- 4.11.4. The Contractor warrants each Warranted Deliverables including software and warrants that the installation of GFA has been carried out in accordance with the GFA technical manuals or the GFA manufacturer's instructions, against defects in parts, materials and workmanship under the terms stated below, for 6 (six) months from Acceptance. The period of warranty for the Warranted Deliverables shall commence from acceptance of the Warranted Deliverables. The warranty provides full parts and labour coverage for workmanship or material failure of any part of the Warranted Deliverables. In circumstances where the Contractor's sub-contractors offer a warranty at no additional cost which is longer than 6 (six) months, the Contractor shall pass the benefit of this to the Authority.
- 4.11.5. In the event that the Contractor replaces any Warranted Deliverables or part thereof under the warranty set out at Clause 4.11.4 above, such replaced Warranted Deliverables or part thereof shall be warranted against defects in parts, materials and workmanship for a further 6 (six) month period from acceptance by the Authority of the replacement Warranted Deliverables or part thereof. In the event that Warranted Deliverables are repaired under the warranty they shall be warranted against defects in parts, materials and workmanship for the balance of the 6 (six) months warranty life remaining, with the remainder of the warranty commencing from the acceptance by the Authority of the repaired Warranted Deliverable or part thereof. In circumstances where the Contractor's sub-contractors offer a warranty at no additional cost which is longer than 6 (six) months, the Contractor shall pass the benefit of this to the Authority.

Limitations and Exclusions

- 4.11.6. For the purposes of this Clause 4.11.6, the Authority shall include third parties who are acting on behalf of the Authority. Warranties set out in Clauses 4.11.3, 4.11.4 and 4.11.5 above shall not apply in respect of damage caused by:
- 4.11.6.1. Any use by the Authority and use by third parties acting on behalf of the Authority, including storage, maintenance, configuration or installation of the Warranted Deliverable that is not undertaken in accordance with the instructions set out in the technical manuals provided by the Contractor under the Contract;

- 4.11.6.2. The Authority and use by third parties acting on behalf of the Authority operating the Warranted Deliverable outside of the requirements as stated in the CSRD at Annex A (CSRD);
- 4.11.6.3. Any alteration, modification or attachments made to the Warranted Deliverable by the Authority and use by third parties acting on behalf of the Authority without the Contractor's written approval or not undertaken in accordance with the Contractor's documentation provided in accordance with the CSRD;
- 4.11.6.4. GFA installed in the Warranted Deliverables where such GFA is installed in accordance with the GFA technical manuals or the GFA manufacturer's reasonable instructions and the Contractor has properly discharged his obligations pursuant to Clause 7.1.11; or
- 4.11.6.5. Accidental damage, misuse or neglect by the Authority.

General Provisions

- 4.11.7 Any dispute hereunder shall be dealt with in accordance with DEFCON 530 (Dispute Resolution).
- 4.11.8 This Warranty shall be governed by and construed in accordance with the laws of England.
- 4.11.9 This Warranty shall be entirely without prejudice to the Authority's rights and remedies under the Contract or otherwise including (without limitation) rights and remedies relating to terms and conditions implied by law.

4.12. Emergent Work

- 4.12.1. Emergent work covers work outside of the CR2 LEP System classed as safety critical, or essential work, or necessary repairs to GFA items (where the Contractor is not at fault for the failure of the GFA) and which is necessary to support conversion of the CR2 Mk 2 Vehicle.
- 4.12.2. Activity undertaken by the Contractor under this Emergent Work Clause for:
 - 4.12.2.1. The Vehicle Hull or items where the Contractor is the original equipment manufacturer:
 - 4.12.2.1.1 The Contractor is authorised to undertake the repair subject to Clause 4.12.3;
 - 4.12.2.2. Items where the Contractor is not the original equipment manufacturer:
 - 4.12.2.2.1 The Contractor is to notify the Authority when such items are identified and the Authority is to provide instructions on the return of these items and the terms of clause 4.12.5 apply. Such Contractor notification and Authority instruction is to be in writing;

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- 4.12.3. The Contractor is to utilise the funding provided by the Limit of Liability at Item 5 of the Schedule of Requirements in complying with this requirement. In carrying out emergent work as identified in Clause 4.12.2.1, the Contractor is pre-authorised to carry out repairs up to a maximum of 15 labour hours for each repair task. The Contractor shall retain defective parts and obtain post-repair justification from the Authority. For emergent work tasks in excess of 15 labour hours, the Contractor shall obtain pre-authorisation from the Authority using the form at Appendix 1 to Annex Q. In the circumstances where the Contractor has initiated an emergent work task and it is subsequently determined that the task cannot be completed within the 15 labour hour period, the Contractor shall seek written direction from the Authority.
- 4.12.4. A Monthly cost statement will be provided by the Contractor to the Authority covering all work completed under this Emerging Work Clause. The cost statement shall be in the form of the document at Appendix 2 of Annex Q (Emergent Work).
- 4.12.5. If an item subject to this Emerging Work Clause 4.12.2.2 cannot be repaired (or replaced by the Authority under the terms of the Contract) such that the vehicle conversion programme can be continued without disruption, the vehicle subject to conversion shall be placed in quarantine until such time as the repaired or replaced items is provided. Upon receipt of the repaired or replaced item, the Contractor shall schedule the vehicle back into the conversion programme at an appropriate time which minimises disruption to the delivery schedule in Annex K (Project Delivery Milestones).
- 4.12.6. In the circumstances where an item subject to this Clause 4.12 cannot be repaired (or replaced by the Authority under the terms of the Contract) such that the vehicle conversion programme continues without disruption, fair and reasonable revisions of the Contract Price, delivery schedule or both shall be made as may be appropriate provided that the Contractor has taken all reasonable measures to mitigate the consequences of the disruption.

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5. PRICE

5.1. Pricing of Items on the Contract Schedule of Requirements

- 5.1.1. The prices for Contract Schedule of Requirements Items 1,2,3,4, and 6 shall include all costs of the Contractor satisfying its obligations under the Contract save as specifically set out in the Contract. The prices shall be inclusive of all royalties, licences, and taxes, but shall exclude Value Added Tax (VAT).
- 5.1.2. Contract Schedule of Requirements Item 5 is on a tasking basis utilising the Limit of Liability identified.
- 5.1.3. All prices for the Contract Schedule of Requirements Items (except Item 5) are not to exceed prices for the reasons set out below,
 - 5.1.3.1. The Contract price is based on a set of unagreed Contractor Labour rates.
 - 5.1.3.2. The following Qualifying Sub-Contractor (QSC) are not to exceed prices,
[REDACTED].
- 5.1.4. From 01 January 2024 the prices will be Fixed and amended in accordance with Clause 5.3 (Variation of Price).

5.2. Not to Exceed Pricing

- 5.2.1. The Parties recognise that each has a legal obligation, under section 20 of the Defence Reform Act 2014, to be satisfied that the costs included in the contract price are Appropriate, Attributable and Reasonable (together 'AAR'). The Parties also recognise that, at the time of Contract Award, the information provided to the Authority by the Contractor is not sufficient to allow the Authority to be satisfied that all the costs included in the contract price are AAR.
- 5.2.2. The parties have identified at Clause 5.1.3 those costs or categories of costs in respect of which further information must be provided before an 'AAR assessment' can be made.
- 5.2.3. Accordingly, the Parties agree that the Contractor will provide to the Authority, by 31 March 2021 sufficient information to enable the Authority to be satisfied that those identified costs included in the contract price are AAR or, alternatively, to enable the Authority to be satisfied as to what revised quantum of costs would be AAR.
- 5.2.4. Following that provision of information, and the Authority's analysis thereof, the Parties shall meet by 30 April 2021 to consider whether, and if so in what respect, it is necessary to re-price the Contract to re-price the Contract in accordance with the Schedule to the Single Source Contract Regulations 2014.
- 5.2.5. Without prejudice to any other right which the Authority may have, in the event that the Authority does not consider that the Contractor has complied with its obligation under this Clause 5.2, or it is still not satisfied that the costs included in the contract price are AAR by 31 May 2021, it intends to refer the contract to the SSRO for a determination of allowable costs, pursuant to section 20 of the Defence Reform Act 2014.

5.3. Variation of Price

- 5.3.1. The prices stated FIXED in the Contract Schedule of Requirements are FIXED at November 2020 for Material and FIXED at January 2024 for Labour price levels. The prices do not include provision beyond this date for increases or decreases in the market price of the Articles being purchased. Any such variation shall be calculated in accordance with the following formula:

$$V = P [a + (b * O_i/O_{oo}) + (c * O_i /O_o)] - P$$

Where

V = Variation of Price

P = Fixed Price as stated in the Contract Schedule of Requirements.

O = G72N (6140300000 Other Transport Equipment for Domestic Market)

O_o = The OUTPUT Price Index figure of G72N corresponding to the base date which is November 2020

O_{oo} = The OUTPUT Price Index figure of G72N corresponding to the base date which is January 2024

O_i = The average OUTPUT Price Index figure (G72N) figure for the latest 12 (twelve) month period (excluding months marked as provisional by the Office for National Statistics) prior to the delivery date in Annex K (Project Delivery Milestones).

a = Represents the Non- Variable Element (NVE) of 0.1 for Schedule of Requirements Items 1.a, 1.b, 1.c, 2.a, 2.b, 2.c and 3.

b = Represents the Variable Element for Labour:

Schedule of Requirements Item 1.a	0.53
Schedule of Requirements Item 1.b	0
Schedule of Requirements Item 1.c	0
Schedule of Requirements Item 2.a	0.19
Schedule of Requirements Item 2.b	0
Schedule of Requirements Item 2.c	0
Schedule of Requirements Item 3	0.75

c = Represents the Variable Element for Material:

Schedule of Requirements Item 1.a	0.37
Schedule of Requirements Item 1.b	0.90
Schedule of Requirements Item 1.c	0.90
Schedule of Requirements Item 2.a	0.71
Schedule of Requirements Item 2.b	0.90
Schedule of Requirements Item 2.c	0.90
Schedule of Requirements Item 3	0.15

$$a + b + c = 1$$

- 5.3.2. The Index referred to in Clause 5.3.1 above shall be taken from the following index:

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OUTPUT Price Index - e.g. ONS Publication MM22 Table 2 'Price Indices of UK
OUTPUT: Table 2 Price Indices of United Kingdom Output: All Manufacturing &
Selected Industries (CPA 2.1).

- 5.3.3. Indices published with a 'B' or 'F' marker, or a suppressed value, in the last 3 years are not valid for Variation of Price Clauses and shall not be used. Where the price index has an 'F' marker or suppression applied to it during the term of the Contract, the Authority and the Contractor shall agree an appropriate replacement index or indices. The replacement index or indices shall cover, to the maximum extent possible, the same economic activities as the original index or indices.
- 5.3.4. In the event that any material changes are made to the indices (e.g. a revised statistical base date) during the period of the contract and before final adjustment of the final contract price, then the re-basing methodology outlined by the Office for National Statistics (ONS, the series providers) to match the original index to the new series shall be applied.
- 5.3.5. In the event the agreed index or indices cease to be published (e.g. because of a change in the Standard Industrial Classification) the Authority and the Contractor shall agree an appropriate replacement index or indices, which shall cover to the maximum extent possible the same economic activities as the original index or indices. The methodology outlined by the Office for National Statistics used for rebasing indices (as in Clause 5.3.3 and 5.3.4 above) shall then be applied.
- 5.3.6. Notwithstanding the above, any extant index / indices agreed in the Contract shall continue to be used as long as it is / they are available and subject to ONS revisions policy. Payments calculated using the extant index / indices during its / their currency shall not be amended retrospectively as a result of any change to the index or indices.
- 5.3.7. The Contractor shall notify the Authority of any significant changes in the purchasing / manufacturing plan on the basis of which these provisions were drawn up and agreed, or of any other factor having a material bearing on the operation of these provisions such as to cause a significant divergence from their intended purpose, in order that both parties may consider whether any change in this provision would be appropriate.
- 5.3.8. Prices shall be adjusted taking into account the effect of the above formula as soon as possible after publication of the relevant indices or at a later date if so agreed between the Authority and the Contractor. Where an index value is subsequently amended, the Authority and the Contractor shall agree a fair and reasonable adjustment to the price, as necessary.
- 5.3.9. Claims under this Clause 5.3 (Variation of Price) shall be submitted via CP&F in accordance with DEFCON 522 and certified to the effect that the "requirements of this Clause 5.3 (Variation of Price) of the Contract have been met.

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6. INTELLECTUAL PROPERTY RIGHTS

6.1. Chobham Armour

- 6.1.1. This Clause 6.1.1 shall apply only to Chobham Armour. Subject to the rights of third parties, and to the rights of the Crown arising otherwise than by virtue of the Contract, all rights in the results of the work undertaken by or on behalf of the Contractor for the purposes of this Contract, including any data, reports, drawings, specifications, designs, inventions or other material produced or acquired in the course of such work, and any copyright therein, shall vest in and be the property of the Authority, who reserves the right to determine whether any patent shall be applied for or the results of work published and if so, on what conditions; and the Contractor shall ensure, where necessary, that it secures the right to effect such vesting. The Contractor, if requested, and at the expense of the Authority, shall do all things necessary to enable the Authority to obtain patent or similar protection as the Authority may require.

6.2. New Modular Armour

- 6.2.1. This Clause 6.2.1 shall apply only to New Modular Armour. Subject to the rights of third parties, and to the rights of the Crown arising otherwise than by virtue of the Contract, all rights in the results of the work undertaken by or on behalf of the Contractor for the purposes of this Contract, including any data, reports, drawings, specifications, designs, inventions or other material produced or acquired in the course of such work, and any copyright therein, shall be subject to the terms of DEFCON 703 (Edn. 08/13).

6.3. Generic Vehicle Architecture (GVA)

- 6.3.1. This Clause 6.3.1 shall apply to GVA deliverables set out at Annex D (Contract Data Requirements). Subject to the rights of third parties, and to the rights of the Crown arising otherwise than by virtue of the Contract, DEFCON 703 (Edn. 08/13) shall apply to each of those deliverables.

6.4. Sub-Contracts

- 6.4.1. The Contractor shall not place any subcontract or order involving the design or development of equipment required under this contract without the sub-contractor first concluding a direct agreement with the Authority in the form set out in Appendix 2 to Annex F (Sub-Contractors Agreement (DEFFORM 177)). Wherever possible the request for approval should be accompanied by two copies of the agreement signed by the subcontractor. If, in any case the Contractor is unable to comply with this condition it shall report the matter to the Authority's Commercial manager and await further instructions before placing the subcontract or order.

6.5. Sub-Contracts on the Defence Science and Technology Laboratory (DSTL)

- 6.5.1. The following Clause is to be included in all sub-contracts for New Modular Armour not covered by the provisions detailed in Clause 6.1 or 6.2:

"Subject to the rights of third parties, and to any rights of the Crown or the Contractor arising otherwise than by virtue of this Contract, all rights including copyright and design rights in the results of work undertaken by or on behalf of DSTL for the purposes of this Contract, including any data, reports, drawings, specifications, designs, inventions or other material produced or acquired in the course of such work, shall vest in and be the property of DSTL who reserves the right to determine whether any patent should be applied for or the results of the work published and, at the expense of DSTL, shall do all things necessary to enable DSTL to obtain Intellectual Property rights including patent or similar protection as the Contractor may require.

The Contractor has the right, free of charge, to use any of the results delivered to it in pursuance of the Contract solely for the purpose of discharging its responsibilities to the Secretary of State for Defence under Contract No 700007115."

6.6. Commercial Exploitation

- 6.6.1. The Contractor shall, subject to security considerations, have the right to sell any Articles excluding New Modular Armour, developed under the Contract in accordance with the provisions set out in DEFCON 15 and DEFCON 91. Prior to any sale of the Articles, excluding New Modular Armour, developed under the Contract, the Contractor shall agree with the Authority the levy payable and conclude a Commercial Exploitation Agreement at Annex H to the Contract.
- 6.6.2. Should the Contractor wish to commercially exploit the New Modular Armour, a request for a licence pursuant to Clause 12 of DEFCON 15 should be made to Defence Intellectual Property Rights, Patents & Licensing, Poplar 2 #2214, MOD Abbey Wood, Bristol, BS34 8JH.

6.7. Authorisation by the Crown for use of Third Party Intellectual Property Rights

- 6.7.1. Notwithstanding any other provisions of the Contract and for the avoidance of doubt, award of the Contract by the Authority and placement of any contract task under it does not constitute an authorisation by the Crown under Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949. The Contractor acknowledges that any such authorisation by the Authority under its statutory powers must be expressly provided in writing, with reference to the acts authorised and the specific intellectual property involved.

7. LOANS

7.1. Supply of Government Furnished Assets (GFA)

- 7.1.1. GFA will be provided to the Contractor for the purpose of performing the Contract and is listed at Annex E (Government Furnished Assets) to the Contract, on the terms stated therein, and subject to the provisions of DEFCON 611. In addition, the Contractor shall manage and account for GFA in accordance with DEFCON 694.
- 7.1.2. For the purposes of clarification, GFA is the generic title used by the Authority which covers assets such as equipment, information, facilities or resources issued or made available to the Contractor by the Authority.
- 7.1.3. The following are definitions of the types of loan of GFA:
 - 7.1.3.1. Contract Support Item (CSI): The issue of materiel to a Contractor without charge for a specific period and purpose in support of a MOD Contract. CSI materiel remains the property of the MOD throughout the loan period, and shall be returned unchanged, except for fair wear and tear.
 - 7.1.3.2. Contract Embodiment Item (CEI): Materiel issued without charge to a Contractor for embodiment in an Article that is under manufacture, modification, conversion or repair under a MOD contract.
 - 7.1.3.3. Contract Work Item (CWI): Describes the temporary issue of materiel to a MOD Contractor for repair, maintenance, modification, conversion.
- 7.1.4. The Contractor may request any additional GFA required for completing delivery of the Contract during the course of the Contract. The Authority will consider, and not unreasonably refuse, any further requested GFA. If agreed, then the Contract will be amended by Contract Amendment subject to the provisions of DEFCON 503. Any GFI provided by the Authority may not be disclosed other than for the purpose of the Contract without the prior written approval of the Authority.
- 7.1.5. The Contractor shall make a formal request for additional GFA in writing to the Authority. The request shall include a statement of justification that describes the reason required, type, quantity, required delivery date and impact on the Contractor's project schedule, if not provided by the Authority, using the template in the Stakeholder Protocol at Annex L (Contract Governance) to the Contract.
- 7.1.6. The Authority will be responsible for providing the agreed GFA to the Contractor's premises in accordance with the agreed dates in Annex E (Government Furnished Assets) to the Contract. The Authority will be responsible for collecting the agreed GFA (excluding GFI and GFR) from the Contractor's premises.
- 7.1.7. In the event that the Contractor shall be prevented or delayed from performing its obligations under this Contract by reason of a GFA defect, or delay in provision of GFA, the Contractor shall, as soon as practicable, after becoming aware of any such delay notify the Authority in writing of the date on which it started, its likely or potential duration, and the effect on its ability to perform any of its obligations under the Contract.

- 7.1.8. In the event that the Authority fails to provide, replace, or authorise repair of defective or deficient GFA within a reasonable time of receipt of a notice in accordance with Clause 7.1.7 then, provided that the Contractor has taken all reasonable measures to mitigate the consequences of any such delay, fair and reasonable revisions of the Contract Price, delivery schedule or both shall be made as may be appropriate.
- 7.1.9. Pursuant to clause 9 of DEFCON 611 the Contractor's responsibilities for GFA are set out in Annex L (Contract Governance) of the Contract.
- 7.1.10. On termination or completion of the Contract, the Contractor shall submit to the Authority's Project Manager (Box 2 DEFFORM 111 Appendix to Contract) a list of all government owned property supplied for the purposes of this Contract. Disposal instructions for such equipment will subsequently be provided by the Authority to the Contractor. When all such material has been disposed of, the Contractor shall advise the Authority's Project Manager (Box 2 DEFFORM 111 Appendix to Contract) accordingly.
- 7.1.11. On completion of the Contract or any earlier period agreed the Contractor shall seek return/disposal instructions from the Authority's Commercial Officer (Box 1 DEFFORM 111 Appendix to Contract). Any request for disposal/return instructions for GFA shall be accompanied by a copy of the loan equipment register. At completion of the Contract, the CSI issued GFA shall be in the same condition that it was issued, subject to fair wear and tear.

7.2. Government Furnished Information

- 7.2.1. The Authority does not give any warranty or undertaking as to the completeness, fitness for any purpose of any of the Authority provided GFI. Neither the Authority nor its agents or employees shall be liable to the Contractor in contract (save as expressly provided elsewhere in the Contract), tort, statute nor otherwise, as a result of any omission, unfitness for any purpose, or inadequacy of any kind, in the GFI. Upon becoming aware of any inaccuracy in the GFI, the Contractor shall, in writing, bring this to the Authority's attention for the Authority to provide written direction.

7.3. Access to Authority Premises

- 7.3.1. The Authority will assist in arranging access to the relevant Authority site(s) and personnel required to undertake the work required under this Contract in accordance with DEFCON 76. Requests for access and/or visits shall be made in a timely manner to allow any necessary clearances to be approved and authorised. No access will be granted unless such approval has been given. This shall be co-ordinated through the Authority's Project Manager (Box 2 DEFFORM 111 Appendix to Contract).
- 7.3.2. The Authority shall have no liability to the Contractor if or when the opportunities to visit the Authority's sites or personnel are made available, or are offered to be made available, on the agreed dates and the Contractor fails to make use of them. In such circumstances, the liability of the Authority shall cease with effect from the first time the opportunities are made available or offered on the agreed dates.
- 7.3.3. The Contractor shall, when appropriate, request authorisation for access by its' subcontractors to Authority premises via the Authority.

8. DELIVERY/ACCEPTANCE

8.1. Delivery

- 8.1.1. Delivery of Contractor Deliverables required against the Contract Schedule of Requirements shall be delivered in accordance with Annex D (Contract Data Requirements) and Annex K (Project Delivery Milestones) to the Contract.

8.2. Liquidated Damages

- 8.2.1. It is recognised by the Parties that in the event that the Contractor fails to supply any of the Contractor Deliverables under Contract Schedule of Requirements Items 2a, 2b and 2c by the date(s) specified in Annex K (Project Delivery Milestones), the Authority will suffer loss and damage thereby.
- 8.2.2. It is further recognised that all such loss or damage will, having regard to the governmental and non-commercial purposes for which the Item is being supplied, either be impossible to quantify comprehensively in financial terms or that it will be complex, difficult and expensive to do so and that governmental loss and damage from delayed delivery does not admit of precise proof of calculation.
- 8.2.3. Accordingly, it is hereby agreed, but without prejudice to any other rights of the Authority under this Contract, that in the event of any of the Contractor Deliverables referred to in Clause 8.2.1 not being delivered within the time or times specified at Annex K (Project Delivery Milestones) and subject to the Contractor being determined as liable by the Incident Sentencing Committee for the late delivery then, for each week's delay, the Contractor shall be liable to pay to the Authority as liquidated damages a sum amounting to 0.17% each week of the agreed price for each relevant Contractor Deliverable for up to a maximum period of 26 weeks.
 - 8.2.3.1. Save that the first 18 CR2 Mk 2 Vehicles delivered under Schedule of Requirements Item 2 shall be subject to a period of grace of 60 (sixty) business days prior to the Contractor becoming liable for liquidated damages under Clause 8.2.3.
- 8.2.4. The provisions of this Clause 8.2 are, without prejudice to any other rights of the Authority under the Contract, including but not limited to those under DEFCON 514. Accordingly, in the event that the Authority terminates the Contract, liquidated damages shall be payable under Clause 8.2.3 above until the date of such termination.
- 8.2.5. Unless expressly stated by the Authority in writing, the provisions of DEFCON 527 shall apply to the Authority's right to recover liquidated damages under this Clause 8.2.

8.3. Force Majeure

- 8.3.1. The Contractor shall not be in breach of this Contract, nor liable for late or non-performance of any of its obligations under this Contract, if such delay or failure result from a "Force Majeure Event". For the purposes of this Contract a Force Majeure Event is defined as one of the following:

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- 8.3.1.1. acts of nature;
 - 8.3.1.2. war;
 - 8.3.1.3. hostilities;
 - 8.3.1.4. fire at any of the Contractor's premises or those of its suppliers except to the extent that the fire was caused by their own negligence.
 - 8.3.1.5. terrorism;
 - 8.3.1.6. biohazards;
 - 8.3.1.7. sonic booms;
 - 8.3.1.8. civil commotion;
 - 8.3.1.9. any blockade or embargo;
 - 8.3.1.10. any national failure or unavailability of power, fuel or transport; and
 - 8.3.1.11. any failure of a statutory undertaker or similar body to carry out works or provide services.
- 8.3.2. The Contractor shall immediately notify the Authority in writing on the occurrence of a Force Majeure Event, including details of the Force Majeure Event, its effect on the Contractor's obligations under this Contract, and the actions proposed to mitigate its effect.
- 8.3.3. Subject to Clause 8.3.4 below, the Contractor shall be entitled to an appropriate extension of time for performing such obligations provided always that the Contractor has used, to the satisfaction of the Authority, all reasonable endeavours, both to mitigate the effects of the Force Majeure Event, and to facilitate the continued performance of its obligations under this Contract.
- 8.3.4. Without prejudice to any right of termination for convenience under DEFCON 656B or right of termination in accordance with Clause 3.5 (Termination), if a Force Majeure Event is continuing or its consequences remain such that the Contractor is unable to comply with its obligations under this Contract for a period of more than one hundred and twenty (120) business days, then the Authority may terminate this Contract by giving thirty (30) business days written notice to the Contractor;

8.4. Self to Self Delivery

- 8.4.1. Where any Contractor Deliverable to be supplied under the Contract is to be delivered otherwise than by being handed over by the Contractor to the Authority, as where a Contractor Deliverable is to be delivered by the Contractor to its own premises or to those of a sub-contractor ('self-to-self delivery'), the risk in such Contractor Deliverable shall (notwithstanding the provisions of DEFCON 612 remain vested in the Contractor until such time as the Contractor Deliverable is handed over to the Authority in accordance with DEFCON 621A or DEFCON 621B.

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8.5. Extension of time and relief from performance

- 8.5.1. The parties recognise that the continuance of the COVID-19 pandemic may have an adverse impact on the ability of the Contractor to perform its obligations under this Contract. The Contractor shall not therefore be in breach of its obligations under this Contract, nor liable for late or non-performance of any of its obligations under this Contract, if such delay or failure is a sole and direct result of the continuance of the COVID-19 pandemic.
- 8.5.2. The Contractor shall immediately notify the Authority in writing that the continuance of the COVID-19 pandemic has solely and directly resulted or is likely to solely and directly result in a delay or failure to perform its obligations under the Contract, which obligations are adversely impacted, and the actions proposed to mitigate such adverse impact.
- 8.5.3. Subject to Clause 8.5.4 below, the Contractor shall be entitled to request an appropriate period of:
- 8.5.3.1. additional time for performing; and/or
- 8.5.3.2. relief from other contractual consequences, of late or non-performance of
- such obligations provided always that the Contractor has used, to the satisfaction of the Authority, all reasonable endeavours, both to mitigate the adverse impact of the continuance of the COVID-19 pandemic, and to facilitate the continued performance of its obligations under the Contract.
- 8.5.4. The maximum period of additional time and/or for which relief will be granted under this Clause 8.5 shall be limited to one hundred and twenty (120) business days, after which the Authority may terminate the Contract on giving thirty (30) business days' notice in writing to the Contractor. On termination of the Contract, the Contractor shall be entitled to be paid an amount equal to any and all charges payable (but as yet unpaid) for Contractor Deliverables delivered up to the date of termination but shall otherwise have no claim against the Authority in relation to such termination

8.6. Limitations on Liability

Unlimited Liabilities

- 8.6.1. Neither Party limits its liability for:
- 8.6.1.1. death or personal injury by its negligence, or that of its employees, agents or sub-contractors (as applicable);
- 8.6.1.2. fraud or fraudulent misrepresentation by it or its employees;
- 8.6.1.3. breach of any obligation as to title implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
- 8.6.1.4. any liability to the extent it cannot be limited or excluded by law.

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- 8.6.2. The financial caps on the Contractor's liability set out in Clause 8.6.4 below shall not apply to the following:
- 8.6.2.1. for any indemnity given by the Contractor to the Authority under this Contract;
 - 8.6.2.2. the Contractor's indemnity in relation to DEFCON 91 and DEFCON 632;
 - 8.6.2.3. breach by the Contractor of DEFCON 532A and Data Protection Legislation; and
 - 8.6.2.4. for the avoidance of doubt any payments due from the Contractor to the Authority in accordance with the Defence Reform Act 2014 and/or the Single Source Contract Regulations 2014, as amended from time to time, shall not be excluded or limited under the provisions of Clause 8.6.4 below.
- 8.6.3. The financial caps on the Authority's liability set out in Clause 8.6.5 below shall not apply to the following:
- 8.6.3.1. for any indemnity given by the Authority to the Contractor under this Contract, including but not limited to DEFCON 656B, DEFCON 632 and DEFCON 91; and
 - 8.6.3.2. for the avoidance of doubt any payments due from the Authority to the Contractor in accordance with the Defence Reform Act 2014 and/or the Single Source Contract Regulations 2014, as amended from time to time, shall not be excluded or limited under the provisions of Clause 8.6.5 below.

Financial Limits

- 8.6.4. Subject to Clauses 8.6.1.1 and 8.6.1.2 and to the maximum extent permitted by Law:
- 8.6.4.1. throughout the Term the Contractor's total liability in respect of losses that are caused by defaults of the Contractor shall in no event exceed:
 - 8.6.4.1.1 in respect of DEFCON 76 [REDACTED] in aggregate;
 - 8.6.4.1.2 in respect of DEFCON 514 [REDACTED] aggregate;
 - 8.6.4.1.3 in respect of DEFCON 611 [REDACTED] in aggregate; and
 - 8.6.4.1.4 in respect of DEFCON 612 [REDACTED] in aggregate;
 - 8.6.4.2. without limiting Clause 8.6.4.1 and subject always to Clauses 8.6.1, 8.6.2, 8.6.2.5 and 8.6.4.3, the Contractor's total liability throughout the Term in respect of all other liabilities, whether in contract, in tort (including negligence), arising under warranty, under statute or otherwise under or in connection with this Contract shall be [REDACTED] in aggregate

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- 8.6.4.3. on the exercise of any and, where more than one, each option period or agreed extension to the Term, the limitation of the Contractor's total liability (in aggregate) set out in Clauses 8.6.4.1 and 8.6.4.2 above shall be fully replenished such that on and from each such exercise or extension of the Term, the Authority shall be able to claim up to the full value of the limitation set out in Clauses 8.6.4.1 and 8.6.4.2 of this Contract.
- 8.6.5. Subject to Clauses 8.6.1, 8.6.3, 8.6.3.3 and 8.6.6, and to the maximum extent permitted by Law the Authority's total liability (in aggregate) whether in contract, in tort (including negligence), under warranty, under statute or otherwise under or in connection with this Contract shall in respect of all liabilities (taken together) be limited to the charges paid by the Authority in the relevant Contract Year in respect of any and all claims in that Contract Year.
- 8.6.6. Clause 8.6.5 shall not exclude or limit the Contractor's right under this Contract to claim for the charges.

Consequential Loss

- 8.6.7. Subject to Clauses 8.6.1, 8.6.2 and 8.6.8, neither Party shall be liable to the other Party or to any third party, whether in contract (including under any warranty), in tort (including negligence), under statute or otherwise for or in respect of:
- 8.6.7.1. indirect loss or damage;
 - 8.6.7.2. special loss or damage;
 - 8.6.7.3. consequential loss or damage;
 - 8.6.7.4. loss of profits (whether direct or indirect);
 - 8.6.7.5. loss of turnover (whether direct or indirect);
 - 8.6.7.6. loss of business opportunities (whether direct or indirect); or
 - 8.6.7.7. damage to goodwill (whether direct or indirect, even if that Party was aware of the possibility of such loss or damage to the other Party).
- 8.6.8. The provisions of Clause 8.6.7 shall not restrict the Authority's ability to recover any of the following losses incurred by the Authority to the extent that they arise as a result of a Default by the Contractor:
- 8.6.8.1. any additional operational and administrative costs and expenses arising from the Contractor's Default, including any costs paid or payable by the Authority:
 - 8.6.8.1.1 to any third party;
 - 8.6.8.1.2 for putting in place workarounds for the Contractor Deliverables and other deliverables that are reliant on the Contractor Deliverables; and
 - 8.6.8.1.3 relating to time spent by or on behalf of the Authority in dealing with the consequences of the Default;

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- 8.6.8.2. any or all wasted expenditure and losses incurred by the Authority arising from the Contractor's Default, including wasted management time;
- 8.6.8.3. the additional cost of procuring and maintaining in place transitional assistance and replacement deliverables for the remainder of the Term and any option period or agreed extension to the Term (including legal and other consultants' fees, re-procurement project costs, other expenses associated with such exercise and any increase in the fees for the replacement services over and above the Contract Price that would have been payable for the relevant Contractor Deliverables);
- 8.6.8.4. any losses arising in connection with the loss, destruction, corruption, inaccuracy or degradation of Authority data, or other data or software, including, to the extent the Authority data, other data or software can be recovered or reconstituted, the fees, costs and expenses of reconstituting such Authority data, data or software;
- 8.6.8.5. damage to the Authority's physical property and tangible assets, including damage under DEFCON 76 and DEFCON 611;
- 8.6.8.6. costs, expenses and charges arising from, or any damages, account of profits or other award made for, infringement of any third party Intellectual Property Rights or breach of any obligations of confidence;
- 8.6.8.7. any additional costs incurred by the Authority in relation to the Authority's contracts with a third party (including any compensation or interest paid to a third party by the Authority) as a result of the Default (including the extension or replacement of such contracts);
- 8.6.8.8. any fine or penalty incurred by the Authority pursuant to Law and any costs incurred by the Authority in defending any proceedings which result in such fine or penalty; or
- 8.6.8.9. any savings, discounts or price reductions during the Term and any option period or agreed extension to the Term committed to by the Contractor pursuant to this Contract.

Invalidity

- 8.6.9. If any limitation or provision contained or expressly referred to in this Clause 8.6 (Limitations on Liability) is held to be invalid under any Law, it will be deemed to be omitted to that extent, and if any Party becomes liable for loss or damage to which that limitation or provision applied, that liability will be subject to the remaining limitations and provisions set out in this Clause 8.6 (Limitations on Liability).

Third Party claims or Losses

- 8.6.10. Without prejudice to any other rights or remedies the Authority may have under this Contract (including but not limited to any indemnity claim under DEFCONs 91 and 632 or at Law), the Authority shall be entitled to make a claim under this Contract against the Contractor in respect of any losses incurred by the Authority which arise out of a claim made against the Authority by a third party under any contract with that third party provided that such third party claim:

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- 8.6.10.1. arises naturally and ordinarily as a result of the Contractor's failure to provide the Contractor Deliverables or failure to perform any of its obligations under this Contract; and
- 8.6.10.2. is a type of claim or loss that would have been recoverable under this Contract if the third party were a party to this Contract (whether as the Authority or the Contractor), such claim to be construed as direct losses for the purpose of this Contract.

No double Recovery

- 8.6.11. Neither Party shall be entitled to employ such rights and remedies available to it so as to seek to recover more than once in respect of the same loss, but the Authority shall be entitled to use (singly or together) such rights and remedies available to the Authority so as to recover the full extent of any recoverable losses suffered or incurred, including any remedies the Authority may have against any guarantor.

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9. PAYMENTS

9.1. Payments

- 9.1.1. All payments under the Contract shall be paid using the Authority's Contracting, Purchasing and Finance (CP&F) electronic procurement tool in accordance with its registration system and DEFCON 522.
- 9.1.2. The £ Sterling price for all items numbered at the SOR shall be claimed in accordance with Annex I (Milestone Payment Plan) and the completion of the milestones associated with the payment. If the Contractor does not achieve all the stated criteria then the Authority shall be entitled to withhold release of payment of the associated milestone until corrective action has been undertaken by the Contractor in accordance with the terms of the Contract. Under CP&F, following Contract acceptance or subsequent Contract amendments the Authority shall issue a Purchase Order Message in order to establish Unique Order Identifiers for the Items on the SOR for the purpose of subsequent CP&F transactions. The Contractor shall respond with an Acknowledgement Message. In these circumstances, Purchase Order Messages serve only to convey to the Contractor the information necessary against which to supply an item, prepare a delivery label and to submit an Invoice Message; the Purchase Order Acknowledgement Message serves only to confirm receipt of a Purchase Order Message. No new contract is understood to be formed by this Purchase Order transaction.
- 9.1.3. The € Euro and Swiss Franc prices for all items numbered at the SOR shall be claimed in accordance with Annex I (Milestone Payment Plan) upon receipt of;
 - 9.1.3.1. confirmation of achievement / acceptance of the associated sub contract milestone for the month in which the payment is being claimed,
 - 9.1.3.2. supporting supplier invoice information to the value of the € Euro and/or Swiss Franc prices of the items claimed against Annex I (Milestone Payment Plan).
- 9.1.4. The Authority shall hold the Contractor harmless for any delay or failure by the Authority to issue a Purchase Order. However, any delay or failure to issue a Purchase Order shall not relieve the Contractor of its obligations under the Contract.

9.2. Advances Against the Contract Price

- 9.2.1. The Authority shall, subject to the following provisions of this Clause 9.2 (Advances Against the Contract Price), make to the Contractor advances against the Contract Prices payable in the currency for the items listed in the Contract Schedule of Requirements and in accordance with Annex I (Milestone Payment Plan).
- 9.2.2. The Contractor shall be entitled to claim milestone payments in accordance with this Clause 9.2 (Advances Against the Contract Price), for each milestone detailed in Annex I (Milestone Payment Plan) when:
 - 9.2.2.1. the Contractor has completed all work comprised in the milestone for which the milestone payment is sought;

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- 9.2.2.2. the Contractor has complied with all its contractual obligations which enable the Authority to monitor the Contractor's contractual performance, including but not limited to those obligations related to the provision of information to the Authority.
- 9.2.3. Without prejudice to the provisions of DEFCON 522, payment of a milestone payment by the Authority under this Clause 9.2 (Advances Against the Contract Price) shall not, constitute:
 - 9.2.3.1. acceptance by the Authority of any contractual deliverable;
 - 9.2.3.2. a representation by the Authority that the Contractor has complied with any contractual obligations; or
 - 9.2.3.3. a waiver of the Authority's right to subsequently claim that the conditions for milestone payment were not satisfied.

9.3. Final Payment

- 9.3.1. In accordance with Annex I (Milestone Payment Plan), the Contractor shall be entitled to claim its final payments. All final payments shall be made in accordance with the requirements of this Clause 9 and DEFCON 522.
- 9.3.2. Subject to Clause 9.2.2, the Contractor shall be entitled to claim final payments for the Items in the Contract Schedule of Requirements in accordance with Annex I (Milestone Payment Plan) to the Contract upon acceptance by the Authority, in accordance with Condition 4.6 (Acceptance), for each Contractor Deliverable delivered.

9.4. Variation of Price

- 9.4.1. Payments for Variation of Price shall become due, in accordance with DEFCON 522, as soon as possible after publication of the relevant indices (or at a later date if so agreed between the Parties in accordance with Clause 5.3.8 (Variation of Price)) following completion of the milestone for which the variation of price is being claimed.

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10. CONTRACT ADMINISTRATION

10.1. Governance

- 10.1.1. The Contract Governance structure of the Contract is outlined at Annex L (Contract Governance).
- 10.1.2. Both Parties shall ensure that appropriate resource is made available to support the governance of this Contract, in accordance with Annex L (Contract Governance), such that the aims, objectives and specific provisions of this Contract can be fully realised.

10.2. Earned Value Management System (EVMS)

- 10.2.1. In the management of the Contract the Contractor shall implement and maintain an Earned Value Management System (EVMS) in accordance with the Contract Annex M (Earned Value Management System Requirements).

10.3. Collaborative Working Environment

- 10.3.1. The 'Defence Share' shared data environment shall be used for the informal provision of draft documents for information purposes and for review prior to the formal submission of Contractor Deliverables, and whenever practicable, 'Defence Share' shall be the primary medium for the transmission by the Contractor of Deliverables such as data, reports, plans or cases in accordance with Clause 8.1 (Delivery).

10.4. Publicity

- 10.4.1. The Contractor shall not issue or otherwise publish any publicity or advertising material or provide any information to journalists concerning this Contract without the Authority's express written consent.

10.5. Authority Personnel and their Responsibilities

- 10.5.1. The activities of the Authority in monitoring or reviewing the performance of the Contractor against this Contract or in monitoring the cost model shall not in any way relieve the Contractor of its responsibilities under the Contract.
- 10.5.2. To enable the Authority to carry out its duties, the Contractor shall:
 - 10.5.2.1. permit the Authority during normal working hours full access to all work-in-progress and to all drawings, programmes, quality records, computer programs and hardware, computer listing models, mock-ups, samples and Contractor Deliverables pertaining to the Contract. Prior written notice shall be provided to the Contractor in accordance with DEFCON 608. Access will be during the Contractor's normal working hours and subject to the Authority complying with all reasonable security and safety requirements;
 - 10.5.2.2. maintain full co-operation with the Authority and provide all such assistance as it may reasonably require; and

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- 10.5.2.3. provide and maintain, to the Authority's reasonable satisfaction within the premises where the CR2 Mk 2 Vehicle and their major components are being designed, fabricated, assembled outfitted and tested and conveniently situated for the task, suitable office accommodation with secure containers for documents, furniture, telephone and data link (directly connected to the Public Services Telephone Network (PSTN) and the Authority's private network), a networked information system (with connection to the Contractor's local system and remote access to the Authority's networks), sanitary, washing and shower facilities, suitable car parking and access to dining and catering facilities.
- 10.5.3. In pursuance of its business, the Authority may engage personnel from other contractors and other public sector bodies to assist with managerial and technical support of related project activities. In such circumstances the Parties shall be deemed to be approved representatives of the Authority to whom the Contractor shall, subject to the terms and conditions of this Contract, make available such information and facilities as are necessary to enable them to fulfil their obligations to the Authority provided that such personnel and other public sector bodies shall first enter into a confidentiality agreement with the Contractor.
- 10.5.4. The Contractor shall, in performing its obligations under this Contract, collaborate with any other Authority contractors or public sector bodies which are undertaking work related to the CR2 Mk 2 Vehicle in order to ensure compatibility between the activities carried out in accordance with this Contract and the activities undertaken by such contractors or public sector bodies.
- 10.5.5. Information or advice given to the Contractor by subject matter experts or military stakeholders shall be presented by the Contractor to the Authority's Project Manager (see Box 2 DEFFORM 111 Appendix to Contract) for ratification before use under the Contract.

OFFICIAL [REDACTED]

11. BEYOND ECONOMICAL REPAIR

- 11.1.** In the circumstances where an Article has been utilised as part of the Demonstration Phase (Pre Series Vehicles 1 to 5 as used for System Safety Commissioning and System Safety Tests) and is required to be incorporated in the final deliverable, the Contractor shall review the condition of the Article and will determine and demonstrate the cost required to bring the Article to an A2 condition. The Contractor and Authority shall, acting reasonably and in good faith, jointly agree to sentence the Article with the information provided by the Contractor to determine if the Article is Beyond Economical Repair (BER). For the avoidance of doubt, an Article shall be declared BER if the Contractor's price for repair of an Article is greater than seventy (70) percent of the price of a new Article.
- 11.2.** The Authority shall bear the risk for Articles that are declared BER under this Clause 11 (Beyond Economic repair) and at the Authority's discretion shall either:
- 11.2.1.1. authorise the Contractor to undertake the repair; or
 - 11.2.1.2. authorise the Contractor to procure a replacement Article.
- 11.3.** In either eventuality the Contract Price shall be adjusted by an amendment to the Contract in accordance with DEFCON 503 and Clause 3.7 (Amendments to Contract) of the Contract to account for the Articles that are BER.
- 11.4.** Under this Clause the Contractor shall bear the cost to repair or replace Articles not declared BER up to a total cost for such Articles of [REDACTED]. In the event that the cost to repair or replace such Articles not declared BER exceeds [REDACTED] the Authority shall either:
- 11.4.1.1. raise a Contract Amendment in accordance with DEFCON 503 and Clause 3.7 (Amendments to Contract) of the Contract authorising the Contractor to undertake the repair or replacement of the Article and shall pay a fair and reasonable price to the Contractor for such repair or replacement; or
 - 11.4.1.2. instruct the Contractor not to undertake the repair or replacement of the Article. In such circumstances the Authority and Contractor shall agree a course of action which alleviates the Contractor of the responsibility and liability for the provision of CR3 impacted by this course of action.
- 11.5.** In the event that the parties are unable to agree on the BER sentencing of an Article, either party may refer the matter to dispute resolution in accordance with Clause 3.8 (Dispute resolution).

BER Process

- 11.6. Step 1:** Contractor assesses the condition of the used Article to determine if it is BER or if it is possible to modify or refurbish the used Article to an A2 condition. Where the Article can be refurbished to an A2 condition, the assessment shall include an estimation of cost of refurbishment to an A2 condition.
- 11.7. Step 2:** If the Article is declared BER by the Contractor, under the terms of Clause 11.1 the Authority shall issue a contract amendment with the Contractor for the supply of a new Article to replace the BER declared Article or authorise the Contractor to undertake repair.
- 11.8. Step 3:** In compliance with the contract amendment, the Contractor either procures a replacement Article or repairs the Article declared BER and advises the final price for payment by the Authority in accordance with the payment terms of the Contract.