



Ministry
of Defence



Contract No: 701760450

For: AHCSP/0005 Long Term Training and
Support Service for Apache AH-64E

Terms and Conditions

Document Control

Version	Issued	Notes
ENGROSSMENT	Contract Award	

Boeing Defence UK Ltd 25 Victoria Street London United Kingdom SW1H OEX	OFFICIAL SENSITIVE (COMMERCIAL) MINISTRY OF DEFENCE SCHEDULE OF REQUIREMENTS COVERING: Long Term Training and Support Service (LTTSS)	CONTRACT NO. (to be quoted on all correspondence) 701760450
Issued Contract Award		Previous Ctt No. (Renewal Ctts Only): N/A

ITEM NO	DESCRIPTION	FIRM PRICE £ EX VAT
1	Milestone plan for the setup of the LTTSS. a. Training b. Logistic Support Demonstration	Pricing is detailed at Schedule E
2.	The provision of the AH-64E LTTSS. a. Firm Price b. Limit of Liability	Pricing is detailed at Schedule E
3.	Additional Tasks in accordance with Schedule G.	Pricing is detailed at Schedule G

The Contract is subject to Conditions 1 - 49 and Schedules A to R inclusive.

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1 Defence Conditions (DEFCONS), Defence Forms (DEFFORMS) and Standards

1.1 The Contract incorporates the following DEFCONS at the edition stated:

DEFCON	EDITION	TITLE
DEFCON 5J	18/11/16	Unique Identifiers
DEFCON 14	06/21	Inventions and Designs Crown Rights and Ownership of Patents and Registered Designs
DEFCON 23	06/21	Special Jigs, Tooling and Test Equipment Note: tools of the trade are those tools utilised for the manufacture, development and support of the common UK/US Apache AH-64E aircraft save to the extent such tools are funded by the Authority under the Contract
DEFCON 68	05/21	Supply of Data for Hazardous Articles, Materials and Substances provided that the words "or to terminate the Contract in accordance with DEFCON 514" shall be deleted from clause 9 of DEFCON 68.
DEFCON 76	06/21	Contractor's Personnel at Government Establishments Note: The liability of the Contractor under Clause 3 of DEFCON 76 shall be limited to Redacted under FOIA Section 43, Commercial Interests Exemption per incident.
DEFCON 82	06/21	Special Procedure for Initial Spares Note: this DEFCON 82 shall become applicable only as or when an appropriate requirement is subject to an Additional Task.
DEFCON 113	02/17	Diversion Orders
DEFCON 117	07/21	Supply Of Information For NATO Codification And Defence Inventory Introduction Note: the Contract Price assumes that the Authority shall codify items delivered under FMS UK-B-WSO which have not already been codified.
DEFCON 129	07/21	Packaging (For Articles Other Than Munitions)
DEFCON 129J	18/11/16	The Use Of The Electronic Business Delivery Form
DEFCON 503	07/21	Formal Amendments To Contract
DEFCON 507	07/21	Delivery Note: For the purposes of clause 5 of DEFCON 507 (Delivery) delivery shall not occur until the Articles are unloaded from the Contractor's transport.
DEFCON 513	07/21	Value Added Tax

DEFCON 514	08/15	Material Breach
DEFCON 515	06/21	Bankruptcy and Insolvency
DEFCON 516	04/12	Equality
DEFCON 518	02/17	Transfer
DEFCON 520	08/21	Corrupt Gifts and Payments of Commission
DEFCON 522	11/21	Payment and Recovery of Sums Due
DEFCON 524	02/20	Rejection
DEFCON 524A	02/20	Counterfeit Materiel
DEFCON 525	10/98	Acceptance
Note: For the purposes of clause 1(b) of DEFCON 525 (Acceptance), a reasonable time shall be no more than 60 days.		
DEFCON 526	08/02	Notices
Note: For the purposes of clause 4 of DEFCON 526 (Notices), the addresses of the parties shall be as follows:		
for the Authority: Apache Capability Sustainment Programme Team, MOD Abbey Wood, NH1, Yew Ob #1031 , Bristol, BS34 8JH.		
Marked for the attention of: LTTSS Commercial Manager		
for the Contractor: Boeing Defence UK, Bravo November House. Bldg 61, Fleetlands, Fareham Road, Gosport PO13 0AA		
Marked for the attention of: LTTSS Commercial Team Leader		
or such other address as either Party may by written notice specify to the other.		
DEFCON 527	09/97	Waiver
DEFCON 528	07/21	Import and Export Licences
DEFCON 529	09/97	Law (English) save that references to DEFCON 530 shall be references to Schedule I (Dispute Resolution Procedure) of this Contract
DEFCON 531	09/21	Disclosure of Information
DEFCON 532B	09/21	Protection Of Personal Data
DEFCON 534	06/21	Subcontracting and Prompt Payment
DEFCON 537	06/02	Rights of Third Parties
DEFCON 538	06/02	Severability
DEFCON 539	08/13	Transparency
DEFCON 550	02/14	Child Labour and Employment Law

DEFCON 566	10/20	Change of Control of Contractor
DEFCON 601	04/14	Redundant Materiel
DEFCON 602A	12/17	Quality Assurance (With Deliverable Quality Plan)
DEFCON 603	10/04	Aircraft Integration and Clearance Procedure
		Note: applies to Additional Tasking only.
DEFCON 604	06/14	Progress Reports
DEFCON 605	06/14	Financial Reports
DEFCON 606	07/21	Change and Configuration Control Procedure
DEFCON 608	07/21	Access and Facilities to be Provided by the Contractor
DEFCON 609	07/21	Contractor's Records
DEFCON 611	02/16	Issued Property
		Note: Notwithstanding that the Aircraft and Spares are Issued Property, the Contractor's obligations set out in:
		(a) clause 12 of DEFCON 611 shall not apply in relation to the Aircraft and/or any Spares with the exception of Spares in the Contractor repair loops where the need to maintain a Public Store Account in accordance with DEF STAN 05-099 shall apply;
		(b) clause 14 of DEFCON 611 shall not apply in relation to the Aircraft; and
		(c) clauses 3 & 11 shall apply to Harvestable Spares and FMS Spares save that under clause 3 the length of time specified for inspection following receipt shall be construed as that applicable to Harvestable expressly specified elsewhere in the Contract.
		Note: The Parties have agreed the incorporation of the following new clause 11 (e) to DEFCON 611: "any other liability except to the extent caused by an act or omission by the Contractor and/or any Contractor Related Party provided that nothing in this limb (e) shall serve to erode the proviso in paragraph 8 as to "any limitation or exclusion of liability as may be specified in the Contract"".
DEFCON 612	06/21	Loss of Or Damage To The Articles
DEFCON 620	08/21	Contract Change Control Procedure
		Note: for the purpose of clauses 5(e), 7(b)(1) and 7(b)(2) of DEFCON 620, references to DEFCON 530 and DEFCON 530A (Dispute Resolution) shall be references to Schedule I (Dispute Resolution Procedure) of this Contract.
DEFCON 621B	10/04	Transport (if the contractor is responsible for transport)
DEFCON 624	11/13	Use of Asbestos

DEFCON 625	06/21	Co-Operation on Expiry of Contract
DEFCON 627	11/21	Quality Assurance - Requirement for a Certificate of Conformity Note: Clause 4(g) of DEFCON 627 is excluded from the Contract.
DEFCON 637	05/17	Defect Investigation and Liability
DEFCON 638	06/21	Flights Liability and Indemnity
DEFCON 642	07/21	Progress Meetings
DEFCON 644	07/18	Marking of Articles
DEFCON 647	05/21	Financial Management Information (subject to replacing Annex A and Annex B of DEFCON 647 with the Annex A and Annex B set out in Appendix 15 of Schedule A (Statement of Requirements))
DEFCON 654	10/98	Government Reciprocal Audit Arrangements Note: For the purposes of DEFCON 654 the relevant officials of the government of the United States of America shall, where the Authority deems appropriate, be the authorised representative of the Authority.
DEFCON 656B	08/16	Termination for Convenience (Contracts £5m and Over) Note: If the Authority terminates the Contract in accordance with DEFCON 656B (Termination for Convenience) for the purposes of clause 5 of DEFCON 656B (Termination for Convenience), the phrase "total price of the Contractor Deliverables payable under the Contract" shall only include the Contract Price for a Follow-On Pricing Period where such Follow-On Pricing Period has been incorporated into the Contract in accordance with DEFCON 503 (Formal Amendments to Contract).
DEFCON 658	10/17	Cyber Note: For the purposes of clause 2.1.1, the Cyber Risk Level of the Contract is moderate as defined in Def Stan 05-138
DEFCON 659A	09/21	Security Measures Note: For the purpose of DEFCON 659A (Security Measures), the Secret Matter of the Contract is defined in Schedule M (Security).
DEFCON 660	12/15	Official-Sensitive Security Requirements
DEFCON 661	06/21	War Risk Indemnity
DEFCON 670	02/17	Tax Compliance
DEFCON 675	03/21	Advertising Subcontracts (Defence and Security Public Contracts Regulations 2011 Only)
DEFCON 678	09/19	SME Spend Data Collection

DEFCON 684	01/04	Limitation Upon Claims In Respect Of Aviation Products
DEFCON 687A	06/21	Provision of A Shared Data Environment Service
DEFCON 687B	06/21	Shared Data Environment System Transfer Arrangements
DEFCON 694	07/21	Accounting For Property of the Authority Note: Notwithstanding that the Aircraft and Spares are Issued Property, the Contractor's obligations set out in DEFCON 694 shall not apply in relation to the Aircraft and/or any Spares with the exception of Spares in the Contractor repair loops where DEFCON 694 shall apply.
DEFCON 697	06/21	Contractors on deployed operations - CONDO Note: this DEFCON 697 shall become applicable only as or when CONDO activity is tasked.
DEFCON 697 APP		Appendix to DEFCON 697 - condition to be included in relevant Sub-Contracts
DEFCON 703	06/21	Intellectual Property Rights - Vesting In The Authority Note 1: Applies to UK Specific Air Documentation and the Training Needs Analysis.
DEFCON 800	12/14	Qualifying Defence Contract
DEFCON 801	12/14	Amendments to Qualifying Defence Contracts – Consolidated Versions
DEFCON 802	12/14	QDC: Open Book on sub-contracts that are not Qualifying Sub-contracts (QSC) Note: The Parties acknowledge that the indefinite-duration indefinite-quantity services agreement between the Contractor and The Boeing Company dated 12 December 2014 is not a Material Single Source Sub-contract (Non-Qualifying) under DEFCON 802 Note: Pursuant to clause 2 of DEFCON 802, the Authority hereby expressly agrees that the Contractor shall not be obliged to include the terms specified in Appendix I to DEFCON 802 in the Maintenance, Repair and Overhaul activities for Engines with General Electric (US).
DEFCON 804	03/15	QDC: Confidentiality of Single Source Contract Regulations Information

1.2 The Contract incorporates the following DEFFORMs and MOD Forms:

DEFFORM	EDITION	TITLE
DEFFORM 10	07/18	Acceptance Of Offer Of Contract
DEFFORM 10B	03/14	Acceptance Of Offer Of Amendment To Contract
DEFFORM 94	12/20	Confidentiality Agreement
DEFFORM 110	10/04	Schedule of Requirements
DEFFORM 111	07/21	Addresses And Other Information
DEFFORM 177	06/21	Design Rights and Patents (Sub-Contractor) Agreement
DEFFORM 315	12/19	Contract Data Requirement
DEFFORM 528	12/17	Import and Export Controls
DEFFORM 532	10/19	Personal Data Particulars
DEFFORM 539A	08/13	Tenderer's Commercially Sensitive Information Form
DEFFORM 701	06/21	Head agreement for licence terms for commercial software purchased by the Secretary of State for Defence
MOD Form 650	n/a	Advice and Receipt Note (used to deliver and return GFA)

1.3 The following DEFFORMs are set out in Schedule O (DEFFORMS):

DEFFORM	EDITION	TITLE
DEFFORM 10	07/18	Acceptance Of Offer Of Contract
DEFFORM 10B	03/14	Acceptance Of Offer Of Amendment To Contract
DEFFORM 94	12/20	Confidentiality Agreement
DEFFORM 111	05/19	Addresses and Other Information
DEFFORM 177	06/21	Design Rights and Patents (Sub-Contractor) Agreement
DEFFORM 532	10/19	Personal Data Particulars
DEFFORM 539A	08/13	TENDERER'S COMMERCIALLY SENSITIVE INFORMATION FORM
DEFFORM 701	06/21	Head agreement for licence terms for commercial software purchased by the Secretary of State for Defence

- 1.4 The Contractor shall comply with the following Allied Quality Assurance Publications (AQAP); Defence Standards and Other Standards:

LTTSS APPLICABLE STANDARD	ISSUE	DESCRIPTION
AQAP 2105	Edn. C – Version 1 – Jan 2019	NATO Requirements for Deliverable Quality Plans
AQAP 2110	Ed. D Version 1 – Aug 2016	NATO Quality Assurance Requirements for Design, Development and Production
AQAP 2210	Edn. A, Version 2 – Sept 2015	NATO Supplementary Software QA Requirements to AQAP 2110 or AQAP 2310
Def Stan 00-051 Part 1	Issue 1- 14 April 2018	Environmental Management Requirements for Defence Systems - Requirements
Def Stan 00-051 Part 2	Issue 1 - 14 April 2018	Environmental Management Requirements for Defence Systems - Guidance
Def Stan 00-055	Issue 4 – April 2016	Requirements for Safety of Programmable Elements (PE) in Defence Systems Note: Applicable when the Authority tasks a UK-specific Software (including Programmable Elements) Type Design Change (modification) via the additional tasking mechanism which will invoke RA 5820 and this Def Stan 00-055.
Def Stan 00-056 Part 1	Issue 7 – 28 Feb 2017	Safety Management Requirements for Defence Systems
Def Stan 00-056 Part 2	Issue 5 – 28 Feb 2017	Safety Management Requirements for Defence Systems - Guidance on Establishing a Means of Complying with Part 1
Def Stan 00-810	Issue 2 Part 20 28 Mar 2018	Marking of Ammunition and Associated Packages
Def Stan 03-050	Version 8 19 Oct 2020	Defence Modelling and Standards Profile
Def Stan 05-057	Issue 7- 28 July 2018	Configuration Management of Defence Material
Def Stan 05-061 Part 1	Issue 6 – 31 Mar 2016	Quality Assurance Procedural Requirements Part 1: Concessions
Def Stan 05-061 Part 4	Issue 3 - AL 1 – 28 Jan 2011	Quality Assurance Procedural Requirements Part 4: Contractor Working Parties
Def Stan 05-061 Part 9 Clause 1.1	Issue 5 – 4 Feb 2016	Quality Assurance Procedural Requirements Part 9: Independent Inspection Requirements for Safety Critical Items
Def Stan 05-061 Part 18	Issue 2 – 1 Aug 2008	Aircraft & Munitions, Parachutes, Assemblies, Harnesses and Personal Restraint Harnesses for Aircraft + OBS

LTTSS APPLICABLE STANDARD	ISSUE	DESCRIPTION
Def Stan 05-099	Issue 1 Part 1 – 14 July 2017	Managing Government Furnished Equipment in Industry Part 1: Provides end to end view of MOD requirements for the management of GFE in Industry
Def Stan 05-129	Issue 5 – 30 Jun 2013	Contractors on Deployed Operations
Def Stan 05-132	Issue 1 28 June 2017	Marking of Service Materiel Items Using a Unique Item Identifier (UII)
Def Stan 05-135	Issue 2 14 July 2019	Avoidance of Counterfeit Materiel
Def Stan 05-138	Issue 2 28 Sep 2017	Cyber Security for Defence Suppliers
Def Stan 00-600 Part 1	Issue 1 14 Apr 2018	Integrated Logistic Support. Requirements for MOD Projects
Def Stan 00-600 Part 2	Issue 1 14 Apr 2018	Integrated Logistics Support. Requirements for MOD Projects – MOD Requirements for a Supportability Case
Def Stan 00-600 Part 3	Issue 1 14 Apr 2018	Integrated Logistics Support. Requirements for MOD Projects – Logistic Information Requirements
Def Stan 81-041	Issue 9 Part 1 14 December 2016	Packaging of Defence Material Part 1: Introduction to Defence Packaging Requirements
Def Stan 81-041	Issue 9 Part 2 14 December 2016	Design Packaging of Defence Materiel Part 2: Design Note: subject to Additional Tasks.
Def Stan 81-041	Issue 6 Part 3 12 June 2014	Design Packaging of Defence Materiel Part 3: Environmental Testing Note: subject to Additional Tasks.
Def Stan 81-041	Issue 9 Part 4 14 August 2018	Design Packaging of Defence Materiel Part 4: Service Packaging Instruction Sheet (SPIS) Note: subject to Additional Tasks.
Def Stan 81-041	Issue 9 Part 5 14 August 2018	Design Packaging of Defence Materiel Part 5: Packaging Processes Note: subject to Additional Tasks.
Def Stan 81-041	Issue 10 Part 6 14 February 2018	Design Packaging of Defence Materiel Part 6: Package Marking Note: subject to Additional Tasks.
ISO9001 (or equivalent)	2015	Quality Management
ISO14001 (or equivalent)	2015	Quality Management

LTTSS APPLICABLE STANDARD	ISSUE	DESCRIPTION
STANAG 2290	Edition 3, 21 Nov 2019	NATO UNIQUE IDENTIFICATION ITEMS
STANAG 4281	Edition 3, 4 Oct 2016	NATO STANDARD MARKING FOR SHIPMENT AND STORAGE
STANAG 4329	Edition 5, 17 Dec 2018	NATO STANDARD BAR CODE HANDBOOK
MIL-STD 882		

2 Definitions and Interpretation

- 2.1 The words and expressions set out in Schedule R (Glossary of Standard Terms and Abbreviations) shall have the meanings given to them except where the context requires a different meaning.
- 2.2 The following rules of interpretation shall apply to the Contract:
- 2.2.1 reference to a Condition is a reference to the whole of that Condition unless stated otherwise;
 - 2.2.2 references to Conditions, Schedules, Appendices and Annexes shall refer to the Conditions, Schedules, Appendices and Annexes to the Contract unless stated otherwise;
 - 2.2.3 the words "include", "includes" and "including" are to be construed as if they were immediately followed by the words "without limitation";
 - 2.2.4 references to a "day" or "days" are references to calendar day(s) unless specified as being Business Day(s);
 - 2.2.5 references to a "month" or "months" are references to a calendar month(s);
 - 2.2.6 the heading to any Condition shall not affect the interpretation of that Condition;
 - 2.2.7 reference to "person" includes any legal or natural person or persons;
 - 2.2.8 the masculine includes the feminine and vice versa and words importing the neuter include the masculine and the feminine;
 - 2.2.9 the singular includes the plural and vice versa;
 - 2.2.10 "loss" includes damage or destruction;
 - 2.2.11 unless expressly excluded or where required by Law, references to submission of documents in writing shall include electronic submission and any requirement for a document to be signed or references to signatures shall be construed to include electronic signature.

- 2.3 References to any enactment, order, regulation or other similar instrument shall be construed as a reference to the enactment, order, regulation or instrument as amended or consolidated by any subsequent enactment, order, regulation or instrument.
- 2.4 Any decision, act or thing which the Authority is required or authorised to take or do under the Contract may be taken or done only by any person authorised, either generally or specifically, by the Authority to take or do that decision, act or thing on behalf of the Authority.
- 2.5 Notwithstanding that the Contractor shall comply with JSP 822 (as amended from time to time), where any amendment to JSP 822 results (or is likely to result) in the Contractor incurring significant additional costs to those included within the Contract Price, the Contractor shall provide the Authority with a Contractor Change Proposal pursuant to clause 14 of DEFCON 620 (Contract Change Control Procedure).

3 Precedence

- 3.1 If there is any discrepancy, inconsistency, divergence or anomaly arising between any provisions of the Contract, the conflict shall be resolved according to the following descending order of priority:
 - 3.1.1 DEFCON 537 (Rights of Third Parties);
 - 3.1.2 Conditions 2 (Definitions and Interpretation) to Condition 49 (COVID 19) of the Contract, Schedule L (Intellectual Property Rights) and Schedule Q (TUPE);
 - 3.1.3 Schedule R (Glossary of Standard Terms and Abbreviations);
 - 3.1.4 the DEFCONS incorporated pursuant to Condition 1.1 (Defence Conditions (DEFCONS), Defence Forms (DEFFORMS) and Standards), other than DEFCON 537 (Rights of Third Parties);
 - 3.1.5 the DEFFORMS and MOD Forms incorporated pursuant to Condition 1.2 (Defence Conditions (DEFCONS), Defence Forms (DEFFORMS) and Standards);
 - 3.1.6 Schedule A (Statement of Requirements);
 - 3.1.7 Appendices to Schedule A (Statement of Requirements);
 - 3.1.8 the Allied Quality Assurance Publications (AQAP), Defence Standards and other standards incorporated pursuant to Condition 1.4 (Defence Conditions (DEFCONS), Defence Forms (DEFFORMS) and Standards);
 - 3.1.9 the Schedules to the Contract (other than Schedule A (Statement of Requirements), Schedule L (Intellectual Property Rights), Schedule Q (TUPE) and Schedule R (Glossary of Standard Terms and Abbreviations); and
 - 3.1.10 Appendices (other than Appendices to Schedule A (Statement of Requirements)), Annexes or documents referred to in the Schedules of the Contract.
- 3.2 If either Party becomes aware of any discrepancy, inconsistency, divergence or anomaly between any provisions of the Contract it shall immediately notify the other Party accordingly. If the Authority decides a Change is required to resolve the conflict or inconsistency it shall issue an Authority Notice of Change in accordance with

DEFCON 620 (Contract Change Control Procedure) and the provisions of DEFCON 620 (Contract Change Control Procedure) shall apply save that such Change shall not result in an increase to the Contract Price.

4 Contractor Warranties and Representations and Parent Company Guarantee

4.1 The Contractor warrants and represents, that:

4.1.1 it has the full capacity and authority to enter into, and to exercise its rights and perform its obligations under, the Contract;

4.1.2 as at Contract Award none of the events set out in clause 1 of DEFCON 515 (Bankruptcy and Insolvency) has occurred;

4.1.3 during the Contract Period, it shall:

4.1.3.1 give the Authority notice of any litigation, arbitration (unless expressly prohibited from doing so in accordance with the terms of the arbitration), administrative or adjudication or mediation proceedings before any court, tribunal, arbitrator, administrator or adjudicator or mediator or relevant authority against itself or a Sub-Contractor which would adversely affect the Contractor's ability to perform its obligations under the Contract; and

4.1.3.2 notify the Authority immediately if any of the events set out in clause 1 of DEFCON 515 (Bankruptcy and Insolvency) occurs or is threatened.

4.2 The Contractor shall provide a duly executed parent company guarantee in the form set out in Schedule P (Parent Company Guarantee) from The Boeing Company (a company incorporated under the laws of the state of Delaware, United States of America with file number 0334807) on the same day as Contract Award.

5 Entire Agreement

5.1 The Contract constitutes the entire agreement between the Parties in relation to its subject matter and supersedes all prior arrangements, understandings, agreements or undertakings of any nature made by the Parties, whether oral or written, in relation to such subject matter. Each Party acknowledges that it is not relying on, and shall have no remedy in respect of any statements, warranties, representations given or made by the other Party regarding the subject matter of the Contract, except for those expressly set out in the Contract.

5.2 Notwithstanding Condition 5.1, nothing shall exclude or restrict the liability of either Party arising out of fraud or fraudulent misrepresentation.

6 Sub-Contracting

6.1 If the Contractor enters into any Sub-Contract in connection with the Contract it shall:

6.1.1 remain responsible for the performance of its obligations under the Contract notwithstanding the appointment of any Sub-Contractor and shall be responsible for the acts and omissions of its Sub-Contractors; and

6.1.2 ensure Sub-Contracts include all such obligations as are required to enable the Contractor to fulfil its obligations under the Contract, and shall enforce such terms.

Contractor Related Parties

- 6.2 The Contractor shall be responsible and liable for the acts and omissions of Contractor Related Parties as if they were the acts and omissions of the Contractor.

7 Intellectual Property Rights

- 7.1 The Parties shall comply with Schedule L (Intellectual Property Rights).

8 Technical Assistance Agreements and International Agreements

- 8.1 Where:

8.1.1 a new Technical Assistance Agreement is required for delivery of the Contract and such Technical Assistance Agreement requires the Authority to be a signatory; or

8.1.2 for the provision of the Contractor Deliverables, a material amendment is required to an existing Technical Assistance Agreement to which the Authority is a signatory,

the Contractor shall provide the Authority with the opportunity to comment on the Technical Assistance Agreement or amendment before it is submitted for approval.

- 8.2 The Authority shall provide comments in a timely manner such that the approval of the Technical Assistance Agreement or amendment does not impact delivery of the Contract.

- 8.3 Throughout the Contract Period the Contractor shall identify and notify the Authority of any goods, hardware or data (but not software or services) that are subject to:

8.3.1 the International Traffic in Arms Regulations;

8.3.2 the US-UK Defense Trade Co-operation Treaty;

8.3.3 Import Duty Waiver; and/or

8.3.4 US Export Administration Regulations,

and shall provide the Authority with details of any special requirements, management procedures and/or any end of use or disposal constraints for such goods, hardware or data (but not software or services) in accordance with the requirements of the Government's Security Policy Framework.

9 Montreal Protocol Substances

- 9.1 Prior to Contract Award the Contractor has either confirmed in writing that no Montreal Protocol Substances are to be used in the performance of the Contract or provided a list to the Authority specifying:

9.1.1 any Montreal Protocol Substances to be used in the performance of the Contract;

9.1.2 the quantity of any Montreal Protocol Substances; and

9.1.3 where any Montreal Protocol Substances shall be used or contained.

- 9.2 If at any time during the Contract Period the Contractor changes the use of any Montreal Protocol Substances from such confirmation or such list, the Contractor shall immediately provide to the Authority an updated list.

10 Sustainability

Legislation

- 10.1 The Contractor shall comply with and ensure that any Contractor Related Party engaged in the performance of the Contract complies with the Sustainability Legislation.
- 10.2 If the Contractor becomes aware of any prosecution or proceedings for criminal breaches of the Sustainability Legislation against the Contractor and/or any Contractor Related Party, the Contractor shall notify the Representative of the Authority as soon as reasonably practicable and in any event within ten (10) Business Days of becoming aware of such prosecution or proceedings.

Environmental Management Standard

- 10.3 The Contractor shall comply with ISO14001 or such equivalent standard as is approved by the Authority.

11 Contractor's Warranties and Obligations

- 11.1 The Contractor warrants to the Authority that the Contractor Deliverables shall be provided in accordance with:
- 11.1.1 the provisions of the Contract;
 - 11.1.2 Good Industry Practice;
 - 11.1.3 all Guidance;
 - 11.1.4 all Necessary Consents; and
 - 11.1.5 all applicable Law.
- 11.2 The Contractor shall at its own expense obtain and maintain all Necessary Consents.

12 Contract Duration

- 12.1 The duration of the Contract shall commence from the Contract Commencement Date and shall continue until the Expiry Date unless terminated in accordance with the provisions of the Contract (the “**Contract Period**”).
- 12.2 The Contract shall comprise Pricing Period 1 and, subject to the provisions of Schedule E (Pricing and Payment), Follow-On Pricing Periods.

13 Government Furnished Assets (GFA)

- 13.1 To enable the Contractor to provide the Contractor Deliverables, the Authority shall provide or procure the provision of the Government Furnished Assets as detailed at Schedule K (Government Furnished Assets). The Parties shall comply with Schedule K (Government Furnished Assets).

- 13.2 Without prejudice to DEFCON 611 (Issued Property), the Authority does not give any warranty or undertaking as to the completeness, accuracy or fitness for purpose of any Government Furnished Assets. Neither the Authority nor its agents or employees shall be liable to the Contractor in contract (save as expressly provided elsewhere in the Contract), tort, statute nor otherwise as a result of any inaccuracy, omission, unfitness for any purpose or inadequacy of any kind in the Government Furnished Assets.
- 13.3 The Contractor shall comply with and ensure that any Contractor Related Party engaged in the performance of the Contract complies with all Authority policies and procedures relating to the use of any Government Furnished Assets.
- 13.4 The Contractor acknowledges that where the Authority refuses and/or withdraws any access to any Government Furnished Assets as a result of the wrongful acts and/or omissions of the Contractor and/or any Contractor Related Party, the Contractor shall not be entitled to any relief arising out of or in connection with the refusal and/or withdrawal by the Authority of such access.
- 13.5 The Contractor shall notify the Authority's Single Point of Contract (SPOC) for the Authority's IT/IS of any issues arising out of or in connection with the operation of the Authority's IT/IS systems forming part of the Government Furnished Assets. An Authority Dependency Failure shall not be deemed to have occurred until the Contractor shall have also notified the SPOC of any such issues. For the purposes of any notice the contact number of the SPOC is '(+44) 0370 600 8910' or such other contact number as the Authority may by written notice specify to the Contractor from time to time.
- 13.6 On the occurrence of an Authority Dependency Failure the Contractor shall take reasonable measures to mitigate the consequences of the Authority Dependency Failure and shall promptly, and in any event within fifteen (15) Business Days:
- 13.6.1 give written notice setting out details of the Authority Dependency Failure, specifying what Contractor Deliverables are affected and the KPIs whose Performance Score may be adversely affected; and
- 13.6.2 demonstrate to the reasonable satisfaction of the Authority that:
- 13.6.2.1 the Authority Dependency Failure was the direct cause of the Contractor's failure to provide the Contractor Deliverables;
- 13.6.2.2 the Authority Dependency Failure could not reasonably be expected to be avoided or mitigated by the Contractor; and
- 13.6.2.3 the Contractor has continued to perform its obligations under the Contract to the extent such performance is not prevented by the Authority Dependency Failure.
- 13.7 The Authority shall consider a notice provided to it under Condition 13.6.1 and discuss with the Contractor (both Parties acting in good faith) the impact of the Authority Dependency Failure.
- 13.8 Where notified pursuant to Condition 13.6.1, the Authority may (in its sole discretion):
- 13.8.1 take action to remedy the Authority Dependency Failure itself; and/or

- 13.8.2 request that the Contractor provide assistance in remedying the Authority Dependency Failure (which may include requiring the Contractor to obtain a replacement for the relevant Government Furnished Asset or vary the Contractor Deliverable so as to reduce/eliminate the impact of the Authority Dependency Failure), and Condition 13.10 shall apply until the Authority Dependency Failure has been remedied. For the avoidance of doubt, the Authority shall not be required to remedy an Authority Dependency Failure.
- 13.9 If the Authority requires the Contractor's assistance in remedying the Authority Dependency Failure pursuant to Condition 13.8.2, the Contractor shall be reimbursed any additional costs reasonably incurred (and demonstrated as having been incurred) in providing such assistance by way of an Additional Task in accordance with Schedule G (Additional Tasks).
- 13.10 Provided that the Contractor has complied with Condition 13.6 and to the extent that an Authority Dependency Failure is the direct cause of a failure of the Contractor to provide a Contractor Deliverable in accordance with the Contract then, from the date on which the Authority is notified pursuant to Condition 13.6.1 until such time as the Authority Dependency Failure no longer prevents the Contractor from performing such Contractor Deliverable, such failure shall:
- 13.10.1 be disregarded for the purpose of calculating the Contractor's performance against the adversely affected KPIs; and
- 13.10.2 not give rise to any liability of the Contractor to the Authority for breach of the Contract, unless the Authority Dependency Failure has been caused by any act or omission of the Contractor or any Contractor Related Party.
- 13.11 Notwithstanding any other provision in the Contract, but save as set out in this Condition 13, the Contractor shall not be entitled to any additional sums and/or relief from its obligations in the Contract as a result of an Authority Dependency Failure.
- 13.12 The Contractor may request additional Government Furnished Assets during the Contract Period and the Authority may in its sole discretion agree to provide such Government Furnished Assets on such terms as the Authority requires.

14 Delivery, Title and Risk

- 14.1 The Contractor shall deliver the Articles and Services in accordance with Schedule A (Statement of Requirements).
- 14.2 Articles provided under this Contract shall be delivered together with the Contractor's Certificate of Conformity which shall contain the information set out in clause 4 of DEFCON 627 and shall comply with RA 4809.
- 14.3 NOT USED.
- 14.4 Following notification of rejection, if rectification of an Article or Service is necessary and demanded by the Authority, the Authority shall notify the Contractor of the period of time allowed to rectify an Article or Service. The Contractor shall rectify and redeliver the Article or Service within such time at the Contractor's cost. This Condition 14 shall not limit or affect the Authority's rights or remedies under Schedule F (Key Performance Indicators).
- 14.5 Property in an Article shall pass from the Contractor to the Authority upon the earlier of:

- 14.5.1 payment by the Authority (in whole or part) for the Article;
- 14.5.2 delivery of the Article to the Authority; and
- 14.5.3 the Article being recorded on the Authority Accounting System.

14.6 NOT USED.

15 Quality Assurance

- 15.1 The Contractor shall comply with the provisions of Schedule D (Quality Management) and the Allied Quality Assurance Publications (AQAP); Defence Standards and Other Standards referred to in Condition 1.4 (Defence Conditions (DEFCONS) Defence Forms (DEFFORMS) and Standards).

16 Quality Management

- 16.1 Throughout the duration of the Contract, the Contractor shall maintain appropriate certification (ISO 9001-2015 or equivalent) issued by an independent third party certification body and with a scope that is relevant to the product(s)/services to be delivered. The Contractor shall ensure that the third party certification body has been accredited by a National Accreditation Body (UKAS or equivalent) which is a signatory to the IAF Multi-Lateral Agreement or IAF Accredited Regional Accreditation Group.

17 Military Aviation Authority (MAA) Requirements

- 17.1 The Contractor shall comply with the following MAA Regulatory Publications ("MRP") issued by the Military Aviation Authority:
 - 17.1.1 Overarching documents:
 - 17.1.1.1 MAA01: MAA Regulatory Policy – Issue 7;
 - 17.1.1.2 MAA02: MAA Master Glossary – Issue 8; and
 - 17.1.1.3 MAA03: Regulatory Processes – Issue 11;
 - 17.1.2 Regulatory Articles (RA) categorised as "Lead" in Schedule C (MRP Compliance Matrix) by means detailed at Condition 17.3; and
 - 17.1.3 MAA Manuals:
 - 17.1.3.1 Manual of Air Safety – Issue 6; and
 - 17.1.3.2 Manual of Maintenance and Airworthiness Processes and Supplement MAMP Issue 1.1.
- 17.2 Where a Regulatory Article (RA) is categorised as "Support" in Schedule C (MRP Compliance Matrix), the Contractor shall provide the Authority with such support as is required by the relevant RA.
- 17.3 The Contractor shall comply with the MRP to ensure compliance with the RAs categorised as "Lead" within Schedule C (MRP Compliance Matrix) by following:
 - 17.3.1 The Acceptable Means of Compliance ("AMC") prescribed therein; or

- 17.3.2 Alternative Acceptable Means of Compliance (AAMC) as agreed by the Contractor and the Authority through the Military Aviation Authority.
- 17.4 The Contractor shall present the AMC or AAMC to the Authority in a format that allows the Contractor compliance to be imported into the Authority's Hermes Tool.
- 17.5 The Contractor shall monitor all MRP change documents issued by the MAA (including the change from MAP-01/02 to MAMP) and within twenty (20) Business Days of such issue (or, in respect of the change from MAP-01/02 to MAMP, as soon as reasonably practicable following completion of the Contractor's own assessment of the change) the Contractor shall submit to the Authority an Initial Assessment (IA) that will identify one of the following:
- 17.5.1 No change, the NAA and associated RA is not applicable to the baseline or the NAA is of a minor nature and no change is expected. This will still be subject to full impact assessment to confirm Initial Assessment findings;
- 17.5.2 Some change, review is required as the NAA effects RAs applicable to the baseline. Full impact assessment is required to determine the level of impact; or
- 17.5.3 Significant change, where it is known that significant work will be required by the Contractor to support compliance. Full impact assessment is required to determine the level of impact.
- 17.6 The Contractor shall present the IA and subsequent impact assessments via the Contractors Commercial Officer to the Authority in order to agree required actions.
- 17.7 On a minimum of an annual basis the Contractor shall submit a Change Proposal in accordance with DEFCON 620 (Contract Change Control Procedure) listing all MRP changes, their respective impacts (including no impact in some cases) outlined in the relevant full impact assessment, and a proposed mark-up to the Contract Schedules.
- 17.8 If the Authority does not approve the Change Proposal proposed by the Contractor pursuant to Condition 17.7, the Authority shall inform the UK MAA of such decision and provide the Contractor with evidence that the Authority's decision not to approve the Change Proposal has been agreed in writing with the MAA.
- 17.9 Where a change pursuant to this Condition 17 or a Change has been implemented, the Contractor shall provide the Authority with such evidence as it reasonably requires verifying the Contractor's compliance with its obligations to 'lead' or 'support' (as applicable) the RAs set out in Schedule C (MRP Compliance Matrix).
- 17.10 The Contractor's compliance with this Condition 17 does not reduce or limit any statutory, contractual or other legal obligation of the Contractor.

18 Contract Management

- 18.1 The Contractor shall meet with the Authority on a periodic basis as set out in Schedule H (Meetings), to formally discuss the performance and other aspects of the Contract. The Parties shall comply with their respective obligations in Schedule H (Meetings).
- 18.2 Discussions and decisions taken at such meetings which make a change to the Contract shall have no contractual effect unless agreed by both Parties and incorporated in accordance with DEFCON 503 (Formal Amendments to Contract) or

DEFCON 620 (Contract Change Control Procedure). The Contractor shall not act on any contract amendment discussed at any meeting without authorisation from the Authority and the Authority shall not be held liable for any such action by the Contractor in anticipation of any authorisation and any related cost, however incurred, if formal authorisation is not provided.

- 18.3 Ad-hoc meetings may be called by either Party throughout the Contract Period where a specific need arises. Agreement to attend such meetings shall not be unreasonably withheld.

19 Contract Data Deliverables

- 19.1 The Contractor shall provide the Contract Data Deliverables (including the relevant management information identified therein) in accordance with the requirements of Schedule B (Contract Data Deliverables).
- 19.2 The Authority may reject any Contract Data Deliverable which does not comply with the Contract (including the requirements of Schedule B (Contract Data Deliverables)). Where the Authority rejects any Contract Data Deliverable in accordance with this Condition 19, the Contractor shall resubmit it in accordance with the Contract within such period as is specified by the Authority.
- 19.3 Within forty (40) Business Days of receipt of the relevant Contract Data Deliverable, the Authority shall:
- 19.3.1 confirm to the Contractor whether such Contract Data Deliverable is accepted or rejected; and
 - 19.3.2 where such Contract Data Deliverable is rejected, provide the Contractor with the reason(s) for such rejection and a deadline for resubmission of such Contract Data Deliverable.
- 19.4 Not used.
- 19.5 If the Authority fails to confirm whether a Contract Data Deliverable is accepted or rejected within the timescale specified in Condition 19.3, the Authority shall be deemed to have accepted such Contract Data Deliverable.
- 19.6 Not used.
- 19.7 The Contractor shall make all Contract Data Deliverables available to the Authority where appropriate through the Shared Data Environment (SDE) unless otherwise specified in the Contract.
- 19.8 The submission by the Contractor and receipt by the Authority of any Contract Data Deliverables or reports on the progress of the Contract shall not prejudice any rights or obligations of either Party under the Contract.

20 Nature of Relationship

- 20.1 Nothing in the Contract or in any agreement entered into pursuant hereto shall give rise to or constitute a partnership (whether or not as defined under the Partnership Act 1890) or a joint venture between the Authority and the Contractor, and unless expressly provided so herein, the Contractor will not act or hold itself out as the agent of the Authority.

- 20.2 Neither Party has any authority to commit the other Party to any liability, relationship nor arrangement, except as expressly provided herein.

21 Pricing and Payment

- 21.1 The Authority shall pay the Contractor the Contract Price in accordance with Schedule E (Pricing and Payment) subject to any Deductions made in accordance with Schedule F (Key Performance Indicators).
- 21.2 The Authority shall pay the Contractor for Additional Tasks in arrears in accordance with Schedule E (Pricing and Payment).
- 21.3 Notwithstanding any other provision of the Contract:
- 21.3.1 the Contractor Deliverables and obligations set out in the Contract are included, and shall be carried out, within scope of the Contract Price unless expressly specified as being an Additional Task;
 - 21.3.2 the Contract Price shall not be adjusted save as expressly set out in the Contract, save as in accordance with the Single Source Contract Regulations 2014;
 - 21.3.3 the Contractor shall not be entitled to any payment or compensation and/or any relief from performance of its obligations under the Contract by reason of any change in Law; and
 - 21.3.4 no limitation on liability, exclusion, assumption or similar provision set out in the Contract or otherwise shall give the Contractor the right to increase the Contract Price.

22 Royalties and Licences

- 22.1 If royalty payments or licences to manufacture are required to enable performance of the Contract, the Contractor shall be responsible for making whatever arrangements are necessary to obtain such agreements and pay any fees levied. The Authority will not become involved in any dispute or negotiation over the settling of royalty payments or manufacturing licenses.

23 Key Performance Indicators

- 23.1 The Parties shall comply with Schedule F (Key Performance Indicators).

24 Dispute Resolution

- 24.1 Dispute resolution shall be carried out in accordance with Schedule I (Dispute Resolution Procedure).

25 Measures in a Crisis

- 25.1 Subject always to the provisions of Condition 26 (Force Majeure), the Contractor shall continue to provide the Contractor Deliverables in peacetime and during periods of war, crisis, tension and other emergencies (whether or not involving hostilities).
- 25.2 If at any time, the Authority believes, in its sole opinion, that the circumstances identified in Condition 25.3 apply, it may issue a notice in writing to the Contractor of such belief.

25.3 The circumstances referred to in Condition 25.2 are that, in view of:

25.3.1 the national interests of the United Kingdom and its territories, or a threat to their national security and defence, or the occurrence of a state of war, crisis, state of tension or other emergency (whether or not involving hostilities);

25.3.2 a request to the Authority by a local authority, public body or statutory corporation for assistance in relation to the occurrence or possible occurrence of a major accident, crisis or natural disaster; and/or

25.3.3 a request by NATO, the European Union or the United Nations or other country or organisation(s) for support or assistance in relation to international obligations,

it is necessary, appropriate or desirable for the Authority to take all or any of the measures described in Conditions 25.4 to 25.8 inclusive.

25.4 Subject to the issue of a notice in accordance with Condition 25.2 the Authority may require the Contractor, within such period as may be specified by the Authority in its sole discretion, to provide such information in the possession, knowledge or control of the Contractor as the Authority may in its sole discretion require, including information relating to all or any of the following matters:

25.4.1 the Contractor Deliverables currently provided by the Contractor or due to be provided by the Contractor within a period specified by the Authority for:

25.4.1.1 the Authority; and

25.4.1.2 any third parties save to the extent the Contractor is prohibited from disclosing such information by any contractual or other legal obligations;

25.4.2 the Contractor's current deployment of any Contractor Related Parties, whether inside or outside of Government Furnished Facilities; and/or

25.4.3 all supporting equipment and documentation currently held by the Contractor and the location of such equipment and documentation,

and the Contractor shall promptly and diligently comply fully with the requirement to provide such information.

25.5 Upon the earlier of:

25.5.1 the Contractor providing the Authority with the information requested pursuant to Condition 25.4; and

25.5.2 expiry of the period specified by the Authority for the supply of such information,

the Contractor shall, upon being so requested by the Authority, discuss (acting reasonably) with the Authority any matters which the Authority, in its sole opinion, may consider relevant or appropriate to any proposals the Authority may have for the reallocation of priorities for, or for the reorganisation of, Contractor Deliverables provided or to be provided by the Contractor. These will be in order to deal with the circumstances which gave rise to the issuing of a notice pursuant to this Condition 25 and may include, without limitation, the following matters:

- 25.5.3 the revision (including the early completion, suspension or permanent cessation) of the provision of the Contractor Deliverables for the Authority;
 - 25.5.4 the early completion, suspension, or permanent cessation of any Contractor Deliverables by the Contractor for third parties; and
 - 25.5.5 the immediate implementation of new Contractor Deliverables,
- and the Parties shall endeavour, as far as reasonably possible, to reach agreement as a matter of urgency on such matters.
- 25.6 Notwithstanding any provision to the contrary in the Contract (but without prejudice to Conditions 25.4 and 25.8) and notwithstanding that any of the measures described in Condition 25.5 may not be taken, required to be taken, or have been completed, the Authority may, in the circumstances provided under Condition 25.3, at any time and at its sole discretion, issue written instructions to the Contractor including, without limitation, in relation to all or any of the following matters:
- 25.6.1 to accelerate to early completion, to suspend, or to cease permanently provision of any of the Contractor Deliverables provided by the Contractor for third parties;
 - 25.6.2 to remove (permanently or temporarily) the property of either the Contractor and/or third parties from the Government Furnished Facilities used in the provision of the Contractor Deliverables and to use all reasonable endeavours to procure that any such action is carried out on terms with such third parties, which result in the least possible loss or damage;
 - 25.6.3 to accelerate to early completion, to suspend, or to cease permanently provision of any of the Contractor Deliverables;
 - 25.6.4 to carry out any changes whatsoever to the Contractor Deliverables required by the Authority without reference to DEFCON 620 (Contract Change Control Procedure); and/or
 - 25.6.5 to deploy and/or to use or make available for use by the Authority or as directed by the Authority its employees, its stocks of materials, premises, plant, machinery, equipment and other supplies,
- and the Contractor shall use all reasonable endeavours to fully, promptly and diligently comply with such instructions.
- 25.7 The provision of Conditions 25.4 to 25.8 shall immediately cease to apply when the Authority issues a written notice to that effect to the Contractor and the Contractor shall continue to be bound by the provisions of the Contract.
- 25.8 Any action or measures which the Authority may, or is required to, take pursuant to this Condition 25 may validly be taken by the Authority acting through the Representative of the Authority or such other person or persons as the Authority may from time to time authorise in writing for that purpose and notify to the Contractor.
- 25.9 The Authority shall reimburse the Contractor's reasonable additional costs incurred as a direct result of complying with Condition 25.6 provided that the Contractor:
- 25.9.1 provides evidence of all such costs; and

25.9.2 demonstrates to the Authority that the Contractor has used reasonable endeavours to mitigate such costs.

26 Force Majeure

26.1 A Party (the “**Affected Party**”) shall not be in breach of the Contract, nor liable for late or non-performance of any of its obligations under the Contract, if such delay or failure results from a “Force Majeure Event”. For the purposes of the Contract a Force Majeure Event is defined as one of the following:

26.1.1 national strikes;

26.1.2 acts of nature;

26.1.3 war;

26.1.4 hostilities; and/or

26.1.5 fire at any of the Affected Party’s premises or those of its sub-contractors except to the extent that the fire was caused by the Affected Party’s own negligence or that of its sub-contractors.

26.2 The Affected Party shall immediately notify the other Party in writing on the occurrence of a Force Majeure Event, including details of the Force Majeure Event, its effect on the Affected Party’s obligations under the Contract and the actions proposed to mitigate its effect.

26.3 Subject to Condition 26.4 below, the Affected Party shall be entitled to an appropriate extension of time for performing any obligations in the Contract to the extent the Affected Party is not able to perform them due to the Force Majeure Event, provided always that the Affected Party has used, to the satisfaction of the other Party, all reasonable endeavours, both to mitigate the effects of the Force Majeure Event, and to facilitate the continued performance of its obligations under the Contract.

26.4 If the occurrence of the Force Majeure Event:

26.4.1 prevents the Contractor from performing its obligations under the Contract for a period of sixty (60) Business Days; or

26.4.2 an extension of time granted pursuant to Condition 26.3 reaches a duration of sixty (60) Business Days,

the Authority may, on giving written notice to the Contractor, terminate the Contract (in whole or in part) with immediate effect and Condition 28.4 (Consequences of Termination) shall apply.

27 Disruption

27.1 The Contractor shall ensure that in the performance of its obligations under the Contract it does not disrupt the operations of the Authority, its employees or any other contractor employed by the Authority.

27.2 The Contractor shall inform the Authority of any actual or potential industrial action which affects or might affect its ability at any time to perform its obligations under the Contract as soon as it becomes aware of the actual or potential industrial action and certainly no later than seven Business Days before the action is due to take place, whether such action be by its own employees or others.

- 27.3 Subject to Condition 26.1.1 (Force Majeure), in the event of industrial action by any Contractor Related Party the Contractor shall continue to provide the Contractor Deliverables in accordance with the Contract at no additional cost to the Authority and with no alleviation provided against the KPIs. The Contractor shall ensure that contingency plans are available for the Authority to inspect and/or comment on at any reasonable time, which plans the Contractor shall update and revise as necessary throughout the Contract Period.

28 Termination

- 28.1 The Authority may terminate the Contract (in whole or in part) for material breach in accordance with DEFCON 514 (Material Breach) which includes but is not limited to where any of the following events occur:

28.1.1 the Contractor materially fails to comply with or be considered to be competent in any material respect under the MAA Approved Organisations Schemes, details of which are set out in the Military Regulatory Publications with which the Contractor is required to comply under Condition 17 (Military Airworthiness Authority (MAA) Requirements) and Schedule C (MRP Compliance Matrix);

28.1.2 the Contractor materially fails to comply with its obligations set out in Paragraph 1.5-1.d of Schedule A (Statement of Requirements);

28.1.3 the Contractor does not meet the Target Performance Level for KPI 1 in three consecutive Quarterly Performance Periods;

28.1.4 the Contractor does not meet the Target Performance Level for KPI 2 in six calendar months of any three consecutive quarterly periods;

28.1.5 the Contractor does not meet the Target Performance Level for KPI 3 in three consecutive Quarterly Performance Periods;

28.1.6 the Contractor does not meet the Target Performance Level for KPI 4 in three consecutive Quarterly Performance Periods;

28.1.7 the Contractor does not meet the Target Performance Level for KPI 5 in three consecutive Quarterly Performance Periods; or

28.1.8 the Contractor does not meet:

28.1.8.1 the Target Performance Level for KPI 1 and KPI 3 in a Quarterly Performance Period; and

28.1.8.2 the Target Performance Level for KPI 2 in two of the calendar months in that Quarterly Performance Period.

Rectification

- 28.2 If the Contractor is in material breach of the Contract (other than in respect of any of the material breaches set out in Conditions 28.1.3, 28.1.4, 28.1.5, 28.1.6, 28.1.7 and/or 28.1.8) and the Authority wishes to terminate the Contract (in whole or in part) it must serve a notice on the Contractor stating:

28.2.1 that the Authority wishes to terminate the Contract for material breach;

28.2.2 the nature of the material breach; and

28.2.3 that the Contract (or part of the Contract) shall terminate on the day falling forty (40) Business Days after the date of the notice (or such other period as the Authority may in its absolute discretion specify) unless the Contractor:

28.2.3.1 provides an acceptable rectification programme within twenty Business Days after the date of the notice (or such other period as the Authority may in its absolute discretion specify); and

28.2.3.2 implements such programme at the Contractor's cost in accordance with its terms and rectifies the material breach within forty (40) Business Days after the date of the Authority's notice (or such other period as the Authority may in its absolute discretion specify).

Consequences of Termination

28.3 For the avoidance of doubt and without prejudice to the Authority's rights under DEFCON 514 (Material Breach), in the event of termination for material breach the Contractor shall be entitled to payments only in respect of unpaid charges for Contractor Deliverables provided up until the date of termination, and charges that may be payable in respect of Contractor Deliverables provided in accordance with Condition 29 (Exit Requirements). The Authority may deduct from such payments any charges it has paid to the Contractor in advance in respect of Contractor Deliverables not provided as at the date of termination.

28.4 If the Authority terminates the Contract in accordance with Condition 26 (Force Majeure) the Contractor shall be entitled to payments only in respect of unpaid charges for Contractor Deliverables received up until the date of termination, and charges that may be payable in respect of Contractor Deliverables provided in accordance with Condition 29 (Exit Requirements). The Authority may deduct from such payments any charges it has paid to the Contractor in advance in respect of Contractor Deliverables not provided as at the date of termination. Neither Party shall have any right to claim damages as a result of such termination.

28.5 NOT USED.

28.6 If the Authority terminates the Contract in accordance with Paragraph 8.1 of Schedule E (Pricing and Payment):

28.6.1 the Contractor shall be entitled to payments only in respect of:

28.6.1.1 unpaid charges for Contractor Deliverables provided up to and including the date of termination; and

28.6.1.2 charges that may be payable in respect of Contractor Deliverables provided in accordance with Condition 29 (Exit Requirements); and

28.6.2 the Authority may deduct from such payments or recover as a debt from the Contractor:

28.6.2.1 any charges it has paid to the Contractor in advance in respect of Contractor Deliverables not provided as at the date of termination; and

28.6.2.2 any reduction to the Contract Price agreed or determined pursuant to Paragraph 6 of Schedule E (Pricing and Payment) which the Authority has not yet received; and

- 28.6.3 neither Party shall have any right to claim damages as a result of such termination; and
- 28.6.4 for the avoidance of doubt, any such termination is not, and shall not be deemed to be, a termination under DEFCON 656B (Termination for Convenience).
- 28.7 In the event of a partial termination of the Contract, the Parties shall agree the effect of any Changes necessitated as a result in accordance with the terms of DEFCON 620 (Contract Change Control Procedure), including the effect the partial termination may have on any other Contractor Deliverables, provided that:
- 28.7.1 the Contractor shall not be entitled to any increase in the Contract Price in respect of the Contractor Deliverables that have not been terminated if the partial termination arises in accordance with DEFCON 514 (Material Breach) or as a result of a Force Majeure Event pursuant to Condition 26.4 (Force Majeure); and
- 28.7.2 any adjustment to the Contract Price must be in accordance with the SSCR.

29 Exit Requirements

- 29.1 On expiry of the Contract, or if the Authority notifies the Contractor of its intention to terminate the Contract in accordance with the termination provisions of the Contract, the Contractor shall comply with Schedule J (Exit Management), the Exit Plan and DEFCON 625 (Co-operation On Expiry Of Contract).
- 29.2 If the Contractor fails to comply with the agreed Exit Plan and/or DEFCON 625 (Co-operation On Expiry Of Contract), unless as a result of a direct act or omission of the Authority, the Authority reserves the right to withhold any outstanding payments due under the Contract until full compliance with the agreed Exit Plan and DEFCON 625 (Co-operation on expiry of Contract) has been achieved.

Continuing Obligations

- 29.3 Save as otherwise expressly provided in the Contract, termination or expiry of the Contract (or any part thereof) shall:
- 29.3.1 be without prejudice to any accrued rights or obligations under the Contract prior to termination or expiry;
- 29.3.2 not affect the continuing rights, remedies and obligations of either Party under:
- 29.3.2.1 any indemnity in the Contract;
 - 29.3.2.2 DEFCON 531 (Disclosure of Information);
 - 29.3.2.3 DEFCON 528 (Import and Export Licences);
 - 29.3.2.4 Condition 7 (Intellectual Property Rights);
 - 29.3.2.5 Condition 24 (Dispute Resolution);
 - 29.3.2.6 Condition 28 (Termination);
 - 29.3.2.7 Condition 29 (Exit Requirements) and the Exit Plan;

- 29.3.2.8 Condition 35 (Publicity and Communications with the Media);
- 29.3.2.9 Condition 36 (Security Aspects); and
- 29.3.2.10 any other provision of the Contract which is expressed to survive termination or expiry or which is required to give effect to such termination or expiry or the consequences thereof.

Duty to Co-operate

- 29.4 Without prejudice to the provisions of Condition 23 (Key Performance Indicators), the Contractor shall use all reasonable endeavours so as to facilitate the smooth transfer of responsibility for provision of the Contractor Deliverables (or any part thereof) to a New Provider or to the Authority, as the case may be, and the Contractor shall take no action at any time during the term of the Contract or thereafter which is calculated or intended, directly or indirectly, to prejudice or frustrate or make more difficult such transfer.
- 29.5 Following the Expiry Date or termination date, the Contractor may, with the Authority's consent (not to be unreasonably withheld) be allowed reasonable access to land, facilities, assets, personnel and information owned or controlled by the Authority in order to perform the Exit Plan.

30 Health Hazards

- 30.1 The Contractor shall promptly notify the Authority of any health hazards related to the provision of the Contractor Deliverables including any mechanical, electrical, breathing system and radiological hazards.

31 NOT USED

32 Additional Tasks

- 32.1 The Authority may require the Contractor, from time to time, to carry out Additional Tasks in accordance with Schedule G (Additional Tasks).
- 32.2 The Authority may take into consideration, but is under no obligation to follow or give effect to, recommendations and proposals made by the Contractor for Additional Tasks.

33 Contractors on Deployed Operations

- 33.1 If the Authority raises a Contractors on Deployed Operations (CONDO) task as an Additional Task, the Contractor shall comply with DEFCON 697 (Contractors on Deployed Operation), DEFCON 661 (War Risk Indemnity) and DEF STAN 05-129 in relation to such Additional Task provided that the Authority shall give the Contractor at least 6 (six) months' prior written notice (which may be given prior to agreeing the relevant Additional Task) before the Contractor is required to Deploy.

34 Rights and Remedies

- 34.1 Subject to Condition 34.2, neither Party shall be liable to the other Party for:
 - 34.1.1 any indirect or consequential loss (whether or not arising from negligence); and/or

34.1.2 any loss of use, loss of profit, turnover, business opportunities or damage to goodwill (whether direct or indirect) arising from any breach of the Contract,

provided that Condition 34.1.2 shall not limit the Contractor's right to make a claim for loss of profits due under this Contract, if the Authority breaches its obligation to make payment of such profits in accordance with this Contract.

34.2 Nothing in the Contract shall operate to limit or exclude either Party's liability for:

34.2.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or (if such Party is the Contractor) Contractor Related Parties; and/or

34.2.2 fraud or fraudulent misrepresentation.

34.3 NOT USED.

35 Publicity and Communications with the Media

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

36 Security Aspects

36.1 NOT USED.

36.2 The Contractor shall comply with Schedule M (Security).

36.3 The Contractor may use the Boeing Enterprise Network (BEN) for transmittal and storage of contract information up to and including UK OFFICIAL SENSITIVE between the Contractor and US-based suppliers (including US-based entities owned by the Boeing Company) where sub-contractor Cyber Risk Level is LOW as BEN is subject to the DCPD process and US-based entities are compliant with NIST-800-171 and DFARS.

37 Government Security Classifications Policy

37.1 The Contract is subject to protection under GSC.

37.2 The Contractor shall comply with the GSC (as updated from time to time and available on the Gov.uk GSC website) in performing its obligations under the Contract.

37.3 Any changes to the Contract required in order to comply with the GSC shall be made in accordance with DEFCON 620 (Contract Change Control Procedure).

38 Personnel Security

38.1 The Contractor shall ensure that all Contractor Related Parties make themselves familiar with, and at all times shall conduct themselves in accordance with Government Establishment rules and regulations as issued from time to time by the Authority.

38.2 The Authority reserves the right to refuse access to or remove anyone from the Government Establishment who fails to comply with the Government Establishment rules and regulations.

38.3 If a Contractor Related Party is reasonably refused access to or removed from the Government Establishment for failure to comply with station rules and regulations, the Contractor shall not be relieved from its obligations to provide the Contractor Deliverables.

39 Co-Operation for Security Investigation

39.1 The Contractor shall, and shall procure that each Contractor Related Party shall, notify the Representative of the Authority immediately if it becomes aware of any breach of Condition 36 (Security Aspects) and/or Condition 38 (Personnel Security) in connection with the Contract.

39.2 The Contractor shall, and shall procure that the Contractor Related Parties shall, give reasonable assistance to the Representative of the Authority and/or any other representative or adviser of the Authority for the purposes of carrying out any investigation that the Authority undertakes.

40 Boards of Inquiry

40.1 If an accident or other incident occurs and a service inquiry or significant occurrence is convened in accordance with regulations from time to time in force to investigate such a matter (an "**Inquiry**"), the Contractor shall make available to the officer in charge of that Inquiry all relevant information and facilities including access to Contractor Related Parties for the purpose of immediate and detailed investigations. If so requested by the officer in charge of the Inquiry, the Contractor shall undertake his own investigation into for example, flight safety accidents or incidents and shall submit written reports to that officer.

40.2 In connection with any such Inquiry, the Contractor shall take all reasonable steps to ensure that any Contractor Related Party, whose evidence may assist the Inquiry in reaching its findings, attends and gives evidence to the inquiry.

40.3 The Contractor shall include as a condition in each Sub-Contract a stipulation that the Sub-Contractor shall take all reasonable steps to ensure that any employee of such Sub-Contractor whose evidence may assist any Inquiry in reaching its findings shall attend and give evidence to that Inquiry when called upon to do so.

41 FLYING HOURS

41.1 The Projected Flying Hours for each Financial Year in Pricing Period 1 for the purpose of Schedule E (Pricing and Payment) are set out in Appendix 12 (Projected Flying Hours) of Schedule A (Statement of Requirements) unless determined otherwise in accordance with Paragraph 15 of Schedule E (Pricing and Payment).

42 TUPE

42.1 The Contractor shall comply with Schedule Q (TUPE).

43 NOT USED

44 Continuous Improvement

- 44.1 The Contractor shall develop such policies and procedures which are likely to improve the provision of the Contractor Deliverables and shall comply with such policies and procedures if they are incorporated into the Contract pursuant to DEFCON 503 (Formal Amendments to Contract) or DEFCON 620 (Contract Change Control Procedure).

45 Authority Step-In

- 45.1 If the Authority reasonably believes that it needs to take action in connection with the Contractor Deliverables:
- 45.1.1 because a serious risk exists to the health or safety of persons or property or to the environment;
 - 45.1.2 to discharge a statutory duty; and/or
 - 45.1.3 because an urgent operational requirement has arisen,
- then the Authority shall be entitled to take action in accordance with Conditions 45.2 to 45.4 below.
- 45.2 If Condition 45.1 applies and the Authority wishes to take action, the Authority shall notify the Contractor in writing of the following:
- 45.2.1 the action it wishes to take;
 - 45.2.2 the reason for such action;
 - 45.2.3 the date it wishes to commence such action;
 - 45.2.4 the time period which it believes will be necessary for such action; and
 - 45.2.5 to the extent practicable, the effect on the Contractor and its obligation to provide the Contractor Deliverables during the period such action is being taken.
- 45.3 Following service of such notice, the Authority shall take such action as notified under Condition 45.2 and any consequential additional action as it reasonably believes is necessary (together, the "**Required Action**") and the Contractor shall give all reasonable assistance to the Authority while it is taking such Required Action. The Authority shall provide the Contractor with notice of completion of the Required Action and shall use reasonable endeavours to provide such advance notice, as is reasonably practicable, of its anticipated completion.
- 45.4 Where the Required Action has been taken otherwise than as a result of a breach by the Contractor, the Authority shall undertake the Required Action in accordance with Good Industry Practice and shall indemnify the Contractor against all direct losses where it fails to do so.
- 45.5 If the Contractor is not in breach of its obligations under the Contract then for so long as and to the extent that the Required Action is taken, and this prevents the Contractor from carrying out any parts of the Contractor Deliverables:
- 45.5.1 the Contractor shall be relieved from its obligations to carry such part of the Contractor Deliverables; and

45.5.2 in respect of the period in which the Authority is taking the Required Action and provided that the Contractor provides the Authority with reasonable assistance (such assistance to be at the expense of the Authority to the extent incremental costs are incurred), the Contract Price due from the Authority to the Contractor shall equal the amount the Contractor would receive if it were satisfying all its obligations and carrying out such Contractor Deliverables affected by the Required Action in full over that period.

45.6 If the Required Action is taken as a result of a breach of the obligations of the Contractor under the Contract, then for so long as and to the extent that the Required Action is taken, and this prevents the Contractor from carrying out any part of the Contractor Deliverables:

45.6.1 the Contractor shall be relieved of its obligations to carry out such part of the Contractor Deliverables; and

45.6.2 in respect of the period in which the Authority is taking the Required Action, the Contract Price due from the Authority to the Contractor shall equal the amount the Contractor would receive if it were satisfying all its obligations and carrying out such Contractor Deliverables affected by the Required Action in full over that period, less an amount equal to all the Authority's costs of operation in taking the Required Action.

46 NOT USED.

47 Breach of Other Contract

47.1 The Contractor shall not be entitled to any relief or compensation under the Contract to the extent the Contractor has caused the relevant breach or loss by breaching its duties under any other contract with the Authority (whether or not the Authority has enforced its obligations under that other contract).

48 Authority Review

48.1 Neither the giving of any oral approval, oral consent, examination, acknowledgement, knowledge of the terms of any agreement or document nor the review, comment or oral approval by the Authority of any document or course of action and/or the Contractor Deliverables shall exclude, limit or diminish the Contractor's liability under the Contract, including the obligation to provide the Contractor Deliverables in accordance with the Contract.

49 COVID 19

49.1 The Parties recognise that the continuance of the COVID-19 pandemic may have an adverse impact on the ability of the Contractor to perform its obligations under this Contract. The Contractor shall not therefore be in breach of its obligations under this Contract, nor liable for late or non-performance of any of its obligations under this Contract, to the extent that such delay or failure is a direct result of the continuance of the COVID-19 pandemic.

49.2 The Contractor shall immediately notify the Authority in writing to the extent that the continuance of the COVID-19 pandemic has directly resulted or is likely to directly result in a delay or failure to perform its obligations under the Contract, which obligations are adversely impacted, and the actions proposed to mitigate such adverse impact.

- 49.3 Subject to Condition 49.5 below, the Contractor shall be entitled to request an appropriate period of:
- 49.3.1 additional time for performing; and/or
 - 49.3.2 relief from other contractual consequences, of late or non-performance of such obligations, including breach of contract,
- provided always that the Contractor has used, to the satisfaction of the Authority, all reasonable endeavours, both to mitigate the adverse impact of the continuance of the COVID-19 pandemic, and to facilitate the continued performance of its obligations under the Contract.
- 49.4 Where a request has been made under Condition 49.3 and the Authority is satisfied that the Contractor has used all reasonable endeavours required under that clause, the Authority shall grant the requested relief.
- 49.5 After the Authority has provided one hundred and twenty (120) Business Days of relief granted pursuant to Condition 49.4 and for as long as such relief continues pursuant to Condition 49.6, and provided that a COVID-19 related event for which the Contractor has been granted relief has resulted in a material breach of the Contract, the Authority may terminate (in whole or in part) the Contract on giving sixty (60) Business Days' notice in writing to the Contractor.
- 49.6 Where the Authority does not terminate the Contract pursuant to Condition 49.5, the Contractor will be entitled to continued relief pursuant the Condition 49.1, provided that the Contractor continues to use, to the satisfaction of the Authority, all reasonable endeavours, both to mitigate the adverse impact of the continuance of the COVID-19 pandemic, and to facilitate the continued performance of its obligations under the Contract.
- 49.7 On termination of the Contract pursuant to this Condition 49, the Contractor shall be entitled to be paid an amount equal to any and all charges payable (but as yet unpaid) for Contractor Deliverables delivered up to the date of termination but shall otherwise have no claim against the Authority in relation to such termination.