



Ministry  
of Defence



**MINISTRY OF DEFENCE,  
DEFENCE EQUIPMENT & SUPPORT**

Elbit Systems UK Limited

Contract Number: 701554451 (TSSP/128)

Description: Interim Indirect Fires Simulation (Interim IDFS)

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# 1 SCHEDULE OF REQUIREMENTS

Name and Address of Contractor Elbit Systems UK Limited	MINISTRY OF DEFENCE	Contract No  701554451
	Schedule of Requirements for INTERIM INDIRECT FIRES SIMULATION (Interim IDFS)	
Issued With DEFFORM 8	On 13/09/2023	Previous Contract No: N/A

Table 1 - Initial Contract Duration

Item No	Description	Delivery Date	Notes to Supplier	Firm Price £ (ex-VAT)
CONTRACT YEARS 1-3 13 SEPTEMBER 2023 – 12 SEPTEMBER 2026				
1	Provision and delivery of equipment in accordance with the Statement of Requirement at Annex A to the Contract.  The Contractor shall design, manufacture and test Interim IDFS in accordance with the Statement of Requirement at Annex A -Acceptance Process at Annex H and Stage Payment Scheme - Milestone Payment Plan at Annex F to the Contract.	Indicative delivery date shall be confirmed prior Contract Award		£ [REDACTED]
2	Provision of warranty that starts from Authority acceptance of each equipment on an item-by-item basis in accordance with the Acceptance Process at Annex H and runs for one year (12 months) from this date and also in accordance with paragraph 15.94 of the Statement of Requirement at Annex A and the Payment Plan at Annex G to the Contract.  The Authority reserves the right to extend this warranty period for additional years.	In accordance with IOC and FOC delivery dates		£ [REDACTED]  In accordance with the Payment Plan – Annex G



3	Provision of Software Deliverables in accordance with DEFCON 91 'Intellectual Property Rights in Software' and the Statement of Requirement at Annex A to the Contract, the Stage Payment Scheme - Milestone Payment Plan at Annex F to the Contract and Acceptance Process at Annex H.	13 September 2023 – 12 September 2026		£ [REDACTED]
4	The Contractor shall provide training support on the Interim IDFS system in accordance with Statement of Requirement at Annex A, Acceptance Process at Annex H and the Payment Plan at Annex G to the Contract.	Indicative delivery date shall be confirmed prior Contract Award		£ [REDACTED] In accordance with the Payment Plan – Annex G
5	<b>Contract Year 1</b> - Provision and delivery of Interim IDFS in accordance with Condition 4.7 Contractor Support to Training Exercises, the Statement of Requirement at Annex A, the List of Deliverables (LOD) at Annex D, and the Payment Plan at Annex G to the Contract.	13 September 2023 – 12 September 2024		£ [REDACTED]
6	PDS and Bespoke tasking to be carried out in accordance with Condition 2.9 Tasking Procedures for Additional Work, Annex E – Rate Card and Annex Y – Tasking Form to the Contract.	13 September 2023 – 12 September 2026		Price per TAF in accordance with rates shown in Annex E - Rate Card.
7	<b>Contract Year 2</b> Provision and delivery of Interim IDFS in accordance with Condition 4.7 Contractor Support to Training Exercises, the Statement of Requirement at Annex A, the List of Deliverables (LOD) at Annex D, and the Payment Plan at Annex G to the Contract.	13 September 2024 – 12 September 2025		£ [REDACTED]
8	<b>Contract Year 3</b> Provision and delivery of Interim IDFS in accordance with Condition 4.7 Contractor Support to Training Exercises, the Statement of Requirement at Annex A, the List of Deliverables (LOD) at Annex D, and the Payment Plan at Annex G to the Contract.	13 September 2025 – 12 September 2026		£ [REDACTED]
<b>TOTAL PRICE - CONTRACT YEARS 1-3</b>				£ [REDACTED]

**SCHEDULE OF REQUIREMENTS - Table 2 - Option Years**

To be exercised in accordance with Conditions 4.3 Options and 4.4 Options - Pricing



Item No	Description	Delivery Date	Notes to Supplier	Fixed Price £ (exVAT)
<b>CONTRACT YEAR 4</b> <b>13 SEPTEMBER 2026 – 12 SEPTEMBER 2027</b>				
1	Provision and delivery of Interim IDFS in accordance with Condition 4.7 Contractor Support to Training Exercises, the Statement of Requirement at Annex A, the List of Deliverables (LOD) at Annex D, and the Payment Plan at Annex G to the Contract.	Year 4: 13 September 2026 - 12 September 2027		£ [REDACTED] Year 4: Fixed Price in accordance with Condition 4.8 Variation of Price (VoP).
2	PDS and Bespoke tasking to be carried out in accordance with Condition 2.9 Tasking Procedures for Additional Work, Annex E – Rate Card and Annex Y – Tasking Form to the Contract.	Year 4: 13 September 2026 – 12 September 2027		Price per TAF in accordance with rates shown in Annex E Rate Card.
<b>CONTRACT YEAR 5</b> <b>13 SEPTEMBER 2027 – 12 SEPTEMBER 2028</b>				
3	Provision and delivery of Interim IDFS in accordance Condition 4.7 Contractor Support to Training Exercises, the Statement of Requirement at Annex A, the List of Deliverables (LOD) at Annex D, and the Payment Plan at Annex G to the Contract.	Year 5: 13 September 2027 - 12 September 2028		£ [REDACTED] Year 5: Fixed Price in accordance with Condition 4.8 Variation of Price (VoP).
4	PDS and Bespoke tasking to be carried out in accordance with Condition 2.9 Tasking Procedures for Additional Work, Annex E – Rate Card and Annex Y – Tasking Form to the Contract.	Year 5: 13 September 2027 – 12 September 2028		Price per TAF in accordance with rates shown in Annex E Rate Card.
<b>CONTRACT YEAR 6</b> <b>13 SEPTEMBER 2028 – 12 SEPTEMBER 2029</b>				

5	Provision and delivery of Interim IDFS in accordance Condition 4.7 Contractor Support to Training Exercises, the Statement of Requirement at Annex A, the List of Deliverables (LOD) at Annex D, and the Payment Plan at Annex G to the Contract.	Year 6: 13 September 2028 - 12 September 2029		£ [REDACTED] Year 6: Fixed Price in accordance with Condition 4.8 Variation of Price (VoP).
6	PDS and Bespoke tasking to be carried out in accordance with Condition 2.9 Tasking Procedures for Additional Work, Annex E – Rate Card and Annex Y – Tasking Form to the Contract.	Year 6: 13 September 2028 – 12 September 2029		Price per TAF in accordance with rates shown in Annex E Rate Card.
<b>CONTRACT YEAR 7</b> <b>13 SEPTEMBER 2029 – 12 SEPTEMBER 2030</b>				
7	Provision and delivery of Interim IDFS in accordance Condition 4.7 Contractor Support to Training Exercises, the Statement of Requirement at Annex A, the List of Deliverables (LOD) at Annex D, and the Payment Plan at Annex G to the Contract.	Year 7 13 September 2029 - 12 September 2030		£ [REDACTED] Year 7: Fixed Price in accordance with Condition 4.8 Variation of Price (VoP).
8	PDS and Bespoke tasking to be carried out in accordance with Condition 2.9 Tasking Procedures for Additional Work, Annex E – Rate Card and Annex Y – Tasking Form to the Contract.	Year 7 13 September 2029 – 12 September 2030		Price per TAF in accordance with rates shown in Annex E Rate Card.
<b>CONTRACT YEAR 8</b> <b>13 SEPTEMBER 2030 – 12 SEPTEMBER 2031</b>				
9	Provision and delivery of Interim IDFS in accordance Condition 4.7 Contractor Support to Training Exercises, the Statement of Requirement at Annex A, the List of Deliverables (LOD) at Annex D, and the Payment Plan at Annex G to the Contract.	Year 8 13 September 2030 - 12 September 2031		£ [REDACTED] Year 8: Fixed Price in accordance with Condition 4.8 Variation of Price (VoP).

10	PDS and Bespoke tasking to be carried out in accordance with Condition 2.9 Tasking Procedures for Additional Work, Annex E – Rate Card and Annex Y – Tasking Form to the Contract.	Year 8 13 September 2030 – 12 September 2031		Price per TAF in accordance with rates shown in Annex E Rate Card.
<b>CONTRACT YEAR 9</b> <b>13 SEPTEMBER 2031 - 12 SEPTEMBER 2032</b>				
11	Provision and delivery of Interim IDFS in accordance Condition 4.7 Contractor Support to Training Exercises, the Statement of Requirement at Annex A, the List of Deliverables (LOD) at Annex D, and the Payment Plan at Annex G to the Contract.	Year 9 13 September 2031 - 12 September 2032		£ [REDACTED] Year 9: Fixed Price in accordance with Condition 4.8 Variation of Price (VoP).
12	PDS and Bespoke tasking to be carried out in accordance with Condition 2.9 Tasking Procedures for Additional Work, Annex E – Rate Card and Annex Y – Tasking Form to the Contract.	Year 9 13 September 2031 – 12 September 2032		Price per TAF in accordance with rates shown in Annex E Rate Card.
<b>CONTRACT YEAR 10</b> <b>13 SEPTEMBER 2032 - 12 SEPTEMBER 2033</b>				
13	Provision and delivery of Interim IDFS in accordance Condition 4.7 Contractor Support to Training Exercises, the Statement of Requirement at Annex A, the List of Deliverables (LOD) at Annex D, and the Payment Plan at Annex G to the Contract.	Year 10 13 September 2032 - 12 September 2033		£ [REDACTED] Year 10: Fixed Price in accordance with Condition 4.8 Variation of Price (VoP).
14	PDS and Bespoke tasking to be carried out in accordance with Condition 2.9 Tasking Procedures for Additional Work, Annex E – Rate Card and Annex Y – Tasking Form to the Contract.	Year 10 13 September 2032 – 12 September 2033		Price per TAF in accordance with rates shown in Annex E Rate Card.
<b>TOTAL PRICE - CONTRACT OPTION YEARS 4 – 10</b>				£ [REDACTED]

**SCHEDULE OF REQUIREMENTS - Table 3 - Additional Requirement Options**

To be exercised in accordance with Conditions 4.3 Options and 4.4 Options - Pricing

Item No	Description	Delivery Date	Notes to Supplier	Fixed Price £ (exVAT)
<b>ADDITIONAL REQUIREMENT OPTIONS</b> <b>(priced)</b>				
1	<p>Batch of 3 x 81mm Mortar in accordance with the Statement of Requirement at Annex A to the Contract.</p> <p>The Authority reserves the right to buy further batches of 3 x 81mm Mortar at Contract Award and throughout the duration of the Contract.</p>		<p>This will be included as part of the price evaluation.</p> <p>If this option is taken up within the first three (3) contract years, it shall be priced according to the Supplier's proposal agreed at Contract Award. If this option is taken up in any of the Option Years (4 - 10), it shall be priced in accordance with Condition 4.8 Variation of Price (VoP).</p>	£ 
2	<p>Twelve (12) months service support for batch of 3 x 81mm Mortar in accordance with the Statement of Requirement at Annex A to the Contract.</p> <p>The Authority reserves the right to buy further service support for batch of 3 x 81mm Mortar at Contract Award and throughout the duration of the contract.</p>		<p>This will be included as part of the price evaluation.</p> <p>If this option is taken up within the first three (3) contract years, it shall be priced according to the Supplier's proposal agreed at Contract Award. If this option is taken up in any of the Option Years (4 - 10), it shall be priced in accordance with Condition 4.8 Variation of Price (VoP).</p>	£ 

3	<p>1 x 105mm Artillery in accordance with the Statement of Requirement at Annex A to Contract.</p> <p>The Authority reserves the right to buy further batches of 1 x 105mm Artillery at Contract Award and throughout the duration of the Contract.</p>		<p>This will be included as part of the price evaluation.</p> <p>If this option is taken up within the first three (3) contract years, it shall be priced according to the Supplier's proposal agreed at Contract Award. If this option is taken up in any of the Option Years (4 - 10), it shall be priced in accordance with Condition 4.8 Variation of Price (VoP).</p>	£ [REDACTED]
4	<p>Twelve (12) months support for 1 x 105mm Artillery in accordance with the Statement of Requirement at Annex A to the Contract.</p> <p>The Authority reserves the right to buy further service support for 1 x 105mm Artillery in accordance with the Statement of Requirement at Annex A to the Contract.</p>		<p>This will be included as part of the price evaluation.</p> <p>If this option is taken up within the first three (3) contract years, it shall be priced according to the Supplier's proposal agreed at Contract Award. If this option is taken up in any of the Option Years (4 - 10), it shall be priced in accordance with Condition 4.8 Variation of Price (VoP).</p>	£ [REDACTED]
5	<p>Batch of 3 x 105mm Artillery in accordance with the Statement of Requirement at Annex A to Contract.</p> <p>The Authority reserves the right to buy further batches of 3 x 105mm Artillery at Contract Award and throughout the duration of the Contract.</p>		<p>This will be included as part of the price evaluation.</p> <p>If this option is taken up within the first three (3) contract years, it shall be priced according to the Supplier's proposal agreed at Contract Award. If this option is taken up in any of the Option Years (4 - 10), it shall be priced in accordance with Condition 4.8 Variation of Price (VoP).</p>	£ [REDACTED]

6	<p>Twelve (12) months service support for 3 x 105mm Artillery in accordance with the Statement of Requirement at Annex A to the Contract.</p> <p>The Authority reserves the right to buy further service support for batch of 3 x 105mm Artillery in accordance with the Statement of Requirement at Annex A to the Contract.</p>		<p>This will be included as part of the price evaluation.</p> <p>If this option is taken up within the first three (3) contract years, it shall be priced according to the Supplier's proposal agreed at Contract Award. If this option is taken up in any of the Option Years (4 - 10), it shall be priced in accordance with Condition 4.8 Variation of Price (VoP).</p>	£ [REDACTED]
7	<p>1 x Additional Exercise Day for Collective Training (CT) events in accordance with the Statement of Requirement at Annex A to Contract.</p> <p>The Authority reserves the right to buy further 1 x Additional Exercise Days for Collective Training (CT) events throughout the duration of the Contract.</p>		<p>This will be included as part of the price evaluation.</p> <p>If this option is taken up within the first three (3) contract years, it shall be priced according to the Supplier's proposal agreed at Contract Award. If this option is taken up in any of the Option Years (4 - 10), it shall be priced in accordance with Condition 4.8 Variation of Price (VoP).</p>	£ [REDACTED]
8	<p>Batch of 10 x Additional Days for Collective Training (CT) events in accordance with the Statement of Requirement at Annex A to Contract.</p>		<p>This will be included as part of the price evaluation.</p> <p>If this option is taken up within the first three (3) contract years, it shall be</p>	£ [REDACTED]
9	<p>The Authority reserves the right to buy further batches of 10 x Additional Days for Collective Training (CT) events throughout the duration of the Contract.</p>		<p>priced according to the Supplier's proposal agreed at Contract Award. If this option is taken up in any of the Option Years (4 - 10), it shall be priced in accordance with Condition 4.8 Variation of Price (VoP).</p>	
<b>TOTAL PRICE – PRICED ADDITIONAL REQUIREMENT OPTIONS</b>				£ [REDACTED]

<b>ADDITIONAL REQUIREMENTS</b> <b>(unpriced)</b>				
10	The supply of 155mm Artillery Simulation Systems (qty TBC), including equipment, ICDs and support to the associated increase in demand signal as per the Statement of Requirement at Annex A to the Contract.		IAW Statement of Requirement at Annex A to Contract and subject to requirements setting and User verification and the refinement at later date	Price to be agreed via RFQ process if Option exercised.  VOP may apply.
11	The supply of Multi-launch Rocket System (MLRS) (qty TBC), including equipment, ICDs and support to the associated increase in demand signal as per the Statement of Requirement at Annex A to the Contract.		IAW Statement of Requirement at Annex A to Contract and subject to User verification and the refinement at later date	Price to be agreed via RFQ process if Option exercised.  VOP may apply.
12	Option to use Interim IDFS on Royal Navy ships simulation, equipment and support to the associated increase in demand signal as per the Statement of Requirement at Annex A to the Contract.		IAW Statement of Requirement at Annex A to Contract and subject to User verification and the refinement at later date	Price to be agreed via RFQ process if Option exercised.  VOP may apply.
13	105mm Light Gun capability to be underslung on a Chinook simulation, equipment and support to the associated increase in demand signal as per the Statement of Requirement at Annex A to the Contract.		IAW Statement of Requirement at Annex A to Contract and subject to User verification and the refinement at later date	Price to be agreed via RFQ process if Option exercised.  VOP may apply.



## 2 GENERAL CONDITIONS

### 2.1 DEFCONS

DEFCON 76 (Edn. 11/22) – Contractor's Personnel at Government Establishments

DEFCON 113 (Edn. 02/17) – Diversion Orders

DEFCON 129J (Edn. 18/11/16) – The Use of Electronic Business Delivery Form

DEFCON 501 (Edn. 10/21) – Definitions and Interpretations

- For the purposes of Sub-Clause 1(e), reference to 'special conditions of contract' shall be taken to mean the narrative conditions of the Contract.

DEFCON 503 (Edn. 06/22) – Formal Amendments to Contract

DEFCON 515 (Edn. 06/21) – Bankruptcy and Insolvency

DEFCON 516 (Edn. 04/12) – Equality

DEFCON 518 (Edn.02/17) – Transfer

DEFCON 520 (Edn. 08/21) – Corrupt Gifts and Payments of Commission

DEFCON 524A (Edn. 12/22) – Counterfeit Materiel

DEFCON 526 (Edn. 08/02) – Notices

- For the Purposes of this contract, Sub-Clause 2(e) shall be acceptable as a means of delivery notice.

DEFCON 527 (Edn. 09/97) – Waiver

DEFCON 528 (Edn. 07/21) – Import and Export Licences

- For the purposes of Clause 16, the Contractor shall notify the Authority their actions to mitigate the impact of restrictions within 10 working days. The Authority shall notify the Contractor within 15 working days of receipt of proposal whether it is acceptable.

DEFCON 529 (Edn. 09/97) – Law (English)

DEFCON 531 (Edn. 09/21) – Disclosure of Information

DEFCON 532B (Edn. 12/22) – Protection of Personal Data (Where Personal Data is being processed on behalf of the Authority)

- For the purpose of this contract, all personal data identified within DEFFORM 532 'Personal Data Particulars' (Annex R to the Contract), shall be subject to this condition.

DEFCON 537 (Edn. 12/21) – Rights of Third Parties

DEFCON 538 (Edn. 06/02) – Severability

DEFCON 539 (Edn. 01/22) – Transparency

DEFCON 540 (Edn. 05/23) – Conflict of Interest

DEFCON 550 (Edn. 02/14) – Child Labour and Employment Law

DEFCON 565 (Edn. 07/23) – Supply Chain Resilience and Risk Awareness

DEFCON 566 (Edn. 10/20) – Change of Control of Contractor

DEFCON 620 (Edn. 06/22) – Contract Change Control Procedure

DEFCON 660 (Edn. 12/15) – Official-Sensitive Security Requirement

- The Security Aspects Letters to UK are included at Annex AA to the Contract. The Official and Official-Sensitive Security Contractual Security Conditions is at Appendix 1 to Annex AA.

DEFCON 675 (Edn. 03/21) - Advertising Subcontracts (DSPCR 2011 only)

DEFCON 697 (Edn. 11/22) – Contractors on Deployed Operations (CONDO)

- Where the Authority has a requirement for the Contractor, a sub-contractor, or both, to Deploy to undertake a task at an Expected Work Location in a CONDO Applicable Area, the provisions of DEFCON 697 shall apply. DEFCON 697 shall become effective when such a task is included in the Contract.

## 2.2 DEFINITIONS AND INTERPRETATIONS

Notwithstanding, and in addition to, the provisions contained in DEFCON 501 (Edn. 10/21) 'Definitions And Interpretations', the following expressions shall, in the Contract, have the meaning hereby respectively assigned to them, except where the context requires otherwise.

**"Authority"** for the purposes of the contract means a Ministry of Defence (MOD) official acting on behalf of the Secretary of State for Defence.

**"Authority's Commercial Manager"** means the official named in Box 1 of Appendix 1 to Contract (DEFFORM 111).

**"Authority's Project Manager"** means the official named in Box 2 of Appendix 1 to Contract (DEFFORM 111).

**"Authority's Representatives"** means the Authority's officers, directors, employees, and advisers or agents as defined in DEFCON 501 (Edn. 10/21) 'Definitions and Interpretations'.

**"Background IPR" or "Background Intellectual Property Rights"** means all Intellectual Property Rights, including patents for any inventions, not generated in the performance of the work under the Contract.

**"Build Standard"** means the build standards agreed by the Parties as part of Design Acceptance.

**"Business Days"** means any day excluding:

- (1) Saturdays, Sundays and public and statutory holidays in the jurisdiction of either party;
- (2) privilege days notified in writing by the Authority to the Contractor at least ten (10)

Business Days in advance; and

- (3) such periods of holiday closure of the Contractor's premises of which the Authority is given written notice by the Contractor at least ten (10) Business Days in advance;

**"Change Proposal"** means a proposed change to the Contract, managed in accordance with the process in Condition 2.10 Contract Change Procedure.

**"Contract"** means the agreement concluded between the Authority and the Contractor, including all specifications, plans, drawings, schedules and other documentation, expressly made part of the agreement. In the event of contradiction, precedence shall be given to DEFCON 537 'Rights Of Third Parties' followed by the special conditions of contract, followed by the DEFCONs referenced in the Contract (other than DEFCON 537) and then the Schedule of Requirements.

**“Contract Effective Date”** means the date on which the offer of Contract has been accepted by the Contractor.

**“Contract Work Breakdown Structure”** (CWBS) The Contractor’s extension of the Authority Work Breakdown Structure (WBS) and forms the framework for Contract planning, management and status reporting and for estimating costs, schedule and technical achievements at completion.

**“Contractor Commercially Sensitive Information”** shall mean the information listed in DEFFORM 539A Tenderer’s Commercially Sensitive Information Form at Annex S to the Contract, being information notified by the Contractor to the Authority.

**“Contractor’s Employees”** means those employees of the Contractor who are deployed in connection with the performance of the Contract.

**“Critical Sub-contract”** means a sub-contract that is key to the success of the requirement.

**“Deliverable(s)”** means all articles, items, data, reports, plans, and services required to be delivered by the Contractor to the Authority under this Contract.

**“Design Acceptance”** means the acceptance of the Contractors design at Critical Design Review of the ITEAP.

**“FOC”** means the Full Operating Capability of the Interim IDFS Requirements under this Contract.

**“Foreground IPR” or “Foreground Intellectual Property Rights”** means all Intellectual Property Rights, including patents, for any inventions generated in the performance of work under the Contract, and patents for any inventions conceived out of the technical requirements of the Contract if these have been first enabled in the performance of work under the Contract.

**“Government Furnished Assets”** (GFA) means the generic term for any MOD asset such as equipment, information or resources issued or made available to the Contractor in connection with the Contract by or on behalf of the Authority.

**“Interim IDFS Requirement”** means all Contractor Deliverables including articles, items, data, reports, plans and services required to be delivered by the Contractor to the Authority under this Contract.

**“IOC”** means the Initial Operating Capability of the Interim IDFS Requirements under this Contract.

**“Key Performance Indicators”** means an objective measures of Contractor performance, against significant contract deliverables. This procedure is set out in Annex B to the Contract Key Performance Indicators.

**“Narrative Conditions”** means the conditions numbered two (2) through to ten (10) set out in the Contract.

**“Option Year(s)”** means those requirements detailed in Table 2 – Option Years, Line Items 1-14 of the Schedule of Requirements to this Contract which may be enacted by the Authority in adherence to Condition 4.3 Options.

**“Party”** means either the Contractor or the Authority.

**“Parties”** means the Contractor and the Authority.

**“Performance Indicators”** are the standards listed in Annex AC to the Contract.

**“Prime Contractor”** means the “Contractor”, who has responsibility for performance of the Contract.

**“Rectification Plan”** is the plan described in Part 5: Rectification and Termination of the KPI Annex at Annex B to the Contract.

**“Schedule of Requirements”** means the Schedule of Requirements of this Contract.

**“Schedule of Requirements Item(s)”** means the item(s) listed in the Schedule of Requirements of this Contract.

**“Statement of Requirement”** means the Statement of Requirement as at Annex A to the Contract.

**“Sub-contract” or “sub-contract”** means a sub-contract of any tier

**“Sub-contractor” or “sub-contractor”** means a sub-contractor of the Contractor of any tier.

**“Sub-contractor’s Employees”** means those employees of any Subcontractor.

**“Supply Support Plan”** The Supply Support Plan (SSP) provides the Supply Support elements of the Integrated Logistic Support Plan (ILSP) in accordance with DEF STAN 00600, PD 3002-02.

**“Task”** means any Authority requirement placed by the Authority with the Contractor through the Tasking Form at Annex Y to the Contract.

**“Tasking Form”** means the pro-forma document included at Annex Y to the Contract.

**“Terms and Conditions”** means the contractual terms and conditions detailed here for the Provision of Interim IDFS and all accompanying Annexes and Appendices.

## **2.3 SCOPE OF WORK**

2.3.1 The Contractor shall undertake all work and provide a Contractor Logistics Support (CLS) service to meet the Interim IDFS requirement in accordance with the Contract Terms and Conditions and associated Annexes.

## **2.4 CONTRACT DURATION**

2.4.1 The Contract shall commence on 13 September 2023, unless extended under the terms of Condition 4.3 Options.

2.4.2 The Authority shall have the irrevocable right to further extend the duration of the Contract by the Option Year periods specified in Condition 4.3 Options. The Authority will exercise option years in writing no later than three (3) calendar months before the expiry of the original Contract term or no later than three calendar months before the expiry of each exercised option year previously committed.

2.4.3 The Contractor shall be required to fulfil his obligations under the Contract should a requirement extend beyond the Duration of the Contract.

## **2.5 CONTRACTORS RESPONSIBILITY**

2.5.1 For the purposes of this Contract and the work performed thereunder, the Contractor shall be designated as the Prime Contractor, and shall accordingly be wholly responsible to the Authority, subject to the provisions of the Contract, for the timely, economic and proper execution of the Contract as described in the Schedule of Requirements

2.5.2 The Contractor’s responsibilities referred to in Clause 2.5.1 above shall apply equally to work carried out by Sub-Contractors in respect of the requirements of the Contract.

2.5.3 Notwithstanding any official approval of, or expression of satisfaction with any

Drawings, Specifications, Schedules or any other relevant technical, administrative or other Documents or Data by the Authority, the Contractor shall be wholly responsible for the efficient and accurate functioning as required by the Contract of all Articles/Services supplied under it, and for ensuring that any design is wholly complete, accurate and meets the specifications of the Contract, such that articles manufactured to such Design shall similarly meet the Technical Specifications and other requirements of the Contract.

## **2.6 SUB-CONTRACTING**

2.6.1 For the purposes of this Contract and the work to be performed, the Contractor shall remain responsible to the Authority, subject to the provisions of this Contract, for the timely, economic and proper execution of the work under the Contract as described in the Schedule of Requirements (SoR). 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 SubContractor does not relieve the Contractor of his responsibilities. The Contractor shall make such arrangements with his Sub-Contractor, and they with theirs, to ensure that the Subcontracted elements are satisfactory and meet the requirements of the Contract.

2.6.2 The Contractor shall ensure that the Terms and Conditions of this Contract are reflected in all Sub-Contracts at whatever level to the extent necessary to enable the Contractor to meet his obligations to the Authority under the Contract. 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.

2.6.3 Details of the sub-contractors for the Contract are to be provided in the Contractor's Supply Support Plan (as referenced in Annex A) that will be agreed upon before contract award.

2.6.4 Where the Contractor proposes to enter into a Sub-contract and/or to materially amend or terminate any existing Sub-contract which is a Critical 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:

- a) The identity of the proposed Sub-contractor;
- b) the value of the proposed Sub-contract or amendment and the pricing mechanism on which such value is based;
- c) the proposed Sub-contractor's or existing Sub-contractor's current, complete and accurate cost and pricing data;
- d) a description of the supplies or services to be Sub-contracted;
- e) confirmation that the relevant provisions of this Contract have been flowed down into the proposed Sub-contract or amendment to an existing Subcontract;
- f) the reasons for termination and the alternative arrangements proposed to be put in place by the Contractor in relation to the relevant activities;
- g) information to allow the Authority to assess any interest of national security or operational sovereignty.

2.6.5 The Authority shall have 10 (ten) business days from receipt of the information in

Clause 2.6.4 to raise any concerns it may wish to raise about the proposed change in the Supply Support Plan. Any concerns raised by the Authority shall be discussed between the Contractor and the Authority prior to any changes being made to the Supply Support Plan. The Authority shall be entitled by notice in writing to instruct the Contractor not to change the Make / Buy Plan where the concerns over changes are as per Clause 2.6.4.g.

2.6.6 The Supply Support Plan shall only be amended in accordance with DEFCON 503 'Formal Amendments to Contract' of the Contract.

2.6.7 Notwithstanding any concerns that the Authority may raise regarding changes to critical Sub-contractors, the Contractor shall remain responsible and liable to the Authority at all times for the performance of its obligations under the Contract.

2.6.8 Informing the Authority of the award of a Sub-contract or an amendment to a Subcontract shall not constitute the Authority's agreement:

- a) to the acceptability 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 2.6.4 above; or
- b) 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

2.6.9 The obligations of the Contractor under this Contract shall not be affected or reduced 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-contractor to the identity of any Sub-contract or proposed Sub-contractor.

2.6.10 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 subcontract 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.

2.6.11 Without prejudice to the generality of Clause 2.6.10 above, the Contractor shall as a minimum ensure that the provisions of this Contract specified in Sub-Clauses 2.6.11.a and 2.6.11.g below are incorporated in all Critical Sub-contracts so as to enable such provision to operate as between the Contractor and each relevant Sub-contractor (or as between relevant Sub-contractors of lower tiers as applicable) and be enforced by the Contractor (or relevant Sub-contractor as applicable):

- a) Intellectual Property Rights;
- b) Sub-contracting;
- c) Termination;
- d) Variation of Price;
- e) Earned Value Management;
- f) Design Authority;
- g) Security Measures;

**2.7 RELATIONSHIP MANAGEMENT PLAN**

2.7.1 The Contractor and the Authority shall maintain the Relationship Management Plan, at Annex AB to the Contract, throughout the duration of the Contract, and this shall be reviewed at the Interim IDFS BPM in order to improve the relationship wherever possible.

**2.8 LANGUAGE**

2.8.1 All correspondence delivered under this contract shall be written in English. Similarly, all meetings shall be conducted in the English Language.

**2.9 TASKING PROCEDURES FOR ADDITIONAL WORK (BESPOKE & PDS TASKING)**

2.9.1 For individual requirements with a value the Authority deems appropriate under Schedule of Requirements Table 1 – Initial Contract Duration Line Item 6 ‘PDS and Bespoke Tasking’ and Table 2 – Option Years Line Items 2, 4, 6, 8, 10, 12 and 14. This shall be initiated by the Authority and the following procedure shall apply:

- a. A sequentially numbered Tasking Authorisation Form (TAF) (as attached at Annex Y), approved by the Authority’s Project Manager and Commercial Officer with the relevant level of delegation for the task, summarising the work required, shall be issued to the Contractor.
- b. Within two weeks from receipt of an appropriately approved Tasking Order, the Contractor shall forward their firm priced proposal for work which shall detail the capabilities the Contractor will deliver through the Tasking Order, the deliverables the Contractor proposes to provide and an installation programme with timescales where appropriate. The Contractor shall also forward the firm price quotation for the work, in accordance with the provisions of DEFCON 643 ‘Price-Fixing – Non-Qualifying Contracts’ supported by full breakdown of costs under the headings of Direct Labour including the associated day rates (as listed in Annex E Rate Card), Materials, Bought out Parts / Proprietary items, PVR&D, Sub-contract costs, Overheads and Profit etc.
- c. Approved Tasking Forms shall be returned to the Contractor, detailing the Firm price and shall be the authority to proceed with the work. Following completion of the task, the Contractor shall complete Part 4a of the Tasking Form to show that the work has been undertaken, and forward this to the Authority’s Project Manager for approval.
- d. For the purposes of administration, the Agreement shall be amended periodically, in accordance with the provisions of DEFCON 503 ‘Formal Amendments to the Contract’, to reflect the tasks brought under the Agreement in the proceeding period. Any Amendments raised shall incorporate any new TAFs into the Schedule of Requirements, no later than four (4) months after each Tasking Order’s formal issuance.

**2.10 CONTRACT CHANGE PROCEDURE**

2.10.1 This Condition describes the procedure to be used for implementing changes to the Contract.

2.10.2 Changes may include, but shall not be limited to the following:

- a) Changes to Deliverables;

- b) Adaptability to facilitate the curtailment or expansion of activities being undertaken and in accordance with the SOR;
- c) Introduction of new work as a result of the identification of new technologies or the work of other programmes;
- d) Removal of work that is unnecessary to achieve Contract outcomes or for which better value for money can be achieved through a decision to allocate the cost of that work to other Contract outcomes;

2.10.3 Changes to Contract requirements may be proposed by the Authority, or by the Contractor. For Contractor initiated changes the Contractor shall be responsible for the preparation and submission a Change Proposal. For Authority initiated changes, the Authority shall submit in writing, details of the change required and the reason for the change.

2.10.4 For any change identified by either Party as an urgent change, both Parties shall use reasonable endeavours to meet and agree the urgent change as soon as reasonably practicable.

2.10.5 Any Change Proposal submitted by the Contractor shall contain sufficient information to enable the Authority to make a decision on whether or not to proceed on the proposed change.

2.10.6 Should the Contractor have insufficient information about the impact of the proposed change they may propose that the Authority allocate funds in order that the Contractor can undertake a study to investigate the potential impact of the proposed change.

2.10.7 Where a study is required, the Contractor shall not proceed until authority to proceed with the study has been provided by the Authority's Commercial Manager.

2.10.8 For proposed contractual changes, the Change Proposal submissions shall include a breakdown of all costs and other factors affected by the proposed change. The Contractor shall also forward the firm price quotation for the work, in accordance with the provisions of DEFCON 643 'Price-Fixing – Non-Qualifying Contracts'. These shall include, but not be limited to:

- a) Breakdown of all pricing of the proposed change;
- b) Programme Schedules;
- c) Statements of Work;
- d) Deliverables;
- e) System Requirements;
- f) Commonality;
- g) Any other input that may result

2.10.9 The price shall not only include those cost changes directly relating to the change itself but also any consequential cost changes that may arise elsewhere under the Contract. The Authority shall not be liable for any consequential costs that were not identified prior to approval of the Change Proposal Form at Annex Z to Contract concerned.



2.10.10 Where a change has originated from the Authority, the Contractor shall provide in response a proposal in accordance with Clause 2.10.8. No preparation costs shall be allowable for a Contractor originated Change Proposal Form.

2.10.11 Any changes initiated by the Contractor which are necessary to ensure compliance with the requirements of the Contract shall be the liability of the Contractor.

2.10.12 In accordance with DEFCON 643 'Price-Fixing (Non-Qualifying Contracts)', the price submitted in the Change Proposal shall be supported by details of the rationale used to determine the proposed costs, including a detailed breakdown (embracing all levels of the supply chain). If required, the Contractor shall also provide the Authority with full visibility of the costs of any part of the original work to which the proposed change relates.

2.10.13 All labour rates used shall be those set out in Annex E Rate Card to the Contract.

2.10.14 Work in connection with any proposed change shall not commence until the Authority's Commercial Officer (see Box 1 of DEFFORM 111) or his authorised representative formally offers the change as a contract amendment in accordance with the requirements of Condition 2.11 Amendments to Contract. Any work undertaken or costs incurred in advance of the acceptance of any Change Proposal will be entirely at the Contractor's own risk. Once a proposed change has been agreed and a contract amendment to incorporate it has been accepted by the Contractor, then the Contractor shall implement the change in accordance with the duly amended terms and conditions of the Contract.

2.10.15 The Authority reserves the right to reject or not take forward any proposed change contained in a Change Proposal Form. In the case of rejection or non-adoption the Authority shall give the Contractor reasons for that rejection.

## **2.11 AMENDMENTS TO CONTRACT**

2.11.1 In addition to the terms of DEFCON 503 'Formal Amendments To Contract' only the Authority's Commercial Officer detailed at Box 1 of DEFFORM 111 at Appendix 1 to the Contract or their authorised representative shall be authorised to vary the terms and conditions of the Contract, including but not limited to specifications, standards of drawings which form part of the Contract.

2.11.2 For individual requirements with a value the Authority deems appropriate under Schedule of Requirements Table 1 – Initial Contract Duration Line Item 6 and Table 2 – Option Years Line Items 2, 4, 6, 8, 10, 12 and 14. This shall be initiated by the Authority. DEFCON 643 'Price Fixing – Non-Qualifying Contracts' and the following procedure shall apply:

- a. The Commercial Officer named in the DEFFORM 111 at Appendix 1 to the Contract shall write to the Contractor outlining the Authority's requirement.
- b. Within 5 working days from receipt of the request, except where the Contractor notifies the Commercial Officer in writing (and thereafter the parties shall determine a mutually agreed date), the Contractor shall submit a date for which the proposal will be submitted to the Authority. On this date the Contractor shall submit the proposal for the work intended to be undertaken to meet the requirement, together with a Firm price quotation supported by full breakdown of costs under the headings of, if applicable:
  - Direct Labour including the associated Man hour / Wages rates (in accordance with those detailed in Annex E Rate Card);
  - Materials;
  - Bought out parts / Proprietary items;

- PVR&D;
- Sub-contract costs; ○ Overheads and Profit etc.; ○ Statement of Requirements; ○ Draft Project Schedule; ○ Key Milestones; ○ GFA list; ○ Training and installation – concept; ○ Options – listed separately;
- Contractor Logistics Support including concept and pricing;
- Compliance with SRD provided by MOD;
- Full breakdown of hours – clearly identifiable to justify price and cost drivers; ○ Costed Risk Register; ○ Assumptions and Exclusions; ○ Payment profile

2.11.3 The Contractor shall not undertake any work on the particular requirement until authorised to do so. Costs associated with any work undertaken prior to their acceptance of a formal written amendment to the Agreement shall be a liability of the Contractor.

2.11.4 The Authority reserves the right to seek competitive tenders for additional work called for under Table 1 – Initial Contract Duration Line Item 6 and Table 2 – Option Years Line Items 2, 4, 6, 8, 10, 12 and 14 of the Schedule of Requirements as effective competitive procurement will continue to be an important tool for achieving best value for money.

2.11.5 In the event the Authority invokes the right to seek competitive tenders, the Contractor will be entitled to participate in the competitive procurement activity, subject to the provisions therein.

## **2.12 PARENT COMPANY GUARANTEE**

2.12.1 If the Contractor is required to provide a Parent Company Guarantee, the Parent Company Guarantee shall remain in place for the duration of the Contract.

2.12.2 Should there be any change in control of the Contractor in accordance with DEFCON 566 'Change of Control of Contractor', the Parent Company Guarantee 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.

## **2.13 CONTRACTOR'S PERSONNEL**

2.13.1 Key personnel identified in the Statement of Requirement at Annex A shall have the appropriate qualifications, skills and competences to fulfil the obligations in accordance with the Terms and Conditions of the Contract.

2.13.2 The Contractor shall take all reasonable steps to avoid changes of key personnel assigned for work under the Contract. Except whenever changes are unavoidable or of a temporary nature caused by sickness or other circumstances, the Contractor shall give at least one month's notice, in writing, to the Authority and the provisions of this Condition shall apply to the replacement personnel.

## **2.14 MANAGING AGENCY**

2.14.1 Authority Right to Appoint a Managing Agent

2.14.1.1 Notwithstanding any provisions to the contrary in the Contract or in any other agreement between the Parties, at any time during the term the Authority may appoint a third party (Managing Agent) to manage and operate all or any part of this Contract for and on behalf of the Authority and to give directions to the Contractor as the Authority's

managing agent (the "Managing Agent"), within the scope of its authority notified to the Contractor pursuant to Clause 2.14.1.3 below.

2.14.1.2 The appointment of the Managing Agent shall be at the sole discretion of the Authority notwithstanding any provisions to the contrary.

2.14.1.3 The Authority shall notify the Contractor in writing of the Managing Agent appointment and the scope of the Managing Agent's authority. Such notification shall also include expected date of transition to the new Managing Agent.

2.14.1.4 The Contractor shall, within the limits of the Authority notified to it under Condition 2.14.1.3 treat and deal with and accept the directions and instructions of the Managing Agent as the Authority's agent for the duration of such appointment.

2.14.1.5 Notwithstanding anything else in this Condition 2.14, the Managing Agent shall not have the authority to amend the Terms or Conditions of this Contract without the written approval of the Authority, save in respect of any changes contemplated in accordance with Condition 2.9 Tasking Procedures for Additional Work (Bespoke & PDS Tasking) and Condition 2.10 Contract Change Procedure.

2.14.1.6 Where the Authority in its sole discretion notifies the Contractor in writing that it wishes to novate this Contract to the Managing Agent, the Contractor shall promptly take all such steps, carry out all such actions and execute and deliver all such instructions and documentation as may be necessary or expedient to give effect to the novation.

#### 2.14.2 Authority Right to Disclose Commercially Sensitive Information to the Managing Agent

2.14.2.1 Notwithstanding any provisions to the contrary in this Contract (or any other agreement) or the provisions of DEFCON 531 'Disclosure Of Information' (if applicable) the Authority may disclose the whole or any part of this Contract to the Managing Agent, including (without limitation) any relevant confidential and/or commercially sensitive information. The Authority may also release information regarding the existence of this contract, the duration, the scope, the deliverables and the overall value to suppliers taking part in the tendering process for the Management Agent role.

2.14.2.2 The Contractor shall, following appointment of a Managing Agent pursuant to Clause 2.14.1 disclose to the Managing Agent any such information as the Contractor is required to disclose or provide to the Authority, or the Authority has a right to request, in accordance with the Terms and Conditions of this Contract.

2.14.2.3 Where the consent of any third party is required before confidential information can be disclosed to the Managing Agent, the Contractor shall use its best endeavours to obtain such consent within a period of two (2) weeks from the of request from the Managing Agent.

## 2.15 EXIT STRATEGY

### 2.15.1 Exit Period

2.15.1.1 The Exit Period, as identified in the Exit Plan, shall commence on the earliest of the following events:

- (a) the latest date that meets the contract end date; or
- (b) on receipt of a notice of termination for Contractor default in accordance with Condition 10.3 Default & Termination; or
- (c) on written notice of termination given by the Authority.

2.15.1.2 The Exit Period shall be for not less than six (6) calendar months following its commencement in accordance with 2.15.1.1b following which the Contract shall be deemed to have expired.

#### 2.15.2 Exit Plan

2.15.2.1 The Contractor shall, six (6) months after Contract award, deliver the final version of the Exit Plan (which shall become Annex AF to the Contract). This final Exit Plan shall be reviewed, updated and maintained throughout the term of this Contract in accordance with this Clause 2.15.2. Prior to this, the Contractor's draft Exit Plan shall apply.

2.15.2.2 The Contractor shall comply with the Contractor's Exit Plan for the Exit Period to ensure that the Contractor can at all times satisfy its obligations following the termination or expiry of the Contract.

2.15.2.3 The Contractor shall review and when necessary update the Exit Plan twelve (12) Months prior to the end of the Term in accordance with the provisions of the Exit Plan and shall ensure that it is able to implement the Exit Plan throughout the Term in accordance with its terms. All such updates must be approved by the Authority.

2.15.2.4 The Contractor shall promptly comply with all reasonable instructions from the Authority with regards to the implementation of the Exit Plan, including cooperating with any Replacement Contractor and in relation to transfer of Contractor Personnel.

2.15.2.5 All costs incurred in developing, updating and implementing the Exit Plan shall be payable by the Contractor.

2.15.2.6 On expiration of the Contract, at any time and for whatever reason, the Authority shall not be liable for additional charge(s) other than those the Contract conditions that apportion liability to the Authority in respect of the winding up of the Contract, for the handover by the Contractor, to any successor Contractor or the Authority, of all the data relevant to the performance of this work by that successor Contractor.

#### 2.15.3 Obligation to Assist

2.15.3.1 Following termination or expiry of this Contract, the Contractor shall continue to implement the Exit Plan during the Exit Period to ensure the orderly and efficient transition of all activities undertaken or to be undertaken by the Contractor and SubContractors under this Contract to the Authority. The Contractor and Sub-Contractors shall co-operate with all reasonable instructions of the Authority in connection with this transition.

2.15.3.2 The Contractor shall also provide any reasonable assistance requested by the Authority to allow the Services to continue without interruption following the expiry date or termination date and to satisfy the obligations under Sub-Clause 2.15.3.1.

2.15.3.3 The Contractor shall also make key personnel reasonably available, during the Exit Period, to the Authority and / or any replacement Contractor, in order to affect the orderly and timely transfer of provision of the Services.

2.15.3.4 During the Exit Period the Contractor shall make available or in the case of (d) return to the Authority, in a format which they would expect were they the successor, to either a successor Contractor, the Authority or Managing Agent the following:

- (a) Any Intellectual Property Rights (IPR) acquired from any third party as a direct result of the performance of this Contract; .
- (b) Any IPR created by the Contractor during the performance of the Contract (foreground IPR);
- (c) Any IPR owned by the Contractor that existed prior to the date of this Contract (background IPR) that is used in the performance of this Contract;

- (d) All GFX used by the Contractor in the performance of this Contract;
- (e) All reports, databases, software etc. produced over the period of the Contract.

2.15.3.5 The Contractor shall include a handover provision within the Exit Period, for any successor contractor or the Authority to be directly briefed by the present Contractor, in all matters that the successor contractor or Authority may raise as relevant to the past and/or future performance of work under the Contract. The handover will be carried out at a location most advantageous to its purpose and shall be agreed to by the Authority. The handover duration shall be defined in the Exit Plan and agreed with the Authority.

#### 2.15.4 Re-Competition Data

2.15.4.1 Where the Authority requests it either as a separate deliverable or as part of the Exit Plan, the Contractor shall provide to the Authority the following information for the purpose of actual or potential re-competition of, and managing transition to any potential Replacement Contractor of the provision of, the Interim IDFS requirement or similar to the Interim IDFS Requirement (in whole or in part):

- (a) without prejudice to the timetable for, and provisions relating to, delivery of information relating to potential transferring employees as defined within TUPE provisions within the Contract;
- (b) the Management Information, less the Commercially Sensitive Information, from the date of the award of this Contract to the end of the expiry of the Contract (in accordance with Clause 2.16.1); and
- (c) such other information used by the Contractor in its performance of its duties and obligations under the Contract, including (without limitation) processes, procedures, manuals, guides, instructions, repair and maintenance information, technical documentation in relation to software and equipment and configuration control documentation.

#### 2.15.5 Continued Performance

2.15.5.1 Save as expressly specified in the Exit Plan, the Contractor shall at all times during the Exit Period continue to perform its obligations, in accordance with the provisions of this Contract.

### 2.16 SUSTAINABLE PROCUREMENT – BEST PRACTICE

2.16.1 The Contractor is encouraged to bring to the attention of the Authority any measures which might promote sustainable procurement from a social, economic and environmental point of view.

### 2.17 IMPORT AND EXPORT LICENCES, VAT

2.17.1 Subject to the provisions of DEFCON 528 'Import and Export Licenses', the Contractor shall be responsible for securing any licences or security clearances necessary to enable him to meet his obligations under the terms of the Contract and shall confirm to the Authority, with supporting evidence that such licences and clearances have been secured. No addition to the Contract price shall be accepted by the Authority in respect of these activities.

2.17.2 The Contractor shall make sure any Confidentiality Agreement, Technical Assistance Agreement or International Traffic in Arms Regulations Requirements or similar are in place to allow the Contract to be performed on time.

2.17.3 The Contractor's attention is drawn to the introduction of a 'Railway Development Levy' in Kenya. The Contractor shall be responsible for payment of this levy and any costs associated with it and no addition to the Contract price shall be accepted by the Authority in respect of full compliance with this.

## 2.18 CAPITAL FACILITIES

2.18.1 The Contractor shall provide all resources necessary for the purposes of carrying out the requirements of this Contract other than those under Section 6 – Loans, or those agreed as Government Furnished Assets at Annex L to the Contract.

## 2.19 AUTHORITY'S PERSONNEL

2.19.1 The Authority may engage organisations to assist it with the Contract. In such circumstances these parties (known as "Authority's Representatives") shall be deemed to be approved representatives of the Authority to whom the Contractor shall co-operate fully and provide all reasonable assistance to them in performing the roles and responsibilities assigned to them by the Authority.

2.19.2 Any contract placed by the Authority for the services mentioned in Clause 2.19.1 above shall include suitable provisions for the protection of the confidentiality of any information released under the said contract.

## 2.20 PROVISIONS FOR CONTRACTS PURSUANT TO TRAINING OF BRITISH ARMED FORCES IN CANADA – this Condition shall come into being should training under the Contract take place in BATUS

2.20.1 In the Contract, unless the context otherwise requires,

**British Armed Forces in Canada ("BATIC")** means the Armed Forces of the United Kingdom of Great Britain and Northern Ireland, together with their equipment and any civilian component accompanying those forces, as defined in Article I of the NATO SOFA, training or stationed or located in any part of the territory of Canada;

**"Canada", "Crown", "His Majesty" or "the Government"** means His Majesty the King in right of Canada;

**"Contract"** means the written, mutually binding, legal agreement between the Parties, which contains these general conditions, any supplemental general conditions specified in the written agreement and every other document specified or referred to in any of them as forming part of the Contract, all as amended by agreement of the Parties from time to time;

**"Contractor"** means the person or entity whose name appears on the signature page of the Contract and who is to supply goods or services to British Armed Forces in Canada under the Contract;

**"Minister"** means the Minister of National Defence of Canada and any other person duly authorized to act on behalf of that Minister;

**"Subcontract"** includes a contract let by any subcontractor at any tier for the performance or supply of a part of the Work and the derivatives of the word shall be construed accordingly;

**"Work"** means the whole of the activities, services, materials, equipment, software, matters and things required to be done, delivered or performed by the Contractor in accordance with the terms of the Contract.

2.20.2 The headings used in these general conditions are inserted for convenience of reference only and shall not affect their interpretation.

### 2.20.3 General Conditions

#### 2.20.3.1 Licensing

The Contractor must obtain and maintain all Permits, Licences and Certificates of approval required for the work to be performed under any applicable Canadian Federal, Provincial or Municipal regulations. The Contractor shall be responsible for any charges imposed by such legislation or regulations. Upon request, the Contractor shall provide a copy of any such permit, license, or certificate to Canadian authorities.

#### 2.20.3.2 Site Regulations

The Contractor undertakes and agrees to comply with all standing orders or other regulations, in force on the site in the territory of Canada where the work is to be performed, relating to the safety of persons on the site or the protection of property against loss or damage from any and all causes including fire.

#### 2.20.3.3 Workers' Compensation

It is mandatory that all persons performing the work in Canada be covered under the applicable workers' compensation legislation in the territory of Canada provided for the benefit of injured employees.

#### 2.20.3.4 Safety Regulations and Labour Codes

The Contractor must adhere to all Safety Rules, Regulations and Labour Codes in force in all jurisdictions in the territory of Canada where the work is to be performed.

#### 2.20.3.5 International Sanctions

Persons and companies in Canada are bound by economic sanctions imposed by Canada. As a result, the British Armed Forces in Canada cannot accept delivery of goods or services that originate, either directly or indirectly, from the countries subject to economic sanctions imposed by Canada. Details on existing sanctions can be found at <http://www.international.gc.ca/sanctions/index.aspx>.

It is a condition of this Contract that the Contractor not supply to the British Armed Forces in Canada any goods or services, which are subject to economic sanctions imposed by Canada.

#### 2.20.3.6 Status of the Contractor

The Contractor is engaged as an independent Contractor for the sole purpose of performing the Work. Neither the Contractor nor any of its personnel is engaged as an employee, servant or agent of Canada.

#### 2.20.3.7 Compliance with Applicable Canadian Laws

The Contractor shall comply with all Canadian laws applicable to the performance of the Work or any part thereof including, without limitation, all laws concerning health and labour conditions and the protection of the environment, and shall require compliance therewith by all of its subcontractors. Evidence of compliance with such laws shall be furnished by the Contractor to the Contracting Authority at such times as the Contracting Authority or Canada may reasonably request

#### 2.20.3.8 Subcontracting

2.20.3.8.1 Unless otherwise provided in the Contract, the Contractor shall obtain the consent of the Minister in writing prior to subcontracting or permitting the subcontracting of any portion of the Work at any tier in the territory of Canada.

2.20.3.8.2 Notwithstanding Clause 2.20.3.8.1 , the Contractor may, without prior consent of the Minister, subcontract such portions of the Work as is customary in the carrying out of similar contracts.

2.20.3.8.3 In any subcontract, the Contractor shall, unless the Minister otherwise consents in writing, ensure that the subcontractor is bound by terms and conditions compatible with and, in the opinion of the Minister, not less favourable to Canada than the terms and conditions of the Contract. Deviations in any subcontract from the terms of the Contract shall be entirely at the risk of the Contractor.

2.20.3.8.4 The Contractor is not obliged to seek consent to enter into subcontracts specifically authorised in the Contract.

2.20.3.8.5 Any consent to a Subcontract shall not relieve the Contractor from its obligations under the Contract or be construed as authorizing any liability on the part of Canada or the Minister to a subcontractor.

#### 2.20.3.9 Assignment

2.20.3.9.1 The Contract shall not be assigned, in whole or in part, by the Contractor without the prior consent in writing of the Minister and any purported assignment made without that consent is void and of no effect.

2.20.3.9.2 No assignment of the Contract shall relieve the Contractor from any obligation under the Contract or impose any liability upon Canada or the Minister, unless otherwise agreed to in writing by the Minister.

#### 2.20.3.10 Security and Protection of the Work

2.20.3.10.1 Subject to the Access to Information Act, R.S.C. 1985, c. A-1 and to any right of Canada under this Contract to release or disclose, Canada shall not release or disclose outside the Government of Canada any information delivered to Canada under the Contract that is proprietary to the Contractor or a Subcontractor.



2.20.3.10.2 The obligations of the Parties set out in this section do not apply to any information where the same information:

- a. is publicly available from a source other than the other Party; or
- b. is or becomes known to a Party from a source other than the other Party, except any source that is known to be under an obligation to the other Party not to disclose the information, or
- c. is developed by a Party without use of the information of the other Party.

#### 2.20.3.11 Indemnity Against Third-Party Claims

2.20.3.11.1 The Contractor shall indemnify and save harmless Canada, the Minister and their servants and agents from and against any damages, costs or expenses or any claim, action, suit or other proceeding which they or any of them may at any time incur or suffer as a result of or arising out of:

- a. any injury to persons (including injuries resulting in death) or loss of or damage to property of others which may be or be alleged to be caused by or suffered as a result of the performance of the Work or any part thereof, except that Canada and the Minister shall not claim indemnity under this section to the extent that the injury, loss or damage has been caused by Canada, and
- b. any liens, attachments, charges or other encumbrances or claims upon or in respect of any materials, parts, work-in-process or finished work furnished to, or in respect of which any payment has been made by, Canada.

2.20.3.11.2 The Minister shall give notice to the Contractor of any claim, action, suit or proceeding referred to in Clause 2.20.3.11.1 and the Contractor shall, to the extent requested by the Attorney General of Canada, at its own expense participate in or conduct the defence of any such claim, action, suit or proceeding and any negotiations for settlement of the same, but the Contractor shall not be liable to indemnify Canada for payment of any settlement unless it has consented to the settlement.

2.20.3.11.3 The Minister shall give notice to the Contractor of any claim, action, suit or proceeding referred to in Clause 2.20.3.11.2 and the Contractor shall, to the extent requested by the Attorney General of Canada, at its own expense participate in or conduct the defence of any such claim, action, suit or proceeding and any negotiations for settlement of the same, but the Contractor shall not be liable to indemnify and save harmless Canada for payment of any settlement unless it has consented to the settlement.

#### 2.20.3.12 Environmental Considerations

2.20.3.12.1 The Contractor recognises the unique environmental characteristics of Canadian Forces Base Suffield and its ranges in Canada and undertakes to carry out any work on the range with due care and diligence and will take the necessary steps necessary to mitigate any environmental impacts, and to repair, remediate, reclaim and restore the environment as near as possible to its original condition.

### **3 SPECIFICATIONS, PLANS, ETC.**

#### **3.1 DEFCONS**

DEFCON 21 (Edn. 06/21) - Retention of Records

DEFCON 68 (Edn. 10/22) – Supply of Data for Hazardous Articles, Materials and Substances

- For the purpose of this contract, Annex N to the Contract (DEFFORM 68 'Hazardous Articles') shall be used to document all Safety Data Sheet (SDS) relating to any article provided under this contract.

DEFCON 82 (Edn. 06/21) - Special Procedure for Initial Spares

DEFCON 117 (Edn. 07/21) - Supply of Information for NATO Codification Purposes

DEFCON 502 (Edn. 05/17) – Specifications Changes

DEFCON 595 (Edn. 03/19) – General Purpose Automatic Test Equipment Data Requirements

DEFCON 601 (Edn. 04/14) – Redundant Material

- DEFCON 601 shall only apply to Government Furnished Assets provided under DEFCON 611 'Issued Property' and detailed at Annex L of the Contract.

DEFCON 602B (Edn.12/06) – Quality Assurance (without Quality Plan)

DEFCON 606 (Edn. 07/21) – Change and Configuration Control Procedure

DEFCON 607 (Edn. 05/08) – Radio Transmissions

DEFCON 608 Edn. 07/21) – Access and Facilities to be Provided by the Contractor

DEFCON 624 (Edn. 08/22) – Use of Asbestos

DEFCON 627 (Edn. 11/21) – Quality Assurance – Requirement for a Certificate of Conformity

DEFCON 637 (Edn. 05/17) - Defect Investigation and Liability

DEFCON 658 (Edn.09/21) – Cyber

- For the purpose of the contract, the Cyber Risk Assessment of this procurement is MODERATE as defined in DEFSTAN 05-138 The reference number is RAR- 549039888

#### **3.2 SPECIFICATIONS/REFERENCE DOCUMENTS**

3.2.1 Final versions of all documents delivered under the Contract shall be submitted to the Authority's Project Manager for comment and deemed acceptable in accordance with Acceptance process at Annex H to the Contract. Notwithstanding the requirements stated in Annex A to the Contract, the Contractor shall ensure all other documents are subject to review and kept up to date throughout the Contract duration and made available within (10) days at the request of the Authority.

#### **3.3 TECHNICAL OR DESIGN QUERIES**

3.3.1 Any queries of a technical nature should be referred to the Project Manager (PM), Box 2 of Appendix 1 to the Contract DEFFORM 111.

### **3.4 QUALITY ASSURANCE**

3.4.1 The Contractor shall comply with the following quality requirements:

3.4.1.1 Ensure that the Contract is carried out in accordance with the Quality Assurance requirements stated in the Contract and if applicable their own certificated QMS. The Contractor shall notify, and make available to the Authority, the results of any quality activities (e.g. Audits) that may impact, directly or indirectly, the Project.

3.4.2 The following Quality Assurance standards shall apply to this Contract:

3.4.2.1 AQAP 2110 Edition D Version 1 NATO Quality Assurance Requirements for Design, Development and Production.

3.4.2.2 A Certificate of Conformity (CoC) shall be provided in accordance with DEFCON 627 'Quality Assurance – Requirement for a Certificate of Conformity'.

3.4.2.3 AQAP 2210 Edition A Version 2 – NATO Supplementary Software Quality Assurance Requirements to AQAP 2110 or AQAP 2310 shall apply.

3.4.2.4 No Deliverable Quality Plan is required in accordance with DEFCON 602B 12/06 'Quality Assurance (Without Deliverable Quality Plan)'.

3.4.2.5 Concessions shall be managed in accordance with DEFSTAN. 05-061 Part 1, Issue 6 – Quality Assurance Procedural Requirements – Concessions.

3.4.2.6 Any Contractor working parties shall be provided in accordance with DEFSTAN. 05-061 Part 4, Issue 3 – Quality Assurance Procedural Requirements – Contractor Working Parties.

3.4.2.7 Processes and controls for the avoidance of counterfeit materiel shall be established and applied in accordance with DEFSTAN 05-135, Issue 2 - Avoidance of Counterfeit Materiel.

### **3.5 CONFIGURATION CONTROL**

3.5.1 The Contractor shall conduct configuration management in accordance with DEFSTAN 05-57 and in accordance with the Configuration Management Plan. The Contractor shall ensure that the Authority's Project Manager (or his authorised representative) has full and free access to the Contractor's records of the configuration items and the configuration process.

### **3.6 SAFETY AND ENVIRONMENT**

3.6.1 The Contractor shall conduct the Interim IDFS Requirement in accordance with:

3.6.1.1 Health & Safety at Work Act 1974

3.6.1.2 Environmental Protection Act 1990

3.6.1.3 DEFSTAN 00-56

3.6.2 The Contractor shall provide access to records including Sub-Contractor records, for Contract purposes; to enable the MOD appointed Independent Safety Auditor, Advisor or Assessor to carry out safety audits and other assessment activities to meet MOD safety requirements.

### **3.7 RISK & OPPORTUNITY MANAGEMENT**

3.7.1 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 generally, including without limitation, the identification of (or failure to identify):

- a) particular risks and their impact; or
- b) 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.

3.7.2 The Contractor shall produce and manage the risk registers, reports and processes in accordance with the Statement of Requirement at Annex A to the Contract. The Risk & Opportunity Register shall be maintained by the Contractor for the duration of the Contract and shall include all risks in the supply chain including those of their sub-contractors.

3.7.3 The Contractor shall maintain the joint Risk & Opportunity Register using the appropriate risk management tool and shall make the Risk & Opportunity Register available to the Authority electronically.

## **4 PRICE**

### **4.1 DEFCONS**

DEFCON 643 (Edn.12/21) – Price Fixing (Non-Qualifying Contracts)

DEFCON 647 (Edn. 05/21) – Financial Management Information

DEFCON 654 (Edn.10/98) – Government Reciprocal Audit Arrangement

DEFCON 678 (Edn. 09/19) – SME Spend Data Collection

### **4.2 CONTRACT YEARS 1-3 PRICING**

4.2.1 The prices for Contract Years 1-3 as detailed in Table 1 Initial Contract Duration of the Schedule of Requirements are Firm priced and shall not be subject to any variation.

4.2.2 The prices shall include all costs of the Contractor satisfying his obligations under these items in accordance with the Terms and Conditions of the Contract. The prices are inclusive of all royalties, licences and taxes (excluding Value Added Tax).

#### **4.2.3 Gainshare**

4.2.3.1 The Contractor shall provide the Authority with efficiency reports no later than 30 days after the completion of each Training Exercise which will detail where efficiencies may be implemented. Gainshare will form part of the standard agenda of progress meetings and findings will be recorded in the minutes of that meeting, along with the decision as to whether to implement the proposed change.

4.2.3.2 All savings achieved as a result of a gainshare agreement will be shared on a 50:50 basis between the Authority and Contractor for the remaining Contract duration or for the period of the net financial efficiencies obtained after implementation of the recommendation. Implementation of these efficiencies will be agreed on a case by case basis.

4.2.3.3 Any gainshare not claimed by the final payment of the Contract shall be forfeited by the Contractor.

4.2.3.4 Where the Authority does not implement any efficiency recommendation, it will provide an explanation to the Contractor to confirm why the efficiency has not been adopted or deferred and confirm the expected duration or deferral.

### **4.3 OPTIONS**

4.3.1 The Authority shall have the unilateral irrevocable right to extend the Contract by seven (7) twelve (12) month periods known as the 'Option Years'. These Option Years are detailed in the Schedule of Requirements Table 2 – Option Years at Line Items 1 – 14. The Authority shall have the right to invoke these Option Years individually, as seven (7) individual twelve (12) month periods, or any such combination of consecutive Option Years.

4.3.2 Should the Authority require to enact any combination of Option Years, then the Authority shall invoke the option(s) in writing to the Contractor, no less than three (3) calendar months before the expiry date of the Contract.

4.3.3 The Authority shall have the right to enact the options listed in Table 3 Additional Requirement Options. The Authority shall have the right to invoke these options individually or in any such combination. The Authority shall have the right to enact any of the options within the initial contract duration (years 1 - 3) and / or within the 'Option Years'.

4.3.4 Should the Authority invoke any option to extend the contract in line with Clause 4.3.1 the ability to carry out additional Bespoke Tasking, for the same time period will also be invoked, as per the Schedule of Requirements Table 2 - Option Years Line Items 2, 4, 6, 8, 10, 12 and 14.

4.3.5 Should the Authority require to enact any of the options detailed at Table 2 - Option Years in the Schedule of Requirements and in Annex A Statement of Requirement to the Terms and Conditions, then the Authority shall invoke the option(s) in writing to the Contractor, no less than three (3) calendar months before the commencement of the requirement and will be raised as an Amendment to the Contract, in line with DEFCON 503 'Formal Amendments to Contract'.

4.3.6 The Terms and Conditions of this Contract shall apply to any Option Year(s) or other Options detailed in the Schedule of Requirements and Annex A to the Terms and Conditions, that are taken up by the Authority.

4.3.7 The Authority reserves the rights to seek competitive tenders for the option requirement(s) of this Contract. In such event, the Contractor shall not relinquish any of his obligations to supply the core services of the Contract.

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

### **4.4 OPTIONS – PRICING**

4.4.1 The Option Years, Schedule of Requirements Table 2 – Option Years Line Items 1,

3, 5, 7, 9, 11 and 13 shall be fixed price and if exercised by the Authority, shall be subject to indexation in accordance with Condition 4.8 Variation of Price (VoP) of this Contract. Other than this indexation the price shall not be subject to variation.

4.4.2 Schedule of Requirements Table 2 – Option Years, Line Items 2, 4, 6, 8, 10, 12 and 14 shall be firm priced at the time each Tasking is raised in line with Annex E Rate Card.

4.4.3 Schedule of Requirements Table 3 – Additional Requirement Options (priced), Line Items 1 - 8 shall be priced according to the Supplier's proposal agreed at Contract Award. If these options is taken up in any of the Option Years (4 - 10), it shall be priced in accordance with Condition 4.8 Variation of Price (VoP).

4.4.4 Schedule of Requirements Table 3 – Additional Requirement Options (unpriced), Lines Items 9 - 12 shall be priced according to the RFQ process if they are exercised; Variation of Price (VoP) may apply.

#### **4.5 EQUALITY OF INFORMATION**

4.5.1 Using Annex V to the Contract, the Contractor shall complete an Equality of Information (E of I) Pricing Statement for all Contract amendments in accordance with DEFCON 643 'Price-Fixing (Non-Qualifying Contracts)'.

#### **4.6 PRICING OF CHANGES TO THE REQUIREMENT**

4.6.1 Where a change in requirement as detailed in the Contract Change Procedure at Condition 2.10 necessitates an adjustment to an agreed price under the Contract, or a new price to be added to the Contract, the Contractor shall submit to the Authority within 10 (ten) business days (or such other period of time as agreed with the Authority) of the request the following information in support of the price quoted:

- a) A firm price quotation, utilising the agreed labour rates as detailed in the Rate Card at Annex E to the Contract and specifying overhead and profit rates for the work required to be carried out under the proposed amendment. The quotation should provide to the Authority full visibility of the build-up of the price. This information, shall contain sufficient detail as to allow the Authority accurately to assess the extent to which the price quoted for the revised requirement is fair and reasonable.
- b) A firm price quotation using agreed labour rates as detailed in the Rate Card at Annex E to the Contract and specifying overhead and profit rates for the work required

4.6.2 All price changes shall be subject to DEFCONs 643 'Price-Fixing (Non-Qualifying Contracts)' and 647 'Financial Management Information' as appropriate.

4.6.3 Timely pricing of a proposed amendment is essential to the efficient execution of the Contract. The Contractor shall make all reasonable endeavours to supply information and negotiate within 30 days of the provision of the change by the Authority. The price within the Contractor's proposal shall be a fair and reasonable price, and the Contractor shall adopt a system of parallel working with the Authority (and his representatives) when preparing his quotation.

4.6.4 Unless otherwise agreed at Clause 4.6.6 below, no work under the proposed amendment shall commence until a price has been agreed.

4.6.5 Where, under exceptional circumstances, it is necessary for work to commence prior to an agreed price, the Authority may agree a maximum price limiting the Authority's liability.

4.6.6 The Authority, may at its own discretion, use an independent contractor to aid with the assessment of pricing.

4.6.7 In the event the change to the requirement is anticipated to be above £5M, the contractor shall price the change in accordance with the Single Source Contract Regulations 2014.

#### **4.7 CONTRACTOR SUPPORT TO TRAINING EXERCISES**

4.7.1 In accordance with Section 12: Training and Support in the Statement of Requirement at Annex A, the Contractor shall provide support inclusive of T&S, to 200 exercise days to Collective Training Events at the core locations (BATUK, SPTA, other UK and Europe).

Within these 200 exercise days, the Contractor shall also provide support to Collective Training Events at the non-core locations (Belize, Oman and BATUS). Should the Contractor incur any additional T&S costs associated with the support at non-core locations, the agreed rates at Annex E Rate Card shall be used. The Contractor shall notify the Authority of any T&S costs within twenty (20) business days ahead of exercise commencement. The Authority will review and agree this, subject to contract, with the Contractor by utilising the Tasking Process at Condition 2.9.

4.7.2 The Authority reserves the right to draw down from the support to 200 exercise days to support training exercises at other worldwide locations excluding core and non-core

locations. Should the Contractor incur any additional costs, the Contractor shall notify the Authority for their consideration within twenty (20) business days ahead of exercise commencement. The Authority will review and agree, subject to contract, this with the Contractor by utilising the Tasking Process at Condition 2.9.

4.7.3 In the event that there are unused exercise days at the end of each Contract Year, these shall be rolled over to the following Contract Year and confirmed at the BPM. In the instance that the support to 200 exercise days have been expended, the Authority may wish to purchase additional exercise days. In the instance that the 200 days have been expended, a contract amendment shall be required for the additional uplift. These shall be priced in accordance with Line Items 7 and/or 8 in the Schedule of Requirement Table 3 – Additional Requirement Options and the Rate Card at Annex E.

4.7.4 In addition to clauses 4.7.1 to 4.7.3, the Contractor shall provide support to the Training Schools as per the fixed Schedule in Appendix 2 to Annex A Demand Signal and Peak Load.

#### **4.8 VARIATION OF PRICE (VoP)**

4.8.1 The prices stated in the Schedule of Requirements Table 2 – Option Years Line Items 1, 3, 5, 7, 9, 11 and 13 and Table 3 - Additional Requirements Options Line Items 2, 4, 6, 7 and 8 are FIXED at 2022 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:

$$V = P (a+b (O_i/O_0)) - P \text{ Where:}$$

V represents the variation of price

P represents the FIXED price as stated in the Schedule of Requirements Table 2 – Option Years Line Items 1, 3, 5, 7, 9, 11 and 13.

O represents the index “HQTl – Top Level SPPI, Sections H to U excl. Section K”

Oo represents the quarterly average OUTPUT Price Index figure for the 12 months prior to the contract award date. As ONS monthly data covers the whole month, The advice from Defence Economics was to 1st November 2022 as the contract award date to use under the VOP clause. As such, the 12-month prior to that date should be the period between 1 Nov 2021 and 31 October 2022.

Oi represents the quarterly average OUTPUT Price Index figure across the financial year prior to the period for which variation is being added a represents the Non-Variable Element (NVE), 0% b represents the Variable Element, 100%  $a+b=1$

4.8.2 The index referred to in Clause 4.8.1 above shall be taken from the following Tables:

OUTPUT Price Index – ONS Publication Services Producer Price Inflation Table 1 Index  
HQTl - Top Level SPPI, Sections H to U excl. Section K.

4.8.3 The prices stated in the Schedule of Requirements Table 3 – Additional Requirements Line Items 1, 3 and 5 are FIXED at 2022 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:

$V = P (a+b (O_i/O_o)) - P$  Where:

V represents the variation of price

P represents the FIXED price as stated in the Schedule of Requirements Table 3 – Additional Requirements Line Items 1, 3 and 5.

O represents the index “G6T3 – Fabricated Metal Products, Except Machinery and Equipment for Domestic Market”

Oo represents the quarterly average OUTPUT Price Index figure for the 12 months prior to the contract award date. As ONS monthly data covers the whole month, The advice from Defence Economics was to 1st November 2022 as the contract award date to use under the VOP clause. As such, the 12-month prior to that date should be the period between 1 Nov 2021 and 31 October 2022.

Oi represents the quarterly average OUTPUT Price Index figure across the financial year prior to the period for which variation is being added a represents the Non-Variable Element (NVE), 10% b represents the Variable Element, 90%  $a+b=1$

4.8.4 The index referred to in Clause 4.8.3 above shall be taken from the following Tables:

OUTPUT Price Index – ONS Publication Producer price inflation time series  
(MM22) Table 1 Index G6T3 - Fabricated Metal Products, Except Machinery and  
Equipment for the Domestic Market

4.8.5 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.



4.8.6 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.

4.8.7 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 4.8.4 above) shall then be applied.

4.8.8 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.

4.8.9 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.

4.8.10 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.

4.8.11 Claims under this Condition shall be submitted to the Bill Paying Branch, certified to the effect that the requirements of this Condition 4.8 have been met.

#### **4.9 LIABILITY FOR EQUIPMENT AND SERVICES**

4.9.1 The Contractor is responsible for all repair, maintenance and replacement of equipment required through fair wear and tear caused whilst meeting the Interim IDFS requirement as set out in this Contract.

4.9.2 For Accident Misuse and Neglect (AM&N), when repair, maintenance or replacement is required due to neglect, misuse or loss by the Authority outside of the scope of this requirement the Authority will be responsible for associated costs to return the equipment to the standard prior to neglect or misuse and replacement where lost. The Contractor shall seek consent from the Authority PM prior to commencement of the work.

4.9.3 If, following assessment, the Contractor determines that the equipment is damaged Beyond Economical Repair (BER) then the Contractor shall submit the assessment to the Authority for review and agreement. Should that agreement not be achieved then it shall be resolved as detailed in Condition 10.2 Alternative Dispute Resolution.

4.9.4 It is the responsibility of the Contractor to bring any considered neglect, misuse or loss by the Authority, in the first instance, to the attention of the Authority's local site representative. In the event that the responsibility cannot be agreed locally, it shall be resolved as detailed in Condition 10.2 Alternative Dispute Resolution.

4.9.4.1 It is the responsibility of the Contractor to submit the "running tables of Interim IDFS equipment damaged or broken throughout the contract", as required in Condition 3.2, to the Authority's PM no later than thirty (30) calendar days after the

completion of each Training Event. The Contractor should also provide a statement of responsibility for item(s) added since last submission where the Authority has accepted liability and a firm price quotation that offers best value for money to the Authority i.e. repair or replace.

4.9.4.2 Any damage caused by activities outside of either the Authority or Contractors control will be the responsibility of the Contractor.

4.9.5 The Authority is not responsible for damage to or loss of the equipment, injury or death to anyone, or damage to any property due to the neglect or default of the Contractor.

4.9.6 The Contractor must indemnify the Authority against all claims in respect of injury or damage to any person or property or arising out of a breach by the Contractor of the terms of the Contract or the neglect or default of the Contractor.

#### **4.10 NOTICE OF ACCIDENT**

4.10.1 The Authority and Contractor will give immediate notice to each other by telephone and confirm in writing if the equipment is involved in an accident resulting in injury to persons or damage to property. In giving that notification the Authority and Contractor, both recognise that no admission of liability, offer, promise of payment or indemnity can be agreed without notice in writing to the Authority's commercial manager. Responsibility will be determined as set out in Condition 10.2 Alternative Dispute Resolution.

#### **4.11 CHANGES TO TRAINING EVENTS**

4.11.1 The Authority reserves the right to change the scheduling of training at no additional cost up to 30 working days prior to the commencement of the scheduled training. Notwithstanding Condition 4.7 Contractor Support to Training Exercises. On occasions it may be necessary to re-schedule at shorter notice. Should the Contractor incur additional costs due to short notice then it is the responsibility of the Contractor to present a breakdown of evidenced costs associated to the Authority's Commercial Manager. This agreement shall be confirmed by formal contract amendment and the Contractor shall not start work until such an amendment has been offered and accepted by both Parties via DEFFORM 10b.

#### **4.12 CANCELLATION OF TRAINING EVENTS**

4.12.1 The Authority reserves the right to cancel a scheduled Training Event at no additional costs up to 3 calendar months prior to the commencement of the scheduled training exercise. On occasion it may be necessary to cancel at shorter notice. Should additional costs in excess to those already agreed within Terms and Conditions be incurred by the Contractor starting work on an exercise which is later cancelled, the Contractor may reserve the right to claim costs subject to Authority review and approval, which it has incurred up to and until the time Authority informs the Contractor of the cancellation.

### **5 INTELLECTUAL PROPERTY RIGHTS AND INFORMATION**

#### **5.1 DEFCONS**

DEFCON 14 (Edn. 11/22) – Inventions and Designs Crown Rights and Ownership of Patents and Registered Designs

DEFCON 15 (Edn. 06/21) – Design Rights and Rights to Use Design Information

DEFCON 16 (Edn. 06/21) – Repair and Maintenance Information

DEFCON 90 (Edn. 06/21) – Copyright

DEFCON 91 (Edn. 06/21) – Intellectual Property Rights In Software

DEFCON 126 (Edn. 06/21) – International Collaboration

DEFCON 632 (Edn. 11/21) – Third Party Intellectual Property – Rights and Restrictions

## **5.2 COMMERCIAL EXPLOITATION**

5.2.1 If required, the Commercial Exploitation Levy Agreement template(s) at Annexes AE and/or AF shall be used.

## **5.3 MARKING OF DELIVERABLES**

5.3.1 This Clause 5.3 shall apply in addition to and notwithstanding DEFCON 90 'Copyright'. All Deliverable materials, documents and or works, including progress reports, shall be marked in accordance with the relevant Intellectual Property Rights (IPR) provision against which they are delivered under this Contract. Failure to do so shall be valid grounds for the rejection by the Authority of any such Deliverable.

5.3.2 In the event that any Deliverable by the Contractor or his sub-contractor or any tier is identified incorrectly as containing or comprising Background Intellectual PR or otherwise subject to third party rights (and such Intellectual Property Rights are Foreground IPR) then the Authority shall nevertheless be entitled to exercise its rights in relation to Foreground IPR.

5.3.3 In the case of single ownership of the Intellectual Property Rights (including copyright, design right and the information) in any Deliverable document, the body text shall be marked to indicate Background IPR and Foreground IPR and a key relating to such marking shall be provided by the Contractor.

5.3.4 In the case of any Deliverable document comprising or containing more than one copyright work, or the inclusion of any third party Background IPR (including copyright or design right), the copyright work, the work in which design right subsists and/or the Background IPR shall be further marked to indicate the individual owners of each IPR (including design right) and/or copyright work including the relevant section, part, paragraph, diagram and or drawing and a key relating to such marking shall be provided by the Contractor.

## **5.4 CONFIDENTIALITY**

5.4.1 Notwithstanding any other term of this Contract, the Contractor shall ensure all information released to sub-contractors and any third parties for the performance of this contract shall be in accordance with DEFCON 531 'Disclosure of Information' and DEFCON 660 'Official-Sensitive Security Requirements' and the Security Aspects Letter at Annex AA to the Contract. An endorsed Confidentiality Agreement (DEFFORM 94 at Annex O - DEFFORM 94 Confidentiality Agreement to the Contract) shall be submitted to the commercial representative of the Authority identified in Appendix 1 to this Contract (DEFFORM 111) before any information is transferred or released from the contractor to sub-contractors and third-party suppliers.

5.4.2 The Contractor shall ensure that they sign the confidentiality acknowledgement DEFFORM 702 at Annex U to the Contract on behalf of all employees engaged in the performance of the Contract/Task and shall ensure that these employees adhere to the obligations contained within DEFFORM 702.

## **5.5 AUTHORISATION BY THE CROWN FOR USE OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS**

5.5.1 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.

## **5.6 DEFFORM 177**

5.6.1 The Contractor shall not place any subcontract or order involving the design or development of equipment required under this Contract without the prior written consent of the Authority. Unless otherwise agreed, such consent will be conditional on the proposed subcontractor concluding a direct agreement with the Authority in the form set out in Annex P to the Contract. 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 he shall report the matter to [appropriate Director Commercial] and await further instructions before placing the subcontract or order

# **6 LOANS**

## **6.1 DEFCONS**

DEFCON 23 (Edn. 06/21) – Special Jigs, Tooling and Test Equipment

DEFCON 611 (Edn. 12/22) – Issued Property

Noting that the provisions of any warranty shall apply

DEFCON 612 (Edn. 06/21) - Loss Of Or Damage to the Articles

DEFCON 694 (Edn. 07/21) – Accounting for Property of the Authority

## **6.2 SUPPLY OF GOVERNMENT FURNISHED ASSETS (GFX)**

6.2.1 The Authority will provide the Contractor with access to the Government Furnished Assets, Equipment and Services listed at Annex L to the Contract, for the sole purposes of carrying out any activities linked to their obligations under this contract.

6.2.2 Notwithstanding the Authority's rights contained in DEFCON 611. Where GFX is lost, the Contractor shall notify the Authority in writing immediately and shall be responsible for the cost associated with providing at a minimum a like for like replacement to the same standard. The Live Fire Platforms utilised as part of Interim IDFS design and manufacture phases are the Authority's responsibility to maintain and therefore outside the Contractor's boundary of support. The Authority will provide the Live Fire Platforms at the point of design and manufacture, and retain control during

the loan period. For the avoidance of doubt, the Live Fire Platforms shall not be provided as GFX for any Training Events.

6.2.3 Any parts or components used in the repair of any article shall conform to the relevant drawings and specification to ensure conformance after repair to the approved Build Standard of the article.

6.2.4 The Authority reserves the right to amend the list of GFX at Annex L by formal contract amendment and throughout the contract duration should additional/less GFX be justified in delivering a more cost effective/efficient Interim IDFS Requirement.

6.2.5 For any new/modified/enhanced data, the Contractor shall make this available for reuse by the Authority via the Defence Training & Education Capability (DTEC) Catalogue.

[REDACTED]

## **6.3 LIMITATIONS ON LIABILITY**

### **6.3.1 Unlimited liabilities**

6.3.1.1 Neither Party limits its liability for:

6.3.1.1.1 death or personal injury caused by its negligence, or that of its employees, agents or sub-contractors (as applicable);

6.3.1.1.2 fraud or fraudulent misrepresentation by it or its employees;

6.3.1.1.3 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

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

6.3.1.2 The financial caps on the Contractor's liability set out in Clause 6.3.2.1 below shall not apply to the following:

6.3.1.2.1 for any indemnity given by the Contractor to the Authority under this Contract.

6.3.1.2.2 the Contractor's indemnity in relation to DEFCON 91 (Intellectual Property in Software) and DEFCON 632 (Third Party IP - Rights and Restrictions);

6.3.1.2.3 the Contractor's indemnity in relation to TUPE at Schedule Annex W Transfer of Undertakings (Protection of Employment) (TUPE);

6.3.1.2.4 breach by the Contractor of 532B Protection of Personal Data and Data Protection Legislation.

6.3.1.3 The financial caps on the Authority's liability set out in Clause 6.3.2.2 below shall not apply to the following:

6.3.1.3.1 for any indemnity given by the Authority to the Contractor under this Contract, including but not limited to all DEFCONs listed in this document and

6.3.1.3.2 the indemnity given by the Authority in relation to TUPE under Schedule Annex W Transfer of Undertakings (Protection of Employment) (TUPE) shall be unlimited; and

### 6.3.2 Financial limits

6.3.2.1 Subject to Clauses 6.3.1.1 and 6.3.1.2 and to the maximum extent permitted by Law:

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

- (i) in respect of DEFCON 76 £ [REDACTED] pounds in aggregate;
- (ii) in respect of DEFCON 514 £ [REDACTED] pounds in aggregate;
- (iii) in respect of DEFCON 611 £ [REDACTED] in aggregate; and
- (iv) in respect of DEFCON 612 £ [REDACTED] pounds in aggregate;

6.3.2.1.2 without limiting Clause 6.3.2.1.1 and subject always to Clauses 6.3.1.1, 6.3.1.2, and 6.3.2.1.3, the Contractor's total liability throughout the Term in respect of all other liabilities (but excluding any Service Credits paid or payable in accordance with Annex B Key Performance Indicators and Annex AC Performance Indicators to the Contract, whether in contract, in tort (including negligence), arising under warranty, under statute or otherwise under or in connection with this Contract shall be £ [REDACTED] pounds in aggregate.

6.3.2.1.3 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 6.3.2.1.1 and 6.3.2.1.2 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 6.3.2.1.1 and 6.3.2.1.2 of this Contract.

6.3.2.2 Subject to Clauses 6.3.1.1, 6.3.1.3 and 6.3.2.3, 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.

6.3.2.3 Clause 6.3.2.2 shall not exclude or limit the Contractor's right under this Contract to claim for the Charges.

### 6.3.3 Consequential loss

6.3.3.1 Subject to Clauses 6.3.1.1, 6.3.1.2 and 6.3.3.2, 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:

6.3.3.1.1 indirect loss or damage;

6.3.3.1.2 special loss or damage;

6.3.3.1.3 consequential loss or damage;

6.3.3.1.4 loss of profits (whether direct or indirect);

6.3.3.1.5 loss of turnover (whether direct or indirect);

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

6.3.3.1.7 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.

6.3.3.2 The provisions of Clause 6.3.3.1 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

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

- (i) to any third party;
- (ii) for putting in place workarounds for the Contractor Deliverables and other deliverables that are reliant on the Contractor Deliverables; and
- (iii) relating to time spent by or on behalf of the Authority in dealing with the consequences of the Default;

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

6.3.3.2.3 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);

6.3.3.2.4 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;

6.3.3.2.5 damage to the Authority's physical property and tangible assets, including damage under DEFCON 76 and 611;

6.3.3.2.6 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;

6.3.3.2.7 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);

6.3.3.2.8 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

6.3.3.2.9 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.

#### **6.3.4 Invalidity**

6.3.4.1 If any limitation or provision contained or expressly referred to in this Clause 6.3 is held to be invalid under any Law, it will be deemed to be omitted to that extent, and if any Party becomes liable for loss or damage to which that limitation or provision applied, that liability will be subject to the remaining limitations and provisions set out in this Clause 6.3.

#### **6.3.5 Third party claims or losses**

6.3.5.1 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:

6.3.5.1.1 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

6.3.5.1.2 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.

#### **6.3.6 No double recovery**

6.3.6.1 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.



## **7 DELIVERY AND ACCEPTANCE**

### **7.1 DEFCONS**

DEFCON 5J (Edn. 18/11/16) – Unique Identifiers

DEFCON 129 (Edn. 02/22) - Packaging (For Articles other than Ammunition and Explosives)

DEFCON 507 (Edn. 07/21) – Delivery

DEFCON 524 (Edn. 12/21) – Rejection

DEFCON 525 (Edn.10/98) – Acceptance

DEFCON 621B (Edn. 10/04) – Transport (if Contractor is responsible for transport)

### **7.2 DELIVERABLES**

7.2.1 The acceptance procedures that apply to the Deliverables detailed in Table 1 of the Schedule of Requirements are set out in Annex H Acceptance Process to the Contract.

7.2.2 The Contractor shall deliver in accordance with the timescales detailed in the Schedule of Requirements and the Acceptance Process at Annex H to the Contract.

7.2.3 The Contractor shall inform the Authority as soon as he becomes aware of any event or reasons likely to result in failure to meet the delivery schedule as per the Acceptance Process at Annex H.

7.2.4 The Contractor shall pack the articles to be delivered as detailed in the Schedule of Requirements in accordance with the Terms of the Contract and if no specific terms are agreed, the Contractor shall pack the articles to such standard as may be reasonable to protect the articles from the normal hazards of transport to the point of delivery and in accordance with DEFCON 129 'Packaging (For Articles other than Ammunition and Explosives).'

7.2.5 Unless otherwise provided for in the Contract, all containers (including packing cases and boxes) used by the Contractor shall be non-returnable and included in the Contract price.

### **7.3 ACCEPTANCE**

7.3.1 For the purposes of this Contract 'acceptance' shall be defined as confirmation and approval of the Milestone by the Authority, as outlined in the Acceptance Process at Annex H to the Contract.

## **8 PAYMENTS/RECIEPTS**

### **8.1 DEFCONS**

DEFCON 35 (Edn. 06/21) - Progress Payments

DEFCON 513 (Edn. 04/22) – Value Added Tax

DEFCON 522 (Edn. 11/21) – Payment and Recovery of Sums Due

DEFCON 534 (Edn. 06/21) – Subcontracting and Prompt Payment

DEFCON 649 (Edn. 12/21) - Vesting

DEFCON 670 (Edn. 02/17) – Tax Compliance

## **8.2 PAYMENT**

8.2.1 Stage payment for milestones in accordance with Condition 8.3 Stage Payment Scheme and as detailed at Annex F – Stage Payment Scheme - Milestone Payment Plan and in accordance with Schedule of Requirements Table 1 Line Item 1, will be made upon achievement of each relevant milestone.

8.2.2 The Contractor shall be paid quarterly in arrears as detailed in the Payment Plan at Annex G and in accordance with Schedule of Requirements Table 1 – Initial Contract Duration, Lines Items 4, 5, 7 and 8 to the Contract to the satisfaction of the Authority's Project Manager and in accordance with the Key Performance Indicators (KPI) at Annex B to the Contract.

8.2.3 Payment for costs incurred due to changes or cancellation of a scheduled training event, as set out in Conditions 4.12 and 4.13, is expected to be limited to travel and subsistence, and the Contractor shall provide evidence to the Authority of all costs being claimed.

8.2.4 Claims for payment shall be submitted to the Authority via Contract Purchasing and Finance (CP&F) and will be authorised providing they have been completed in accordance with the Terms and Conditions of the Contract.

## **8.3 STAGE PAYMENT SCHEME**

8.3.1 The Authority shall, subject to the following provisions of this condition, make to the Contractor advances against the price(s) payable for Items in accordance with the Stage Payment Scheme set out in Stage Payment Scheme - Milestone Payment Plan at Annex F to the Contract.

8.3.2 The Contractor shall be entitled to stage payments, to be claimed in accordance with Condition 8.2 Payment for each stage under the Stage Payment Scheme, provided that:

- a. the Contractor has completed all work comprised in the stage for which the interim payment is sought in accordance with Milestone Payment Plan at Annex F and the Acceptance Process at Annex H to the Contract;
- b. all previous stages have been completed, unless the parties expressly agree otherwise; and
- c. the contractor shall have complied with all its contractual obligations which enable the Authority to monitor the contractor's contractual performance, including but not limited to those obligations related to the provision of information to the Authority.

8.3.3 Notwithstanding Clause 8.3.2 above, the Authority shall not be obliged to make an interim payment to the Contractor if it has reasonable cause to believe that the Contractor will be unlikely to render complete performance of its obligations in respect of items in accordance with the Stage Payment Scheme set out in the Stage Payment Scheme - Milestone Payment Plan at Annex F to the contract.

8.3.4 Where the Authority intends to rely on Clause 8.3.3 above as the basis for rejecting any claim for an interim payment which the contractor may make, the Authority shall give to the contractor notice in writing of its intention together with reasons and justification for the rejection.

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

- a. the Contract, or the part of the Contract under which Items in accordance with the Stage Payment Scheme set out in the Stage Payment Scheme -Milestone Payment Plan at Annex F to the Contract are to be provided, is terminated otherwise than in accordance with DEFCON 656A/B (Termination for Convenience), or expires by reason of passing of time; and
- b. the Contractor has failed to complete performance of Items in accordance with the Stage Payment Scheme set out in the Stage Payment Scheme - Milestone Payment Plan at Annex F to the Contract.

8.3.6 In the event of repayment to the Authority under the provisions of Clause 8.3.5 above then all that, which vested in the Authority, under the provisions of DEFCON 649 'Vesting' and which related to Items in accordance with the Stage Payment Scheme set out in the Stage Payment Scheme - Milestone Payment Plan at Annex F to the Contract shall re-vest in and become the absolute property of the Contractor.

8.3.7 Payment of an interim payment by the Authority under this Condition 8.3 Stage Payment Scheme shall not, unless expressly stated to do so, constitute:

- a. acceptance by the Authority of any contractual deliverable;
- b. a representation by the Authority that the contractor has complied with any contractual obligations; or
- c. a waiver of the Authority's right to subsequently claim that the conditions for payment of that interim payment were not satisfied.

## **9 CONTRACT ADMINISTRATION**

### **9.1 DEFCONS**

DEFCON 604 (Edn. 06/14) – Progress Reports

DEFCON 609 (Edn. 07/21) – Contractor's Records

DEFCON 625 (Edn. 06/21) – Co-Operation On Expiry of Contract

DEFCON 642 (Edn. 07/21) – Progress Meetings

### **9.2 MANAGEMENT INFORMATION SCHEDULE**

9.2.1 For the purposes of the Contract, the frequency of progress reports, included in the

Management Information Schedule at Annex C to the Contract, shall be no later than thirty (30) days following completion of each training event and be submitted to the Authority's PM (Box 2, DEFFORM 111 attached).

#### 9.2.2 Specified Management Information (MI)

9.2.2.1 The Contractor shall deliver to the Authority the Specified MI, as described in Annex C to the Contract and in accordance with the requirements set out in the Statement of Requirements (SOR) at Annex A to the Contract.

9.2.2.2 The provision of the Specified MI shall be measured in accordance with the provisions set out in the Key Performance Indicators (KPI) at Annex B to the Contract.

9.2.2.3 Any reports or plans provided by the Contractor to the Authority in accordance with this Agreement, including but not limited to financial information, request for change (Clause 9.2.4 of the Contract), Earned Value Management at Appendix 3 to Annex A to the Contract, quality (Condition 3.4 of the Contract) and List of Deliverables (Annex D to the Contract) shall also, for the purposes of Key Performance Indicators (KPI) Annex B to the Contract, be treated as if it were Specified MI.

#### 9.2.3 Acceptance

9.2.3.1 Subject to paragraph 9.2.2.1, the Authority shall review the Specified MI within fifteen (15) Business Days of receipt and inform the Contractor as to whether the Authority has accepted the submitted Specified MI.

9.2.3.2 Where the Authority does not accept the submitted Specified MI, it shall notify the Contractor in writing of:

9.2.3.2.1 the reason for the Specified MI not being accepted;

9.2.3.2.2 the amendments required; and

9.2.3.2.3 the additional information required.

9.2.3.3 The Contractor shall re-submit the Specified MI, responding to the amendment(s) and/or additional information requirements within five (5) Business Days of being notified by the Authority.

#### 9.2.4 Changes to the Specified MI

9.2.4.1 Amendments to the format, structure or logic of the Specified MI may be proposed by either the Authority or the Contractor, including due to changes in the underlying assumptions or circumstances, accounting methodology, legislative changes or identification of errors or outdated information.

9.2.4.2 Where the Authority proposes an amendment to the format, structure or logic of the Specified MI, the Authority shall notify the Contractor in writing of:

9.2.4.2.1 details of the precise amendment being proposed; and

9.2.4.2.2 the rationale for the proposed amendment with supporting evidence and documentation.

9.2.4.3 The Contractor shall respond to the amendment(s) proposed by the Authority promptly, and in any event within five (5) Business Days, notifying the Authority, in writing, as to the expected impact of the proposed amendment on the Specified MI and any other MI and, where relevant, any impact on the Services.

9.2.4.4 The Contractor shall not pass on to the Authority any costs associated with the implementation of proposed amendments to the Specific MI.

9.2.4.5 The Authority will review the Contractor's assessment of the expected impact of the proposed amendment and will inform the Contractor whether the Contractor is to proceed with the amendment to the Specified MI.

9.2.4.6 Amendments to the format, structure or logic of the Specified MI proposed by the Contractor shall not be carried out without the express prior written agreement of the Authority. In relation to each such proposed amendment, the Contractor shall provide the Authority in writing with:

9.2.4.6.1 details of the precise amendment being proposed;

9.2.4.6.2 the rationale for the proposed amendment with supporting evidence and documentation; and

9.2.4.6.3 the expected impact of the proposed amendment on the Specified MI, any other MI and, where relevant, any impact on the Services.

9.2.4.7 The Authority may request any further information from the Contractor prior to deciding whether it accepts or rejects amendments to the Specified MI proposed by the Contractor and the Contractor shall provide such information as soon as reasonably practicable.

### **9.3 PROGRESS MEETINGS**

9.3.1 The Contractor shall distribute the Quarterly Progress Reports (QPR) to Quarterly Progress Meeting (QPM) attendees at least ten (10) Business Days prior to the QPM. The Contractor shall attend meetings in accordance with the Statement of Requirements at Annex A to the Contract. For the purpose of this Contract, the frequency of reports, agendas and locations of the meetings shall be specified in the Statement of Requirement at Annex A to the Contract.

9.3.2 Other meetings are to be held at a convenient and mutually agreed time and location in association with the requirement.

### **9.4 KEY PERFORMANCE INDICATORS (KPIs) AND PERFORMANCE INDICATORS (PIs)**

9.4.1 The Contractor shall meet all of the stated KPIs and PIs outlined in Annex B Key Performance Indicators (KPI) and AD - Performance Indicators (PIs) to the Contract.

9.4.2 Performance against the KPIs and PIs should be captured and fed back to the Authority in accordance with Annex B Key Performance Indicators (KPI) and AD Performance Indicators (PIs) to the Contract.

9.4.3 It is a fundamental condition of this Contract that the contractual PI requirements are met in full. Prior to authorisation of payment in respect of each training exercise, the Authority will review the Contractor's Management Information Schedule at Annex C to the Contract to ensure satisfactory performance against the PI requirements.

9.4.4 If the Contractor fails to meet the agreed KPI, the Authority shall be entitled to reduce the total payment value in accordance with the Performance Deductions detailed at Annex B to the Contract Conditions.

9.4.5 The Contractor shall maintain records that should be identified with each payment claim and subject to audit by the Authority.

## **9.5 GOVERNANCE**

9.5.1 The Authority and the Contractor shall both appoint a Project Manager who shall have overall responsibility for the delivery, management and oversight of the Contract. Details of the Authority's Project Manager can be found in Box 2 of Appendix 1 to the Contract DEFFORM 111 attached.

9.5.2 The Contractor's in country Liaison Officer as specified at Appendix 1 to Annex A to the Contract shall be responsible for the day to day delivery and management of the Interim IDFS Requirement raising any issues to the personnel identified in Clause 9.5.1.

## **9.6 EARNED VALUE MANAGEMENT SYSTEM (EVMS)**

9.6.1 The Contractor shall implement and maintain an Earned Value Management System (EVMS) to be used in the management of the Contract in accordance with the Statement of Requirement (Annex A to the Contract). The EVMS for this Contract shall comply with the DE&S PC Industrial Tailoring Guide DESBMS-1195896625-2171 and compliance shall be maintained for the duration of the contract.

9.6.2 The Contractor shall make available to the Authority the reports in accordance with the EVMS Plan. The reports shall be made available to the Authority on a monthly basis and report current and cumulative project status information to at least level 3 of the Contract Work Breakdown Structure (CWBS).

9.6.3 The Contractor shall report all variances down to level 3 of the CWBS which exceed the thresholds agreed between the Contractor and Authority. Reports on variances shall clearly state:

- a) The cause of the variance and the potential impact of the variance on the overall project cost and schedule.
- b) All corrective actions taken and scheduled to mitigate the variance.
- c) State the new risks associated with this course of action that have been identified.

## **9.7 PUBLICITY**

9.7.1 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 consent.

## **9.8 TRANSFER OF UNDERTAKINGS (PROTECTION OF EMPLOYMENT) (TUPE)**

9.8.1 Should TUPE be considered to apply on Expiry, Partial Termination or Termination of the Contract, the Contractor shall comply with the Terms and Conditions of the Transfer Regulations Employee Transfer Arrangement on Exit at Annex W to the Contract.

## **10 TERMINATION**

### **10.1 DEFCONS**

DEFCON 514 (Edn. 08/15) – Material Breach

DEFCON 530 (Edn. 12/14) – Dispute Resolution (English Law)

DEFCON 656B (Edn. 08/16) – Termination for Convenience (Contracts £5m and over)

## **10.2 ALTERNATIVE DISPUTE RESOLUTION**

10.2.1 The Parties agree to try and resolve any dispute arising under the Contract initially by discussion between the parties. A local ad hoc meeting may be convened for the purposes of attempting to resolve the dispute in the first instance.

10.2.2 In the event that the dispute remains unresolved, it shall be referred to Authority's Project Manager (PM) detailed at Box 1 of DEFFORM 111 and Commercial Officer (CO) for consideration. A meeting between the Authority's CO, the PM and their counterparts in the Contractor's organisation may be held for further clarification on the dispute.

10.2.3 In the event the dispute remains unresolved, it shall be referred to the Authority's Senior Commercial Officer and Portfolio Lead. A meeting between the two and their counterparts in the Contractor's organisation may be held for further clarification on the dispute.

10.2.4 If after the above referrals and any subsequent meetings with the Contractor as detailed in Clause 10.2.2 and 10.2.3 above, the dispute remains unresolved, the dispute shall be dealt with in accordance with DEFCON 530 'Dispute Resolution'.

## **10.3 DEFAULT & TERMINATION**

10.3.1 In this Condition Contractor Default means: -

- a) Any failure by the Contractor to deliver the Interim IDFS Requirement within the timescales specified;
- b) Any material breach other than a failure to deliver the Interim IDFS Requirement under the Contract;
- c) Any persistent breach of any of the Contractor's obligations under the Contract. For the purposes of the Contract a persistent breach shall be a breach of the Contract by the Contractor as measured by the Key Performance Indicators in Annex B of the Contract other than a breach or event which falls into any of the categories of default set out in Clauses 10.3.1.A, 10.3.1.B, or 10.3.1.D;
- d) Breach of the requirements of DEFCON 68 'Supply of Data for Hazardous Articles, Materials and Substances', DEFCON 515 'Bankruptcy and Insolvency', DEFCON 518 'Transfer', DEFCON 520 'Corrupt Gifts', and DEFCON 659A 'Security Measures'.

10.3.2 The Authority retains the right to issue a Rectification Notice to the Contractor that will detail any Contractor default in accordance with Clause 10.3.1.

10.3.3 If the Authority has elected for a Rectification Notice in accordance with Clause 10.3.2. within 20 (twenty) Business Days (or such longer period as the Authority may specify) of the receipt of the Rectification Notice, the Contractor shall make a rectification proposal to the satisfaction of the Authority which shall, as a minimum, specify:

- a) The extent to which the Contractor proposes to rectify the Contractor Default;
- b) Details of all measures the Contractor proposes to take to rectify the Contractor Default, and
- c) The timescale within which the Contractor proposes to rectify the Contractor Default.

10.3.4 If the Authority receives the Contractor's rectification proposal under Clause 10.3.3 within 20 (twenty) Business Days (or such longer period as the Authority may specify) of the receipt by the Contractor of the Rectification Notice, the Authority shall consider the proposal and may accept, reject or amend the proposal.

10.3.5 If the Authority accepts or amends the Contractor's rectification proposal under 10.3.4, the Contractor shall rectify the Contractor Default in accordance with the proposal as accepted, and the Contractor shall take such action without imposing any additional charge on the Authority.

10.3.6 The Authority shall have the right to terminate the contract by providing notice in writing, if,

- a) The Contractor fails to make a rectification proposal in accordance with Clause 10.3.3 or fails to implement the rectification proposal under Clause 10.3.5, within the timescale and in the manner agreed in the rectification proposal accepted by the Authority or in the amended rectification proposal to which the Contractor and the Authority have agreed, or
- b) The Contractor does not take the remedial action as the Authority has specified in accordance with Sub-Clause 10.3.3.C; or
- c) The Authority and the Contractor cannot agree a mutually acceptable rectification proposal; or
- d) The Authority does not deem it appropriate to request a Rectification Plan in accordance with Clause 10.3.3.

10.3.7 The termination of the Contract shall be without prejudice to the rights, obligations and liabilities of the Parties which have accrued or become due prior to the date of termination.

10.3.8 In addition to the Authority's rights of termination under other Conditions/Clauses, the Contract or any part thereof may be terminated by the Authority at any time subject to three months' notice in writing to the Contractor. Where appropriate, the Authority may require the Contractor to furnish a report covering work to be done to the date of termination, with such recommendations as may be possible to make at that stage. The Authority's liability shall be confined to payment, within the provisions of the Contract, for work done to the date of termination.



Contract 701554451 (TSSP/128) for the Manufacture, Supply and Support of Interim Indirect Fires Simulation in accordance with Statement of Requirements at Annex A to the Contract.

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

For and on behalf of the Company Name Elbit Systems UK:

Name, Title and Company Position	[REDACTED]
Signature	[REDACTED]
Date	1/3 Sept 2023

For and on behalf of the Secretary of State for Defence

Name, Title and Company Position	[REDACTED] - [REDACTED]
Signature	[REDACTED]
Date	13th SEPT 2023

**OFFICIAL SENSITIVE – COMMERCIAL**  
**Appendix 1 - Addresses and Other Information 701554451 (TSSP/128)**

**1. Commercial Officer**

Name: [REDACTED]

Address:  
 #4110 Cedar 2B  
 MOD Abbey Wood South  
 Bristol  
 BS34 8JH

Email: [REDACTED]@mod.gov.uk

☎ Skype: [REDACTED]

**8. Public Accounting Authority**

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

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

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

Name: [REDACTED]

Address:  
 #4110 Cedar 2B  
 MOD Abbey Wood South  
 Bristol  
 BS34 8JH

Email: [REDACTED]@mod.gov.uk

☎ Skype: [REDACTED]

**9. Consignment Instructions**

The items are to be consigned as follows:  
 Training Simulation System Programme (TSSP)

Contract Deliverables in accordance with the schedule of Requirements to Project Manager at box 2 DEFFORM 111.

Training systems shall be delivered to the Contractors storage unit at Ludgershall, contractor to confirm the address.

**3. Packaging Design Authority**

Organisation &amp; point of contact: N/A

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

☎ N/A

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

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

Air Freight Centre

IMPORTS ☎ 030 679 81113 / 81114 Fax 0117 913 8943

EXPORTS ☎ 030 679 81113 / 81114 Fax 0117 913 8943

Surface Freight Centre

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

EXPORTS ☎ 030 679 81129 / 81133 / 81138 Fax 0117 913 8946 **B.**JSCS

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

JSCS Fax No. 01869 256837

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

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

Branch/Name: N/A

☎ N/A

**(b) U.I.N.** N/A

**5. Drawings/Specifications are available from**  
N/A

**11. The Invoice Paying Authority**

Ministry of Defence ☎ 0151-242-2000  
DBS Finance  
Walker House, Exchange Flags Fax: 0151-242-2809  
Liverpool, L2 3YL **Website is:**  
<https://www.gov.uk/government/organisations/ministry-of-defence/about/procurement#in-voice-processing>

**6. Intentionally Blank**

**12. Forms and Documentation are available through \*:**

Ministry of Defence, Forms and Pubs Commodity Management  
PO Box 2, Building C16, C Site  
Lower Arncott  
Bicester, OX25 1LP (Tel. 01869 256197 Fax: 01869 256824)  
**Applications via fax or email:**  
[Leidos-FormsPublications@teamleidos.mod.uk](mailto:Leidos-FormsPublications@teamleidos.mod.uk)

**7. Quality Assurance Representative:**

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

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

**\* NOTE**

1. Many **DEFCONs** and **DEFFORMs** can be obtained from the MOD Internet Site:  
<https://www.aof.mod.uk/aofcontent/tactical/toolkit/index.htm>
2. If the required forms or documentation are not available on the MOD Internet site requests should be submitted through the Commercial Officer named in Section 1.