

Serbus Ltd
The Granary
Hereford
Herefordshire
HR1 4LB

FAO Seb Wiles

Your Reference: 1965

Our Reference: 701405373

Date: 02 March 2020

Dear Sir/Madam,

Invitation To: Tender Reference Number: 701405373- AFANC Software

1. You are invited to tender for AFANC Software in accordance with the attached documentation.
2. Please confirm receipt of this tender to Ms. Hannah Price stated in the E-mail address hannah.price107@mod.gov.uk.
3. Please complete 'Contractor Commercially Sensitive Information', and complete and sign 'Offer and Acceptance' section A in the Purchase Order. Please also sign the Security Aspects Letter. This contract cannot come into force until the Security Aspects Letter is signed and returned alongside this tender.

Yours faithfully

Hannah Price

(signed electronically)

Invited Suppliers

Supplier Name	Supplier Address	Contact Name	Contact Email
SERBUS LTD	THE GRANARY WHITE HALL FARM HEREFORD GB HR1 4LB	Wiles, Seb	s.wiles@serbusgroup.com

Requirements

The brief requirements are as follows:

- Scope and evaluate software capabilities that will support the functional delivery of a Joint Configurable Operating Picture (JCOP) for S-JFHQ 2* Headquarters in order to provide robust and accurate Key User Requirement (KUR) document set and evidence to support both Capability Development (Cap Dev) and JHUB Project Visualise.
- Evaluation criteria will be created with the user community once the software has been through initial deployment trial.
- Provide visualisation of the battlespace and situational awareness of blue troop locations
- Operate across or be compatible with the Joint Expeditionary Force (JEF) Partner Nation capabilities.
- The ability to filter information from the tactical to the strategic domains for Commanders decision support.
- Operate and disseminate information to and from the Dismounted troops to the Headquarters.
- Integrate with Joint Operational Planning (JOP) processes and systems (J3, J3/5, J5)
- JCOP needs to facilitate ingestion of multiple feeds ranging from open source to Link 16 Live aircraft feeds at Secret.

Purchase Order**PURCHASE ORDER****Contract No:** 701405373**Contract Name:** AFANC Software**Dated:** 02 March 2020

Supply the Deliverables described in the Schedule to this Purchase Order, subject to the attached MOD Terms and Conditions for Less Complex Requirements (up to £118,133) (Edn 02/18)

Contractor	Quality Assurance Requirement (Clause 8)
Name: Serbus Ltd Registered Address: The Granary Hereford Herefordshire HR1 4LB	N/A

Consignor (if different from Contractor's registered address)	Transport Instructions (Clause 10)
Name: Address:	Select method of transport of Deliverables To be Delivered by the Contractor [Special Instructions] Each consignment of the Deliverables shall be accompanied by a delivery note.

Progress Meetings (Clause 13)	Progress Reports (Clause 13)
<p>The Contractor shall be required to attend the following meetings:</p> <p>Subject: Project Delivery Progress Update Agenda to be agreed as part of project start up</p> <p>Frequency: Monthly during delivery phase</p> <p>Location: COVID Secure Site or MS Teams</p>	<p>The Contractor is required to submit the following Reports:</p> <p>Subject: Project Delivery Progress Report Format to be agreed as part of project start up</p> <p>Frequency: Weekly by COP Thursday</p> <p>Method of Delivery: Electronic - Email</p> <p>Delivery Address: MilTech PM – barry.compton223@mod.gov.uk. And SO1 Command – Steve.Keir395@mod.gov.uk</p>

Payment (Clause 14)
<p>Payment is to be enabled by CP&F.</p>

Forms and Documentation	Supply of Hazardous Deliverables (Clause 9)
<p>Forms can be obtained from the following websites:</p> <p>https://www.aof.mod.uk/aofcontent/tactical/toolkit (Registration is required).</p> <p>https://www.gov.uk/government/organisations/ministry-of-defence/about/procurement#invoice-processing</p> <p>https://www.dstan.mod.uk/ (Registration is required).</p> <p>The MOD Forms and Documentation referred to in the Conditions are available free of charge from:</p> <p>Ministry of Defence, Forms and Pubs Commodity Management PO Box 2, Building C16, C Site Lower Arncott</p>	<p>A completed DEFFORM 68 and, if applicable, Safety Data Sheet(s) are to be provided by email with attachment(s) in Adobe PDF or MS WORD format to:</p> <p>a. The Commercial Officer detailed in the Purchase Order, and</p> <p>b. DSA-DLSR-MovTpt-DGHSIS@mod.uk</p> <p>by the following date:</p> <p>or if only hardcopy is available to the addresses below:</p> <p>Hazardous Stores Information System (HSIS) Defence Safety Authority (DSA) Movement Transport Safety Regulator (MTSR) Hazel Building Level 1, #H019 MOD Abbey Wood (North)</p>

<p>Bicester, OX25 1LP (Tel. 01869 256197 Fax: 01869 256824)</p> <p>Applications via email: DESLCSLS-OpsFormsandPubs@mod.uk</p> <p>If you require this document in a different format (i.e. in a larger font) please contact the Authority's Representative (Commercial Officer), detailed below.</p>	<p>Bristol BS34 8QW</p>
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Offer and Acceptance	
<p>A) The Purchase Order constitutes an offer by the Contractor to supply the Deliverables. This is open for acceptance by the Authority for days from the date of signature. By signing the Purchase Order the Contractor agrees to be bound by the attached Terms and Conditions for Less Complex Requirements (Up to £122,979) (Edn 08/20).</p> <p>Name (Block Capitals): RUSSELL TICEHURST</p> <p>Position: DIRECTOR For and on behalf of the Contractor</p> <p>Authorised Signatory (Signed Electronically)</p>  <p>.....</p> <p>Date: 18 Mar 2021</p>	<p>B) Acceptance</p> <p>Name: HANNAH PRICE</p> <p>Position: COMMERCIAL MANAGER For and on behalf of the Authority</p> <p>Authorised Signatory: (Signed Electronically)</p> <p><i>Hannah Price</i></p> <p>Date: 19 Mar 2021</p>
<p>C) Effective Date of Contract: 22 Mar 2021</p>	

SCHEDULE OF REQUIREMENTS FOR THE SUPPLY OF AFANC SOFTWARE

Item No.	Item Details	Total Qty	Price (£) Ex VAT	
			Per Item	Total Inc Delivery**
1	Specification 12-month year rental of SitaWare Headquarters Project Development Pack, including: - 2 SitaWare Headquarters developer client licences - 1-year RTU SitaWare Headquarters SDK and API - 2-day, on-site project kick-off workshop - 25-ticket hours telephone/email support - Travel & subsistence	1		
	Delivery Date Throughout Year 1			
2	Specification 12-month rental of SitaWare Edge Project Development Pack, including: - 3 SitaWare Edge developer client licences - 1-year RTU SitaWare Headquarters SDK and API - 2-day, on-site project kick-off workshop - 25-ticket hours telephone/email support - Travel & subsistence	1		
	Delivery Date Throughout Year 1			
3	Specification 6-month rental of SitaWare Headquarters or SitaWare Edge client licences for trial and demonstrations, for use by UK MOD Strategic Command related to this project only.	1		
	Delivery Date To start when system and software go live to users – within Year 1			
4	Specification 2-day, on-site SitaWare Headquarters User training course (max 6 attendees)	1		
	Delivery Date			

Item No.	Item Details	Total Qty	Price (£) Ex VAT	
	Within year 1 – to be arranged during progress meetings			
5	Specification Engineering support on a T&M basis, for support to the installation, configuration, and use of SitaWare software on trials and integration and development during the 12-month project (unit price is per day). Call-off resource requirements to be agreed in advance at the monthly progress meetings.	20		
	Delivery Date Throughout Year 1			
6	Specification Anticipated T&S costs to cover Engineering Support provided by SitaWare Engineers	1		
	Delivery Date Throughout Year 1			
7	Specification Direct Labour - Serbus Engineering, Design for the new server to be hosted within AFANC including networking, firewall and IP address plan. Call-off resource requirements to be agreed in advance at the monthly progress meetings	5		
	Delivery Date Throughout Year 1			
8	Specification Direct Labour - Serbus Engineer work to build the initial server and to work with SitaWare's engineers during the installation. Call-off resource requirements to be agreed in advance at the monthly progress meetings	10		
	Delivery Date Throughout Year 1			
9	Specification Direct Labour - Serbus Project Manager. Call-off resource requirements to be agreed in advance at the monthly progress meetings	5		
	Delivery Date Throughout Year 1			
10	Specification Secure hosting for SitaWare server within AFANC infrastructure. The hosting is aligned to the existing term, ending 30th April 2021.	1		

Item No.	Item Details	Total Qty	Price (£) Ex VAT	
	Delivery Date Throughout Year 1			

Total Price Inc Delivery **

*as detailed in DEFFORM 96

**and Delivery if stated in the contract

PRICING SCHEDULE

Line	Serial	Cost ex vat	Description
1	2		Software
	3		Software
	4		Software
	11		Hosting
2	5		Training on JQ
	6		T&M
	8		Mandays
	9		Mandays
	10		Mandays
3	7		Travel and Subsistence
TOTAL			

Annex B - Non-Comp

ANNEX B

SC1A ITT Ref No

Ministry of Defence

Tender Evaluation Criteria

Standardised Contracting Terms

SC1A

1 Definitions - In the Contract:

The Authority means the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland, (referred to in this document as "the Authority"), acting as part of the Crown;

Business Day means 09:00 to 17:00 Monday to Friday, excluding public and statutory holidays;

Contract means the agreement concluded between the Authority and the Contractor, including all terms and conditions, associated purchase order, specifications, plans, drawings, schedules and other documentation, expressly made part of the agreement in accordance with Clause 2.c;

Contractor means the person, firm or company specified as such in the purchase order. Where the Contractor is an individual or a partnership, the expression shall include the personal representatives of the individual or of the partners, as the case may be;

Contractor Commercially Sensitive Information means the information listed as such in the purchase order, which is information notified by the Contractor to the Authority, which is acknowledged by the Authority as being commercially sensitive;

Contractor Deliverables means the goods and / or services including packaging (and supplied in accordance with any QA requirements if specified) which the Contractor is required to provide under the Contract in accordance with the schedule to the purchase order;

Effective Date of Contract means the date stated on the purchase order or, if there is no such date stated, the date upon which both Parties have signed the purchase order;

Firm Price means a price excluding Value Added Tax (VAT) which is not subject to variation;

Hazardous Contractor Deliverable means a Contractor Deliverable or a component of a Contractor Deliverable that is itself a hazardous material or substance or that may in the course of its use, maintenance, disposal, or in the event of an accident, release one or more hazardous materials or substances and each material or substance that may be so released;

Legislation means in relation to the United Kingdom any Act of Parliament, any subordinate legislation within the meaning of section 21 of the Interpretation Act 1978, any exercise of Royal Prerogative or any enforceable community right within the meaning of Section 2 of the European Communities Act 1972.

Notices means all notices, orders, or other forms of communication required to be given in writing under or in connection with the Contract;

Parties means the Contractor and the Authority, and Party shall be construed accordingly;

Transparency Information means the content of this Contract in its entirety, including from time to time agreed changes to the Contract, and details of any payments made by the Authority to the Contractor under the Contract.

2 General

- a. The Contractor shall comply with all applicable Legislation, whether specifically referenced in this Contract or not.
- b. Any variation to the Contract shall have no effect unless expressly agreed in writing and

signed by both Parties.

c. If there is any inconsistency between these terms and conditions and the purchase order or the documents expressly referred to therein, the conflict shall be resolved according to the following descending order of priority:

(1) the terms and conditions;

(2) the purchase order; and

(3) the documents expressly referred to in the purchase order.

d. Neither Party shall be entitled to assign the Contract (or any part thereof) without the prior written consent of the other Party.

e. Failure or delay by either Party in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of its rights or remedies. No waiver in respect of any right or remedy shall operate as a waiver in respect of any other right or remedy.

f. The Parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a Party to it.

g. The Contract and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English Law, and subject to Clause 15 and without prejudice to the dispute resolution procedure set out therein, the Parties submit to the exclusive jurisdiction of the English courts. Other jurisdictions may apply solely for the purpose of giving effect to this Clause 2.g and for enforcement of any judgement, order or award given under English jurisdiction.

3 Application of Conditions

a. The purchase order, these terms and conditions and the specification govern the Contract to the entire exclusion of all other terms and conditions. No other terms or conditions are implied.

b. The Contract constitutes the entire agreement and understanding and supersedes any previous agreement between the Parties relating to the subject matter of the Contract.

4 Disclosure of Information

Disclosure of information under the Contract shall be managed in accordance with DEFCON 531 (SC1).

5 Transparency

a. Subject to Clause 5.b, but notwithstanding Clause 4, the Contractor understands that the Authority may publish the Transparency Information to the general public. The Contractor shall assist and cooperate with the Authority to enable the Authority to publish the Transparency Information.

b. Before publishing the Transparency Information to the general public in accordance with Clause 5.a, the Authority shall redact any information that would be exempt from disclosure if it was the subject of a request for information under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004, including the Contractor Commercially Sensitive Information.

c. The Authority may consult with the Contractor before redacting any information from the Transparency Information in accordance with Clause 5.b. The Contractor acknowledges and accepts that its representations on redactions during consultation may not be determinative and that the decision whether to redact information is a matter in which the Authority shall

exercise its own discretion, subject always to the provisions of the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.

d. For the avoidance of doubt, nothing in this Clause 5 shall affect the Contractor's rights at law.

6 Notices

a. A Notice served under the Contract shall be:

- (1) in writing in the English Language;
- (2) authenticated by signature or such other method as may be agreed between the Parties;
- (3) sent for the attention of the other Party's representative, and to the address set out in the purchase order;
- (4) marked with the number of the Contract; and
- (5) delivered by hand, prepaid post (or airmail), facsimile transmission or, if agreed in the purchase order, by electronic mail.

b. Notices shall be deemed to have been received:

- (1) if delivered by hand, on the day of delivery if it is the recipient's Business Day and otherwise on the first Business Day of the recipient immediately following the day of delivery;
- (2) if sent by prepaid post, on the fourth Business Day (or the tenth Business Day in the case of airmail) after the day of posting;
- (3) if sent by facsimile or electronic means:
 - (a) if transmitted between 09:00 and 17:00 hours on a Business Day (recipient's time) on completion of receipt by the sender of verification of the transmission from the receiving instrument; or
 - (b) if transmitted at any other time, at 09:00 on the first Business Day (recipient's time) following the completion of receipt by the sender of verification of transmission from the receiving instrument.

7 Intellectual Property

a. The Contractor shall as its sole liability keep the Authority fully indemnified against an infringement or alleged infringement of any intellectual property rights or a claim for Crown use of a UK patent or registered design caused by the use, manufacture or supply of the Contractor Deliverables.

b. The Authority shall promptly notify the Contractor of any infringement claim made against it relating to any Contractor Deliverable and, subject to any statutory obligation requiring the Authority to respond, shall permit the Contractor to have the right, at its sole discretion to assume, defend, settle or otherwise dispose of such claim. The Authority shall give the Contractor such assistance as it may reasonably require to dispose of the claim and will not make any statement which might be prejudicial to the settlement or defence of the claim

8 Supply of Contractor Deliverables and Quality Assurance

a. This Contract comes into effect on the Effective Date of Contract.

b. The Contractor shall supply the Contractor Deliverables to the Authority at the Firm Price stated in the Schedule to the purchase order.

c. The Contractor shall ensure that the Contractor Deliverables:

- (1) correspond with the specification;
- (2) are of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) except that fitness for purpose shall be limited to the goods being fit for the particular purpose held out expressly by or made known expressly to the Contractor and

in this respect the Authority relies on the Contractor's skill and judgement; and
(3) comply with any applicable Quality Assurance Requirements specified in the purchase order.

d. The Contractor shall apply for and obtain any licences required to import any material required for the performance of the Contract in the UK. The Authority shall provide to the Contractor reasonable assistance with regard to any relevant defence or security matter arising in the application for any such licence.

9 Supply of Data for Hazardous Contractor Deliverables

a. The Contractor shall establish if the Contractor Deliverables are, or contain, Dangerous Goods as defined in the Regulations set out in this Clause 9. Any that do shall be packaged for UK or worldwide shipment by all modes of transport in accordance with the following unless otherwise specified in the Schedule to the purchase order:

- (1) the Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO), IATA Dangerous Goods Regulations;
- (2) the International Maritime Dangerous Goods (IMDG) Code;
- (3) the Regulations Concerning the International Carriage of Dangerous Goods by Rail (RID); and
- (4) the European Agreement Concerning the International Carriage of Dangerous Goods by Road (ADR).

b. Certification markings, incorporating the UN logo, the package code and other prescribed information indicating that the package corresponds to the successfully designed type shall be marked on the packaging in accordance with the relevant regulation.

c. As soon as possible and in any event within the period specified in the purchase order (or if no such period is specified no later than one month prior to the delivery date), the Contractor shall provide to the Authority's representatives in the manner and format prescribed in the purchase order:

- (1) confirmation as to whether or not to the best of its knowledge any of the Contractor Deliverables are Hazardous Contractor Deliverables; and
- (2) for each Hazardous Contractor Deliverable, a Safety Data Sheet containing the data set out at Clause 9.d, which shall be updated by the Contractor during the period of the Contract if it becomes aware of any new relevant data.

d. Safety Data Sheets if required under Clause 9.c shall be provided in accordance with the REACH Regulations (EC) No 1907/2006 and any additional information required by the Health and Safety at Work etc. Act 1974 and shall contain:

- (1) information required by the Classification, Labelling and Packaging (CLP) Regulation 1272/2008 (whichever is applicable) or any replacement thereof; and
- (2) where the Hazardous Contractor Deliverable is, contains or embodies a radioactive substance as defined in the Ionising Radiation Regulations SI 1999/3232, details of the activity, substance and form (including any isotope); and
- (3) where the Hazardous Contractor Deliverable has magnetic properties, details of the magnetic flux density at a defined distance, for the condition in which it is packed.

e. The Contractor shall retain its own copies of the Safety Data Sheets provided to the Authority in accordance with Clause 9.d for 4 years after the end of the Contract and shall make them available to the Authority's representatives on request.

f. Nothing in this Clause 9 reduces or limits any statutory or legal obligation of the Authority or the Contractor.

g. Where delivery is made to the Defence Fulfilment Centre (DFC) and / or other Team Leidos location / building, the Contractor must comply with the Logistic Commodities and Services

10 Delivery / Collection

- a. The purchase order shall specify whether the Contractor Deliverables are to be delivered to the consignee by the Contractor or collected from the consignor by the Authority.
- b. Title and risk in the Contractor Deliverables shall pass from the Contractor to the Authority on delivery or on collection in accordance with Clause 10.a.
- c. The Authority shall be deemed to have accepted the Contractor Deliverables within a reasonable time after title and risk has passed to the Authority unless it has rejected the Contractor Deliverables within the same period.

11 Marking of Contractor Deliverables

- a. Each Contractor Deliverable shall be marked in accordance with the requirements specified in the purchase order. or if no such requirement is specified, the Contractor shall mark each Contractor Deliverable clearly and indelibly in accordance with the requirements of the relevant DEF-STAN 05-132 as specified in the contract or specification. In the absence of such requirements, the Contractor Deliverables shall be marked with the MOD stock reference, NATO Stock Number (NSN) or alternative reference number shown in the Contract.
- b. Any marking method used shall not have a detrimental effect on the strength, serviceability or corrosion resistance of the Contractor Deliverables.
- c. The marking shall include any serial numbers allocated to the Contractor Deliverable.
- d. Where because of its size or nature it is not possible to mark a Contractor Deliverable with the required particulars, the required information should be included on the package or carton in which the Contractor Deliverable is packed, in accordance with condition 12 (Packaging and Labelling (excluding Contractor Deliverables containing Ammunition or Explosives)).

12 Packaging and Labelling of Contractor Deliverables (Excluding Contractor Deliverables Containing Ammunition or Explosives)

The Contractor shall pack or have packed the Contractor Deliverables in accordance with any requirements specified in the purchase order and Def Stan 81-041 (Part 1 and Part 6).

13 Progress Monitoring, Meetings and Reports

The Contractor shall attend progress meetings and deliver reports at the frequency or times (if any) specified in the purchase order and shall ensure that its Contractor's representatives are suitably qualified to attend such meetings. Any additional meetings reasonably required shall be at no cost to the Authority.

14 Payment

- a. Payment for Contractor Deliverables will be made by electronic transfer and prior to submitting any claims for payment under clause 14b the Contractor will be required to register their details (Supplier on-boarding) on the Contracting, Purchasing and Finance (CP&F) electronic procurement tool.
- b. Where the Contractor submits an invoice to the Authority in accordance with clause 14a, the Authority will consider and verify that invoice in a timely fashion.
- c. The Authority shall pay the Contractor any sums due under such an invoice no later than a period of 30 days from the date on which the Authority has determined that the invoice is valid and undisputed.

- d. Where the Authority fails to comply with clause 14b and there is undue delay in considering and verifying the invoice, the invoice shall be regarded as valid and undisputed for the purpose of clause 14c after a reasonable time has passed.
- e. The approval for payment of a valid and undisputed invoice by the Authority shall not be construed as acceptance by the Authority of the performance of the Contractor's obligations nor as a waiver of its rights and remedies under this Contract.
- f. Without prejudice to any other right or remedy, the Authority reserves the right to set off any amount owing at any time from the Contractor to the Authority against any amount payable by the Authority to the Contractor under the Contract or under any other contract with the Authority, or with any other Government Department.

15 Dispute Resolution

- a. The Parties will attempt in good faith to resolve any dispute or claim arising out of or relating to the Contract through negotiations between the respective representatives of the Parties having authority to settle the matter, which attempts may include the use of any alternative dispute resolution procedure on which the Parties may agree.
- b. In the event that the dispute or claim is not resolved pursuant to Clause 15.a the dispute shall be referred to arbitration and shall be governed by the Arbitration Act 1996. For the purposes of the arbitration, the arbitrator shall have the power to make provisional awards pursuant to Section 39 of the Arbitration Act 1996.
- c. For the avoidance of doubt it is agreed between the Parties that the arbitration process and anything said, done or produced in or in relation to the arbitration process (including any awards) shall be confidential as between the Parties, except as may be lawfully required in judicial proceedings relating to the arbitration or otherwise. No report relating to anything said, done or produced in or in relation to the arbitration process may be made beyond the tribunal, the Parties, their legal representatives and any person necessary to the conduct of the proceedings, without the concurrence of all the Parties to the arbitration.

16 Termination for Corrupt Gifts

The Authority may terminate the Contract with immediate effect, without compensation, by giving written notice to the Contractor at any time after any of the following events:

- a. where the Authority becomes aware that the Contractor, its employees, agents or any sub-contractor (or anyone acting on its behalf or any of its or their employees):
 - (1) has offered, promised or given to any Crown servant any gift or financial or other advantage of any kind as an inducement or reward;
 - (2) commits or has committed any prohibited act or any offence under the Bribery Act 2010 with or without the knowledge or authority of the Contractor in relation to this Contract or any other contract with the Crown;
 - (3) has entered into this or any other contract with the Crown in connection with which commission has been paid or has been agreed to be paid by it or on its behalf, or to its knowledge, unless before the contract is made particulars of any such commission and of the terms and conditions of any such agreement for the payment thereof have been disclosed in writing to the Authority.
- b. In exercising its rights or remedies to terminate the Contract under Clause 16.a. the Authority shall:
 - (1) act in a reasonable and proportionate manner having regard to such matters as the gravity of, and the identity of the person committing the prohibited act;
 - (2) give due consideration, where appropriate, to action other than termination of the Contract, including (without being limited to):
 - (a) requiring the Contractor to procure the termination of a subcontract where the

prohibited act is that of a Subcontractor or anyone acting on its or their behalf;

(b) requiring the Contractor to procure the dismissal of an employee (whether its own or that of a Subcontractor or anyone acting on its behalf) where the prohibited act is that of such employee.

c. Where the Contract has been terminated under Clause 16.a.the Authority shall be entitled to purchase substitute Contractor Deliverables from elsewhere and recover from the Contractor any costs and expenses incurred by the Authority in obtaining the Contractor Deliverables in substitution from another supplier.

17 Material Breach

In addition to any other rights and remedies, the Authority shall have the right to terminate the Contract (in whole or in part) with immediate effect by giving written notice to the Contractor where the Contractor is in material breach of its obligations under the Contract. Where the Authority has terminated the Contract under Clause 17 the Authority shall have the right to claim such damages as may have been sustained as a result of the Contractor's material breach of the Contract.

18 Insolvency

The Authority shall have the right to terminate the contract if the Contractor is declared bankrupt or goes into liquidation or administration. This is without prejudice to any other rights or remedies under this Contract.

19 Limitation of Contractor's Liability

a. Subject to Clause 19.b the Contractor's liability to the Authority in connection with this Contract shall be limited to £5m (five million pounds).

b. Nothing in this Contract shall operate to limit or exclude the Contractor's liability:

(1) for:

a. any liquidated damages (to the extent expressly provided for under this Contract);

b. any amount(s) which the Authority is entitled to claim, retain or withhold in relation to the Contractor's failure to perform or under-perform its obligations under this Contract, including service credits or other deductions (to the extent expressly provided for under this Contract);

c. any interest payable in relation to the late payment of any sum due and payable by the Contractor to the Authority under this Contract;

d. any amount payable by the Contractor to the Authority in relation to TUPE or pensions to the extent expressly provided for under this Contract;

(2) under Condition 7 of the Contract (Intellectual Property), and DEFCONs 91 or 638 (SC1) where specified in the contract;

(3) for death or personal injury caused by the Contractor's negligence or the negligence of any of its personnel, agents, consultants or sub-contractors;

(4) for fraud, fraudulent misrepresentation, wilful misconduct or negligence;

(5) in relation to the termination of this Contract on the basis of abandonment by the Contractor;

(6) for breach of the terms implied by Section 2 of the Supply of Goods and Services Act 1982; or

(7) for any other liability which cannot be limited or excluded under general (including statute and common) law.

c. The rights of the Authority under this Contract are in addition to, and not exclusive of, any rights or remedies provided by general (including statute and common) law.

20 Project specific DEFCONs and DEFCON SC variants that apply to this Contract:

DEFCON 113

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

DEFCON 502 (SC1)

DEFCON 502 (SC1) (Edn. 12/16) - Specifications Changes

DEFCON 503 (SC1)

DEFCON 503 (SC1) (Edn. 12/16) - Formal Amendments To Contract

DEFCON 524A (SC1)

DEFCON 524A (SC1) (Edn. 08/20) – Counterfeit Materiel

DEFCON 531 (SC1)

DEFCON 531 (SC1) (Edn. 06/17) - Disclosure of Information

DEFCON 532A (SC1)

DEFCON 532A (SC1) (Edn. 08/20) – Protection of Personal Data (Where Personal Data is not being processed on behalf of the Authority)

DEFCON 534

DEFCON 534 (Edn. 06/17) - Subcontracting and Prompt Payment

DEFCON 537

DEFCON 537 (Edn. 06/02) - Rights of Third Parties

DEFCON 538

DEFCON 538 (Edn. 06/02) - Severability

DEFCON 566

DEFCON 566 (Edn. 12/18) - Change of Control of Contractor

DEFCON 608

DEFCON 608 (Edn. 10/14) - Access and Facilities to be Provided by the Contractor

DEFCON 658 (SC1)

DEFCON 658 (SC1) (Edn. 11/17) - Cyber

DEFCON 658 - Cyber Risk Profile - Low

Note: Further to DEFCON 658 the Cyber Risk Profile of the Contract is Low, as defined in Def Stan 05-138.

DEFCON 659A

DEFCON 659A (Edn. 02/17) - Security Measures

DEFCON 660

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

General Conditions

Third Party IPR Authorisation

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

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.

Intellectual Property Rights

DEFCON 090

DEFCON 090 (Edn. 11/06) - Copyright

DEFCON 091

DEFCON 091 (Edn. 11/06) - Intellectual Property Rights in Software

Note

Notes: [For the purposes of clause 3e the prescribed Nations are those within NATO & the EU and Australia & New Zealand.]

Ministry of Defence

**Design Rights and Patents
(Sub-Contractor's Agreement)**

THIS AGREEMENT is made the day of 2021

BETWEEN

whose registered office is at

(hereinafter called "the Sub-Contractor") of the one part and THE SECRETARY OF STATE FOR DEFENCE (hereinafter called "the Secretary of State") of the other part

WHEREAS:-

1. The Secretary of State has placed with Serbus Ltd (hereinafter called "the main contractor") a contract bearing the reference number 701405373 (hereinafter called "the main contract") for the design and development of AFANC Software the effect of which is that the costs of such design and development (including the cost referable to any sub-contracts hereinafter referred to) will be substantially borne by the Secretary of State.
2. The main contractor contemplates that the design development and supply of certain components needed for performance of the main contract will be undertaken by various third parties in pursuance of sub-contracts made between them and the main contractor.
3. With a view to securing to the Secretary of State rights as regards inventions designs and other related matters in respect of any sub-contract the main contract provides that the main contractor shall not enter into any sub-contract for any component aforesaid without obtaining the prior approval of the Secretary of State.
4. The main contractor has now informed the Secretary of State that for the purpose of performing the main contract he wishes to place with the Sub-Contractor a sub-contract for the design and development of the items described in the First Schedule (hereinafter called "the sub-contracted items") and has requested the Secretary of State's approval of the sub-contract accordingly.
5. The Secretary of State has signified his willingness to approve the sub-contract on

condition that in consideration of his giving approval the Sub-Contractor enters into a direct Agreement with the Secretary of State concerning the matters hereinafter appearing and the Sub-Contractor has signified his willingness to enter into such an agreement.

NOW THIS AGREEMENT made in consideration of the premises and of the rights and liabilities hereunder mutually granted and undertaken WITNESSETH AND IT IS HEREBY AGREED AND DECLARED as follows:-

1. The Sub-Contractor and the Secretary of State hereby agree to be bound to each other by the provisions of the Conditions as set out in the Second Schedule hereto.
2. No extension alteration or variation in the terms of the sub-contract between the main contractor and the sub-contractor and no other agreement between the main contractor and the sub-contractor relating to the work to be done under the sub-contract or any modification now or hereafter made thereto shall prejudice the operation of this Agreement which shall in all respects apply to the sub-contract as so extended altered varied supplemented or modified as if such extension alteration variation supplementation or modification had been originally provided for in the sub-contract and the expression "the sub-contract items" shall have effect accordingly.

IN WITNESS whereof the parties hereto have set their hands the day and years first before written

Signed on behalf of
the Sub-Contractor

(in capacity of)

Signed on behalf of
The Secretary of
State for Defence

THE FIRST SCHEDULE

The Sub-Contract Items are:-

THE SECOND SCHEDULE

The Clauses which apply to this Agreement are:-

To be
inserted as
appropriate

except that:

- (i) Where "the Contractor" is stated "the Sub-Contractor" shall be substituted.
- (ii) Where "the Authority" is stated "the Secretary of State" shall be substituted.
- (iii) Where "Contract" is stated "sub-contract" shall be substituted.
- (iv) Where "sub-contractor" is stated "further sub-contractor" shall be substituted.
- (v) Where "sub-contract" is stated "further sub-contract" shall be substituted.

DEFFORM 177 Narrative

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 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.

21 The special conditions that apply to this Contract are:

Quality Assurance Conditions

No Specific QMS

No Specific Quality Management System requirements are defined. This does not relieve the Supplier of providing conforming Products under this Contract.

Deliverables

Deliverables Note

This matrix is intended to provide an overview of the parties' contractual obligations to assist with contract management. It does not form part of the contract and should not be relied upon to aid interpretation of the contract. In the event of any conflict, inconsistency or discrepancy between this matrix and the contract, the terms of the contract shall take precedence.

Supplier Contractual Deliverables

Supplier Contractual Deliverables

Please refer to Schedule of Requirements in this ITT for delivery dates. Any delays to deliveries must be agreed with the Project lead.

Statement Relating to Good Standing

Dear Sir or Madam,

1. Thank you for your interest in the 701405373 AFANC Software.
2. You will be aware that the MOD expects its suppliers to maintain high standards of integrity and professionalism in their business dealings and adhere to the laws of the countries where they operate.
3. Regulation 57 of the Public Contracts Regulations 2015 applies to the current procurement. For the purposes of meeting its obligations under the Regulations, the MOD requires all potential suppliers to complete the Statement Relating to Good Standing. This requires a signature on behalf of the company to confirm that none of the matters referred to in Regulation 57(1) and (3) (being grounds for mandatory exclusion) or in Regulation 57(4) and (8) (being grounds for discretionary exclusion) apply to the supplier.
4. The MOD may disqualify any supplier from the procurement who has been convicted of any of the offences listed at Regulation 57(1) and (3) or where any of the situations in regulation 57(4) or (8) apply. If any of the matters referred to in the Statement apply to your company, you must provide additional information regarding the circumstances, including, if appropriate, any remedial action to prevent their recurrence or any payment of, or agreement to pay, outstanding taxes or social security contributions. This additional information, excluding any supporting documentation, shall not exceed five (5) A4 pages in total.
5. Any evidence of fraud, bribery, corruption or other dishonest irregularities in relation to this procurement procedure could result in your disqualification from the procedure.
6. The Statement Relating to Good Standing must be signed on behalf of the legal entity seeking to contract for this requirement at Director Level or equivalent. Please return the signed Statement Relating to Good Standing and any additional information to the Authority no later than fourteen (14) calendar days from the date of this letter.
7. May I once again thank you for the interest you have shown in this requirement.

Yours faithfully

Hannah Price

The Statement Relating To Good Standing

Contract Title: 701405373 AFANC Software.

Contract Number: 701405373

1. We confirm, to the best of our knowledge and belief, that Serbus Limited including its directors or any other person who has powers of representation, decision or control or is a member of the administrative, management or supervisory body of Serbus Limited has not been convicted of any of the following offences within the past 5 years:

a. conspiracy within the meaning of section 1 or 1A of the Criminal Law Act 1977 or article 9 or 9A of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 where that conspiracy relates to participation in a criminal organisation as defined in Article 2 of Council Framework Decision 2008/841/JHA;

b. corruption within the meaning of section 1(2) of the Public Bodies Corrupt Practices Act 1889 or section 1 of the Prevention of Corruption Act 1906;

c. common law offence of bribery;

d. bribery within the meaning of section 1,2 or 6 of the Bribery Act 2010; or section 113 of the Representation of the People Act 1983;

e. any of the following offences, where the offence relates to fraud affecting the European Communities financial interests as defined by Article 1 of the Convention on the protection of the financial interests of the European Communities:

(1) the common law offence of cheating the Revenue;

(2) the common law offence of conspiracy to defraud;

(3) fraud or theft within the meaning of the Theft Act 1968, the Theft Act (Northern Ireland) 1969, the Theft Act 1978 or the Theft (Northern Ireland) Order 1978;

(4) fraudulent trading within the meaning of section 458 of the Companies Act 1985, Article 451 of the Companies (Northern Ireland) Order 1986 or section 933 of the Companies Act 2006;

(5) fraudulent evasion within the meaning of section 170 of the Customs and Excise Management Act 1979 or section 72 of the Value Added Tax Act 1994;

(6) an offence in connection with taxation in the European Union within the meaning of section 71 of the Criminal Justice Act 1993;

(7) destroying, defacing or concealing of documents or procuring the extension of a valuable security within the meaning of section 20 of the Theft Act 1968 or section 19 of the Theft Act (Northern Ireland) 1969;

(8) fraud within the meaning of section 2,3 or 4 of the Fraud Act 2006; or

(9) the possession of articles for use in frauds within the meaning of section 6 of the Fraud Act 2006, or making, adapting, supplying or offering to supply articles for use in frauds within the meaning of section 7 of that Act;

f. any offence listed:

(1) in section 41 of the Counter Terrorism Act 2008; or

(2) in Schedule 2 to that Act where the court has determined that there is a terrorist connection;

g. any offence under sections 44 to 46 of the Serious Crime Act 2007 which relates to an offence covered by (f) above;

h. money laundering within the meaning of section 340(11) and 415 of the Proceeds of Crime Act 2002;

i. an offence in connection with the proceeds of criminal conduct within the meaning of section 93A, 93B, or 93C of the Criminal Justice Act 1988 or article 45, 46 or 47 of the Proceeds of Crime (Northern Ireland) Order 1996;

j. an offence under section 4 of the Asylum and Immigration (Treatment of Claimants etc) Act 2004;

k. an offence under section 59A of the Sexual Offences Act 2003;

l. an offence under section 71 of the Coroners and Justice Act 2009;

m. an offence in connection with the proceeds of drug trafficking within the meaning of section 49, 50 or 51 of the Drug Trafficking Act 1994; or

n. an offence under section 2 or 4 of the Modern Slavery Act 2015;

o. any other offence within the meaning of Article 57(1) of Public Contracts Directive –

(1) as defined by the law of any jurisdiction outside England and Wales and Northern Ireland: or

(2) created in the law of England and Wales or Northern Ireland after the day on which these Regulations were made;

p. any breach of its obligations relating to the payment of taxes or social security contributions where the breach has been established by a judicial or administrative decision having final and binding effect in accordance with the legal provisions of the country in which it is established or with those of any jurisdictions of the United Kingdom.

2. Serbus Limited further confirms to the best of our knowledge and belief that within the last 3 years it:


a. has fulfilled its obligations relating to the payment of taxes and social security contributions of the country in which it is established or with those of any jurisdictions of the United Kingdom;

b. is not bankrupt or is not the subject of insolvency or winding-up proceedings, where its assets are being administered by a liquidator or by the court, where it is in an agreement with creditors, where its business activities are suspended or it is in any analogous situation arising from a similar procedure under the laws and regulations of any State;

c. has not committed an act of grave professional misconduct, which renders its integrity questionable;

- d. has not entered into agreements with other suppliers aimed at distorting competition;
- e. Is not subject to a conflict of interest within the meaning of regulation 24;
- f. has not been involved in the preparation of this procurement procedure which would result in distortion of competition which could not be remedied by other, less intrusive, measures other than exclusion from this procedure;
- g. has not had a contract terminated, damages or other comparable sanctions taken as a result of significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract, or a prior concession contract as defined by the Concession Contracts Regulations 2016;
- h. is not guilty of serious misrepresentation in providing any information required by this statement.
- i. has not unduly influenced the decision-making process of the Authority or obtained confidential information that may confer upon it undue advantages in the procurement procedure;
- j. in relation to procedures for the award of a public services contract, is licensed in the relevant State in which he is established or is a member of an organisation in that relevant State where the law of that relevant State prohibits the provision of the services to be provided under the contract by a person who is not so licensed or who is not such a member;
- k. has fulfilled its obligations in the fields of environmental, social and labour law established by EU law, national law, collective agreements or by the international environmental, social and labour law provisions listed in the Public Contracts Directive as amended from time to time (as listed in PPN 8/16 Annex C).

I confirm that to the best of my knowledge my declaration is correct. I understand that the contracting authority will use the information in the selection process to assess my organisation's suitability to be invited to participate further in this procurement, and I am signing on behalf of my organisation. I understand that the Authority may reject my submission if there is a failure to provide a declaration or if I provide false or misleading information.

Organisation's name	SERBUS LIMITED
Signed (By Director of the Organisation or equivalent)	 (Signed Electronically)
Name	RUSSELL D TICEHURST
Position	DIRECTOR
Date	18 MARCH 2021

DEFFORM 111

DEFFORM 111

Appendix - Addresses and Other Information

1. Commercial Officer

Name: Hannah Price

Address: Coltman House, DMS Whittington, Lichfield, Staffordshire, WS14 9PY

Email: hannah.price107@mod.gov.uk ☎☎ 03067939211

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

Name: Chris Groves

Address Building 410, Northwood HQ, Middlesex, HA6 3HP

Email: chris.groves984@mod.gov.uk ☎☎ 01923 955707

3. Packaging Design Authority Organisation & point of contact:

Refer to Project Manager

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

☎☎ 01923 955707

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

Branch/Name: 01923 955707

☎☎ Joint Warfare

(b) U.I.N. D0625J

5. Drawings/Specifications are available from N/A

6. Intentionally Blank

7. Quality Assurance Representative: Refer to Project Manager

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].

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

9. Consignment Instructions The items are to be consigned as follows: 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)

www.freightcollection.com

11. The Invoice Paying Authority

Ministry of Defence, DBS Finance, Walker House, Exchange Flags Liverpool, L2 3YL

☎☎ 0151-242-2000 Fax: 0151-242-2809

Website is:

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

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

*** 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