

o [REDACTED] indicates where information has been redacted under exemptions / exceptions in the Freedom Of Information Act 2000 and / or Environmental Information Regulations 2004.



Department
for Environment
Food & Rural Affairs

The address for notices of the Parties are:

Customer

[REDACTED]
Senior Marine Officer
Fisheries Monitoring Centre
Marine Management Organisation
Lancaster House, Hampshire Court
Newcastle upon Tyne
NE4 7YH

Attention: [REDACTED]

Contractor

[REDACTED]
Directflight Limited
Trent House
University Way
Cranfield Technology Park
Cranfield, Beds
MK43 0AN

Attention: [REDACTED]
Email: [REDACTED]

The following persons are Key Personnel for the purposes of the Agreement:

Name

Title

[REDACTED]

Contract Manager

The Customer may require the Contractor to ensure that any person employed in the provision of the Services has undertaken a Disclosure and Barring Service check. The Contractor shall ensure that no person who discloses that he/she has a conviction that is relevant to the nature of the Services, relevant to the work of the Customer, or is of a type otherwise advised by the Customer (each such conviction a "**Relevant Conviction**"), or is found by the Contractor to have a Relevant Conviction (whether as a result of a police check, a Disclosure and Barring Service check or otherwise) is employed or engaged in the provision of any part of the Services.

Payment

All invoices should be sent, quoting a valid purchase order number (PO Number), to: SSCL, Lion House, Willowburn Trading Estate, Alnwick, Northumberland, NE66 2PF. Within ten (10) Working Days of receipt of your countersigned copy of this letter, we will send you a unique PO Number. You must be in receipt of a valid PO Number before submitting an invoice.

To avoid delay in payment it is important that the invoice is compliant and that it includes a valid PO Number, PO Number item number (if applicable) and the details (name and telephone number) of your customer contact (i.e. Contract Manager). Non-compliant invoices will be sent back to you, which may lead to a delay in payment. If you have a query regarding an outstanding payment please contact our



Department
for Environment
Food & Rural Affairs

COMMERCIAL IN CONFIDENCE

██████████
Directflight Limited
Trent House
University Way
Cranfield Technology Park
Cranfield, Beds
MK43 0AN

Our Ref: 21794
Date: 03 March 2015

FTAO ██████████

Dear ██████████

Award of contract for Aircraft Chartering – February and March 2015

Following your proposal for the supply of the Services to the Department for Environment, Food and Rural Affairs (**Customer**), we are pleased to award this contract to you.

This letter (**Award Letter**) and its schedules set out the terms of the contract between the Customer and Directflight Limited (**Contractor**) for the provision of the Services.

Unless the context otherwise requires, capitalised expressions used in this Award Letter have the same meanings as in the terms and conditions of contract attached to this Award Letter (**Conditions**).

If there is any conflict between this Award Letter and the Conditions, this Award Letter shall prevail. Please do not attach any Contractor terms and conditions to this Agreement as they will not be accepted by the Customer and may delay the process.

For the purposes of the Agreement, the Customer and the Contractor agree as follows:

The charges for the Services shall be as set out in Schedule 2.

The specification of the Services to be supplied is as set out in Schedule 1.

The Term shall commence on 20th February and the Expiry Date shall be 31st March, although this is subject to extension with the agreement of both Parties.



Department
for Environment
Food & Rural Affairs

Accounts Payable section either by email to ssd.enquiries@defra.gsi.gov.uk or by telephone **0845 603 7262** between 09:00-17:00 Monday to Friday.

Liaison

For general liaison your contact will continue to be [REDACTED]
[REDACTED]

We thank you for your co-operation to date, and look forward to forging a successful working relationship resulting in a smooth and successful delivery of the Services. Please confirm your acceptance of the award of this contract by signing and returning the enclosed copy of this letter to [REDACTED] at the above address within 5 days from the date of this letter. No other form of acknowledgement will be accepted. Please remember to quote the reference number above in any future communications relating to this contract.

Yours faithfully,

[REDACTED]
Category Manager
Department for Environment, Food and Rural Affairs
Procurement & Commercial Function
Room 401, Foss House, Kings Pool
1-2 Peasholme Green
York
YO1 7PX
[REDACTED]

e-mail: [REDACTED]



Department
for Environment
Food & Rural Affairs

We accept the terms set out in this Award Letter and the Conditions.

SIGNED for and on behalf of Directflight Limited

Signature:

Name (block capitals)

Position:

MANAGING DIRECTOR

Date:

27th MARCH 2015

SIGNED for and on behalf of the Secretary of State for Environment, Food and Rural Affairs

Signature:

Name (block capitals)

Position:

HEAD of TECHNICAL GOODS & SERVICES Team
DATA NETWORK PROCUREMENT

Date:

30/03/15



Department
for Environment
Food & Rural Affairs

www.gov.uk/defra

Contract (Short Form – Services)

Contract for Aircraft Chartering – February and March 2015

Contract Reference 21794

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Terms and Conditions of Contract for Services

1 Interpretation

1.1 In these terms and conditions:

“Agreement”	means the contract between (i) the Secretary of State for Environment, Food and Rural Affairs and (ii) the Contractor constituted by the Contractor’s countersignature of the Award Letter;
“Award Letter”	means the letter from the Customer to the Contractor containing these terms and conditions;
“Central Government Body”	means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics: Government Department; Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal); Non-Ministerial Department; or Executive Agency;
“Charges”	means the charges for the Services as specified in the Award Letter;
“Confidential Information”	means all information, whether written or oral (however recorded), provided by the disclosing Party to the receiving Party and which (i) is known by the receiving Party to be confidential; (ii) is marked as or stated to be confidential; or (iii) ought reasonably to be considered by the receiving Party to be confidential;
“Customer”	means the person named as Customer in the Award Letter;
“DPA”	means the Data Protection Act 1998;
“Expiry Date”	means the date for expiry of the Agreement as set out in the Award

Letter;

- “FOIA” means the Freedom of Information Act 2000;
- “Information” has the meaning given under section 84 of the FOIA;
- “Key Personnel” means any persons specified as such in the Award Letter or otherwise notified as such by the Customer to the Contractor in writing;
- “Party” means the Contractor or the Customer (as appropriate) and “Parties” shall mean both of them;
- “Personal Data” means personal data (as defined in the DPA) which is processed by the Contractor or any Staff on behalf of the Customer pursuant to or in connection with this Agreement;
- “Purchase Order Number” means the Customer’s unique number relating to the supply of the Services;
- “Request for Information” has the meaning set out in the FOIA or the Environmental Information Regulations 2004 as relevant (where the meaning set out for the term “request” shall apply);
- “Services” means the services to be supplied by the Contractor to the Customer under the Agreement;
- “Specification” means the specification for the Services (including as to quantity, description and quality) as specified in the Award Letter;
- “Staff” means all directors, officers, employees, agents, consultants and contractors of the Contractor and/or of any sub-contractor of the Contractor engaged in the performance of the Contractor’s obligations under the Agreement;
- “Staff Vetting Procedures” means vetting procedures that accord with good industry practice or, where requested by the Customer, the Customer’s procedures for the vetting of personnel as provided to the Contractor from time to time;
- “Contractor” means the person named as Contractor in the Award Letter;
- “Term” means the period from the start date of the Agreement set out in the Award Letter to the Expiry Date as such period may be extended in

accordance with clause 4.2 or terminated in accordance with the terms and conditions of the Agreement;

“VAT” means value added tax in accordance with the provisions of the Value Added Tax Act 1994; and

“Working Day” means a day (other than a Saturday or Sunday) on which banks are open for business in the City of London.

1.2 In these terms and conditions, unless the context otherwise requires:

1.2.1 references to numbered clauses are references to the relevant clause in these terms and conditions;

1.2.2 any obligation on any Party not to do or omit to do anything shall include an obligation not to allow that thing to be done or omitted to be done;

1.2.3 the headings to the clauses of these terms and conditions are for information only and do not affect the interpretation of the Agreement;

1.2.4 any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment; and

1.2.5 the word ‘including’ shall be understood as meaning ‘including without limitation’.

2 Basis of Agreement

2.1 The Award Letter constitutes an offer by the Customer to purchase the Services subject to and in accordance with the terms and conditions of the Agreement.

2.2 The offer comprised in the Award Letter shall be deemed to be accepted by the Contractor on receipt by the Customer of a copy of the Award Letter countersigned by the Contractor within [7] days of the date of the Award Letter.

3 Supply of Services

3.1 In consideration of the Customer’s agreement to pay the Charges, the Contractor shall supply the Services to the Customer for the Term subject to and in accordance with the terms and conditions of the Agreement.

3.2 In supplying the Services, the Contractor shall:

- 3.2.1 co-operate with the Customer in all matters relating to the Services and comply with all the Customer's instructions;
 - 3.2.2 perform the Services with all reasonable care, skill and diligence in accordance with good industry practice in the Contractor's industry, profession or trade;
 - 3.2.3 use Staff who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Contractor's obligations are fulfilled in accordance with the Agreement;
 - 3.2.4 ensure that the Services shall conform with all descriptions and specifications set out in the Specification;
 - 3.2.5 comply with all applicable laws; and
 - 3.2.6 provide all equipment, tools and vehicles and other items as are required to provide the Services.
- 3.3 The Customer may by written notice to the Contractor at any time request a variation to the scope of the Services. If the Contractor agrees to any variation to the scope of the Services, the Charges shall be subject to fair and reasonable adjustment to be agreed in writing between the Customer and the Contractor.

4 Term

- 4.1 The Agreement shall take effect on the date specified in Award Letter and shall expire on the Expiry Date, unless it is otherwise extended in accordance with clause 4.2 or terminated in accordance with the terms and conditions of the Agreement.
- 4.2 If the agreed Services have not been completed in accordance with the Specification by the Expiry Date, the Customer may (in addition to any other rights or remedies available to it) agree (in its sole discretion) to extend the Agreement for a period of up to six (6) months so that the Services can be completed by giving notice in writing to the Contractor prior to the Expiry Date. The terms and conditions of the Agreement shall apply throughout any such extended period.

5 Charges, Payment and Recovery of Sums Due

- 5.1 The Charges for the Services shall be as set out in the Award Letter and shall be the full and exclusive remuneration of the Contractor in respect of the supply of the Services. Unless otherwise agreed in writing by the Customer, the Charges shall include every cost and expense of the

Contractor directly or indirectly incurred in connection with the performance of the Services.

- 5.2 The Contractor shall invoice the Customer as specified in the Agreement. Each invoice shall include such supporting information required by the Customer to verify the accuracy of the invoice, including the relevant Purchase Order Number and a breakdown of the Services supplied in the invoice period.
- 5.3 In consideration of the supply of the Services by the Contractor, the Customer shall pay the Contractor the invoiced amounts no later than 30 days after receipt of a valid invoice which includes a valid Purchase Order Number. The Customer may, without prejudice to any other rights and remedies under the Agreement, withhold or reduce payments in the event of unsatisfactory performance.
- 5.4 All amounts stated are exclusive of VAT which shall be charged at the prevailing rate. The Customer shall, following the receipt of a valid VAT invoice, pay to the Contractor a sum equal to the VAT chargeable in respect of the Services.
- 5.5 If there is a dispute between the Parties as to the amount invoiced, the Customer shall pay the undisputed amount. The Contractor shall not suspend the supply of the Services unless the Contractor is entitled to terminate the Agreement for a failure to pay undisputed sums in accordance with clause 16.4. Any disputed amounts shall be resolved through the dispute resolution procedure detailed in clause 19.
- 5.6 If a payment of an undisputed amount is not made by the Customer by the due date, then the Customer shall pay the Contractor interest at the interest rate specified in the Late Payment of Commercial Debts (Interest) Act 1998.
- 5.7 If any sum of money is recoverable from or payable by the Contractor under the Agreement (including any sum which the Contractor is liable to pay to the Customer in respect of any breach of the Agreement), that sum may be deducted unilaterally by the Customer from any sum then due, or which may come due, to the Contractor under the Agreement or under any other agreement or contract with the Customer. The Contractor shall not be entitled to assert any credit, set-off or counterclaim against the Customer in order to justify withholding payment of any such amount in whole or in part.

6 Premises and equipment

- 6.1 If necessary, the Customer shall provide the Contractor with reasonable access at reasonable times to its premises for the purpose of supplying the Services. All equipment, tools and vehicles brought onto the Customer's premises by the Contractor or the Staff shall be at the Contractor's risk.

- 6.2 If the Contractor supplies all or any of the Services at or from the Customer's premises, on completion of the Services or termination or expiry of the Agreement (whichever is the earlier) the Contractor shall vacate the Customer's premises, remove the Contractor's plant, equipment and unused materials and all rubbish arising out of the provision of the Services and leave the Customer's premises in a clean, safe and tidy condition. The Contractor shall be solely responsible for making good any damage to the Customer's premises or any objects contained on the Customer's premises which is caused by the Contractor or any Staff, other than fair wear and tear.
- 6.3 If the Contractor supplies all or any of the Services at or from its premises or the premises of a third party, the Customer may, during normal business hours and on reasonable notice, inspect and examine the manner in which the relevant Services are supplied at or from the relevant premises.
- 6.4 The Customer shall be responsible for maintaining the security of its premises in accordance with its standard security requirements. While on the Customer's premises the Contractor shall, and shall procure that all Staff shall, comply with all the Customer's security requirements.
- 6.5 Where all or any of the Services are supplied from the Contractor's premises, the Contractor shall, at its own cost, comply with all security requirements specified by the Customer in writing.
- 6.6 Without prejudice to clause 3.2.6, any equipment provided by the Customer for the purposes of the Agreement shall remain the property of the Customer and shall be used by the Contractor and the Staff only for the purpose of carrying out the Agreement. Such equipment shall be returned promptly to the Customer on expiry or termination of the Agreement.
- 6.7 The Contractor shall reimburse the Customer for any loss or damage to the equipment (other than deterioration resulting from normal and proper use) caused by the Contractor or any Staff. Equipment supplied by the Customer shall be deemed to be in a good condition when received by the Contractor or relevant Staff unless the Customer is notified otherwise in writing within 5 Working Days.

7 Staff and Key Personnel

- 7.1 If the Customer reasonably believes that any of the Staff are unsuitable to undertake work in respect of the Agreement, it may, by giving written notice to the Contractor:
- 7.1.1 refuse admission to the relevant person(s) to the Customer's premises;

7.1.2 direct the Contractor to end the involvement in the provision of the Services of the relevant person(s); and/or

7.1.3 require that the Contractor replace any person removed under this clause with another suitably qualified person and procure that any security pass issued by the Customer to the person removed is surrendered,

and the Contractor shall comply with any such notice.

7.2 The Contractor shall:

7.2.1 ensure that all Staff are vetted in accordance with the Staff Vetting Procedures;

7.2.2 if requested, provide the Customer with a list of the names and addresses (and any other relevant information) of all persons who may require admission to the Customer's premises in connection with the Agreement; and

7.2.3 procure that all Staff comply with any rules, regulations and requirements reasonably specified by the Customer.

7.3 Any Key Personnel shall not be released from supplying the Services without the agreement of the Customer, except by reason of long-term sickness, maternity leave, paternity leave, termination of employment or other extenuating circumstances.

7.4 Any replacements to the Key Personnel shall be subject to the prior written agreement of the Customer (not to be unreasonably withheld). Such replacements shall be of at least equal status or of equivalent experience and skills to the Key Personnel being replaced and be suitable for the responsibilities of that person in relation to the Services.

8 Assignment and sub-contracting

8.1 The Contractor shall not without the written consent of the Customer assign, sub-contract, novate or in any way dispose of the benefit and/ or the burden of the Agreement or any part of the Agreement. The Customer may, in the granting of such consent, provide for additional terms and conditions relating to such assignment, sub-contract, novation or disposal. The Contractor shall be responsible for the acts and omissions of its sub-contractors as though those acts and omissions were its own.

8.2 If the Contractor enters into a sub-contract for the purpose of performing its obligations under the Agreement, it shall ensure that a provision is included in such sub-contract which requires payment to be made of all sums due by

the Contractor to the sub-contractor within a specified period not exceeding 30 days from the receipt of a valid invoice.

- 8.3 If the Customer has consented to the placing of sub-contracts, the Contractor shall, at the request of the Customer, send copies of each sub-contract, to the Customer as soon as is reasonably practicable.
- 8.4 The Customer may assign, novate, or otherwise dispose of its rights and obligations under the Agreement without the consent of the Contractor provided that such assignment, novation or disposal shall not increase the burden of the Contractor's obligations under the Agreement.

9 Intellectual Property Rights

- 9.1 All intellectual property rights in any materials provided by the Customer to the Contractor for the purposes of this Agreement shall remain the property of the Customer but the Customer hereby grants the Contractor a royalty-free, non-exclusive and non-transferable licence to use such materials as required until termination or expiry of the Agreement for the sole purpose of enabling the Contractor to perform its obligations under the Agreement.
- 9.2 All intellectual property rights in any materials created or developed by the Contractor pursuant to the Agreement or arising as a result of the provision of the Services shall vest in the Contractor. If, and to the extent, that any intellectual property rights in such materials vest in the Customer by operation of law, the Customer hereby assigns to the Contractor by way of a present assignment of future rights that shall take place immediately on the coming into existence of any such intellectual property rights all its intellectual property rights in such materials (with full title guarantee and free from all third party rights).
- 9.3 The Contractor hereby grants the Customer:
 - 9.3.1 a perpetual, royalty-free, irrevocable, non-exclusive licence (with a right to sub-license) to use all intellectual property rights in the materials created or developed pursuant to the Agreement and any intellectual property rights arising as a result of the provision of the Services; and
 - 9.3.2 a perpetual, royalty-free, irrevocable and non-exclusive licence (with a right to sub-license only to a Central Government Body) to use:
 - a) any intellectual property rights vested in or licensed to the Contractor on the date of the Agreement; and

b) any intellectual property rights created during the Term but which are neither created or developed pursuant to the Agreement nor arise as a result of the provision of the Services,

(including any modifications to or derivative versions of any such intellectual property rights), but only to the extent that the same relate to the Services, and which the Customer reasonably requires in order to exercise its rights and take the benefit of the Agreement including the Services provided and conditional upon there being no transfer or divulgence of any materials comprising any such intellectual property rights, in any circumstances, to any third party who is not a Central Government Body.

9.4 The Contractor shall indemnify, and keep indemnified, the Customer in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest, penalties, and reasonable legal and other professional fees awarded against or incurred or paid by the Customer as a result of or in connection with any claim made against the Customer for actual or alleged infringement of a third party's intellectual property arising out of, or in connection with, the supply or use of the Services, to the extent that the claim is attributable to the acts or omission of the Contractor or any Staff.

10 Governance and Records

10.1 The Contractor shall:

10.1.1 attend progress meetings with the Customer at the frequency and times specified by the Customer and shall ensure that its representatives are suitably qualified to attend such meetings; and

10.1.2 submit progress reports to the Customer at the times and in the format specified by the Customer.

10.2 The Contractor shall keep and maintain until 6 years after the end of the Agreement, or as long a period as may be agreed between the Parties, full and accurate records of the Agreement including the Services supplied under it and all payments made by the Customer. The Contractor shall on request afford the Customer or the Customer's representatives such access to those records as may be reasonably requested by the Customer in connection with the Agreement.

11 Confidentiality, Transparency and Publicity

11.1 Subject to clause 11.2, each Party shall:

11.1.1 treat all Confidential Information it receives as confidential, safeguard it accordingly and not disclose it to any other person without the prior written permission of the disclosing Party; and

11.1.2 not use or exploit the disclosing Party's Confidential Information in any way except for the purposes anticipated under the Agreement.

11.2 Notwithstanding clause 11.1, a Party may disclose Confidential Information which it receives from the other Party:

11.2.1 where disclosure is required by applicable law or by a court of competent jurisdiction;

11.2.2 to its auditors or for the purposes of regulatory requirements;

11.2.3 on a confidential basis, to its professional advisers;

11.2.4 to the Serious Fraud Office where the Party has reasonable grounds to believe that the other Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010;

11.2.5 where the receiving Party is the Contractor, to the Staff on a need to know basis to enable performance of the Contractor's obligations under the Agreement provided that the Contractor shall procure that any Staff to whom it discloses Confidential Information pursuant to this clause 11.2.5 shall observe the Contractor's confidentiality obligations under the Agreement; and

11.2.6 where the receiving Party is the Customer:

- a) on a confidential basis to the employees, agents, consultants and contractors of the Customer;
- b) on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any company to which the Customer transfers or proposes to transfer all or any part of its business;
- c) to the extent that the Customer (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions; or
- d) in accordance with clause 12.

and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Customer under this clause 11.

11.3 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of the Agreement is not Confidential Information and the Contractor hereby

gives its consent for the Customer to publish this Agreement in its entirety to the general public (but with any information that is exempt from disclosure in accordance with the FOIA redacted) including any changes to the Agreement agreed from time to time. The Customer may consult with the Contractor to inform its decision regarding any redactions but shall have the final decision in its absolute discretion whether any of the content of the Agreement is exempt from disclosure in accordance with the provisions of the FOIA.

- 11.4 The Contractor shall not, and shall take reasonable steps to ensure that the Staff shall not, make any press announcement or publicise the Agreement or any part of the Agreement in any way, except with the prior written consent of the Customer.

12 Freedom of Information

- 12.1 The Contractor acknowledges that the Customer is subject to the requirements of the FOIA and the Environmental Information Regulations 2004 and shall:

12.1.1 provide all necessary assistance and cooperation as reasonably requested by the Customer to enable the Customer to comply with its obligations under the FOIA and the Environmental Information Regulations 2004;

12.1.2 transfer to the Customer all Requests for Information relating to this Agreement that it receives as soon as practicable and in any event within 2 Working Days of receipt;

12.1.3 provide the Customer with a copy of all Information belonging to the Customer requested in the Request for Information which is in its possession or control in the form that the Customer requires within 5 Working Days (or such other period as the Customer may reasonably specify) of the Customer's request for such Information; and

12.1.4 not respond directly to a Request for Information unless authorised in writing to do so by the Customer.

- 12.2 The Contractor acknowledges that the Customer may be required under the FOIA and the Environmental Information Regulations 2004 to disclose Information concerning the Contractor or the Services (including commercially sensitive information) without consulting or obtaining consent from the Contractor. In these circumstances the Customer shall, in accordance with any relevant guidance issued under the FOIA, take reasonable steps, where appropriate, to give the Contractor advance notice, or failing that, to draw the disclosure to the Contractor's attention after any such disclosure.

- 12.3 Notwithstanding any other provision in the Agreement, the Customer shall be responsible for determining in its absolute discretion whether any Information relating to the Contractor or the Services is exempt from disclosure in accordance with the FOIA and/or the Environmental Information Regulations 2004.

13 Protection of Personal Data and Security of Data

- 13.1 The Contractor shall, and shall procure that all Staff shall, comply with any notification requirements under the DPA and both Parties shall duly observe all their obligations under the DPA which arise in connection with the Agreement.
- 13.2 Notwithstanding the general obligation in clause 13.1, where the Contractor is processing Personal Data for the Customer as a data processor (as defined by the DPA) the Contractor shall:
- 13.2.1 ensure that it has in place appropriate technical and organisational measures to ensure the security of the Personal Data (and to guard against unauthorised or unlawful processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data), as required under the Seventh Data Protection Principle in Schedule 1 to the DPA;
 - 13.2.2 provide the Customer with such information as the Customer may reasonably request to satisfy itself that the Contractor is complying with its obligations under the DPA;
 - 13.2.3 promptly notify the Customer of:
 - a) any breach of the security requirements of the Customer as referred to in clause 13.3; and
 - b) any request for personal data; and
 - 13.2.4 ensure that it does not knowingly or negligently do or omit to do anything which places the Customer in breach of the Customer's obligations under the DPA.
- 13.3 When handling Customer data (whether or not Personal Data), the Contractor shall ensure the security of the data is maintained in line with the security requirements of the Customer as notified to the Contractor from time to time.

14 Liability

- 14.1 The Contractor shall not be responsible for any injury, loss, damage, cost or expense suffered by the Customer if and to the extent that it is caused by the negligence or wilful misconduct of the Customer or by breach by the Customer of its obligations under the Agreement.
- 14.2 Subject always to clauses 14.3 and 14.4:
- 14.2.1 the aggregate liability of the Contractor in respect of all defaults, claims, losses or damages howsoever caused, whether arising from breach of the Agreement, the supply or failure to supply of the Services, misrepresentation (whether tortious or statutory), tort (including negligence), breach of statutory duty or otherwise shall in no event exceed a sum equal to 125% of the Charges paid or payable to the Contractor; and
- 14.2.2 except in the case of claims arising under clauses 0 and 18.3, in no event shall the Contractor be liable to the Customer for any:
- a) loss of profits;
 - b) loss of business;
 - c) loss of revenue;
 - d) loss of or damage to goodwill;
 - e) loss of savings (whether anticipated or otherwise); and/or
 - f) any indirect, special or consequential loss or damage.
- 14.3 Nothing in the Agreement shall be construed to limit or exclude either Party's liability for:
- 14.3.1 death or personal injury caused by its negligence or that of its Staff;
- 14.3.2 fraud or fraudulent misrepresentation by it or that of its Staff; or
- 14.3.3 any other matter which, by law, may not be excluded or limited.
- 14.4 The Contractor's liability under the indemnity in clause 0 and 18.3 shall be unlimited.

15 Force Majeure

- 15.1 Neither Party shall have any liability under or be deemed to be in breach of the Agreement for any delays or failures in performance of the Agreement which result from circumstances beyond the reasonable control of the

Contractor. Each Party shall promptly notify the other Party in writing when such circumstances cause a delay or failure in performance and when they cease to do so. If such circumstances continue for a continuous period of more than two months, either Party may terminate the Agreement by written notice to the other Party.

16 Termination

- 16.1 The Customer may terminate the Agreement at any time by notice in writing to the Contractor to take effect on any date falling at least 1 month (or, if the Agreement is less than 3 months in duration, at least 10 Working Days) later than the date of service of the relevant notice.
- 16.2 Without prejudice to any other right or remedy it might have, the Customer may terminate the Agreement by written notice to the Contractor with immediate effect if the Contractor:
 - 16.2.1 (without prejudice to clause 16.2.5), is in material breach of any obligation under the Agreement which is not capable of remedy;
 - 16.2.2 repeatedly breaches any of the terms and conditions of the Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms and conditions of the Agreement;
 - 16.2.3 is in material breach of any obligation which is capable of remedy, and that breach is not remedied within 30 days of the Contractor receiving notice specifying the breach and requiring it to be remedied;
 - 16.2.4 undergoes a change of control within the meaning of section 416 of the Income and Corporation Taxes Act 1988;
 - 16.2.5 breaches any of the provisions of clauses 7.2, 11, 12, 13 and 17; or
 - 16.2.6 becomes insolvent, or if an order is made or a resolution is passed for the winding up of the Contractor (other than voluntarily for the purpose of solvent amalgamation or reconstruction), or if an administrator or administrative receiver is appointed in respect of the whole or any part of the Contractor's assets or business, or if the Contractor makes any composition with its creditors or takes or suffers any similar or analogous action (to any of the actions detailed in this clause 16.2.6) in consequence of debt in any jurisdiction.
- 16.3 The Contractor shall notify the Customer as soon as practicable of any change of control as referred to in clause 16.2.4 or any potential such change of control.

- 16.4 The Contractor may terminate the Agreement by written notice to the Customer if the Customer has not paid any undisputed amounts within 30 days of them falling due.
- 16.5 Termination or expiry of the Agreement shall be without prejudice to the rights of either Party accrued prior to termination or expiry and shall not affect the continuing rights of the Parties under this clause and clauses 2, 3.2, 6.1, 6.2, 6.6, 6.7, 7, 9, 10.2, 11, 12, 13, 14, 16.6, 17.4, 18.3, 19 and 20.7 or any other provision of the Agreement that either expressly or by implication has effect after termination.
- 16.6 Upon termination or expiry of the Agreement, the Contractor shall:
- 16.6.1 deliberately blank
 - 16.6.2 return all requested documents, information and data to the Customer as soon as reasonably practicable.

17 Compliance

- 17.1 The Contractor shall promptly notify the Customer of any health and safety hazards which may arise in connection with the performance of its obligations under the Agreement. The Customer shall promptly notify the Contractor of any health and safety hazards which may exist or arise at the Customer's premises and which may affect the Contractor in the performance of its obligations under the Agreement.
- 17.2 The Contractor shall:
- 17.2.1 comply with all the Customer's health and safety measures while on the Customer's premises; and
 - 17.2.2 notify the Customer immediately of any incident occurring in the performance of its obligations under the Agreement on the Customer's premises where that incident causes any personal injury or damage to property which could give rise to personal injury.
- 17.3 The Contractor shall:
- 17.3.1 perform its obligations under the Agreement in accordance with all applicable equality Law and the Customer's equality and diversity policy as provided to the Contractor from time to time; and
 - 17.3.2 take all reasonable steps to secure the observance of clause 17.3.1 by all Staff.
- 17.4 The Contractor shall supply the Services in accordance with the Customer's environmental policy as provided to the Contractor from time to time.

17.5 The Contractor shall comply with, and shall ensure that its Staff shall comply with, the provisions of:

17.5.1 the Official Secrets Acts 1911 to 1989; and

17.5.2 section 182 of the Finance Act 1989.

18 Prevention of Fraud and Corruption

18.1 The Contractor shall not offer, give, or agree to give anything, to any person an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Agreement or for showing or refraining from showing favour or disfavour to any person in relation to the Agreement.

18.2 The Contractor shall take all reasonable steps, in accordance with good industry practice, to prevent fraud by the Staff and the Contractor (including its shareholders, members and directors) in connection with the Agreement and shall notify the Customer immediately if it has reason to suspect that any fraud has occurred or is occurring or is likely to occur.

18.3 If the Contractor or the Staff engages in conduct prohibited by clause 18.1 or commits fraud in relation to the Agreement or any other contract with the Crown (including the Customer) the Customer may:

18.3.1 terminate the Agreement and recover from the Contractor the amount of any loss suffered by the Customer resulting from the termination, including the cost reasonably incurred by the Customer of making other arrangements for the supply of the Services and any additional expenditure incurred by the Customer throughout the remainder of the Agreement; or

18.3.2 recover in full from the Contractor any other loss sustained by the Customer in consequence of any breach of this clause.

19 Dispute Resolution

19.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Agreement and such efforts shall involve the escalation of the dispute to an appropriately senior representative of each Party.

19.2 If the dispute cannot be resolved by the Parties within one month of being escalated as referred to in clause 19.1, the dispute may by agreement between the Parties be referred to a neutral adviser or mediator (the "Mediator") chosen by agreement between the Parties. All negotiations

connected with the dispute shall be conducted in confidence and without prejudice to the rights of the Parties in any further proceedings.

- 19.3 If the Parties fail to appoint a Mediator within one month, or fail to enter into a written agreement resolving the dispute within one month of the Mediator being appointed, either Party may exercise any remedy it has under applicable law.

20 General

- 20.1 Each of the Parties represents and warrants to the other that it has full capacity and authority, and all necessary consents, licences and permissions to enter into and perform its obligations under the Agreement, and that the Agreement is executed by its duly authorised representative.
- 20.2 A person who is not a party to the Agreement shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of the Parties.
- 20.3 The Agreement cannot be varied except in writing signed by a duly authorised representative of both the Parties.
- 20.4 The Agreement contains the whole agreement between the Parties and supersedes and replaces any prior written or oral agreements, representations or understandings between them. The Parties confirm that they have not entered into the Agreement on the basis of any representation that is not expressly incorporated into the Agreement. Nothing in this clause shall exclude liability for fraud or fraudulent misrepresentation.
- 20.5 Any waiver or relaxation either partly, or wholly of any of the terms and conditions of the Agreement shall be valid only if it is communicated to the other Party in writing and expressly stated to be a waiver. A waiver of any right or remedy arising from a breach of contract shall not constitute a waiver of any right or remedy arising from any other breach of the Agreement.
- 20.6 The Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in the Agreement. Neither Party shall have, nor represent that it has, any authority to make any commitments on the other Party's behalf.
- 20.7 Except as otherwise expressly provided by the Agreement, all remedies available to either Party for breach of the Agreement (whether under the Agreement, statute or common law) are cumulative and may be exercised concurrently or separately, and the exercise of one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

20.8 If any provision of the Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from the Agreement and rendered ineffective as far as possible without modifying the remaining provisions of the Agreement, and shall not in any way affect any other circumstances of or the validity or enforcement of the Agreement.

21 Notices

21.1 Any notice to be given under the Agreement shall be in writing and may be served by personal delivery, first class recorded or, subject to clause 21.3, e-mail to the address of the relevant Party set out in the Award Letter, or such other address as that Party may from time to time notify to the other Party in accordance with this clause:

21.2 Notices served as above shall be deemed served on the Working Day of delivery provided delivery is before 5.00pm on a Working Day. Otherwise delivery shall be deemed to occur on the next Working Day. An email shall be deemed delivered when sent unless an error message is received.

21.3 Notices under clauses 15 (Force Majeure) and 16 (Termination) may be served by email only if the original notice is then sent to the recipient by personal delivery or recorded delivery in the manner set out in clause 21.1.

22 Governing Law and Jurisdiction

22.1 The validity, construction and performance of the Agreement, and all contractual and non-contractual matters arising out of it, shall be governed by English law and shall be subject to the exclusive jurisdiction of the English courts to which the Parties submit.

SCHEDULE 1

SPECIFICATION OF SERVICES

Definitions Table:

“Aircraft”	means Winged Manned Aircraft
“AOC”	means Air Operators Certificate.
“ARC”	means Air Worthiness Review Certificate.
“Asset”	means the Aircraft used to provide the service
“The Authority”	means the Marine Management Organisation
“CAA”	means Civil Aviation Authority.
“Contract”	means the Contract (set out in Schedule 1 and 2) to be entered into by the Authority and the Contractor
“Contractor”	means Direct Flight Limited
“EIR”	means the Environmental Information Regulations 2004 (as amended) together with any guidance and/or codes of practice issued by the Information Commissioner or any Government Department in relation to those Regulations.
“EMS”	means European Marine Sites - defined marine areas of both Special Areas of Conservation and Special Protection Areas (SPAs), which are protected under the EC Habitats and Birds Directives.
“EU”	means the European Union.
“FOIA”	means the Freedom of Information Act 2000 (as amended) and any subordinate legislation made under that Act together with any guidance and/or codes of practice issued by the Information Commissioner or any Government Department in relation to that legislation.
“Framework”	means the Framework agreement being procured by the Authority for which successful Tenderers will be awarded a place.
“GPS”	means Global Positioning System.
“IPR”	means Intellectual Property Rights
“IT”	means Information Technology
“KPIs”	means Key Performance Indicators
“FLIR”	means Forward Looking Infrared.
“IFCA”	means Inshore Fisheries Conservation Authority.

“KPI”	means Key Performance Indicator - are used as a measure to demonstrate how effectively a Contractor is achieving the key objectives set out for each Lot in this document.
“MaCCA”	means Marine and Coastal Access Act 2009.
“MCZ”	means Marine Conservation Zone - defined as any area of intertidal or sub tidal terrain, together with its overlaying water and associated fauna, flora, historical and cultural features, which has been reserved by law or other effective means to protect part or the entire enclosed environment.
“MCSS”	means Monitoring Control & Surveillance System – a UK wide database system that records sightings of Vessels, whether by fisheries patrol Aircraft, fisheries patrol vessels, or in-port inspectors. It includes the details for boarding’s of fishing Vessels and position reports from Vessels reported via Satellite.
“MCZ”	means Marine Conservation Zones.
“MEO”	means Marine Enforcement Officers – is any person appointed as such an officer by the MMO, any person who is a commissioned officer of any of Her Majesty’s ships; any person in command or charge of any Aircraft or hovercraft of the Royal Navy, the Army or the Royal Air Force.
“MMO”	means the Marine Management Organisation.
“MPA”	means a Marine Protected Area - is a collective term for all marine areas that are protected regardless of the type of designation.
“NM”	means Nautical Miles.
“PLN”	means the Port Letter Number – which is the individual registration number of a Vessel issued by the Registrar General of Shipping and Seamen (RSS). It is a combination of letters and numbers that designate the Vessels Administrative and the Vessels number in that port. For example a Vessel administered from Poole could have a number PU (port reference) and the number 123.
“PMF”	means Performance Management Framework
“RIB”	means Rigid Infaltable Boat.
“RN”	means the Royal Navy.
“RTC”	means Real Time Closure.
“SATCOMs”	means Satellite Communication Systems
“SCIP”	means Specific Control and Inspections Programme – some fisheries are subject to tailored SCIPs designed to monitor and protect certain fish stocks.
“UHF”	means Ultra High Frequency.
“UK”	means the United Kingdom.
“Vessels”	means Boats/Rigid, Inflatable Boats/Cutters/Patrol Vessels etc.
“VHF”	means Very High Frequency.
“VMS”	means Vessel Monitoring System - EU fisheries regulation dictates that all Vessels over fifteen (15) metres in length carry a satellite transponder. This allows the UKs Fisheries Administrations to monitor the positions of fishing Vessels and feed the information back to the Fisheries UK Monitoring

	Centre to support the monitoring, control and surveillance of fishing activity.
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1.0 Introduction

- 1.1 The Marine Management Organisation (MMO) is an Executive Non-Departmental Public Body (NDPB) established in April 2010 and given powers under the Marine and Coastal Access Act 2009. MMO mission is to enable the sustainable development of English seas.
- 1.2 The creation of the MMO brought together a range of existing marine management activities and new duties into a single organisation, marking a fundamental shift in planning, regulating and licensing activity in the marine area.
- 1.3 MMO has a wide range of responsibilities, including implementing a new marine planning system, licensing marine works and managing UK fishing fleet capacity, UK fisheries quotas and regulating to EU Fisheries Legislation.
- 1.4 This specification is for the provision of aerial assets that will be required to be capable of operating out to the UK (English) two hundred (200) NM Exclusive Economic Zone limit, details are as described below. In line with this specification the Contractor will be required to provide an aircraft that is capable of undertaking aerial surveillance activities in locations/sea areas as directed by MMO Marine Officers.
- 1.5 The specification is for the provision of 10 flight days, with specific objectives for each patrol. A flight day is considered to be on average 4 hours of flight time, and therefore a total of 40 hours of flight time is being contracted for.

2.0 Project Aims and Objectives

- 2.1 The objective of this project is to undertake aerial sightings of fishing vessels, taking the form of photographic reports, and must include location data, unique identifier such as the PLN and the activity the Vessel appears to be undertaking. The type of activities that an aerial asset will be required to be capable of capturing this data for, includes (but not limited to): **Detecting Illegal Incursions into British Fisheries Limits**. This includes incursions into the English six nautical mile (NM) limit by any non-UK fishing Vessel, and restricted sections of the 12 NM limit by certain non-UK fishing vessels.

1. **Detecting, Recording and Photographing all Fisheries Activities for Cross Checking Purposes.** Especially for the smaller non-satellite monitored Vessels (under 12 metres in length), aerial surveillance must be capable of photographing where the MMO wish to identify misreporting area of capture, non-reporting of fishing trips, for example.
2. **Detecting Illegal Activity within the twelve (12) NM limit (Scallopers and Beamers).** Scallop dredgers with more than eight dredges a side are not allowed to operate inside UK twelve NM limit. Aircraft crews can locate scallopers and instruct masters to raise their gear using MaCCA powers to see the number of dredges.
3. **Incursion into prohibited/closed areas.** As with incursions into the 12 and 6 NM limit, any incursions into closed areas (such as MCZs, EMSs and Real Time Closures) require corroborative aircraft sighting for prosecution purposes.
4. **Detecting Illegal activity without a Marine Licence.** Use of aerial surveillance to combat operators who remove material from the sea bed without the authority of an MMO Marine Licence.
5. **Pelagic Landing Obligation.** From January 2015 the CFP Reform 'Landings Obligation' for pelagic species has been introduced. Aerial Assets must have the capability to record any discarding, providing high definition photographic evidence.
6. **Supporting Evidence.** The number of investigations and risks identified by the coast is extremely varied and diverse. Aerial surveillance can give bespoke and relevant supporting evidence in a number of forms to help progress investigations.
7. **Deterrent through an Overt Presence.** Aircraft provides a significant deterrent to those who may consider going to sea and not providing any documentation.

3.0 Project Requirements

3.1 This contract is for the provision of 40 hours of flight time, to be used in a schedule of ten flight days, with the option of additional flight days being arranged if the 40 hours are not completed within the initial 10 flights. A day consisting of an average of 4 hours flight time, therefore 40 hours of flight time in total. The dates of the programmed flights may be subject to reasonable change requests by the MMO prior to the flight date, however the entire flight programme must be completed prior to 31st March 2015.

3.2 The proposed schedule and flights are as follows:

a. Flight 1: (Thu 26th Feb) SE 0-12 Mile Limit Access Patrol

Clacton on Sea to Selsey. Patrol the 6 NM limit in this area to ensure foreign fishing vessels are operating outside of the access limit. French and Belgian fishing vessels fish right up to 6 NM and intelligence suggests vessels cross inside the limit. Locate and photograph under 10 metre fishing vessels not covered by satellite monitoring noting their fishing activity.

b. Flight 2: (Fri 27th Feb) NE Berwick to Great Yarmouth

Locate and photograph under 10 metre fishing vessels not covered by satellite monitoring noting their fishing activity. Intelligence suggests UK Scallop dredgers fishing off the East Yorkshire are operating inside of 12 NM with more than 8 dredges a side – hail these vessels and request them to raise their gear so the MMO can establish the dredge number. Check whether vessels are illegally fishing inside the European Marine Sites Inner Dowsing, Race Bank and North Ridge SCI and Haisborough, Hammond and Winterton SCI.

c. Flight 3: (Wed 4th March) SW 0-6m Inshore Patrol from Weymouth to Bideford

Locate and photograph under 10 metre fishing vessels not covered by satellite monitoring noting their fishing activity. Make sure no vessels are illegally fishing inside the Lyme Bay closed area, Cape Bank SAC and the Start Point to Plymouth Sound and Eddystone SCI.

d. Flight 4: (Thur 5th March) SE 0-12 Mile Limit Access Patrol

Clacton on Sea to Selsey. Patrol the 6 NM limit in this area to ensure foreign fishing vessels are operating outside of the access limit. French and Belgian fishing vessels fish right up to 6 NM and intelligence suggests vessels cross inside the limit. Locate and photograph under 10 metre fishing vessels not covered by satellite monitoring noting their fishing activity.

e. Flight 5: (Fri 6th March) North Sea Offshore RTCs in English waters

Patrol active closed areas to ensure no over 10 metre UK fishing vessels are fishing inside the areas using demersal trawls, fixed nets and longlines.

f. Flight 6: (Tue 10th March) Welsh scallop dredging closed areas

Patrol the closed areas around the Welsh 0-12 NM limit to ensure no UK vessels are scallop dredging.

g. Flight 7: (Wed 11th March) SW 0-6m Inshore Patrol from Weymouth to Bideford

Locate and photograph under 10 metre fishing vessels not covered by satellite monitoring noting their fishing activity. Make sure no vessels are illegally fishing inside the Lyme Bay closed area, Cape Bank SAC and the Start Point to Plymouth Sound and Eddystone SCI.

h. Flight 8: (Thur 12th March) NE Berwick to Great Yarmouth

Locate and photograph under 10 metre fishing vessels not covered by satellite monitoring noting their fishing activity. Intelligence suggests UK Scallop dredgers fishing off the East Yorkshire are operating inside of 12 NM with more than 8 dredges a side – hail these vessels and request them to raise their gear so the MMO can establish the dredge number. Check

whether vessels are illegally fishing inside the European Marine Sites Inner Dowsing, Race Bank and North Ridge SCI and Haisborough, Hammond and Winterton SCI.

i. Flight 9: (Sat 21st March) SE 0-12 Mile Limit Access Patrol

Clacton on Sea to Selsey. Patrol the 6 NM limit in this area to ensure foreign fishing vessels are operating outside of the access limit. French and Belgian fishing vessels fish right up to 6 NM and intelligence suggests vessels cross inside the limit. Locate and photograph under 10 metre fishing vessels not covered by satellite monitoring noting their fishing activity.

j. Flight 10: (Sun 22nd March) SW 0-6m Inshore Patrol from Weymouth to Bideford

Locate and photograph under 10 metre fishing vessels not covered by satellite monitoring noting their fishing activity. Make sure no vessels are illegally fishing inside the Lyme Bay closed area, Cape Bank SAC and the Start Point to Plymouth Sound and Eddystone SCI.

Detailed Requirements:

Ref	Requirement
1	Valid AOC shall be held for each Aircraft; this certificate must be made available to the MMO on request. The Contractor shall at the request of the MMO, secure appropriate endorsement of the AOC. Air Operator Certificates - Civil Aviation Authority: http://www.caa.co.uk/default.aspx?catid=1196&pagetype=90
2	Prior to each patrol, the MMO Operations designated contact should be telephoned to confirm the flight plan, and discuss any changes which may be required due to weather, aircraft limitations, variations in fishing trade, or any other relevant issues. Following each sortie, a confirmation of patrol complete should be made to the MMO Operations designated contact.
3	Carriage of a fisheries pennant on the Aircraft at all times when undertaking fisheries tasking.
4	Return flight sightings within 90 minutes of completion of patrol on day of flight to designated MMO Operations Room contact by appropriate means (email or fax). Further evidence, such as photographs to be provided within 24 hours of flight completion.

5	<p>Any Aircraft provided as part of this Contract shall have the ability to fly in inclement weather and at night.</p>
6	<p>The Contractor shall hold a CAA Approved Maintenance Schedule for the Aircraft to be used during MMO operational sorties.</p> <p>Maintenance Programme Approval - Civil Aviation Authority: https://www.caa.co.uk/application.aspx?catid=1461&pagetype=65&appid=54&mode=summary&approcsum=1</p>
7	<p>Aircraft and equipment carried must be maintained in accordance with CAA Approved Maintenance Schedule for the Aircrafts manufacturers, the Contractor and installers' maintenance schedules.</p> <p>CAP 411 - Light Aircraft Maintenance Schedule – Aeroplanes: http://www.caa.co.uk/docs/33/CAP411.PDF</p>
8	<p>The Contractor shall hold for each Aircraft chartered by the MMO a Certificate of Airworthiness, supported by a valid ARC, this shall be operated at all time by the appropriate CAA standards in accordance with all applicable statutory requirements and in accordance with the Aircraft Documentation and when operated in the public transport role, carrying MMO Marine Officers, to full public transport standards.</p> <p>Certificates of Airworthiness - Civil Aviation Authority: http://www.caa.co.uk/default.aspx?catid=720</p> <p>Airworthiness Review Certificates (ARC) Certificates of: http://www.caa.co.uk/application.aspx?catid=1799&pagetype=65&appid=54&mode=summary&approcsum=31</p>
9	<p>The Contractor shall obtain prior to operational sortie commencement dates all necessary dispensations and/or approvals from the CAA to enable operations to be carried out, and provide these to the MMO on request.</p> <p>CAA Check Flight Handbook - Civil Aviation Authority: http://www.caa.co.uk/docs/33/CAP%201038%20Check%20Flight%20Handbook.pdf</p>
10	<p>It shall be possible to conduct operations from the Contractor's usual operating base or from other English (UK) Airports as the MMO requires, in accordance with CAA Category one (1) operating minima, provided such Airports are within the limits of the AOC.</p>

	<p>Air Operator Certificates - Civil Aviation Authority:</p> <p>http://www.caa.co.uk/default.aspx?catid=1196&pagetype=90</p>
11	<p>It is incumbent on the Contractor to provide adequate and secure hangar space for their Aircraft, along with secure accommodation for storage media, records, observation notes and other documentation involved in the operations of both parties.</p> <p>The storage security for media, records, observation notes and other documentation involved in the operations should be in accordance with Information Security and Assurance of HMG Security Policy Framework, December 2008:</p> <p>https://www.gov.uk/government/publications/security-policy-framework</p> <p>Attorney General's guidelines on information security and government work:</p> <p>https://www.gov.uk/attorney-generals-guidelines-on-information-security-and-government-work</p>
12	<p>Where possible a flight room shall be provided for the exclusive use of aircrew, ground crew, other personnel and MMO officers involved in operations. This accommodation shall be suitable for the delivery of briefings for visitors.</p>
13	<p>During patrols the Aircraft will be required to have direct communications with other Aircraft engaged in fisheries protections duties, as well as other Government Agencies such as the Royal Navy Fisheries Protection Squadron and Border Force cutters during operational sorties. Aircraft should be fitted with UHF, VHF and Satellite communications systems.</p> <p>Radio Operator's Certificate - Civil Aviation Authority:</p> <p>http://www.caa.co.uk/default.aspx?catid=43&pageid=10268</p> <p>Licence Categories - Civil Aviation Authority:</p> <p>http://www.caa.co.uk/default.aspx?catid=8&pageid=2</p> <p>Communication, Navigation and Surveillance - Civil Aviation:</p> <p>http://www.caa.co.uk/default.aspx?catid=2389</p>
14	<p>Aircrew are to be available for attendance at court to provide verbal evidence at the request of the MMO.</p>
15	<p>Sorties will be directed by the MMO and the Aircraft will have to remain in contact with the appropriate MMO Marine Officer for the duration of the sortie.</p>

	<p>Licence Categories - Civil Aviation Authority: http://www.caa.co.uk/default.aspx?catid=8&pageid=2</p> <p>Communication, Navigation and Surveillance - Civil Aviation: http://www.caa.co.uk/default.aspx?catid=2389</p>
16	<p>Aircrew minimum requirements:</p> <ul style="list-style-type: none"> • Captains must hold a commercial pilots licence, with instrument rating and one thousand (1000) hours total flying experience of which two hundred and fifty (250) hours shall be in multi-engine Aircraft, of which one hundred and fifty (150) hours shall be in multi-engine command, including one hundred (100) hours on the same Aircraft type as used for MMO chartered patrols. • First Officers should hold a commercial pilots licence with instrument rating and with three hundred (300) hours flying experience of which fifty (50) hours shall be in multi-engine Aircraft inclusive of seven (7) hours turbo-prop experience and seven (7) hours on the same Aircraft type as used for MMO chartered patrols. • Flight Observers require relevant radio telephony operators and aircrew experience pertinent to aerial surveillance. The duties of the Flight Observer and/or observers will include radar surveillance, communications, observation and photography.
17	<p>It is desirable for all aircrew to be BSFOs empowered to make fishing vessels haul their gear in order to check compliance with UK and EU Regulation.</p> <p>Sea Fisheries Act 1968 - Legislation.gov.uk: http://www.legislation.gov.uk/ukpga/1968/77</p>
18	<p>An MMO Marine Officer may attend the Aircraft during a patrol to satisfy the MMO that Aircrew are sufficiently trained in fishery Vessel identification and fishing methods used and have sufficiently grounding in fisheries legislation, report writing, evidential requirements and similar matters.</p> <p>If an MMO Marine Officer requests to join a patrol then a minimum of 3 working days advance notice must be provided.</p>
19	<p>Aircraft should be fitted with operational radar, GPS and all other appropriate navigational aids.</p>

	<p>Regulations - Civil Aviation Authority:</p> <p>http://www.caa.co.uk/default.aspx?catid=1404</p>
20	Left intentionally blank.
21	Each flight shall require a 'sighting report' and where it is believed that illegal activities have taken place these reports will have to be supported by photographic and other related data collected during the flight i.e. positional data etc.
22	The Aircraft shall have a minimum operational endurance of not less than two (2) hours.
23	<p>The Aircraft must be equipped for a maritime surveillance role and CAA certified to work below five hundred (500) feet over a marine environment.</p> <p>Low Flying - Civil Aviation Authority:</p> <p>http://www.caa.co.uk/default.aspx?catid=1428&pageid=8152</p> <p>CAA Cap 694 The UK Flight Planning Guide - Civil Aviation:</p> <p>http://www.caa.co.uk/docs/33/CAP%20694.pdf</p>
24	Operational sorties will be undertaken over waters under the jurisdiction of the MMO as requested.
25	Aircraft should be operable out of an airport/airfield that is within two (2) hours travelling time from the MMO's office that has made the request for a sortie.
26	Aircraft availability; the Contractor's Aircraft will be available at weekends and during bank holidays. It is not required that the Contractor will have Aircraft permanently standing-by for the exclusive MMO use. It is not the intention of this Contract or any other agreement to cover any standing charges.
27	As a result of the data gathered and actions taken by the MMO Marine Officers and OGDs during patrols, information of a sensitive nature may be evident; as a result all crew members and Contractor's staff members are party to this Contract; will enter into a confidentiality agreement with the MMO.

4.0 Process

- 4.1 The work shall be undertaken by the Contractor, with the project running from the date of the first flight, scheduled for the 26th February, until the completion of the 40 flight hours, which must take place before the 31st March 2015.
- 4.2 The Authority and the Contractor shall specify contact points who shall liaise on administrative detail. It is envisaged that an initial teleconference between the Authority and Contractor should take place at an agreed date prior to the first flight to confirm the flight programme and deal with any enquiries the parties may have.
- 4.3 Due to the short term nature of the contract, it is not envisaged that any additional travel will be required for face to face meetings between the Authority and the Contractor, however any costs for such meetings would be met at the parties own expense and take place at MMO HQ Lancaster House, Newcastle Upon Tyne.

5.0 Travel

- 5.1 As per 4.3 above, it is not considered that any travel for meetings will be required.

6.0 Deliverables

- 6.1 The milestones table below shows the stages required for the delivery of this project:

MILESTONE	DATE
M.1.0 Authority and Contractor initial discussion confirming patrol plans and detail (as per 4.2 above)	ASAP on agreement of contract. Pre 26 th Feb 2015
M.2.0 Delivery of first 20 hours flight time – followed by programme review teleconference between Authority and Contractor to review uptake of hours (as per 7.2 below)	12 th March 2015
M.3.0 Delivery of 40 hours flight time	By 31 st March 2015
M.4.0 Wash up and lessons learnt teleconference between Authority and Contractor (as per 7.2 below)	Upon completion of the 40 hours flight time, or by the 31 st March 2015 whichever comes sooner.

7.0 Governance / Contract Management

- 7.1 The Contractor will be managed by an official within the MMO who will act as the Project Officer responsible for the day to day management of the Contract.
- 7.2 The Contractor will appoint a Project Manager who will act as the principal point of contact for the MMO. A Contract Review teleconference will be held to review progress, delivery of the fund and discuss any issues at the end of the Contract.
- 7.3 There will also be a midpoint teleconference to review the uptake of hours, and ad-hoc communications as the parties find appropriate.

7.4 The Contract shall be managed in accordance with the Authority Terms and Conditions for 'service contracts' and KPI's/credit regime contained within Section 8 Performance Management Framework.

8.0 PERFORMANCE MANAGEMENT FRAMEWORK (Including Service Levels and Key Performance Indicators)

8.1 As part of the Authority's continuous drive to improve the performance of the Contractor, this Performance Management Framework (PMF) will be used to monitor measure and control all aspects of the Contractor's performance of contract responsibilities.

8.2 The PMF purpose is to set out the obligations on the Contractor, to outline how the Contractor's performance will be evaluated and to detail the sanctions for performance failure.

8.3 The Authority may define any reasonable performance management indicators for the Contractor under the following categories:

1. Contract Management
2. Delivery and support
3. Quality of Service
4. Cost
5. Continuous Improvement

8.4 The above categories are consistent within all Contract awards allowing the Authority to monitor Contractors performance at both individual contract level and at enterprise level with the individual Contractor.

9.0 Service Levels and Key Performance Indicators

Rationale

9.1 KPIs are essential in order to align Contractor performance with the requirements of the Authority and to do so in a fair and practical way. KPIs have to be realistic and achievable; they also have to be met otherwise indicating that the service is failing to deliver. Without the use of Service Credits in such a situation, this service failure places strain on the relationship as delivery fall short of agreed levels. As a result, the only recourse would be to terminate and seek alternative supply.

9.2 The use of a strong Service Credit regime accompanied by a proactive approach to correcting failures and addressing their cause improves the relationship and enables a partnership rather than a confrontational style of working. Its focus is on managing and improving service. It is NOT about taking cost out of the service to the Authority.

Service Credit Principles

9.3 The use of Service Credits is governed by the following principles:

- Service Credits sit within the wider service management approach being pursued by the Contractor and the Authority.

- The Service Credit regime would be instigated on each occasion where there is a service failure (i.e. where a KPI is identified as having a 'Red status'). This would give rise to a remediation plan.
- Failure to achieve the performance target of a minimum 'Amber status' for KPI 2 will result in a maximum of 10% fixed price not being paid until resolved to the Authority's satisfaction.
- Failure to achieve the performance target of a minimum 'Amber status' for KPI 3 will result in a maximum of 10% fixed price not being paid until resolved to the Authority's satisfaction.

KPI	Measure	KPI description	KPI Rating (1- 3 scale)		
			1	2	3
KPI 1 – Contract Management	The Contractor responds to service requests or issues	The Contractor reacts in a timely manner	Below expectations (less than 89% of the time)	Meets expectations (90% to 98% of the time)	Exceeds expectations (99% - 100% of the time)
KPI 2 - Contract Management	The Contractor sends in patrol reports, including sightings list, within 90 minutes of completion of patrol	Patrol report produced on time by Contractor	Below expectations (less than 89% of the time)	Meets expectations (90% to 98% of the time)	Exceeds expectations (99% - 100% of the time)
KPI 3 – Delivery and support	Requests by the Authority for additional supporting photographic data sent within 24hours of patrol	Supporting documentation provided by Contractor	Below expectations (less than 89% of the time)	Meets expectations (90% to 98% of the time)	Exceeds expectations (99% - 100% of the time)
KPI 4 – Quality of Service	Assets must be available and operational on patrol days	The Contractor provides pre-flight confirmation of patrol 60 minutes prior to flight on patrol day	Below expectations (less than 89% of the time)	Meets expectations (90% to 98% of the time)	Exceeds expectations (99% - 100% of the time)
KPI 5 - Quality of Service	The Contractor adheres to all current legislation and regulations in relation to the services they provide under this Contract	The Contractor meets required standards	Below expectations (less than 98% of the time)	Meets expectations (99% of the time)	Exceeds expectations (100% of the time)
KPI 6 – Quality of Service	The Contractor provides suitable resolutions to identified issues such as Aircraft safety and performance	The Contractor provides suitable issue resolution	Strongly disagree	Neutral	Strongly Agree
KPI 7 – Quality of Service	Aircraft crews perform to the standards set out in the relevant standards and personal certification	The Contractor provides re-training where unacceptable standards have been identified.	Strongly disagree	Neutral	Strongly Agree
KPI 8 – Quality of Services	Aircraft maintained in a state of sea worthiness throughout the Call Off agreement period	All relevant certification is maintained and can be produced when requested by the MMO	Strongly disagree	Neutral	Strongly Agree
KPI – Cost	The Contractor provides the required service as set out in the pricing schedule (Appendix 1)	The Contractor provides the service within the agreed price	Strongly disagree	Neutral	Strongly Agree

Governance

The Contractor shall attend service review and contract review teleconference meetings as requested by the Authority.

Meeting	Activities	Inputs	Outputs	Attendees
SERVICE REVIEW Frequency: In line with Milestones M.1.0, M.2.0 and M.3.0 or as Requested	Review of performance, including service levels, KPIs and service credits. Carries out in line with Milestones	Agenda / minutes of last meeting	Minutes / actions of meeting	Authority Representative (Chair)
	Ensure escalated issues and risks are acted upon.	Minutes of Contract	Actions list.	Contractor Representative And Authority Representative.
	Contract Coverage - Ensure all work has been agreed prior to start and is covered under the Contract.	Review (where appropriate)	Minutes with actions/decisions	Contractor Representative And Authority Representative.
	Financial Management - Review spend against plans; resolving any escalated invoicing or payment issues. Review of overall financial risk.	Contract pricing schedule	Any amendments to forecast spend	Contractor Representative And Authority Representative.
	Capacity Planning –Review uptake of flight hours, against remaining time in programme. Adjust flights as required to ensure full uptake of hours.	Review (where appropriate)	Revised programme	Contractor Representative And Authority Representative.

CONTRACT REVIEW In line with Milestones M.1.0, M.2.0 and M.3.0 or as Requested	<u>Performance Review</u> Review of performance, including service levels, KPIs and service credits.	Agenda / minutes of last meeting	Minutes/ actions of meeting	Contractor Representative And Authority Representative.
	<u>Escalations</u> Ensure any unresolved issues/risks are actioned	Minutes of Agency business units review meetings	Key messages for Agency units	Contractor Representative And Authority Representative.
	<u>Contract Review and Administration</u> Ensure the contract is kept up to date, review list of amendments and/ or issues that need to be resolved.	Escalations	Contract Amendments	Contractor Representative And Authority Representative.
	<u>Relationship Direction</u> Improvements to the service	Suggested Contract improvements		Contractor Representative And Authority Representative.

SCHEDULE 2

PRICING SCHEDULE

- 1 Total payment shall not exceed £50,500 exclusive of VAT which, where applicable, shall be charged at the rate prevailing at the time of invoice (based on VAT at 20%). Only those costs necessarily and actually incurred in connection with the Contract up to the maximum stated above shall be paid.

