

# **Ministry of Defence**

**Contract No:  
710318450**



**THE PROVISION OF LEVEL 7 SENIOR LEADER  
APPRENTICESHIP (ST0480) TRIAL WITH  
MASTER'S LEVEL ACADEMIC ACCREDITATION  
FOR ARMY PERSONNEL**

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**Contract 710318450 for The Provision of Level 7 Senior Leader Apprenticeship (ST0480)  
Trial with Master's Level Academic Accreditation for Army Personnel.**

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

**REDACTED – COMMERCIALLY SENSITIVE**

# **Ministry of Defence**

**Contract No:  
710318450**



## **THE PROVISION OF LEVEL 7 SENIOR LEADER APPRENTICESHIP (ST0480) TRIAL WITH MASTER'S LEVEL ACADEMIC ACCREDITATION FOR ARMY PERSONNEL**

### **SCHEDULE 1**

### **STATEMENT OF REQUIREMENT**

## SCHEDULE 1 - STATEMENT OF REQUIREMENT

### PROVISION OF LEVEL 7 SENIOR LEADER APPRENTICESHIP (ST0480) TRIAL WITH MASTER'S LEVEL ACADEMIC ACCREDITATION FOR ARMY PERSONNEL

**Note:** For the purposes of this Statement of Requirement, reference to 'Training Provider' shall have the same meaning as 'Service Provider' and/or 'Contractor' as used throughout Contract 710318450.

#### 1. Aim

- 1.1. The aim of this document is to describe the requirements for the development of a Level 7 (Masters) pathway for the Army's senior soldiers (Senior Non-Commissioned Officers (SNCOs) and Warrant Officers (WOs)), to provide skills, experience, intellectual development and knowledge applicable in the workplace. This demonstrates investment in our senior soldier cohort and closes the gap between the educational offer available to Career Stage 1 and 2 officers and SNCOs/WOs.

#### 2. Background

- 2.1. The Army's Apprenticeship Programme currently offers apprenticeships at Levels 2, 3, 4 and 6. The latter being offered from 2018 when a Level 6 apprenticeship, the Chartered Manager Degree Apprenticeship (CMDA), was offered on a trial basis to the SNCO and WO cohort. The trial, being deemed highly successful, led to an enduring CMDA programme (from Feb 22) that sees 100 personnel (95 Regular Army and up to 5 Army Civil Service staff) being enrolled each year on the programme.
- 2.2. Army Command Plan 2024 (Strategic Objectives 3.1<sup>1</sup>, 3.2<sup>2</sup>, 4.1<sup>3</sup>, 4.2<sup>4</sup>) highlights the requirement to attract and retain the right people, as well as maximising talent and improving organisational culture. The L6 CMDA programme has contributed to the achievement of these objectives. The Army now wishes to extend this contribution and the training pipeline, by trialling the Level 7 Senior Leader Apprenticeship (ST0480) as a possible vehicle to further enhance senior NCO leadership and management skills.
- 2.3. The establishment of an enduring Senior Leader apprenticeship programme for the SNCO and WO cohort (Sgt to WO2) will deliver a fully funded pan-Army Level 7 apprenticeship focused on leadership and management. The apprenticeship will also lead to the award of a master's level academic qualification such as a Master's in Business Administration (MBA) or similar. This represents a significant investment on the part of the Service and is a historic milestone in the development British Army SNCOs and WOs providing an opportunity comparable to that offered to the Officer cohort through the Army Higher Education Pathway (AHEP).

#### 3. Overarching Objectives

- 3.1. Provision of a phased trial of the L7 Senior Leader Apprenticeship (L7 SLA) with master's level academic accreditation, with maximum 30 Sgt to WO2s being enrolled each year for 3 years, a total of 90 apprentices.

<sup>1</sup> ACP 24: Strategic Campaign Objective 3.1 - Attract and Retain the Required Workforce.

<sup>2</sup> ACP 24: Strategic Campaign Objective 3.2 - Maximise Talent.

<sup>3</sup> ACP 24: Strategic Campaign Objective 4.1 - Improve our Organisational Culture.

<sup>4</sup> ACP 24: Strategic Campaign Objective 4.2 - Increase our National Integration.

- 3.2.** Provision of a blended learning solution which provides a nationally recognised master's level qualification in leadership and management such as an MBA / Executive MBA or equivalent qualification.
- 3.3.** Training Provider (TP) engagement with line managers, mentors, and the chain of command, supporting apprentices through their studies and ensuring the transfer of learning to the workplace.

#### **4. Scope**

##### **4.1. Army Apprenticeship Programme (AAP).**

- 4.1.1. The L7 SLA with master's level academic accreditation will provide progression to the existing AAP which delivers apprenticeships at Levels 2, 3, 4 and 6. While most of the AAP is currently delivered by the Army as an employer-provider, the L6 CMDA is delivered fully by a TP and this contract will operate in the same manner i.e. fully outsourced via a contracted TP.

##### **4.2. Funding Rules.**

- 4.2.1. Potential TPs should note that the funding rules for apprenticeships allow all Armed Forces personnel to undertake a statutory English apprenticeship wherever they are based in the United Kingdom.

##### **4.3. Attendance Constraints.**

- 4.3.1. Operational commitments, overseas deployments, military exercises, other military career courses, workforce requirements and individual personal circumstances will impact on availability to attend specific courses in person. Therefore, any programme must be flexible, allowing individuals to move between cohorts, have a break in learning, or request submission extensions at short notice. This will affect group sizes for any Residential Study Periods (RSP) and the TP must be prepared to deal with a broad range of group sizes and to provide access to alternative delivery mechanisms where possible.

##### **4.4. Blended Delivery.**

- 4.4.1. Delivery must be primarily through distance learning, and shall include some face-to-face delivery, although this must be flexible to accommodate the unpredictable work demands and geographically dispersed nature of the apprentices. The TP must also have a resilience plan for full remote delivery (e.g., a contingency plan for future pandemic type restrictions).
- 4.4.2. Face-to-face delivery shall be during the working week (Mon-Fri) and cannot exceed more than 5 days in a row and a maximum of 20 days throughout the academic year.
- 4.4.3. Remote delivery shall be during the working day (Mon-Fri 0900-1700) but must also be available as a recording to maximise flexibility of access for apprentices.
- 4.4.4. Tutor engagement may need to take place face-to-face, via video conferencing, telephone or email.

4.4.5. While most apprentices will have internet access and IT, flexibility is required in delivery of teaching and method of assignment submission for those deployed on exercise or operations and for those serving overseas.

#### **4.5. Prior Learning.**

4.5.1. All personnel selected for the L7 SLA trial will hold a degree at 2:1 or above and Level 2 qualifications in English and Maths. All apprentices will also have undertaken military education courses in leadership and management and have at least five years of professional experience. Recognised prior learning can be awarded in line with TP academic regulations and will mostly likely be by exception.

#### **4.6. Programme Duration.**

4.6.1. The programme must be a minimum of 24 months, not including End Point Assessment (EPA). The Authority's L7 SLA programme is designed to upskill the Sgt – WO2 workforce and maximise transfer of learning to the workplace. There must be sufficient time to reflect on the course content and to apply the knowledge and skills in the workplace.

#### **4.7. 20% Off the Job (OTJ) Training.**

4.7.1. The TP must support the Authority to identify and evidence OTJ training conducted by the apprentices. E.g., own study, attendance on professional development courses, etc.

#### **4.8. Bespoke Requirements.**

4.8.1. Modules and/or assignments shall be tailored to maximise their relevance and transference of learning to the workplace. The Authority will assist with this contextualisation where required to do so.

### **5. Requirements**

#### **5.1. Apprentice Numbers and Cohorts.**

5.1.1. Provision of up to 30 places per academic year on programme for 3 academic years:

<b>Academic Year</b>	<b>AY 25 / 26</b>	<b>AY 26 / 27</b>	<b>AY 27 / 28</b>
<b>No of Apprentices</b>	30	30	30

Table 1 – Delivery Model

5.1.2. Minimum programme duration of 24 months, not including EPA.

5.1.3. One cohort per academic year. The TP must ensure that staff to apprentice ratios are sufficient to provide the good level of support required.

5.1.4. The Authority expects the first cohort to commence in September 2025.

5.1.5. Cohorts may be 'Closed', i.e. an Army only cohort, or 'Open', a mixed cohort, with Army and civilian apprentices. Where cohorts are Army only, the TP must ensure that diverse perspectives are introduced.

5.1.6. Master's level academic qualification (Exec MBA or equivalent) to only be awarded after successful EPA (Pass or Distinction).

## **5.2. Programme Qualification Requirements.**

5.2.1. Successful L7 SLA apprentices will achieve the following in line with the Institute for Apprenticeships and Technical Education standards:

- Level 7 Senior Leader Apprenticeship certificate.
- Accreditation of an (Executive) MBA or equivalent. Subject to additional fees.

## **5.3. Delivery Mechanism Requirements.**

5.3.1. Delivery must be primarily through distance learning but should also include some face-to-face delivery. This, however, must be flexible to accommodate the unpredictable work demands and geographically dispersed nature of the apprentices.

5.3.2. TP must also have a resilience plan for full remote delivery (e.g., contingency planning for pandemic type restrictions).

5.3.3. Face-to-face delivery should be during the working week (Mon-Fri) and cannot exceed more than 5 days in a row and a maximum of 20 days throughout the academic year.

5.3.4. Remote delivery should be during the working day (Mon-Fri 0900-1700) but must also be available as a recording to maximise flexibility of access for apprentices.

5.3.5. Where face-to-face delivery is used the TP will work with the Authority to provide apprentices with an Administrative Instruction at least 4 weeks in advance of the residential period.

5.3.6. Apprentices must have access to the full range of TP resources and support services offered to other apprentices (e.g., campus and library access, study support services).

5.3.7. Course materials must be available to download and use offline to enable apprentices to study whilst deployed.

5.3.8. The TP is to provide all training facilities (for face-to-face delivery) and materials required.

## **5.4. ESFA funding regulations.**

5.4.1. The TP must adhere to current ESFA funding regulations in all aspects of contract delivery.

## **5.5. End Point Assessment and Academic Accreditation Requirements.**

5.5.1. The TP must hold and maintain registration on the Apprenticeship Provider and Assessment Register (APAR)

5.5.2. The TP must be partnered with an End Point Assessment Organisation (EPAO) which holds and maintains registration on the APAR.

5.5.3. The TP shall be responsible for any separate contract requirements between itself and the EPAO and have a written agreement in place with the assessment organisation to make payment to them for conducting the EPA in line with ESFA



funding rules. The written agreement must set out the arrangements for sharing relevant information about the apprentice so EPA and certification can take place, including arrangements for any re-takes and payments. The EPAO used by the TP must be approved by the Authority.

- 5.5.4. The Service Provider must ensure that all apprentices who successfully complete the L7 SLA have the L7 qualification accredited to a recognised academic qualification such as an Executive MBA, or similar. This accreditation must only be possible after successful completion of EPA (Pass or Distinction). All masters' related accreditation costs will be borne separately by the Authority with non-Apprenticeship funding. The Service Provider shall invoice this accreditation activity separately, in bulk per AY, by invoicing the Authority's POC. The Service Provider must be able to accept Credit Card payment for these invoices and detailed arrangements shall be agreed between the Parties during the contract mobilisation period.

## **5.6. Bespoke Requirements.**

- 5.6.1. Modules and/or assignments should be tailored to maximise their relevance and transference of learning to the workplace. The Authority will assist with this contextualisation where required to do so.
- 5.6.2. Bespoke requirements must be agreed between the Parties prior to the start of the first cohort.

## **5.7. Management Information Requirements.**

- 5.7.1. The Service Provider will have a Management Information System (MIS) and is responsible for inputting apprentice details onto the Apprenticeship Service.
- 5.7.2. Data for apprentices who are ineligible for levy funding may have to be entered onto a separate MIS and invoicing system.
- 5.7.3. The Service Provider will provide the Authority with personalised apprentice data to monitor progress and enable interventions in the learning journey by the Authority before the apprentice is permitted to withdraw/suspend/fail.
- 5.7.4. The Service Provider will provide the Authority with an annual report (31 Aug annually) summarising the bullet points above and linked to a Quality Improvement Plan (QIP).
- 5.7.5. The Service Provider will provide the Authority with responses to ad-hoc Requests For Information (RFIs) such as Ministerial questions or data required for the Army Chain of Command.
- 5.7.6. The Service Provider will provide the Authority with a copy of apprentices' final Work-Based Learning projects, dissertations or any other assignment the Authority requests.

## **5.8. Programme Director.**

- 5.8.1. The Service Provider will provide a nominated Programme Director who will act as a focal point for all liaison between itself and the Authority.

## **5.9. Line Manager, Work Based Mentor and Chain of Command Engagement.**

5.9.1. The Service Provider will engage with line managers, work-based mentors, and the chain of command in supporting apprentices through their studies and ensuring the transfer of learning to the workplace. Apprentices' line managers may change several times throughout the course of the L7 SLA due to military posting cycles.

5.9.2. As a minimum, engagement should include employer guides to the L7 SLA (available electronically) explaining employer roles and responsibilities.

5.9.3. Annual progress reviews shall be sent to line managers (copied to the Authority's Designated Officer).

#### **5.10. Key User Requirements (KURs).**

5.10.1. KURs are available at Annex A. Measures of success in the KURs are provisionally set around apprentice numbers, and cohorts.

#### **5.11. Apprentice Selection Process.**

5.11.1. The Service Provider may wish to support the Authority during the selection of apprentices for each cohort to ensure that suitably motivated and prepared apprentices are identified.

#### **5.12. Line Manager, Work-Based Mentor and Chain of Command Engagement.**

5.12.1. The Service Provider will develop line managers, work-based mentors and the chain of command through interactive resources and training sessions to effectively support apprentices through their studies and to ensure the transfer of learning to the workplace.

### **6. Intellectual Property Rights (IPR)**

6.1. The Authority will retain IPR of student assignments. Additionally, where apprentices work within sensitive areas, the Service Provider may need to be flexible and/ or give additional direction and guidance to apprentices for them to complete assignments to the required standard, understanding that they may be limited with the current workplace information they can use or share in assignments.

### **7. Contract Management Requirements**

7.1.1. A Contract Mobilisation Meeting (CMM) shall be held between the Service Provider and the Authority within 10 working days of Contract acceptance, at which the following shall be discussed:

- Introduction of key stakeholders from the Service Provider and the Authority
- Mobilisation activities to take place prior to first cohort commencing the apprenticeship (scheduled for September 2025)
- Review of the Contract Management Plan (to be generated by the Authority)
- Review of Service Provider contractual obligations (including Exit and Transition Plans)
- Performance monitoring requirements
- Setting of provisional dates for future Performance Review Meetings

7.1.2. During the duration life of the Contract the Service Provider will hold Performance Review Meetings (PRMs) with the Authority every 6 to 8 weeks, at which the following standard agenda items are to be discussed:

- Apprentice progress
- Overall Programme Performance (including the number of Breaks in Learning, apprentices' Past Planned End Date, Withdrawals from Programme etc.)
- Line manager and Chain of Command engagement
- Safeguarding
- Equality of Opportunity
- Prevent
- Cyber Security
- Apprenticeship Service funding withdrawals
- Contract performance
- Module evaluations and quality assurance

7.1.3. The Service Provider will produce minutes and a record of decision log for each PRM.

7.1.4. PRMs will typically be held remotely, or by exception at the premises of the Service Provider, upon agreement by the Authority. In cases where the PRM is to be held at the premises of the Service Provider T&S for the Authority will not be applicable.

7.1.5. Service Provider attendees at the initial CRM shall include (as a minimum) the Service Provider's Programme Director, Subject Matter Experts (SMEs) and other functional stakeholders (e.g. Finance). Service Provider attendees for future PRMs shall include (as a minimum) the Service Provider's Programme Director and any other SME and functional stakeholder as required.

7.1.6. The Service Provider shall not introduce any changes that will alter the content of the academic programmes and/or require additional resources to be provided by the Authority without the approval of the Authority.

## **8. End of Contract / Exit Strategy Requirements**

**8.1.** The Authority reserves the right to terminate the contract if changes to funding rules make it unaffordable.

**8.2.** Apprentices who have not completed their L7 SLA programme by the end date of the contract should be provided with an academic transcript of their progress to enable accreditation of prior learning with another Service Provider if necessary.

**8.3.** The Service Provider is to generate, supply for Authority approval and hold for the duration of the Contract an Exit Plan as detailed in Annex E to the Schedule 3 (Terms and Conditions) of the Contract, which shall incorporate a Transition Plan that meets the requirements of Authority SOP 8 (Apprenticeship Delivery Contract Transition Activities and Checks), as detailed in Annex C (Contract Transition Responsibilities) to Schedule 3 of the Contract.

**Annex A to  
Schedule 1 (Statement of Requirement)**

**Key User Requirements (KUR) for Contract No. 710318450****Provision of Level 7 Senior Leader Apprenticeship (ST0480) with Masters Level Academic Accreditation for Army Personnel**

<b>KUR No</b>	<b>Title</b>	<b>Description</b>	<b>Threshold MOE</b>	<b>Objective MOE</b>	<b>Justification</b>	<b>Validation Analysis Demonstration Test</b>
1	L7 SLA programme with master's level academic qualification	Provision of a fully funded L7 SLA programme with master's level academic accreditation such as an Executive MBA or similar, to Army Sgt – WO2s.	Maximum 30 new starts per year. 1 cohort per year. Leadership and management related L7 Senior Leader apprenticeship with master's level academic accreditation such as an Executive MBA or similar, post - EPA.	A total of 90 starts over 3 years. 30 per year. L7 SLA programme with master's level academic accreditation such as an Executive MBA or similar, post-EPA. Sufficient staff to apprentice ratio to enable good level of support.	Provides a comparable offer to the AHEP pathway. Programme length allows time for reflection and workplace application. Cohort numbers allow flexibility for learners to suspend and re-join another cohort without a long break in study.	Required number of places /cohorts / staffs provided, management of information system in place to manage invoicing, tracking of levy spending and apprentice progress and academic performance. Programme at least 24 months long excluding EPA.

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<b>KUR No</b>	<b>Title</b>	<b>Description</b>	<b>Threshold MOE</b>	<b>Objective MOE</b>	<b>Justification</b>	<b>Validation Analysis Demonstration Test</b>
2	Blended Learning Solution	Primarily distance learning with some face-to-face residential delivery incorporated.	Face to face residential delivery – max 20 days per year, no more than 5 days in a row.	Both distance learning and face to face delivery should be during the working day/week (Mon-Fri 0900-1700). Distance learning must be delivered in a way that allows for 'catch up' learning i.e. if an apprentice is unable to join a 'live' session.	This contributes to the 20% off the job training time required as part of the apprenticeship.	Confirmation from the Service Provider of learning schedule.

<b>KUR No</b>	<b>Title</b>	<b>Description</b>	<b>Threshold MOE</b>	<b>Objective MOE</b>	<b>Justification</b>	<b>Validation Analysis Demonstration Test</b>
3	Diverse Perspectives	Delivery to include exposure to non-military perspectives.	Engagement with a wide variety of apprentices, SMEs, learning provider staff.	Military Apprentices receive wide exposure to diverse, non-military perspectives and good practice through engagement with a range of SMEs, Service Provider staff and the learning materials.	The L7 Senior Leader with master's level academic accreditation includes the benefit of non-military perspectives to challenge thinking and introduce good practice from a wide range of non-military sources.	Confirmation from the Service Provider of how diversity of perspectives will be achieved.
4	Sensitive Information	Some apprentices may work in areas that deal with sensitive information.	The Service Provider may need to be flexible and give additional support, direction and guidance to apprentices so they can complete assignments to the required standard whilst unable to draw from their current workplace.	NA	Apprentices are bound by the Official Secrets Act and some, depending on their workplace, will not be able to use their current workplace as evidence or as a basis for assignments.	Confirmation from Service Provider of potential work arounds to support apprentices who work in areas that deal with sensitive information to complete the required assignments to the required level.

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**SCHEDULE 2**

**PRICING**

**Schedule 2 to Contract 710318450 - Provision of Level 7 Senior Leader Apprenticeship (ST0480) Trial with Master's Level Academic Accreditation for Army Personnel)**

**1. General:**

- 1.1.** This Schedule contains all prices for the delivery of the Level 7 Senior Leader Apprenticeship (L7 SLA) with Masters Accreditation, in accordance with the requirements detailed in Schedule 2 (Statement of Requirement) to Contract 710318450. The pricing herein is determined in conjunction with the Education and Skills Funding Agency (ESFA) apprenticeship funding rules in place<sup>5</sup>.
- 1.2.** The prices stated within this Schedule shall be inclusive of all direct costs and indirect fixed overhead and management costs.
- 1.3.** In accordance with Condition 23.3 of Contract 710318450, all prices stated in this Schedule shall be Firm (non-variable) on the assumption that each individual learner has no prior learning necessary to achieve the relevant apprenticeship. Should the individual learner(s) prove to possess relevant Required Prior Learning (RPL), the content and price for that individual learner(s) shall be reduced in accordance with Condition 23.3 of the main Contract<sup>6</sup>.
- 1.4.** Notwithstanding ESFA funding adjustments during the course of the Contract, the prices stated in this Schedule shall apply for the full three-year contract period.
- 1.5.** The prices stated in this Schedule are provided on the assumption of a cohort of an annual cohort of 30 individual learner (i.e. 90 in total), however cohort numbers is not guaranteed.

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<sup>5</sup> Apprenticeship Funding Rules August 2024 to July 2024 May 2024 Version 1 or subsequent updates. These costs may change depending on the length and complexity of the Standard and the proportion of direct Army delivery.

<sup>6</sup> Refer to Condition 23.3 of Contract 710318450 for full detail of potential Pricing adjustment.



## 2. Delivery Costs – L7 SLA Apprenticeship Standard

### 2.1. Table 1a

Costs detailed should be shown as the actual costs for the delivery of each individual apprenticeship Standard. All prices in Pound Sterling and Ex VAT.

Table 1a	Standard: Level 7 Senior Leader with Masters Accreditation	Unit Price	Qty	Total Cost
Serial	Item – Description of Cost(s)			
1.	Introductory Sessions		1	
2.	Cost per Module*  Including but not limited to: <ul style="list-style-type: none"> <li>Formative assessment</li> <li>Summative assessment</li> <li>Learning Resources</li> <li>Additional tutorial support</li> <li>Progress reviews</li> <li>Gateway Assessment</li> <li>Gateway Assessment costs</li> </ul>	Module Title	Qty	Cost Per Module
		Managing People and Culture	1	
		Strategic Leadership	1	
		Innovation and Change	1	
		Organisational Performance	1	
		Project Management	1	
3.	EPA Cost		1	
4.	EPA Retakes and Resits Cost		1	
5.	Additional Cost 1**		1	
6.	Additional Cost 2**		1	
7.	Additional Cost 3**		1	
8.	Total Direct Delivery Cost Per Individual (Serial 1 – 7)			
9.	Profit Margin % (enter as % Value figure)			
10.	Profit Value (enter as £GBP)			
11.	Total Price Per Individual Learner			

## 3. Masters Accreditation Pricing

### 3.1. Table 2.

The cost stated in Table 2 is the Firm price (Ex VAT) that the Service Provider will charge the Authority per individual Masters Accreditation upon successful completion of each individual apprenticeship for the duration of the Contract.

Table 2	<b>Level 7 Masters Accreditation</b>	Unit Cost
Serial	Item – Total Cost	
1.	Masters Accreditation	██████████

#### 4. Total Price for Delivery of L7 SLA with Masters Accreditation

##### 4.1. Table 3.

The cost stated in Table 3 is the combined total individual price per learner (Ex VAT) successfully completing the L7 SLA and attaining Masters Accreditation.

Table 3	<b>Standard: Level 7 Senior Leader with Masters Accreditation</b>	Total Delivery Cost (Per Learner)
Serial	Item – Total Cost	
1.	Table 1 + Table 2 = Table 3 Total	██████████

##### 4.2. Table 4.

The cost stated in Table 4 is the potential total Contract value (Ex VAT) based on the estimated number of learner throughput and all learners successfully completing the L7 SLA and attaining Masters Accreditation.

Table 4	<b>Standard: Level 7 Senior Leader with Masters Accreditation</b>	Total Delivery Cost (Over 3 Years)
Serial	Item – Total Cost	
1.	Table 3 x 90* = Table 4 Total	██████████

\*Number of anticipated learners over the 3-year period of the Contract.

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## **THE PROVISION OF LEVEL 7 SENIOR LEADER APPRENTICESHIP (ST0480) TRIAL WITH MASTER'S LEVEL ACADEMIC ACCREDITATION FOR ARMY PERSONNEL**

### **SCHEDULE 3**

### **TERMS AND CONDITIONS**

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## **TERMS & CONDITIONS OF CONTRACT**

### **GENERAL CONDITIONS**

#### **1. DEFENCE CONTRACT CONDITIONS (DEFCONs)**

1.1. The following DEFCONs in respect of general and other matters shall apply:-

DEFCON 5J (Edn 18/11/16)	Unique Identifiers (Clause 4 is not applicable)
DEFCON 76 (Edn 11/22)	Contractor's Personnel at Government Establishments
DEFCON 90 (Edn 06/21)	Copyright
DEFCON 129J (Edn 18/11/16)	The Use of The Electronic Business Delivery Form
DEFCON 501 (Edn 10/21)	Definitions and Interpretations
DEFCON 503 (Edn 06/22)	Formal Amendments to Contract
DEFCON 507 (Edn 07/21)	Delivery
DEFCON 513 (Edn 04/22)	Value Added Tax (VAT) and Other Taxes
DEFCON 514 (Edn 08/15)	Material Breach
DEFCON 515 (Edn 06/21)	Bankruptcy and Insolvency
DEFCON 516 (Edn 04/12)	Equality
DEFCON 518 (Edn 02/17)	Transfer
DEFCON 520 (Edn 10/23)	Corrupt Gifts and Payments of Commission
DEFCON 522 (Edn 11/21)	Payment and Recovery of Sums Due
DEFCON 524 (Edn 12/21)	Rejection
DEFCON 526 (Edn 08/02)	Notices
DEFCON 527 (Edn 09/97)	Waiver
DEFCON 529 (Edn 09/97)	Law (English)
DEFCON 530 (Edn 12/14)	Dispute Resolution (English Law)
DEFCON 531 (Edn 09/21)	Disclosure of Information
DEFCON 532B (Edn 12/22)	Protection of Personal Data (Where Personal Data is being processed on behalf of the Authority)
DEFCON 534 (Edn 06/21)	Subcontracting and Prompt Payment
DEFCON 537 (Edn 12/21)	Rights of Third Parties
DEFCON 538 (Edn 06/02)	Severability
DEFCON 539 (Edn 01/22)	Transparency
DEFCON 550 (Edn 02/14)	Child Labour & Employment Law
DEFCON 566 (Edn 04/24)	Change of Control of Contractor
DEFCON 602B (Edn 12/06)	Quality Assurance (without Deliverable Quality Plan)

DEFCON 604 (Edn 06/14)	Progress Reports
DEFCON 608 (Edn 07/21)	Access and Facilities to be Provided by the Contractor
DEFCON 609 (Edn 07/21)	Contractor's Records
DEFCON 620 (Edn 06/22)	Contract Change Control Procedure
DEFCON 625 (Edn 06/21)	Co-Operation on Expiry of Contract
DEFCON 632 (Edn 11/21)	Third Party Intellectual Property – Rights and Restrictions
DEFCON 642 (Edn 07/21)	Progress Meetings
DEFCON 643 (Edn 12/21)	Price Fixing (Non-qualifying Contracts)
DEFCON 656A (Edn 08/16)	Termination for Convenience – under £5M <sup>7</sup>
DEFCON 658 (Edn 10/22)	Cyber
DEFCON 660 (Edn 12/15)	Official-Sensitive Security Requirements
DEFCON 671 (Edn 10/22)	Plastic Packaging Tax

## 1.2. DEFENCE FORMS (DEFFORMs)

DEFFORM 10B (Edn 10/24)	Acceptance Of Offer Of Amendment To Contract
DEFFORM 111 (Edn 10/22)	Appendix – Addresses and Other Information
DEFFORM129J (Edn 09/17)	The Use of the Electronic Business Delivery Form
DEFFORM 532 (Edn 10/19)	Personal Data Particulars
DEFFORM 539A (Edn 01/22)	Tenderer's Commercially Sensitive Information Form
DEFFORM 539B (Edn 10/24)	Publishable Performance Information – KPI Data Report

For copies of DEFCONs/DEFFORMs refer to 'Note' on the DEFFORM 111 Enclosure to this Schedule 3 (Ts&Cs).

## SPECIAL CONDITIONS

### 2. NOTES & FURTHER DEFINITIONS

- 2.1. For the purposes of Condition 1 and in addition to the provisions of DEFCON 501 (refer to Condition 1):
- 2.1.1. where appropriate to the work to be performed under the Contract, in the Standard Conditions and the DEFCONs, references to “Article” and “Articles” shall be read as meaning “Service” and “Services” and all other terms shall generally be interpreted in the context of the delivery of such a Service or Services as opposed to the delivery of goods of the Contractor’s manufacture;
- 2.1.2. in the DEFCONs, any references to the “Project Manager”, “Project Desk Officer”, “Quality Assurance Manager” and the like shall be interpreted as being a reference to the Authority’s ‘Designated Officer’ as defined at sub-Clause 2.1.30 of this Condition and identified in Box 2 of the DEFFORM 111 Enclosure to this Schedule 3 (Ts&Cs);
- 2.1.3. in the DEFCONs, any references to “Contractor” shall be interpreted as being reference to the ‘Service Provider’;
- 2.1.4. ‘Appointed End Point Assessor’ and ‘End Point Assessment Organisation (EPAO)’ shall mean an organisation that must be on the DfE Apprenticeship Provider and Assessment Register (APAR), and has been appointed by the Authority, to undertake the End Point Assessments;
- 2.1.5. ‘Apprenticeship Provider and Assessment Register’ (APAR) – shall mean the Register owned by the Department for Education (DfE) of organisations that the employer-provider can contract with for the delivery of Apprenticeship Training services and End-Point Assessments;
- 2.1.6. ‘Apprenticeship Standards’ are endorsed by the Institute for Apprenticeships (an executive non-departmental public body, sponsored by the Department for Education) and comprise of initial assessment, on programme training and learning (including Functional Skills), Gateway assessment and End-Point Assessment. Standards are tailored to each individual profession, designed by employers and include an Assessment Plan and assessments and grading of behaviours;



- 2.1.7. 'Apprenticeship Start Date' shall mean the date that the apprentice begins training towards an Apprenticeship Standard; e.g. induction date, ESFA sign-on paperwork completed;
- 2.1.8. 'Army Apprenticeship Programme (AAP)' shall mean the Army managed apprenticeship programme in which all Education Skills Funding Agency (ESFA) and Apprenticeship Levy funded apprenticeship provision is delivered under the Single Army Contract (SAC). For the avoidance of doubt, any Army Guarantee Group (AGG) or other privately funded Learners are regarded by the Authority in the same way in all respects;
- 2.1.9. 'Army Apprenticeship Standard Operating Procedure (SOP)' shall mean the working instructions produced, and amended as necessary, by the Authority, and which set out the policies and procedures to be followed in respect of Army Apprenticeships. A list of extant SOPs applicable to this Contract is included at Annex A to this Schedule 3 (Ts&Cs). All SOPs can be obtained by request from the Army's Personnel Policy (Pers Pol) Branch.
- 2.1.10. 'Army Guarantee Group (AGG)' shall mean the funding route used to enable soldiers that are ineligible for direct funding from the Apprenticeship Levy to complete their apprenticeship.
- 2.1.11. 'The Authority'. In addition to the definition set out in DEFCON 501, the Authority is an employer-provider of apprenticeships and an ESFA contractor;
- 2.1.12. The 'Authority's Commercial Desk Officer' means the individual/post identified in Box 1 of the DEFFORM 111 Enclosure to this Schedule 3 (Ts&Cs);
- 2.1.13. the 'Authority's Representative', means the 'Designated Officer' as defined at sub-Clause 2.1.30 or such other nominated individual or organisation who may be appointed by the Authority in accordance with the provisions of the Contract;
- 2.1.14. the 'Authority's Security Officer' or 'Authority (Security Officer)' shall mean the Pers Pol Desk Officer assigned to oversee security requirements for the contract, as detailed in the Security Aspects Letter;
- 2.1.15. 'Awarding Body' or 'Awarding Organisation' means the body, regulated by Ofqual, nominated by the Service Provider, and approved by the Authority, to undertake external verification of the qualifications embedded within the Standards, and Functional Skills, attained by the Learners and to provide external test papers and certification where necessary.
- 2.1.16. The 'Bill Paying Authority' means the Bill paying Authority whose name and address is given in Box 11 of the DEFFORM 111 to the Contract;

- 2.1.17. 'Business Support Services Provider (BSS Provider)' means the organisation who, under separate Contract, undertakes to support the Army as Employer-Provider, in their administration and delivery of Apprenticeships.
- 2.1.18. 'BSS Provider's Representative' Shall mean a person or persons employed by the BSS Provider in connection with the execution of this contract. All BSS Provider's Representatives are the service delivery subcontractor of the ESFA;
- 2.1.19. 'Cap Badge' shall mean the Army organisation with devolved responsibility for running Apprenticeships for personnel under their command;
- 2.1.20. 'Cap Badge Apprenticeship Lead (CAL)' shall mean the person or persons appointed to oversee the day-to-day operational delivery of apprenticeships (including EPAs), performance management and quality assurance of Apprenticeships for their specified Cap Badge;
- 2.1.21. 'Conditions' means the Terms and Conditions (Ts&Cs) set out in this Schedule 3 (Ts&Cs);
- 2.1.22. 'Confidential Information' means all information (including data in electronic form, computer programs, designs, plans, drawings, analyses, studies and other documents or material) designated as such by either Party in writing together with all such other information of a technical, commercial or financial nature received from a Party to this Contract, its agents, servants, employees, representatives or advisors (including, without limitation, any and all documents and information supplied in the course of proceedings under Schedule 4 (Dispute Resolution Procedure));
- 2.1.23. 'Consents' means permission and agreement to conduct an activity or make changes to procedure.
- 2.1.24. 'Contract Award Date' means the day on which Contract Award is confirmed, which shall be 10 days after the standstill period commences following notification of award decision, or 14 days after the completion of any legal challenge;
- 2.1.25. 'Contract Implementation Date' means the day upon which the Service Provider assumes responsibility for the provision of all of the Services required in Schedule 1 (SOR);
- 2.1.26. 'Contract Price' for the purposes of the definition set out in DEFCON 501 means the amount set out in Schedule 2 (Price Schedule);

- 2.1.27. 'Contractor' shall be used interchangeably with and have the same meaning as 'Service Provider' at 2.1.63;
- 2.1.28. 'Corps Colonel' shall mean the senior officer responsible for the strategic leadership of the Apprenticeship programme for their specified Cap Badge;
- 2.1.29. 'Day(s)' means 'working day(s)' unless specifically expressed as calendar day(s);
- 2.1.30. 'Delivery Subcontractor' means any organisation contracted through the Service Provider to deliver the apprenticeship, English or maths or planned on-programme assessment;
- 2.1.31. "Designated Officer" is the principal Representative of the Authority appointed to monitor the Service Provider's performance in respect of the Contract and to certify receipt of satisfactory performance. The Authority's Designated Officer may, at their sole discretion and by notice to the Service Provider, delegate certain functions to other Representatives of the Authority. The address of the Designated Officer is contained in Box 2 of the DEFFORM 111 to the Contract;
- 2.1.32. 'DfE Funding Band' shall mean the maximum capped funding band against which each Apprenticeship is allocated through IfATE by the DfE. Additional information on the DfE Funding Bands can be found at:  
  
<https://www.gov.uk/government/publications/apprenticeship-funding-bands>
- 2.1.33. 'Education Branch (Ed Branch or Ed Br)' (or any successor body) shall mean the Authority's Education Branch which is responsible for the operational delivery of apprenticeships (including EPAs), performance management and quality assurance of the AAP.
- 2.1.34. 'Education and Skills Funding Agency (ESFA)' is the executive agency of the Department for Education (DfE), which from April 2025 shall be fully integrated into the DfE. The Secretary of State for Education, via the ESFA (and from April 2025 via the DfE directly) sets the rules and guidance for apprenticeships;
- 2.1.35. 'Employer' means an organisation that has a contract of service and an apprenticeship agreement with an apprentice. The Authority is an employer;
- 2.1.36. 'Employer-Provider' means any organisation that delivers some, or all, of the training element of an apprenticeship to their own staff and holds a contract with the ESFA. The Authority is an employer-provider and thus an ESFA contractor;

- 2.1.37. 'End-Point Assessment' (EPA) is a holistic and independent assessment of the knowledge, skills and behaviours of the Learner which have been learnt throughout an Apprenticeship Standard;
- 2.1.38. 'Establishment' shall mean any site owned and/or operated and/or controlled by the Authority, any other Government Body and any of their respective Arms-Length Bodies.
- 2.1.39. 'Establishment Security Officer' shall mean the Garrison Security Officer; Unit Security Officer or equivalent position identified as responsible for the Security of the Establishment.
- 2.1.40. 'Functional Skills' means the applied practical skills in English, maths and, if required, ICT;
- 2.1.41. 'FIRM Price' means a price (excluding VAT) which is not subject to variation;
- 2.1.42. 'FIXED Price' means a price (excluding VAT) which is agreed at the outset but varies over time using an agreed Variation of Price (VOP) formula;
- 2.1.43. 'Functional Skills' means the applied practical skills in English, maths and, if required, Information and Communications Technology (ICT);
- 2.1.44. 'Gateway Assessment' or 'Gateway Requirements' means the requirements set out in the Assessment Plan that must be met by the apprentice prior to undertaking EPA of the Apprenticeship Standard;
- 2.1.45. 'Good Industry Practice' means the exercise of such degree of skill, diligence, prudence and foresight as would reasonably and ordinarily be expected from a skilled and experienced person, seeking to comply with its contractual obligations and seeking to avoid liability arising under any duty of care that might reasonably apply to, or to be expected, from that person complying with all applicable laws and engaged in the same type of undertaking and under the same or similar circumstances and conditions as the Service Provider;
- 2.1.46. 'Individualised Learner Record (ILR)' means the primary data collection required from all providers for further education and work-based learning in England. Data is used by ESFA/Government to monitor policy implementation and the performance of the sector;
- 2.1.47. 'Learners' shall mean all individuals registered on the ESFA funded, Army funded or apprentice levy funded programmes supported by this Contract;

- 2.1.48. 'Learning and Development (L&D)' means the Authority's Learning & Development Branch which is responsible for the management and oversight of the Army Apprenticeship programme;
- 2.1.49. 'Main Provider' means any organisation holding a contract with the ESFA through which the ESFA directly route funds from an employer's apprenticeship service account or government-employer co-investment.
- 2.1.50. 'Management Information' means any information acquired or generated by the Service Provider for the purpose of managing the Contract which may be provided to the Authority and/or the ESFA during the term of the Contract;
- 2.1.51. 'Month' shall mean the period from the first to the last day of a calendar month (inclusive) unless:
- a) The period being referred to begins on the 29th to 30th day of January, in which case it shall end on the last day of February; or
  - b) The period being referred to begins on the 31st day, in which case it shall end on the last day of the following month (e.g. 31st October to 30th November); or otherwise
  - c) If the period being referred to begins after the first day then it shall end on the preceding day of the following month (e.g. 5th January to 4th February).
- 2.1.52. 'Ofsted' means the Office for Standards in Education, Children's Services and Skills;
- 2.1.53. 'Ofqual' means the Office of Qualifications and Examinations Regulation;
- 2.1.54. 'Parties' means the Service Provider and the Authority, and Party shall be construed accordingly;
- 2.1.55. 'Personal Data' means personal information and data relating to a specific individual who can be identified by such information and data;
- 2.1.56. 'Planned End Date' means date entered onto the individualised learner record (ILR) when the learner is expected to complete their learning;
- 2.1.57. 'Quality Mentor' shall mean the BSS Provider's Representative appointed to provide SME support to the CAL in the management of the apprenticeship programme and undertake 2<sup>nd</sup> Party Assurance of the programme and SP activities.
- 2.1.58. 'Re-competition' means where the Authority re-competes its requirement for either the whole or part of the Services or their replacement or equivalent;

- 2.1.59. 'Recognition of Prior Learning (RPL)' shall mean the process of recognising knowledge elements, competencies and behaviours within an apprenticeship standard that may have been acquired through formal, non-formal and informal learning conducted by the individual prior to enrolment onto the Apprenticeship Standard.
- 2.1.60. 'Register of Apprentice Assessments Organisations' means the Register held by the ESFA of organisations that the Service Provider can contract with for the delivery of End-Point Assessments;
- 2.1.61. 'Register of Apprenticeship Training Providers' (RoATP) means the Register held by the ESFA of Training Providers who have passed tests on due diligence, financial health and tests of quality, capacity and capability. Service Providers must be registered on the RoATP throughout the duration of the Contract;
- 2.1.62. 'Replacement Contract' means any contract entered into by the Authority with a Successor Service Provider for the provision of some or all of the Services;
- 2.1.63. 'Service Provider' means the organisation who, under this Contract, undertakes to provide the Contract deliverables detailed in Schedule 1 (SOR), used interchangeably with 'Contractor' as per 2.1.
- 2.1.64. 'Service Provider's Representative' means a suitably empowered person or persons employed by the Service Provider in connection with the provisions of the deliverables and in connection with this Contract;
- 2.1.65. 'Services' means the services which are to be provided by the Service Provider throughout the Contract term in accordance with the terms of this Contract and Schedule 1 (SOR);
- 2.1.66. 'Single Army Contract (SAC)' shall mean the Army arrangement to draw funding directly from the ESFA or the Employer Levy Account for Apprenticeships and Functional Skills;
- 2.1.67. 'Statement of Requirements (SOR)' means the Services specified in Schedule 1 (SOR) which are to be performed by the Service Provider and the minimum standards to be achieved;
- 2.1.68. 'Steering Group Management Board' shall mean the forum at which the Corps Colonel provides the strategic leadership to the programme, deciding the key priorities for the future and monitoring performance against Performance targets set by the Management Board;

2.1.69. 'Transition' means the period between the Contract Award Date and the Contract Implementation Date;

2.1.70. 'Working Group Management Board' shall mean the operational level meeting chaired by the CAL that deals with the day-to-day management of the programme, monitoring how well cohorts of learners and individual apprentices are progressing on their apprenticeships and identifying action to be taken to overcome delivery issues. The meeting reviews performance and quality and progress against the Corps Colonel's Performance Targets and the Quality Improvement Plan (QIP).

### 3. NOTICES

3.1. For the purposes of DEFCON 526 (Notices), any notice given under or pursuant to the Contract shall be sent or transmitted to the addresses of the parties to the Contract at sub-Clauses 3.1.1 and 3.1.2:

3.1.1. Authority Commercial Desk Officer Address:

Army Commercial Branch  
Floor 2, Zone 2.N,  
Blenheim Building,  
Army HQ, Marlborough Lines,  
Monxton Road, ANDOVER,  
Hampshire SP11 8HT  
Email: [ArmyComrcl-Procure-AAP-Mailbox@mod.gov.uk](mailto:ArmyComrcl-Procure-AAP-Mailbox@mod.gov.uk)

3.1.2. Service Provider Address:

**REDACTED – COMMERCIAL SENSITIVE**

### 4. ENTIRE AGREEMENT

4.1. The Contract constitutes the entire agreement between the Parties relating to the subject matter of the Contract. The Contract supersedes, and neither Party has relied upon, any prior negotiations, representations and undertakings, whether written or oral, except that this Condition shall not exclude liability in respect of any fraudulent misrepresentation.

4.2. The Service Provider's Technical Submission filed in response to the Authority's Requirement of Response will be inserted at Schedule 7 (Service Delivery Plan) to this Contract and its content therefore enforceable as part of the entire agreement.

5. GOVERNING LAW

- 5.1. Subject to Clause 5.4, the Contract shall be considered as a contract made in England and subject to English Law.
- 5.2. Subject to Clause 5.4 and Condition 56 (Dispute Resolution Procedure) and without prejudice to the dispute resolution process set out therein, each Party submits and agrees to the exclusive jurisdiction of the Courts of England to resolve, and the laws of England to govern, any actions proceedings, controversy or claim of whatever nature arising out of or relating to the Contract or breach thereof.
- 5.3. Subject to Clause 5.4 any dispute arising out of or in connection with the Contract shall be determined within the English jurisdiction and to the exclusion of all other jurisdictions save that other jurisdictions may apply solely for the purpose of giving effect to this Condition 5 and for the enforcement of any judgment, order or award given under English jurisdiction.
- 5.4. If the Parties pursuant to the Contract agree that Scots Law should apply, then the following amendments shall apply to the Contract:
- 5.4.1. Clauses 5.1, 5.2 and 5.3 shall be amended to read:
- a) The Contract shall be considered as a contract made in Scotland and subject to Scots Law.
  - b) Subject to Condition 56 (Dispute Resolution Procedure) and without prejudice to the dispute resolution process set out therein, each Party submits and agrees to the exclusive jurisdiction of the Courts of Scotland to resolve, and the laws of Scotland to govern, any actions, proceedings, controversy or claim of whatever nature arising out of or relating to the Contract or breach thereof.
  - c) Any dispute arising out of or in connection with the Contract shall be determined within the Scottish jurisdiction and to the exclusion of all other jurisdictions save that other jurisdictions may apply solely for the purpose of giving effect to this Condition 5 and for the enforcement of any judgment, order or award given under Scottish jurisdiction.
- 5.5. Each Party warrants to each other that entry into the Contract does not, and the performance of the Contract will not, in any way violate or conflict with any provision of law, statute, rule, regulation, judgement, writ, injunction, decree or order applicable to it. Each Party also warrants that the Contract does not conflict with or result in a breach or



termination of any provision of, or constitute a default under, any mortgage, contract or other liability, charge or encumbrance upon any of its properties or other assets.

- 5.6. Each Party agrees with each other Party that the provisions of this Condition 5 shall survive any termination of the Contract for any reason whatsoever and shall remain fully enforceable as between the Parties notwithstanding such a termination.

6. WAIVER

- 6.1. No act or omission of either Party shall by itself amount to a waiver of any right or remedy unless expressly stated by that Party in writing. In particular, no reasonable delay in exercising any right or remedy shall by itself constitute a waiver of that right or remedy.
- 6.2. No waiver in respect of any right or remedy shall operate as a waiver in respect of any other right or remedy.

7. ASSIGNMENT OF CONTRACT

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

8. THIRD PARTY RIGHTS

- 8.1. Notwithstanding anything to the contrary elsewhere in the Contract, no right is granted to any person who is not a Party to the Contract to enforce any term of the Contract in its own right and the Parties to the Contract declare that they have no intention to grant any such right.

9. TRANSPARENCY

- 9.1. Notwithstanding any other term of this Contract, including DEFCON 531 (Disclosure of Information), the Contractor understands that the Authority may publish the Transparency Information and Publishable Performance Information to the general public.
- 9.2. Subject to Clause 9.3 of this Condition the Authority shall publish and maintain an up-to-date version of the Transparency Information and Publishable Performance Information in a format readily accessible and reusable by the general public under an open licence where applicable.
- 9.3. If, in the Authority's reasonable opinion, publication of any element of the Transparency Information and Publishable Performance Information would be contrary to the public interest, the Authority shall be entitled to exclude such Information from publication. The Authority acknowledges that it would expect the public interest by default to be best

served by publication of the Transparency Information and Publishable Performance Information in its entirety. Accordingly, the Authority acknowledges that it shall only exclude Transparency Information and Publishable Performance Information from publication in exceptional circumstances and agrees that where it decides to exclude Information from publication on that basis, it will provide a clear statement to the general public explaining the categories of information that have been excluded from publication and reasons for withholding that information.

- 9.4. The Contractor shall assist and co-operate with the Authority as reasonably required to enable the Authority to publish the Transparency Information and Publishable Performance Information, in accordance with the principles set out above, including through compliance with the requirements relating to the preparation of Publishable Performance Information set out in Clauses 9.5 to 9.9 of this Condition. Where the Authority publishes Transparency Information, it shall:
- 9.4.1. before publishing, 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 (FOIA) or the Environmental Information Regulations 2004 (EIR), for the avoidance of doubt, including Sensitive Information;
  - 9.4.2. taking account of the Sensitive Information set out in DEFFORM 539A, consult with the Contractor where the Authority intends to publish Information which has been identified as Sensitive Information. For the avoidance of doubt the Authority, acting reasonably, shall have absolute discretion to decide what information shall be published or be exempt from disclosure in accordance with the FOIA and/or the EIR; and
  - 9.4.3. present information in a format that assists the general public in understanding the relevance and completeness of the information being published to ensure the public obtain a fair view on how this Contract is being performed.

#### **Publishable Performance Information**

- 9.5. Within three (3) months of the effective date of Contract the Contractor shall provide to the Authority for its approval (such approval shall not be unreasonably withheld or delayed) a draft Publishable Performance Information KPI Data Report consistent with the content requirements of Schedule 6 (Performance Monitoring).
- 9.6. If the Authority rejects any draft Publishable Performance Information the Contractor shall submit a revised version of the relevant KPI Data Report for further approval by the Authority with five (5) business days of receipt of any notice or rejection, taking account of

any recommendations for revision and improvement to the report provided by the Authority. This process shall be repeated until the parties have an agreed version of the Publishable Performance Information.

- 9.7. The Contractor shall provide an accurate and up-to-date version of the KPI Data Report to the Authority for each quarter at the frequency referred to in the agreed Schedule 6 (Performance Monitoring).
- 9.8. Any dispute in connection with the preparation and/or approval of Publishable Performance Information, other than under Clause 9.6 of this Condition, shall be resolved in accordance with Condition 56 (Dispute Resolution Procedure) of this Schedule 3 (Ts&Cs).
- 9.9. The requirements of this Condition are in addition to any other reporting requirements in this Contract.

10. ESFA COMPLIANCE

- 10.1. Both Parties shall fully comply with all ESFA funding rules and policies, as updated from time-to-time.

11. DURATION OF CONTRACT

- 11.1. Without prejudice to any other Term or Condition of the Contract and subject at all times to the continued availability of ESFA Funding / Apprenticeship Levy funding, the duration of Contract in accordance with Schedule 2 (Price) shall be three (3) years. The Contract Implementation date shall be 1<sup>st</sup> August 2025. Subject to the termination provisions of the Contract, the Contract duration shall be from 1<sup>st</sup> August 2025 to 31<sup>st</sup> July 2028 inclusive.
- 11.2. There are no Options to extend this Contract.

12. SUB CONTRACTING

- 12.1. The Service Provider shall not sub-contract any part of the apprenticeship training delivery, or on-programme assessment.
- 12.2. In the event that any specific sub-contracting has, exceptionally, been agreed DEFCON 534 shall also apply.

13. LEGAL AND STATUTORY RESPONSIBILITIES

- 13.1. Whilst attention is drawn herein and in the SOR to specific legislation, it shall be the sole responsibility of the Service Provider to ensure that they comply with all legal requirements and statutory instruments and any local by-laws, as appropriate to the

nature of the services being provided in so far as such legal requirements, statutory instruments and by-laws are applicable to the geographic areas where the Contract is being performed.

14. CHANGES IN LAW

- 14.1. Changes to statutory legislation shall be dealt with on a case-by-case basis.
- 14.2. The Service Provider shall not be relieved of its obligations to supply the Services in accordance with the terms of this contract as the result of a Specific Change in Law provided always that the costs of complying with the Specific Change in Law which cannot clearly be anticipated as at the Effective Date shall be agreed pursuant to the DEFCON 620 (Contract Change Control Procedure).
- 14.3. Without prejudice to the rest of this Condition, the Service Provider shall use all reasonable endeavours to minimise any disruption caused by any Specific Change in Law.

15. RELATIONSHIPS BETWEEN THE PARTIES

- 15.1. Nothing in the Contract shall be construed as creating a partnership, a contract of employment or a relationship of principal and agent between the Authority and the Service Provider.
- 15.2. The Service Provider will be treated as an independent Service Provider and will be responsible for all taxation, National Insurance contributions and similar liabilities arising in relation to the fees payable for the work.
- 15.3. The Service Provider shall not place or cause to be placed any orders with suppliers or incur liabilities in the name of the Authority or any representative of the Authority.
- 15.4. The Authority shall not have any additional liability or responsibility for payments to any of the Service Provider's creditors, employees, partners, sponsored tutors, in respect of any materials purchased, premises costs incurred, or services provided by the Service Provider in the delivery of the requirement in Schedule 1 (SOR).

16. OTHER CONTRACTS WITH THE CROWN

- 16.1. If the Service Provider shall enter into any other contract with the Crown relating in any way to the subject matter of the Contract, then, no breach by the Crown of that other contract nor any other act or omission nor any written or oral statement nor representation whatsoever of or by the Crown its servants or agents or other service providers relating to or connected with any other contracts as aforesaid shall, regardless of any negligence on its or their part:

- 16.1.1. Give the Service Provider any right under this Contract to an extension of time or otherwise or additional payment or damages or any other relief or remedy whatsoever against the Authority, or
- 16.1.2. Affect, modify, reduce or extinguish either the obligations of the Service Provider or the rights or remedies of the Authority under this Contract;
- 16.1.3. Be taken to amend, add to, delete or waive any Term or Condition of this Contract.

17. AMENDMENTS

- 17.1. Further to DEFCON 620, and subject to Clause 17.3 of this Condition, the Contract may only be amended by the written agreement of the Parties (or their duly authorised representatives acting on their behalf). Such written agreement shall consist of:
  - 17.1.1. the Authority's offer set out in a serially numbered amendment letter issued by the Authority to the Contractor; and
  - 17.1.2. the Contractor's unqualified acceptance of the contractual amendments as evidenced by the DEFFORM 10B duly signed by the Contractor.
- 17.2. Where required by the Authority in connection with any such amendment, the Contractor shall (as so required) confirm that any existing Parent Company Guarantee is sufficiently comprehensive so as to cover and support all of the Contractor's liabilities and obligations under and in connection with the Contract (as amended by such amendment) or provide a revised Parent Company Guarantee with such DEFFORM 10B to achieve the same purposes.
- 17.3. Where the Authority wishes to amend the Contract to incorporate any work that is unpriced at the time of amendment:
  - 17.3.1. if the Contract is not a Qualifying Defence Contract, the Authority shall have the right to settle with the Contractor a price for such work under the terms of DEFCON 643; or
  - 17.3.2. if the Contract is a Qualifying Defence Contract, the Contract Price shall be redetermined on amendment in accordance with the Defence Reform Act 2014 and Single Source Contract Regulations 2014 (each as amended from time to time).
- 17.4. The Authority shall have the right to require the Service Provider to cease enrolment of Learners onto any of the Apprenticeships delivered under the Contract in the event that:
  - 17.4.1. a change to the Army career development strategy renders any Apprenticeship delivered under this Contract inappropriate for the career needs of soldiers;
  - 17.4.2. any Apprenticeship delivered under this Contract is revised by IfATE to the extent the Authority identifies it is no longer deliverable or appropriate;

- 17.4.3. any Apprenticeship delivered under this Contract is closed to new enrolments by IfATE;
- 17.4.4. there is an adverse change in the amount or nature of the funding provided by ESFA, or
- 17.4.5. if insufficient funding is available from the ESFA or via the Defence Apprenticeship Levy account.

The Authority shall endeavour to issue notice of cessation to the Service Provider with as much notice as that provided to the Authority. The cessation date(s) for enrolments shall be at the discretion of the Authority.

- 17.5. Where cessation of enrolments is enacted under the provisions of Clause 17.4 the Service Provider shall continue to support Learners already on programme to completion in accordance with the provisions of this Contract.

#### **Changes to the Specification**

- 17.6. The Statement of Requirement at Schedule 1 forms part of the Contract and all Contract Deliverables to be supplied by the Contractor under the Contract shall conform in all respects with said Statement of Requirement.
- 17.7. The Contractor shall use a configuration control system to control all changes to the Specification. The configuration control system shall be compatible with ISO 9001 (latest published version) or as specified in the Contract.

#### **18. ENVIRONMENTAL REQUIREMENTS**

- 18.1. The Contractor shall in all their operations to perform the Contract, adopt a sound proactive environmental approach that identifies, considers, and where possible, mitigates the environmental impacts of their supply chain. The Contractor shall provide evidence of so doing to the Authority on demand.

#### **19. AUTHORITY RESPONSIBILITIES**

- 19.1. The Authority shall be responsible for:
  - 19.1.1. providing details of the mandatory training courses required for personnel working on a MOD site and notifying both the individual and the Service Provider of these requirements within fourteen calendar days of the Service Provider notifying the Authority of an individual's Apprenticeship Start Date;
  - 19.1.2. where required, Security Clearance at or above Security Check (SC) level.

20. SERVICE PROVIDER RESPONSIBILITIES

20.1. The Service Provider shall also be responsible for:

20.1.1. ensuring that contracted personnel complete any mandatory training required by the MOD for personnel working on an MOD site within the first three months of starting work on the MOD site. And;

20.1.2. ensuring that contracted personnel maintain any essential skills, qualifications or accreditation required for their role, at no cost to the Authority.

20.2. The Service Provider shall ensure the continuity in post of skilled staff, in so far as this lies within their control. They shall maintain sufficient employees to carry out the Contract and ensure that all of their employees are adequately trained, qualified and experienced to achieve the required standards.

20.3. The Service Provider shall keep the Authority (Designated Officer) informed on any industrial relations problems or other impending difficulties likely to delay or impede the performance of the Contract and use all reasonable endeavours to avoid industrial disputes or stoppages involving staff employed for the purposes of the Contract. Notwithstanding the foregoing, such disputes and industrial stoppages are strictly a matter for the Service Provider and the Authority will grant no relief under the terms of the Contract in such event.

20.4. The Service Provider shall understand each Learners' line management structure and how it fits in the Chain of Command (CoC) in order to carry out the requirements defined in Schedule 1 (SOR).

20.5. The Service Provider's staff must ensure the staff that come into unsupervised face-to-face contact with apprentices have enhanced Disclosure and Barring Service (DBS) clearance before carrying out their duties. The Service Provider must inform the Authority immediately of any Service Provider staff referred to DBS following a complaint. Additional responsibilities are contained within Condition 38 (Security) of this Schedule 3 (Ts&Cs).

21. SERVICE PROVIDER RECORDS

21.1. The Service Provider shall maintain all records specified in and connected with the Contract (expressly or otherwise) and make them available to be examined or copied, by or on behalf of the Authority, as the Authority may require.

21.2. The Service Provider shall upon request produce such records for inspection by the Authority (including all statistical information gathered for the purposes of performance

requirements and quality assurance monitoring); such records will be the property of the Authority and will not be released, published or disposed of without the approval of the Authority (Designated Officer).

- 21.3. The Service Provider shall give the Authority, including the BSS Provider, ready access to all work in progress and completed work. Inspections by the Authority may be made on a “no notice” basis.
- 21.4. The records referred to in this contract shall be retained for a period of at least seven (7) years from:
  - 21.4.1. the end of the Contract term or;
  - 21.4.2. termination of the Contract; whichever occurs latest; or
  - 21.4.3. the end of a Learner’s Apprenticeship if this occurs during the contract period.

## 22. PRECEDENCE

- 22.1. In performing its obligations under this Contract, the Service Provider shall:
  - 22.1.1. Provide the Services and carry out all other obligations under this Contract, in accordance with the terms of this Contract, all relevant Legislation, ESFA Rules, L&D Standard Operating Procedures (SOPs), and Good Industry Practice;
  - 22.1.2. In consultation with the Authority, and where appropriate, develop such policies and procedures, which are likely to improve/enhance the provision of the Service and shall comply with such policies and procedures once they have been agreed with the Authority; and
  - 22.1.3. Obtain and maintain all necessary Consents.
- 22.2. In the event of any inconsistency or conflict between the obligations of the Service Provider referred to in sub-Clause 22.1.1 of this Condition the following order of precedence shall apply:
  - 22.2.1. Statutory Legislation;
  - 22.2.2. Education and Skills Funding Agency (ESFA) Rules;
  - 22.2.3. This Schedule 3 (Ts&Cs);
  - 22.2.4. Schedule 1 - Statement of Requirements (SOR);
  - 22.2.5. Standard Operating Procedures (SOPs) subject to regular review/update;



22.2.6. Schedule 2 – Price;

22.2.7. Schedule 7 – Service Delivery Plan (Technical Tender Submission) at contract award;

22.2.8. All other Schedules;

22.2.9. Other ancillary documents referred to in this Contract;

22.2.10. Good Industry Practice.

22.3. In the event of any conflict between the General Conditions of the Contract and the Special Conditions of the Contract then the Special Conditions of the Contract shall prevail.

22.4. Each Party is to notify the other in writing forthwith upon the Authority's Representative or the Service Provider's Representative becoming aware of any discrepancy, inconsistency or divergence between the documents referred to in Clause 22.2 of this Condition. The Parties must seek to resolve such discrepancy, inconsistency or divergence as soon as practicable. Where they fail to do so and either Party considers the discrepancy, inconsistency or divergence to be material, then the matter may be referred to Schedule 4 (Dispute Resolution Procedure).

## 23. PRICE

23.1. The prices for delivery of the apprenticeship programmes shall be FIRM (i.e. non-variable) as specified in Schedule 2 (Price) and relate to Schedule 1 the Statement of Requirements.

23.2. Prices in Schedule 2 (Price) are based on the assumption that the apprentice has no prior learning necessary to achieve the relevant apprenticeship. If the Learner has RPL, the content and price shall be reduced by negotiation with the Authority in accordance with ESFA funding rules.

23.3. Prices in Schedule 2 (Price) for delivery of each apprenticeship programme are fully inclusive of all Travel and Subsistence costs.

23.4. The overall cost for delivery of an Apprenticeship to the Authority shall not exceed the maximum-capped price for the relevant DfE Funding Band for each Apprenticeship.

## 24. PAYMENT

24.1. Payment for will be made in accordance with Annex B (Payment Methodology) to this Schedule 3 (Terms and Conditions).

24.2. The Service Provider **must** have at time of Contract award, and shall retain for the life of the Contract, the ability to accept payment from the Authority for individual Master

Accreditations via credit card.

24.3. No claim by the Service Provider for additional payment will be allowed on the grounds of any misunderstanding or misinterpretation of the SOR or any instruction given. The Service Provider shall not be released from any risks or obligations imposed on or undertaken by him under the Contract on any such grounds or on the grounds that they did not, or could not, foresee any matter which might affect or have affected proper execution of the Contract.

24.4. In the event that the ESFA reduces the amount of funding available, the Authority shall in turn review the pricing with the Service Provider and furthermore may, on the grounds of affordability, cease delivery against any Apprenticeship Standard currently delivered under this contract.

25. LEARNER DEMAND

25.1. The actual levels of Learner demand for the Apprenticeship programme under the Contract may be lower or higher than any estimated range of demand given by the Authority at the outset. The Authority accepts no liability for, nor offers any guarantee to the Service Provider in respect of, the accuracy of projections of estimated Learner enrolments for the programmes as detailed in Schedule 1 (SOR).

25.2. The Service Provider shall be expected to show flexibility in order to meet the demands of a continually-changing Learner population and Learner availability. Learner numbers cannot be guaranteed.

26. TRAVEL & SUBSISTENCE

26.1. Prices in Schedule 2 (Price) for delivery of each apprenticeship programme are fully inclusive of all Service Provider incurred Travel and Subsistence costs associated with delivery of the Contract. The Authority shall not be liable for any travel and subsistence costs.

27. SERVICE PROVIDER'S PERSONNEL

27.1. Where specific personnel have been proposed by the Service Provider for the performance of the Contract, the Service Provider shall take all reasonable steps to avoid changes to such personnel and any changes which are unavoidable shall be brought to the immediate attention of the Authority which reserves the right, acting reasonably, to reject such alternative personnel as the Service Provider may then propose. The agreement by the Authority, whether notified or otherwise, to any personnel shall not prejudice the requirement upon the Service Provider to perform the Contract.

27.2. If in the opinion of the Authority, acting reasonably, any of the Service Provider's employees associated with the performance of the Contract shall misconduct themselves or be incapable of efficiently performing their duties or it shall not be in the public or National interest for any such person to be employed or engaged by the Service Provider in the performance of the Contract then the Service Provider shall remove such person without delay on being required to do so by the Authority (Designated Officer) and, subject to Clause 27.1 of this Condition, shall cause the work to be performed by such other person or persons as may be necessary in default.

27.3. The Service Provider shall notify the Authority immediately of any circumstances where the Service Provider becomes aware of an actual or potential conflict of interest which would affect either the Service Provider or any of its personnel engaged in the performance of work under this Contract. In the event of any actual or potential conflict, the Authority shall deal with it in accordance with the provisions of Clause 27.2 of this Condition.

28. SAFEGUARDING LEARNERS

28.1. The Service Provider shall comply fully with SOP 12 (Safeguarding and Prevent) and shall co-operate with, and provide information to, the Army Safeguarding lead as requested; to give assurance that adequate arrangements exist for Learner Safeguarding to enable the Authority and the ESFA to review Learner incidents.

29. DIVERSITY AND INCLUSION

29.1. The MOD and its agencies are committed to and operate a policy of equality and diversity for its entire staff and recruits.

29.2. The Authority, in line with the Common Inspection Framework (CIF), aims to promote equality and diversity, tackle discrimination and narrow the achievement gap.

29.3. The Service Provider shall cooperate with the Authority and reinforce the achievement of these aims.

30. QUALITY ASSURANCE

30.1. The Service Provider shall undertake the services in accordance with the quality requirement set out in Schedule 1 (SOR), and in addition to the current and any future ESFA guidelines, prevalent Awarding Body standards and SOP 14 (Self-Assessment, Quality Improvement, and Quality Commentary).

31. FUNDING ASSURANCE REVIEW

- 31.1. The Service Provider shall provide the L&D Army Apprenticeships Team with appropriate Learner records to satisfy the ESFA Audit Team, which has a statutory responsibility for the provision of audit services to the ESFA.
- 31.2. The Service Provider shall provide the necessary records to the L&D Army Apprenticeships Team no later than seven calendar days following receipt of a formal request.

32. ACCOUNTING PRINCIPLES

- 32.1. The Service Provider shall at all times maintain a full record of particulars of the costs of conducting its business including all books of account kept in accordance with generally accepted UK accounting principles, showing in detail:

- 32.1.1. administrative overheads;

- 32.1.2. capital and revenue expenditure;

- 32.1.3. such other cost items as the Authority may reasonably require from time to time in order to conduct cost audits for verification of cost expenditure or estimated expenditure, for the purposes of this Contract.

33. MONITORING AND COMPLIANCE

- 33.1. For the purposes of ensuring compliance with this Contract the Apprenticeship Programme Board and Steering Group Management Board shall be entitled to monitor the apprenticeship programme. Any concerns over the Contract performance may be dealt with in accordance with DEFCON 530 – Dispute Resolution (English Law) utilising the process within Schedule 4 (Dispute Resolution Procedure).
- 33.2. The Designated Officer may inspect, or arrange for the inspection of, the delivery of the apprenticeship programme or any part thereof at any reasonable time during the period of the Contract. This shall include, but not be limited to, access to all learner administration files, records of completion of apprenticeship competences and units and Learner portfolios (whether paper or electronic). When the Authority wishes to exercise its rights of inspection under this Condition, the Contractor shall give to the Designated Officer and any other person nominated by the L&D Army Apprenticeships Team full and free access to the apprenticeship programme.

34. PERFORMANCE

- 34.1. The Service Provider shall provide and maintain an organisation of a standard commensurate with the performance of all of their obligations under the Contract and have facilities and employees of appropriate qualifications and experience to undertake the said obligations with all due care, skill and diligence.
- 34.2. Only persons with appropriate qualifications and competence for the tasks on which they are engaged shall be employed by the Service Provider under this Contract. The Service Provider shall ensure that persons employed on this Contract meet the Awarding Body and ESFA requirements.
- 34.3. Should the ESFA remove the Service Provider from the APAR for any reason, this will be considered a Fundamental Breach of Contract, and the Authority reserves the right to immediately terminate the Contract under such circumstances. In this event, the Service Provider shall comply with its obligations in relation to the Exit Plan and Transition Activity Checklist.
- 34.4. If the Authority considers that any service provided by the Service Provider has not been delivered in accordance with the Contract, they shall (without prejudice to any other remedy available) require the Service Provider to undertake rectification action as stipulated by the Authority, within an agreed period, and to the Authority's satisfaction. Such action shall be undertaken at no additional cost to the Authority.
- 34.5. If at the end of the agreed period the rectification action undertaken by the Service Provider does not remedy the problem, the Authority shall determine whether:
- 34.5.1. the period may reasonably be extended and progress will be reviewed again in accordance with this Clause 34.5; or
- 34.5.2. the Service Provider must produce and submit to the Designated Officer a detailed Recovery Plan as per Clause 34.6 below.
- 34.6. Recovery Plan – the requirement for a Plan can be triggered by Clause 34.5 of this Schedule 3 (Ts&Cs), or by Schedule 6 (Performance Monitoring). The Plan shall detail the Service Provider's proposals (including timescales which must be agreed with the Authority) to resolve the poor performance and restore performance in accordance with Schedule 1 (SOR) and Schedule 6 (Performance Monitoring). Notwithstanding the Authority's other contractual rights, the Authority may request the Service Provider to propose further amendments to their proposed Recovery Plan so that it becomes acceptable to the Authority. For the avoidance of doubt, comment and discussion by the Authority on the remedial plan does not, and shall not, be interpreted as express or

implied acceptance of the contents of the Recovery Plan. The responsibility remains that of the Service Provider.

- 34.7. Implementation and progress on the actions introduced by the Service Provider as a result of the Recovery Plan shall be reviewed through the Governance structure, starting at the next Working Group Management Board in accordance with the requirements of Schedule 1 (SOR).
- 34.8. If the achieved performance level remains below the required standard at the monthly review meeting following the end of the agreed timescale for the implementation of the Recovery Plan, then the Authority shall treat this as a contractual default and may apply the remedies detailed in Condition 49 (Default/Step in Rights) of this Schedule 3 (Ts&Cs) for contractual breaches caused by the Service Provider.
- 34.9. If Clauses 34.4 to 34.7 of this Condition have been exhausted to their fullest extent, and the Service Provider fails to deliver any of the services under the Contract to a satisfactory standard and fails at the monthly progress meeting to provide a reasonable response to the failure(s), the Authority shall be entitled to withhold payment in respect of those services, pending resolution of the unsatisfactory work. Once the residual work has been signed off by the Authority (Designated Officer) as having met the required satisfactory standard, the Service Provider shall be entitled to claim payment for the withheld payments.

35. REPORTS & MEETINGS

- 35.1. The Service Provider shall, as required by the Designated Officer, provide the reports detailed in Schedule 1 (SOR) and Annex F (Governance and Meetings) to this Schedule 3 (Ts&Cs).

36. ARMY APPRENTICESHIP BUSINESS SUPPORT E-PLATFORM

- 36.1. The Army Apprenticeship's Business Support e-Platform is not applicable to this Contract.

37. DATA MANAGEMENT

- 37.1. The Service Provider shall use an ESFA/Apprenticeship Service (AS) approved Management Information System (MIS) to enter all learner information, including the AS Cohort Reference. The Authority shall provide the AS Cohort Reference. The Authority shall be responsible for the approval of the cohort on the AS.
- 37.2. The Service Provider shall enter learner information on the MIS in accordance with ESFA requirements for timely entry of data. The Service Provider shall supply data on each

individual Learner, to L&D Army Apprenticeships Team. The Service Provider shall ensure that data held on the Management Information System remains up to date at all times.

- 37.3. The Service Provider shall use a learner tracking system to monitor Learner progress on the apprenticeship programmes. All significant progress, including Reviews, ERR, placements and any mandated qualifications, for each Learner against their planned learning programme must be recorded on the MIS.
- 37.4. Service Provider shall provide free and unrestricted access to Learner data and shall provide reports to the Authority as requested.

38. SECURITY

- 38.1. The Service Provider shall be required to ensure that any staff provisioned to deliver any part of the Services detailed in Schedule 1 (SOR) shall submit themselves to MOD security clearance procedures as required by the Designated Officer.
- 38.2. The Service Provider shall provide the Authority (Designated Officer) with Personal details of any of the Service Provider employees requiring access to Establishments. The Authority reserves the right to refuse entry to any individuals, or to require that they be removed from an Establishment at any time without explanation.
- 38.3. The Service Provider shall comply with any reasonable security measures requested by the Authority and shall comply with extant security procedures prevalent in the Establishments.
- 38.4. No employee of the Service Provider is to be allowed access to classified information or material unless prior clearance to receive information of the appropriate security classification has been authorised by the Authority (Security Officer), and the employee holds an appropriate level of personal security clearance.
- 38.5. The Service Provider shall additionally be responsible for:
  - 38.5.1. Notifying the Authority of reportable incidents in accordance with the Security Aspects Letter;
  - 38.5.2. Ensuring that no classified information stemming from lectures, discussions or other activities arising from this Contract is to be passed to any unauthorised person or anyone outside of the Contract or is to be used for any purpose outside of the Contract unless express prior permission has been given, in writing, by the Authority (Security Officer);

- 38.5.3. Ensuring that the highest standards of privacy and confidentiality are maintained by their employees in relation to documents that originate from the Authority, whether they carry a classification making or not, with which they are entrusted. The same standards of privacy and confidentiality shall be applied to information acquired orally. Unauthorised divulgence of Protected Material or information (including, for example, Reportable OFFICIAL and OFFICIAL- SENSITIVE) can damage the reputation of an individual, of the Service Provider, of the Authority or of the Establishment. The Service Provider shall be aware that the Authority attaches great importance to the protection of such information;
- 38.5.4. Ensuring the proper handling, processing and storage of all classified documents, and other material, held by the Service Provider;
- 38.5.5. Ensuring the proper disposal or destruction of such documents and material;
- 38.5.6. Making arrangements for their new employees to be briefed on their security responsibilities in relation to the Contract;
- 38.5.7. Making arrangements for continuation security training of their employees as required by the Authority; and
- 38.5.8. Where a post has been identified as DBS, the Service Provider shall ensure that all personnel are DBS checked and have enhanced clearance prior to commencement of work on the contract.

39. CYBER SECURITY

- 39.1. Further to DEFCON 658, the Cyber Risk Level of the Contract 710318450 is assessed as 'Moderate', as defined in Def Stan 05-138. The Cyber Risk Assessment reference number is RAR-570758138.
- 39.2. The Service Provider shall reassess the cyber security controls that they have in place every year, on the anniversary of the date of commencement of the Contract and shall inform the Authority's Designated Officer if the status of their cyber security rating changes. Where necessary, the Service Provider shall devise and implement a Cyber Implementation Plan (CIP) to address any shortcomings in their cyber security controls.
- 39.3. Where an agreed Cyber Implementation Plan (CIP) is required, or becomes required in the course of the Contract, the Service Provider shall provide the details of their CIP to the Authority (Pers Pol) who shall arrange for the CIP to be inserted into the Contract Documentation as a Schedule to the Contract; and the Service Provider shall then meet the agreed timescales set out within the CIP for implementation of the necessary security controls.



39.4. The Service Provider shall notify the JSyCC WARP, in accordance with Industry Security Notice (ISN) 2023/11 as amended or updated from time to time, and the Contractors NSA/DSA, immediately in writing as soon as they know or believe that a Cyber Security Incident has or may have taken place providing initial details of the circumstances of the incident and any mitigation measures already taken or intended to be taken, and providing further information in phases, as full details become available. For the avoidance of doubt, this includes incidents that could have compromised data even if there was no actual breach.

#### 40. DATA PROTECTION

40.1. The Service Provider shall ensure that any Personal Data is protected in accordance with DEFCONs 531 and 532B. Annex D (DEFFORM 532) to this Schedule 3 (Ts&Cs) defines the Personal Data concerned, the source of the data and the processes to be applied to it and the intended disposal of the Personal Data after processing. Personal Data held on any portable device shall be encrypted in accordance with Defence policy (the current Defence policy will be made available via the Army Apprenticeship Team's E-Platform Site).

40.2. The Service Provider shall ensure that any e-mail transmissions containing Personal Data are protected in accordance with Schedule 1 (SOR). The password shall be communicated to the address separately from the e-mail containing the encrypted material. No single transmission shall contain the Personal Data for more than 1000 individuals without permission of the Authority. (This is an evolving MOD data protection policy and latest changes to this policy will be notified to Service Providers where appropriate).

40.3. The Service Provider shall report at the earliest opportunity all security breaches and actual or suspected losses of data to the L&D Security Officer. Such losses shall be subject to formal investigation by the relevant MOD organisation, Ministry of Defence Police (MDP), Royal Military Police (RMP) or Military Intelligence (MI) section, depending on the location and the circumstances.

40.4. The Authority will enable the Service Providers to purchase specialist IT consumables, i.e. colour coded and/or encrypted Removable Media, from authorised MOD suppliers if requested to do so.

40.5. The Service Provider shall ensure that all employees who handle any Personal Learner Data shall complete the Authority's mandatory data protection training, which the Authority shall make available to the Service Provider. The Service Provider shall ensure that all employees complete this training and the associated assessment on an annual basis. The

Service Provider shall maintain a register of all employees successfully completing the assessment and this register shall be made available to the Authority on demand for inspection.

41. CONFIDENTIALITY OF INFORMATION

41.1. Any and all information together with any documentation, specification or computer software and the like which contain it, and which is provided by the Authority to the Service Provider for the purposes of the Contract (together “the information”) shall be treated as received “in confidence” and used only for the purposes of the Contract.

41.2. The Service Provider agrees that they shall not:

41.2.1. Copy the information in any manner;

41.2.2. Remove the information from the Establishment in any material form;

41.2.3. Disclose the information, or any part of it, to a third party or use the information for any purpose other than for the purpose of performing work for the Authority pursuant to the Contract without the express permission of either the Authority (Commercial Team) or, if appropriate, the IPR owner.

41.3. The restrictions and obligations set out at Clause 41.2 of this Condition shall not apply to any of the information which the Service Provider can show to the satisfaction of the Authority (Commercial Desk Officer):

41.3.1. was already known to the Service Provider prior to their examination of it at the Establishment and otherwise than by communication from the Authority;

41.3.2. Is rightfully received by the Service Provider from a third party without any obligations or confidence; or

41.3.3. Has been generated independently by the Service Provider prior to its being made available by the Authority pursuant to the Contract.

41.4. The restrictions and obligations at Clause 41.2 of this Condition shall cease to apply to any of the information, which is the subject of this Condition and which, subsequent to its being made available by the Authority for examination by the Service Provider comes into the public domain otherwise than through a breach of this Condition or any other contract.

41.5. Nothing in this Condition or any other Condition of the Contract shall be interpreted as constituting or implying a transfer, assignment or licence of rights in any of the information made available by the Authority.

- 41.6. The Service Provider shall at all times hereafter indemnify, and keep indemnified, the Authority in respect of any claim against the Service Provider or the Authority arising out of the failure to discharge fully their responsibilities under this Condition.
- 41.7. Information deriving from, or relating to the Contract, and the services provided under the Contract, the Establishment or the Ministry of Defence as a whole may not be communicated to a third party without the prior specific permission to do so, in writing, from the Authority (Designated Officer).
- 41.8. The provisions of this Condition shall survive indefinitely notwithstanding the termination of the Contract.
42. CONTROLLED INFORMATION
- 42.1. This Condition shall apply in addition to and notwithstanding DEFCON 531 (Disclosure of Information) or any other confidentiality Condition of the Contract.
- 42.2. For the purposes of this Condition 'Controlled Information' shall mean any information in any written or tangible form which is disclosed to the Service Provider by or on behalf of the Authority under or in connection with the Contract, and which is identified by the legend 'Controlled Information' or other approved legend notified to the Service Provider. Controlled Information shall exclude information provided by oral communication.
- 42.3. The Service Provider shall:
- 42.3.1. hold the Controlled Information and not use it other than for the purpose of discharging its obligations under the Contract;
  - 42.3.2. not copy the Controlled Information except as strictly necessary for the purpose of discharging its obligations under the Contract;
  - 42.3.3. not disclose the Controlled Information to any third party unless so authorised in writing beforehand by the Authority;
  - 42.3.4. protect the Controlled Information diligently against unauthorised access and against loss; and,
  - 42.3.5. act diligently to ensure that:
  - 42.3.6. Controlled Information is disclosed to its employees only to the extent necessary for the purpose of discharging its obligations under the Contract;
  - 42.3.7. employees to whom Controlled Information is disclosed are made aware of and required to comply with the terms of this Condition.

- 42.3.8. Where Controlled Information is provided to the Service Provider, it shall:
- 42.3.9. compile a register of that Controlled Information, which shall include explicit description of the Controlled Information, a record of the number of copies made and a record of all access to the Controlled Information, including access to any copies of the Controlled Information;
- 42.3.10. maintain this register for the duration of the Contract and for two years following completion of the Contract;
- 42.3.11. make the register of access available to the Authority upon reasonable notice for inspection and audit for so long as it is required to be maintained under this Condition; and,
- 42.3.12. at the completion of the Contract, return to the Authority all original and duplicate copies of the Controlled Information, or else at the Authority's option destroy these copies and provide a certificate of destruction to the Authority.

42.4. This Condition shall not diminish or extinguish any right of the Service Provider to copy, use or disclose any other information to the extent that it can show:

- 42.4.1. that the information concerned was or has become published or publicly available for use without breach of any provision of the Contract or any other agreement between the parties;
- 42.4.2. that the information was already known to it (without restrictions on disclosure or use) prior to receiving it under or in connection with the Contract;
- 42.4.3. that the information concerned was lawfully provided by a third party without restriction on use or further disclosure; or
- 42.4.4. from its records, that the information was derived independently of the Controlled Information;
- 42.4.5. to the extent that copying use or disclosure of this other information shall not disclose its relationship to any Controlled Information.

#### 43. INSURANCE

- 43.1. The Service Provider will be required to maintain adequate insurance and professional indemnity cover for all of their activities in the performance of the Contract and any liabilities arising there from.

- 43.2. The Authority reserves the right, acting reasonably, to require the Service Provider to provide evidence of the method used to affect such cover, at any time during the period of the Contract. Any such request shall not in any way constitute the Authority's approval or acceptance of either the chosen method or the extent of the cover afforded. The Service Provider will be required to ensure that their personnel travelling overseas have appropriate medical insurance.
- 43.3. Without prejudice to the requirements of DEFCON 76, the Service Provider shall take out and maintain insurance against their liabilities under the Contract; and when required to do so by the Authority, shall produce for inspection by the Authority documentary evidence that the insurance required by this Condition has been taken out and is being maintained. This obligation is without prejudice to, and does not limit, the obligations of the Service Provider under the Contract. In particular, inspection of documents in accordance with this Condition shall not be taken as acceptance by the Authority that the insurance which the Service Provider holds is suitable for or sufficient to meet all their liabilities under the Contract.
- 43.4. The Authority shall be at liberty, subject to the agreement of the Service Provider and the Service Provider's Insurers to settle any claim against the Authority or any servant of the Crown coming within the scope of the indemnities given by the Service Provider in this Condition, by payment as a matter of grace of a sum to be agreed with the Service Provider and the Service Provider's Insurers by way of compensation, and the said indemnities shall cover any payment so made.
- 43.5. The indemnities contained in this Condition shall extend to all claims which are not legally enforceable against the Crown or the Authority but would be so enforceable if the Crown were a private person or if the Authority or the servant or agent were not a representative of or in the employment of the Crown and to all sums properly payable by the Crown to or in respect of any servant of the Crown in connection with any injury or loss arising in connection with the Contract, being sums which are payable under any statute, warrant, order, scheme, regulation or condition of service, for the benefit of the servant or their family or dependants, whether or not these are enforceable against the Crown.

44. LIMITATIONS ON LIABILITY

**Definitions**

- 44.1. In this Condition 44 the following words and expressions shall have the meanings given to them, except where the context requires a different meaning:

44.1.1. **"Charges"** means any of the charges for the provision of the Services, Contractor

Deliverables and the performance of any of the Contractor's other obligations under this Contract, as determined in accordance with this Contract;

- 44.1.2. **"Data Protection Legislation"** means all applicable Law in force from time to time in the UK relating to the processing of personal data and privacy, including but not limited to:
- (1) UK GDPR;
  - (2) DPA 2018; and
  - (3) the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426) as amended, each to the extent that it relates to the processing of personal data and privacy;
- 44.1.3. **"Default"** means any breach of the obligations of the relevant Party (including fundamental breach or breach of a fundamental term) or any other default, act, omission, negligence or statement of the relevant Party, its employees, servants, agents or sub-contractors in connection with or in relation to the subject matter of this Contract and in respect of which such Party is liable to the other. In no event shall a failure or delay in the delivery of an Authority responsibility or an activity to be carried out by the Authority or its representatives in accordance with the Contract be considered a Default;
- 44.1.4. **'DPA 2018'** means the Data Protection Act 2018;
- 44.1.5. **"Law"** means any applicable law, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, regulation, order, regulatory policy, mandatory guidance or code of practice judgment of a relevant court of law, or directives or requirements of any regulatory body, delegated or subordinate legislation or notice of any regulatory body.
- 44.1.6. **"Term"** means the period commencing on 1<sup>st</sup> August 2025 and ending 31<sup>st</sup> July 2028 or on earlier termination of this Contract.
- 44.1.7. **'UK GDPR'** means the General Data Protection Regulation (Regulation (EU) 2016/679) as retained in UK law by the EU (Withdrawal) Act 2018 and the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019;

#### **Unlimited liabilities**

- 44.2. Neither Party limits its liability for:

- 44.2.1. death or personal injury caused by its negligence, or that of its employees, agents or sub-contractors (as applicable);
  - 44.2.2. fraud or fraudulent misrepresentation by it or its employees;
  - 44.2.3. breach of any obligation as to title implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
  - 44.2.4. any liability to the extent it cannot be limited or excluded by law.
- 44.3. The financial caps on liability set out in Clauses 44.4 and 44.5 below shall not apply to the following:
- 44.3.1. for any indemnity given by the Contractor to the Authority under this Contract, including but not limited to:
    - a) the Contractor's indemnity in relation to Schedule 5 (TUPE);
  - 44.3.2. for any indemnity given by the Authority to the Contractor under this Contract, including but not limited to:
    - a) the Authority's indemnity in relation to Schedule 5 (TUPE);
  - 44.3.3. breach by the Contractor of DEFCON 532B and Data Protection Legislation; and
  - 44.3.4. to the extent it arises as a result of a Default by either Party, any fine or penalty incurred by the other Party pursuant to Law and any costs incurred by such other Party in defending any proceedings which result in such fine or penalty.

#### **Financial limits**

- 44.4. Subject to Clauses 44.2 and 44.3 and to the maximum extent permitted by Law:
- 44.4.1. throughout the Term the Contractor's total liability in respect of losses that are caused by Defaults of the Contractor shall in no event exceed:
    - a) in respect of DEFCON 514 £325,000 (three hundred and twenty five thousand pounds) in aggregate;
  - 44.4.2. without limiting sub-Clause 44.4.1 and subject always to Clauses 44.2, 44.3 and sub-Clause 44.4.3, the Contractor's total liability throughout the Term in respect of all other liabilities, arising under warranty, under statute or otherwise under or in connection with this Contract shall be £325,000 in aggregate.
  - 44.4.3. on the exercise of any and, where more than one, each option period or agreed

extension to the Term, the limitation of the Contractor's total liability (in aggregate) set out in sub-Clauses 44.4.1 and 44.4.2 above shall be fully replenished such that on and from each such exercise or extension of the Term, the Authority shall be able to claim up to the full value of the limitation set out in sub-Clauses 44.4.1 and 44.4.2 of this Contract.

- 44.5. Subject to Clauses 44.2, 44.3 and 44.6, and to the maximum extent permitted by Law the Authority's total liability (in aggregate) whether in contract, in tort (including negligence), under warranty, under statute or otherwise under or in connection with this Contract shall in respect of all liabilities (taken together) be limited to the Charges paid by the Authority in the relevant Contract Year in respect of any and all claims in that Contract Year.
- 44.6. Clause 44.5 shall not exclude or limit the Contractor's right under this Contract to claim for the Charges.

**Consequential loss**

- 44.7. Subject to Clauses 44.2, 44.3 and 44.8, neither Party shall be liable to the other Party or to any third party, whether in contract (including under any warranty), in tort (including negligence), under statute or otherwise for or in respect of:

- 44.7.1. indirect loss or damage;
- 44.7.2. special loss or damage;
- 44.7.3. consequential loss or damage;
- 44.7.4. loss of profits (whether direct or indirect);
- 44.7.5. loss of turnover (whether direct or indirect);
- 44.7.6. loss of business opportunities (whether direct or indirect); or
- 44.7.7. damage to goodwill (whether direct or indirect),

even if that Party was aware of the possibility of such loss or damage to the other Party.

- 44.8. The provisions of Clause 43.7 shall not restrict the Authority's ability to recover any of the following losses incurred by the Authority to the extent that they arise as a result of a Default by the Contractor:
- 44.8.1. any additional operational and administrative costs and expenses arising from the Contractor's Default, including any costs paid or payable by the Authority:
    - a) to any third party;



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

**Invalidity**

- 44.9. If any limitation or provision contained or expressly referred to in this Condition 44 is held to be invalid under any Law, it will be deemed to be omitted to that extent, and if any Party becomes liable for loss or damage to which that limitation or provision applied, that liability will be subject to the remaining limitations and provisions set out in this Condition 44.

**Third party claims or losses**

- 44.10. Without prejudice to any other rights or remedies the Authority may have under this Contract, the Authority shall be entitled to make a claim under this Contract against the Contractor in respect of any losses incurred by the Authority which arise out of a claim made against the Authority by a third party under any contract with that third party provided that such third party claim:

44.10.1. arises naturally and ordinarily as a result of the Contractor's failure to provide the Contractor Deliverables or failure to perform any of its obligations under this Contract; and

44.10.2. is a type of claim or loss that would have been recoverable under this Contract if the third party were a party to this Contract (whether as the Authority or the Contractor), such claim to be construed as direct losses for the purpose of this Contract.

**No double recovery**

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

45. PUBLIC RELATIONS AND PUBLICITY

- 45.1. Responsibility for communicating with representatives of the press, both popular and technical, radio, television, and other communication media on all matters concerning this Contract and the Sites as a whole is borne solely by the Authority. The Service Provider or their agents shall not communicate with any such representatives in relation to any aspect of this Contract, the Sites or the Authority's operations without the prior consent of the Designated Officer.

45.2. The Service Provider shall not, and shall ensure that their agents shall not, without the prior written consent of the Authority's Project Manager, other than to fulfil its obligations to the Authority under this Contract, take photographs or video recordings of the provision of the Services, and shall take all necessary steps to ensure that no photographs or video recordings shall at any time be taken or published or otherwise circulated by any third party including, but not limited to, any visitors to the Sites.

45.3. The Authority reserves the right to publish information about the performance of the Service Provider and/or any other information as it may deem appropriate (acting reasonably) in order to comply with its statutory obligations.

46. ARMY BRANDING

46.1. If required by the Authority, and subject to obtaining prior permissions from the Directorate of Intellectual Property Rights, the Authority shall authorise the Service Provider to use Ministry of Defence and Corps Brands/Logos, for the purposes of promoting the Army Apprenticeship Programme, subject to any instructions concerning their use that might be given from time to time by the Designated Officer. The Authority will facilitate access to DIPR.

46.2. Full instructions on how the images, obtained under this Condition, shall be used are contained in paragraphs 9 to 24 of the 'British Army Brand Identity Instructions' (BABII) which is accessed on the Defence Brand Portal. On award of Contract the Service Provider shall register for use of the Defence Brand Portal on <http://www.defencebrandportal.mod.uk>. Electronic versions of the permitted brands shall then be provided by the Authority once the necessary permissions have been granted.

46.3. The Service Provider must not use any MOD or Corps Brands/Logos without prior written permission from the Authority (Directorate of Intellectual Property Rights).

47. CONFIDENTIALITY

47.1. Neither party shall without the written consent of the other (save as required by this agreement) disclose any of the contents of this Contract to any Third Party save: (in the case of both parties) for any necessary disclosure to professional advisers of that party;

47.1.1. (in the case of the Authority) to the ESFA or other organisation required to monitor its performance, including but not limited to, Awarding Bodies, Ofsted, Sector Skills Councils;

47.1.2. (in the case of both parties) when required to do so by a Statutory Body.

- 47.2. This Contract shall be subject to inspection and audit by the ESFA, Ofsted and other Government Agencies. The Service Provider shall be identified in any reports subsequently published in the public domain.

48. TRANSFER OF UNDERTAKINGS (PROTECTION OF EMPLOYMENT) (TUPE)

- 48.1. Where the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) is applicable to any of the Service Provider's employees, the Terms and Conditions in Schedule 5 (TUPE) shall apply.

49. DEFAULT/STEP IN RIGHTS

- 49.1. Should the Service Provider fail or neglect to render any service required of them under the Contract, or fail or neglect to perform any obligation imposed on them thereby, the Authority shall (without prejudice to any other remedy for breach of Contract) be at liberty to exercise 'Step-In Rights' and make such other arrangements as it may think proper for the rendering of that service or the performance of that obligation and to recover from the Service Provider the extra costs, if any, thereby incurred from the Service Provider in accordance with DEFCON 514. Where the Authority is obliged to reintroduce its own personnel for the rendering of that service, the costs for their provision will be established at full repayment cost.
- 49.2. In the event that the Authority exercise Step-In Rights under Clause 49.1 of this Condition then the Authority shall use all reasonable endeavours to obtain the rendering of alternative services as economically as is possible in the prevailing circumstances.

50. DEFAULT & RECTIFICATION

- 50.1. The Authority's Commercial Desk Officer may, by notice in writing, summarily determine the Contract (without prejudice to its rights and remedies in respect of a breach by the Service Provider of any of the provisions hereof) in whole or part without compensation if in the opinion of the Authority the services or facilities provided by the Service Provider are not in all respects satisfactory and the Service Provider shall not have provided satisfactory services or facilities within the period as agreed between the parties, after notice has been given to the Service Provider specifying the matters in respect of which such services or facilities are regarded as unsatisfactory and have therefore resulted in the issue of the termination notice to the Service Provider.
- 50.2. If the Service Provider rectifies the Service Provider Default within the time period specified in the termination notice, the termination notice will be deemed to be revoked and the Contract will continue.

- 50.3. In the case of a termination notice specifying a Service Provider Default which in the sole opinion of the Authority is capable of remedy the Service Provider shall be invited to put forward a rectification programme, within ten (10) Working Days of the date of the termination notice, for remedying the Service Provider Default (the "Rectification Programme") and detailing the timescales within which the Service Provider shall remedy the specified Service Provider Default. If the Rectification Programme provides for the Service Provider to remedy the Service Provider Default to the Authority or ESFA's satisfaction (as to which the Authority or ESFA shall be the sole judge) the Authority/ESFA shall accept the Rectification Programme and shall not be entitled to terminate the Contract (in whole or in part) in respect of the Service Provider Default for which the Termination Notice was originally served while the Service Provider is complying with the Rectification Programme in all material respects.
- 50.4. If, in the reasonable opinion of the Authority, the Service Provider fails to fulfil their full Contract obligations, which shall include the requirements of Schedule 1 (SOR), the Authority may issue a notice (a "**Notified Defect Notice**") to the Service Provider giving details of the relevant event or circumstances giving rise to the failure (a "**Notified Defect**") and, subject to Clause 50.7 below, specifying a reasonable time within which the Service Provider must remedy the Notified Defect or take the necessary steps to ensure that it does not recur.
- 50.5. Subject to the Authority's right to take immediately such steps as it reasonably considers necessary in order to prevent, mitigate or eliminate an immediate and serious risk to health, safety, the environment, national security or to ensure the proper discharge of its statutory functions, the Service Provider must either:
- 50.5.1. Remedy the Notified Defect or take the necessary steps to ensure that it does not recur within the period specified in the Notified Defect Notice, or
- 50.5.2. Within five (5) Working Days of the date of the Notified Defect Notice agree with the Authority (both Parties acting reasonably) an alternative period of time for rectification of the Notified Defect.
- 50.6. If the Service Provider fails to remedy the Notified Defect or take the necessary steps to ensure that it does not recur within the time specified in the Notified Defect Notice or any agreed alternative time period for rectification, the Authority may step-in in respect of the Notified Defect and:
- 50.6.1. without thereby avoiding or terminating this Contract or releasing the Service Provider from any pre-existing liabilities, suspend performance by the Service

Provider of the Contract obligations, which shall include Schedule 1 (SOR), as relate to the Notified Defect until the Authority has remedied the default; and

50.6.2. take or employ a Service Provider to take such steps in relation to the performance of the full Contract obligations as relate to the Notified Defect Notice as it may think fit in order to procure the performance of the obligations in accordance with the provisions of this Contract.

50.7. In exercising its step-in rights, the Authority shall:

50.7.1. use reasonable endeavours to procure that such rights are exercised in a manner causing as little disruption as reasonably possible to the Service Provider in its performance of its other obligations under this Contract; and

50.7.2. exercise such rights for no longer than is reasonably necessary to remedy the Notified Defect; and

50.7.3. promptly following rectification of the Notified Defect or the Authority being reasonably satisfied that the Service Provider is able to resume full responsibility for all Contract obligations, give written notice to the Service Provider of the Authority's intention to step-out specifying a date (which shall be as soon as reasonably practicable) from which the Service Provider will resume responsibility for performance of all of its obligations under this Service Provider.

50.8. The Service Provider shall reimburse to the Authority such costs as are reasonably and properly incurred by the Authority in exercising its step-in rights together with a premium of 5% of such costs to reflect the Authority's administrative and management costs.

50.9. If the Authority exercises its step-in rights, it shall be entitled, for the period of such step-in by the Authority, to reduce the payments by such amount as is fair and reasonable to reflect the non-performance of the relevant obligations by the Service Provider (due account being taken of any sum recoverable from the Service Provider under Clause 50.8 of this Condition.

50.10. For the avoidance of doubt, the exercise by the Authority of its step-in rights in relation to any aspect of the Contract shall not relieve the Parties from performance of any obligations under this Contract relating to any other part of the Contract.

## 51. TERMINATION ESFA

51.1. The Authority and the Service Provider agree that the Contract in part or in whole may be regarded as terminated, at any time during the period in which the Contract subsists, if:

51.1.1. there is a material adverse change in the amount or nature of the funding provided by ESFA; or

51.1.2. if funding is no longer available from the ESFA or via the Defence Apprenticeship Levy account.

In the event of termination under the provisions of this Clause, the Authority shall endeavour to issue notice of termination to the Service Provider with as much notice as that provided to the Authority by the ESFA/Defence Resources.

51.2. In the event of termination under the provisions of Clause 51.1 of this Condition, the Authority and the Service Provider agree that all costs of termination shall lie where they fall, and that neither the Authority nor the Service Provider shall have any claim against the other in respect of the termination.

51.3. Termination under the provisions of Clause 51.1 of this Condition shall be entirely without prejudice to the rights of the Authority and the Service Provider that have accrued under the Contract up to the date of termination.

51.4. In the event that the ESFA requirements for the assessment of Apprenticeships against Standards changes to the extent that it has a material change or impacts on the way in which the Contract is being delivered, the Authority will take a view on whether this would be a sufficiently substantial, material or adverse change necessitating re-negotiation or re-competition of the contract; and in such circumstances, the Authority shall endeavour to provide the Service Provider with as much notice as that provided to the Authority by the ESFA.

51.5. Upon expiry or termination of the Contract, no liability to make payments by way of redundancy liability, wherever statutory or otherwise, shall accrue to the Authority.

51.6. On expiry or termination of the Contract, and following consultation with the Designated Officer, all personal information provided by the Authority or acquired by the Service Provider during the course of the Contract must either be returned to the Authority or else destroyed in accordance with directions issued by the Authority (whereby the Authority will require proof of destruction immediately on completion of the activity) within one month of the completion/termination date of the Contract.

## 52. TERMINATION FOR INSOLVENCY OR CORRUPT GIFTS

### **Insolvency:**

52.1. The Authority may terminate the Contract, without paying compensation to the Contractor, by giving written Notice of such termination to the Contractor at any time after any of the following events:

52.2. Where the Contractor is an individual or a firm:

- 52.2.1. the application by the individual or, in the case of a firm constituted under English law, any partner of the firm to the court for an interim order pursuant to Section 253 of the Insolvency Act 1986; or
- 52.2.2. the court making an interim order pursuant to Section 252 of the Insolvency Act 1986; or
- 52.2.3. the individual, the firm or, in the case of a firm constituted under English law, any partner of the firm making a composition or a scheme of arrangement with them or their creditors; or
- 52.2.4. the presentation of a petition for bankruptcy order against the individual or, in the case of a firm constituted under English law, any partner of the firm unless it is withdrawn within three (3) Business Days from the date on which the Contractor is notified of the presentation; or
- 52.2.5. the court making a bankruptcy order in respect of the individual or, in the case of a firm constituted under English law, any partner of the firm; or
- 52.2.6. where the Contractor is either unable to pay their debts as they fall due or has no reasonable prospect of being able to pay debts which are not immediately payable. The Authority shall regard the Contractor as being unable to pay their debts if:
  - a) they have failed to comply with or to set aside a Statutory demand under Section 268 of the Insolvency Act 1986 within twenty-one (21) days of service of the Statutory Demand on them; or
  - b) execution or other process to enforce a debt due under a judgement or order of the court has been returned unsatisfied in whole or in part.
- 52.2.7. the presentation of a petition for sequestration in relation to the Contractor's estates unless it is withdrawn within three (3) Business Days from the date on which the Contractor is notified of the presentation; or
- 52.2.8. the court making an award of sequestration in relation to the Contractor's estates.

Where the Contractor is a company registered in England:

- 52.2.9. the presentation of a petition for the appointment of an administrator; unless it is withdrawn within three (3) Business Days from the date on which the Contractor



is notified of the presentation; or

52.2.10. the court making an administration order in relation to the company; or

52.2.11. the presentation of a petition for the winding-up of the company unless it is withdrawn within three (3) Business Days from the date on which the Contractor is notified of the presentation; or

52.2.12. the company passing a resolution that the company shall be wound-up; or

52.2.13. the court making an order that the company shall be wound-up; or

52.2.14. the appointment of a Receiver or manager or administrative Receiver.

Where the Contractor is a company registered other than in England, events occur or are carried out which, within the jurisdiction to which they are subject, are similar in nature or effect to those specified in sub-Clauses 52.2.7 to 52.2.14 inclusive above.

52.3. Such termination shall be without prejudice to and shall not affect any right of action or remedy which shall have accrued or shall accrue thereafter to the Authority and the Contractor.

Corrupt Gifts:

52.4. The Contractor shall not do, and warrants that in entering the Contract they have not done any of the following (hereafter referred to as 'prohibited acts'):

- a) offer, promise or give to any Crown servant any gift or financial or other advantage of any kind as an inducement or reward;
- b) for doing or not doing (or for having done or not having done) any act in relation to the obtaining or execution of this or any other Contract with the Crown; or
- c) for showing or not showing favour or disfavour to any person in relation to this or any other Contract with the Crown.

52.4.2. enter 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 them or on their behalf, or to their 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.

52.5. If the Contractor, their employees, agents or any Subcontractor (or anyone acting on their

behalf or any of their employees) does any of the prohibited acts or commits 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, the Authority shall be entitled:

- 52.5.1. to terminate the Contract and recover from the Contractor the amount of any loss resulting from the termination;
- 52.5.2. to recover from the Contractor the amount or value of any such gift, consideration or commission; and
- 52.5.3. to recover from the Contractor any other loss sustained in consequence of any breach of this Condition, where the Contract has not been terminated.

52.6. In exercising its rights or remedies under this Condition, the Authority shall:

- 52.6.1. act in a reasonable and proportionate manner having regard to such matters as the gravity of, and the identity of the person performing, the prohibited act;
- 52.6.2. give all 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 their behalf;
  - b) requiring the Contractor to procure the dismissal of an employee (whether their own or that of a Subcontractor or anyone acting on their behalf) where the prohibited act is that of such employee.

52.7. Recovery action taken against any person in Her Majesty's service shall be without prejudice to any recovery action taken against the Contractor pursuant to this Condition.

### 53. TERMINATION FOR CONVENIENCE

- 53.1. The Authority shall have the right to terminate the Contract in whole or in part at any time by giving the Contractor at least twenty (20) Business Days written notice. Upon expiry of the notice period the Contract, or relevant part thereof, shall terminate without prejudice to the rights of the parties already accrued up to the date of termination. Where only part of the Contract is being terminated, the Authority and the Contractor shall owe each other no further obligations in respect of the part of the Contract being terminated but will continue to fulfil their respective obligations on all other parts of the Contract not being terminated.
- 53.2. Following the above notification, the Authority shall be entitled to exercise any of the

following rights in relation to the Contract (or part being terminated) to direct the Contractor to:

- 53.2.1. not start work on any element of the Contractor Deliverables not yet started;
- 53.2.2. complete in accordance with the Contract the provision of any element of the Contractor Deliverables;
- 53.2.3. as soon as may be reasonably practicable take such steps to ensure that the production rate of the Contractor Deliverables is reduced as quickly as possible;
- 53.2.4. terminate on the best possible terms any subcontracts in support of the Contractor Deliverables that have not been completed, taking into account any direction given under sub-Clauses 53.2.2 and 53.2.3 of this Condition.

53.3. Where this Condition applies (and subject always to the Contractor's compliance with any direction given by the Authority under Clause 53.2):

53.3.1. The Authority shall take over from the Contractor at a fair and reasonable price all unused and undamaged materiel and any Contractor Deliverables in the course of manufacture that are:

- a) in the possession of the Contractor at the date of termination; and
- b) provided by or supplied to the Contractor for the performance of the Contract,

except such materiel and Contractor Deliverables in the course of manufacture as the Contractor shall, with the agreement of the Authority, choose to retain;

53.3.2. the Contractor shall deliver to the Authority within an agreed period, or in absence of such agreement within a period as the Authority may specify, a list of:

- a) all such unused and undamaged materiel; and
- b) Contractor Deliverables in the course of manufacture,

that are liable to be taken over by, or previously belonging to the Authority, and shall deliver such materiel and Contractor Deliverables in accordance with the directions of the Authority;

53.3.3. in respect of Services, the Authority shall pay the Contractor fair and reasonable prices for each Service performed, or partially performed, in accordance with the Contract.

53.4. The Authority shall (subject to Clause 53.5 below and to the Contractor's compliance with any direction given by the Authority in Clause 53.2 above) indemnify the Contractor against any commitments, liabilities or expenditure which would otherwise represent an unavoidable loss by the Contractor by reason of the termination of the Contract, subject to:

53.4.1. the Contractor taking all reasonable steps to mitigate such loss; and

53.4.2. the Contractor submitting a fully itemised and costed list of such loss, with supporting evidence, reasonably and actually incurred by the Contractor as a result of the termination of the Contract or relevant part.

53.5. The Authority's total liability under the provisions of this Condition shall be limited to the total price of the Contractor Deliverables payable under the contract (or relevant part), including any sums paid, due or becoming due to the Contractor at the date of termination.

53.6. Claims for payment under this Condition shall be submitted in accordance with the Authority's direction.

#### 54. MATERIAL BREACH

54.1. 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 their obligations under the Contract.

54.2. Where the Authority has terminated the Contract under Clause 54.1 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, including but not limited to any costs and expenses incurred by the Authority in:

54.2.1. carrying out any work that may be required to make the Contractor Deliverables comply with the Contract; or

54.2.2. obtaining the Contractor Deliverable in substitution from another supplier.

#### 55. CONSEQUENCES OF TERMINATION

55.1. The termination of the Contract, however arising, shall be without prejudice to the rights and duties of either Party accrued prior to termination. The Conditions that expressly or by implication have effect after termination shall continue to be enforceable even after

termination.

56. DISPUTE RESOLUTION PROCEDURE

- 56.1. The Parties agree to adopt the Dispute Resolution Procedure detailed at Schedule 4 (Dispute Resolution Procedure) for any dispute arising under this Contract.

57. CO-OPERATION ON EXIT: ESFA AUDIT

- 57.1. Upon termination or natural expiry of this Contract, the Service Provider shall be subject to a full audit by the Authority's Funding Assurance Team on behalf of the ESFA. The Service Provider shall cooperate fully with the Authority's staff and with ESFA staff in the completion of such an audit.

58. TRANSITION

- 58.1. In addition to Schedule 5 (TUPE), in the event of a transfer of responsibility of the Contract task from the Service Provider at the expiry or termination of the Contract or due to the Service Provider withdrawing from this Contract or going into liquidation or administration, the Service Provider shall co-operate in the transfer under arrangements to be notified to them by the Authority.
- 58.2. If such transfer of responsibility extends beyond the Contract period, the Service Provider shall undertake to provide, at fair and reasonable prices to be agreed in accordance with Condition 17 (Amendments) of this Schedule 3 (Ts&Cs), any such services regarded as a "Change" as may be required arising from the transfer of responsibility always provided that such services are within the capacity of the Service Provider's organisation.
- 58.3. The transfer of responsibility shall be arranged and conducted in accordance with Annex C (Contract Transition Responsibilities) to this Schedule 3 (Ts&Cs).
- 58.4. In the event the Service Provider is no longer able to provide all the deliverables in Schedule 1 (SOR) due to, but not limited to, financial difficulties, the Authority reserves the right to temporarily request another Service Provider to Step In to deliver the Services in Schedule 1 (SOR) while the Authority commences the re-let of this Contract and transfers responsibility, following re-let, to the new Service Provider. See Condition 49 (Default/Step In Rights) of this Schedule 3 (Ts&Cs).

59. EXIT MANAGEMENT

- 59.1. In the event that Exit is triggered, the parties shall, in accordance with Annex E (Exit Plan Requirements) to this Schedule 3 (Ts&Cs), agree and follow the finalised Exit Plan for this Contract.

**Applicable Army Apprenticeships Standard Operating Procedures (SOPs)**

The following table details the SOPs that are applicable to Contract 710318450:

<b>SOP Number</b>	<b>Full Title</b>	<b>Short Title</b>
SOP 8	Apprenticeship Delivery Contract Transition Activities and Checks	‘Contract Transition’
SOP 11	Academic Misconduct Policy	‘Academic Misconduct’
SOP 12	Safeguarding and Prevent	‘Safeguarding and Prevent’
SOP 14	Self-Assessment, Quality Improvement, and Quality Commentary	‘SAR and QIP’ or ‘SAR, QIP & QC’

**Annex B to  
Schedule 3 (Terms and Conditions)**

**Payment Methodology****1. Annex Definitions**

- 1.1. For the purpose of this Annex B (Payment Methodology) to Schedule 3 of Contract 710318450, the following definitions shall apply:

‘ESFA’ means the Education and Skills Funding Agency;

‘L7 SLA’ means Level 7 Senior Leader Apprenticeship Standard ST0480;

‘Master’s Level Accreditation (Exec MBA)’ means Executive Master of Business Administration;

‘POC’ means the Authority’s point of contact for Contract 710318450 as set out in DEFFORM 111 to the Contract;

**2. Payment Structure**

- 2.1. Payment for the successful performance of the Contract shall be comprised of the three component parts as detailed in Table 1 herein:

Table 1 – Payment Structure

<b>Payment Component</b>	<b>Description</b>	<b>Frequency</b>	<b>Value</b>
A	L7 SLA Apprenticeship Levy (80%)	Monthly, over the course of the individual apprentice’s 24-month Apprenticeship*	As set by ESFA
B	L7 SLA Apprenticeship Levy (Final 20%)	Once, upon individual apprentice’s successful completion of EPA	As set by ESFA
C	Master’s Accreditation (Exec MBA)	Upon an individual apprentice’s successful completion L7 SLA Apprenticeship and Exec MBA award	

\*= As set by and in accordance with the ESFA regulations.

**3. Payment Methodology**

- 3.1. The Service Provider shall claim Payment Component A (80% of the L7 SLA Apprenticeship Levy) monthly via direct drawn down from the ESFA in accordance with ESFA regulations;
- 3.2. The Service Provider shall claim Payment Component B (Final 20% of L7 SLA Apprenticeship Levy) upon successful completion of the apprenticeship, via a single direct draw down from the ESFA in accordance with ESFA regulations;

3.3. The Service Provider shall claim Payment Component C (Master's Accreditation) by invoicing the Authority at the price as set in Table 1 herein, against which the Authority shall pay the Service Provider on Net-30 Terms via credit card. All invoices for Master's Accreditations are to be issued to the Authority's Point of Contact (POC) as detailed in DEFFORM 111 to the Contract.



**Annex C to  
Schedule 3 (Terms and Conditions)**

**Contract Transition Responsibilities**

1. Within three months of the Contract Implementation date stated in Clause 11.1 of this Schedule 3 (Terms and Conditions), the Service Provider is required to generate and hold a Transition Plan in readiness for Partial Termination, expiry, or Termination of this Agreement.
2. The Transition Plan shall form a component part of the Exit Plan, to be provided in accordance with Annex E to this Schedule 3.
3. The Transition Plan shall detail how the Service Provider intends to fulfil its obligations as the Outgoing Service Provider in accordance with this Schedule 3 (Terms and Conditions) and SOP 8 (Contract Transition).
4. The Transition Plan is to be a distinct component of the Exit Plan that can be viewed independently to the extent that it can be reviewed as a standalone document by and with any Incoming Service Provider.
5. When notified by the Authority, the Service Provider shall conduct all Transition activities required of the Outgoing Service Provider.

## Personal Data Particulars

This Form forms part of the Contract and must be completed and attached to each Contract containing DEFCON 532B.

<b>Data Controller</b>	The Data Controller is the Secretary of State for Defence (the Authority). The Personal Data will be provided by the Authority to the Data Processor.
<b>Data Processor</b>	The Data Processor is the Contractor. The Personal Data will be processed at:  <div style="background-color: black; width: 100px; height: 20px; margin: 5px 0;"></div>
<b>Data Subjects</b>	The Personal Data to be processed under the Contract concern the following Data Subjects or categories of Data Subjects:  <p style="text-align: center;">Apprentices on the L7 SLA.</p>
<b>Categories of Data</b>	The Personal Data to be processed under the Contract concern the following categories of data:  <p style="text-align: center;">Category A - Name, DOB, Service Number.          Category B - National Insurance Number, Prior academic achievement, Progress Reviews Unique Learner Number, Enlistment Date, Cap Badge, Unit.          Category C - Gender, Ethnicity, SpLD Details</p>
<b>Special Categories of data (if appropriate)</b>	The Personal Data to be processed under the Contract concern the following Special Categories of data:  <p style="text-align: center;">Gender, Ethnicity, Learning difficulties</p>
<b>Subject matter of the processing</b>	The processing activities to be performed under the contract are as follows:  <p style="text-align: center;">Received Personal Data is used by SP for Apprenticeship enrolment, funding, and compliance adherence.</p>
<b>Nature and the purposes of the Processing</b>	The Personal Data to be processed under the Contract will be processed as follows:  <p style="text-align: center;">In accordance with Condition 37 (Data Management).          In accordance with Condition 40 (Data Protection).          In accordance with DEFCON 532B.</p>

<p><b>Technical and organisational measures</b></p>	<p>The following technical and organisational measures to safeguard the Personal Data are required for the performance of this Contract:</p> <p>Secure processes for the handling of data are in place.  Robust methods for the security of data on site and in transit are in place.  Clear processes are in place with regards to the handling of data (who has authority to handle data and how data is to be handled).  Clear procedures to be followed in the event of a security breach.</p>
<p><b>Instructions for disposal of Personal Data</b></p>	<p>The disposal instructions for the Personal Data to be processed under the Contract are as follows (where Disposal Instructions are available at the commencement of Contract):</p> <p>In accordance with Condition 40 (Data Protection)</p>
<p><b>Date from which Personal Data is to be processed</b></p>	<p>Where the date from which the Personal Data will be processed is different from the Contract commencement date this should be specified here:</p> <p>N/A</p>

The capitalised terms used in this form shall have the same meanings as in the General Data Protection Regulations.

**Exit Plan Requirements****Definitions**

1.1. In this Annex E to Schedule 3 (Terms and Conditions), the following definitions shall apply:

1.1.1. 'Emergency Exit' shall mean any termination of this Agreement which is a:

- a) termination of the whole or part of this Agreement in accordance with Conditions 51-53 (Termination), except where the period of notice given under such Clause is greater than or equal to 6 months;
- b) termination of the provision of the Services for any reason prior to the expiry of any period of notice of termination served pursuant to Conditions 51-53 (Termination); or
- c) wrongful termination or repudiation of this Agreement by either Party.

1.1.2. 'Ordinary Exit' shall mean any termination of the whole or part of this Agreement which occurs:

- a) pursuant to Conditions 51-53 (Termination) where the period of notice given by the Party serving notice to terminate pursuant to such Clause is greater than or equal to 6 months; or
- b) as a result of the expiry of the Initial Term.

**2. Exit Plan**

2.1. The Supplier is required to draft and hold an Exit Plan in readiness for Partial Termination, expiry or termination of this Agreement.

2.2. The Supplier shall, within 3 months of the Contract Duration commencing, deliver to the BSS Provider an Exit Plan which:

- 2.2.1. sets out the Supplier's proposed methodology for achieving an orderly transition of the relevant Services from the Supplier to the Authority and/or its Replacement Supplier on Partial Termination, expiry or termination of this Agreement;
- 2.2.2. incorporates the Transition Plan as a distinct component that can be viewed independently;

- 2.2.3. complies with the requirements set out in Paragraph 2.5; and
- 2.2.4. is otherwise reasonably satisfactory to the Authority.
- 2.3. The Authority shall, within 10 working days, either:
  - 2.3.1. provide feedback on areas to be revised, with a timetable for those revisions to be discussed and completed; or
  - 2.3.2. confirm that the Transition Plan is acceptable
  - 2.3.3. The timetable referred to in Paragraph 2.3.1 shall not exceed 20 working days.
- 2.4. If an acceptable Transition Plan has not been agreed in that time, then either Party may identify this as a Dispute to be resolved in accordance with Schedule 4 (Dispute Resolution Procedure).
- 2.5. The Exit Plan shall set out, as a minimum:
  - 2.5.1. how the Exit Information is obtained;
  - 2.5.2. separate mechanisms for dealing with Ordinary Exit and Emergency Exit, the provisions relating to Emergency Exit being prepared on the assumption that the Supplier may be unable to provide the full level of assistance which is required by the provisions relating to Ordinary Exit, and in the case of Emergency Exit, provision for the supply by the Supplier of all such reasonable assistance as the Authority shall require to enable the Authority or its subcontractors to provide the Services;
  - 2.5.3. a mechanism for dealing with Partial Termination on the assumption that the Supplier will continue to provide the remaining Services under this Agreement;
  - 2.5.4. the management structure to be employed during both transfer and cessation of the Services in an Ordinary Exit and an Emergency Exit;
  - 2.5.5. the management structure to be employed during the Termination Assistance Period;
  - 2.5.6. a detailed description of both the transfer and cessation processes, including a timetable, applicable in the case of an Ordinary Exit and an Emergency Exit;
  - 2.5.7. how the Services will transfer to the Replacement Supplier and/or the Authority, including details of the processes, documentation, data transfer, systems migration, security and the segregation of the Authority's technology components from any technology components operated by the Supplier or its Sub-contractors (where applicable);

- 2.5.8. the scope of the Termination Services that may be required for the benefit of the Authority;
  - 2.5.9. a timetable and critical issues for providing the Termination Services;
  - 2.5.10. any charges that would be payable for the provision of the Termination Services (calculated in accordance with the methodology that would apply if such Services were being treated as a Contract Change), together with a capped estimate of such charges;
  - 2.5.11. how the Termination Services would be provided (if required) during the Termination Assistance Period;
  - 2.5.12. procedures to deal with requests made by the Authority and/or a Replacement Supplier for Staffing Information pursuant to Schedule 5 (TUPE); and
  - 2.5.13. how each of the issues set out in this Schedule 3 (Terms and Conditions) will be addressed to facilitate the transition of the Services from the Supplier to the Replacement Supplier and/or the Authority with the aim of ensuring that there is no disruption to or degradation of the Services during the Termination Assistance Period.
- 2.6. The Parties acknowledge that the migration of the Services from the Supplier to the Authority and/or its Replacement Supplier may be phased, such that certain of the Services are handed over before others.
- 2.7. At each CAM immediately following the anniversary of the Contract Duration commencing, the Supplier and the Authority shall agree whether any Contract Amendments incorporated to date, or other changes affecting the AAP, give cause for the Exit Plan to be reviewed. If so, the Supplier shall submit its updated Transition Plan within 20 working days of the CAM and the review process described at Paragraph 2.3 above will be followed.
- 2.8. Additionally, if requested by the Authority following the occurrence of a Financial Distress Event, the Supplier shall review and (if appropriate) update the Exit Plan on a basis consistent with the principles set out in this Clause, within 14 days of such request, to reflect any changes in the Services that have occurred since the Exit Plan was last agreed. Following such update the Supplier shall submit the revised Exit Plan to the Authority for review and the review process described at Paragraph 2.3 above will be followed.

Finalisation of the Exit Plan

- 2.9. Within 20 Working Days after service of a Termination Notice by either Party or 6 months prior to the expiry of this Agreement, whichever is the sooner, the Supplier will submit for the Authority's approval the Exit Plan in a final form that could be implemented immediately. The final form of the Exit Plan shall be prepared on a basis consistent with the principles set out in this Annex E to this Schedule 3 (Terms and Conditions) and shall reflect any changes in the Services that have occurred since the Exit Plan was last agreed.
- 2.10. The review process described at Paragraph 2.3 above will be followed. Until the agreement of the final form of the Exit Plan, the Supplier shall provide the Termination Services in accordance with the principles set out in this Schedule 3 (Terms and Conditions) and the last approved version of the Exit Plan (insofar as relevant).

**Governance and Meetings**

1. Contractual governance, reporting and meeting requirements for Contract 710318450 shall be in accordance with points 5 and 7 of Schedule 1 (Statement of Requirement) to the Contract.



## Appendix - Addresses and Other Information

**1. Commercial Officer**

Name: AAP Contract Management Team

Address: Army Commercial, Army Headquarters  
Zone 2.N - Second Floor  
Blenheim Building, Marlborough Lines  
Monxton Road  
Andover  
Hampshire SP11 8HJ

Email: [ArmyComrcl-Procure-AAP-Mailbox@mod.gov.uk](mailto:ArmyComrcl-Procure-AAP-Mailbox@mod.gov.uk)**2. Project Manager, Equipment Support Manager or PT Leader** (from whom technical information is available)

Name: Adrian Paton (SO2b Army Apprenticeships)

Email: [REDACTED]

**3. Packaging Design Authority**Organisation & point of contact:  
n/a

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

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

Branch/Name: n/a

**5. Drawings/Specifications are available from**  
n/a**6. Intentionally Blank****7. Quality Assurance Representative:**

**AQAPS** and **DEF STANs** are available from UK Defence Standardization, for access to the documents and details of

**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)

JSCS Fax No. 01869 256837

Users requiring an account to use the MOD Freight Collection Service should contact [UKStratCom-DefSp-RAMP@mod.gov.uk](mailto:UKStratCom-DefSp-RAMP@mod.gov.uk) in the first instance.

**11. The Invoice Paying Authority**

Ministry of Defence ☎ 0151-242-2000

DBS Finance

Walker House, Exchange Flags Fax: 0151-242-2809

Liverpool, L2 3YL

**Website is:**

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

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

Ministry of Defence, Forms and Pubs Commodity Management

PO Box 2, Building C16, C Site

Lower Arncott

Bicester, OX25 1LP (Tel. 01869 256197 Fax: 01869 256824)

**Applications via fax or email:**[Leidos-FormsPublications@teamleidos.mod.uk](mailto:Leidos-FormsPublications@teamleidos.mod.uk)**\* NOTE**

1. Many **DEFCONs** and **DEFFORMs** can be obtained from the MOD Internet Site:

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the helpdesk visit <http://dstan.gateway.isg-r.r.mil.uk/index.html> [intranet] or <https://www.dstan.mod.uk/> [extranet, registration needed].

<https://www.kid.mod.uk/maincontent/business/commercial/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.

# **Ministry of Defence**

**Contract No:  
710318450**



**THE PROVISION OF LEVEL 7 SENIOR LEADER  
APPRENTICESHIP (ST0480) TRIAL WITH  
MASTER'S LEVEL ACADEMIC  
ACCREDITATION FOR ARMY PERSONNEL**

## **SCHEDULE 4**

### **DISPUTE RESOLUTION PROCEDURE**

#### **DISPUTE RESOLUTION PROCEDURE FOR CONTRACT NO. 710318450**

##### **1. PERSONNEL POLICY BRANCH DISPUTE RESOLUTION GROUP**

- 1.1 If a disagreement arises whether before or after termination of the Contract and it cannot be resolved at the operational level, then the matter must first be referred to the Personnel Policy Branch Dispute Resolution Group (Pers Pol DRG). The PErS Pol DRG must meet in accordance with Annex A to this Schedule.
- 1.2 If the disagreement is resolved by the Pers Pol DRG, the resolution of the disagreement must be recorded in writing in an appropriate legally binding form and such form must bear the signature of two Authority Representatives and two Service Provider (SP) Representatives, and such resolution shall be final and binding on the Parties.
- 1.3 If discussions in the Pers Pol DRG result in or, if implemented would result in a proposed change to the Contract or commitment to additional expenditure or any other matter affecting the Contract the proposed change must be submitted to the SP and the Authority for approval.
- 1.4 Any recommendations made by the Pers Pol DRG and approved in the manner identified in Clause 1.3 must be complied with by the Parties.
- 1.5 If the Pers Pol DRG is unable to resolve the disagreement the matter shall be deemed to be a dispute and shall be dealt with in accordance with the Adjudication Procedure at Clause 2 of this Schedule.

##### **2. REFERRAL TO ADJUDICATION**

- 2.1 If the Pers Pol DRG is unable to resolve the Dispute then either Party may refer the matter to adjudication in accordance with the provisions set out below.

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- 2.2 The Adjudicator nominated to consider a Dispute referred to him shall be selected on a strictly rotational basis from the relevant panel of experts appointed in accordance with Clause 3 below.

### **3. SELECTION OF THE ADJUDICATION PANEL**

- 3.1 There shall be a panel of experts whom shall be wholly independent of the SP, the Authority, any End Point Assessors and any of the major competitors of the SP. The panel shall be agreed to by the Parties within one month of the Contract signature.
- 3.2 If any member of the panel resigns during the Contract, a replacement expert shall be appointed jointly by the SP and the Authority as soon as practicable.
- 3.3 If the Authority and the SP are unable to agree on the identity of the experts to be appointed to the panel, the President of the Chartered Institute of Arbitrators shall appoint such expert(s) within thirty (30) days of any application for such appointment by either Party.
- 3.4 If the Adjudicator is either unwilling or unable to accept such appointment then the next Adjudicator on the Panel will be appointed. The process will be repeated until an Adjudicator is found who accepts the appointment. If none of the Adjudicators on the relevant Panel accepts the appointment, then unless the Parties are able to agree upon the appointment of another Adjudicator the Chairman of the Chartered Institute of Arbitrators will be requested to make an appointment within five (5) days of receiving a request to do so.

### **4. ADJUDICATION PROCEDURE**

- 4.1 Within seven (7) days of appointment in relation to a particular dispute, the Adjudicator shall require the Parties to submit in writing their respective arguments. The Adjudicator shall, in his absolute discretion, consider whether a hearing is necessary in order to resolve the dispute.
- 4.2 In any event, the Adjudicator shall provide to both Parties his written decision on the dispute, within twenty-eight (28) days of appointment (or such other period as the Parties may agree after the reference, or forty two (42) days from the date of reference if the Party which referred the dispute agrees). Unless requested by either Party the Adjudicator shall not state any reasons for his decision. Unless and until

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revised, cancelled or varied by the Arbitrator, the Adjudicator's decision shall be binding on both Parties who shall forthwith give effect to the decision.

- 4.3 The Adjudicator's costs of any reference shall be borne as the Adjudicator shall specify or, in default, equally by the Parties. Each Party shall bear its own costs arising out of the reference, including legal costs and the costs and expenses of any witnesses.
- 4.4 The Adjudicator shall be deemed not to be an arbitrator but shall render his decision as an expert and the provisions of the Arbitration Act 1996 and the law relating to arbitration shall not apply to the Adjudicator or his determination or the procedure by which he reached his determination.
- 4.5 The Adjudicator shall act impartially and may take the initiative in ascertaining the facts and the law. The Adjudicator shall have the power to open up, review and revise any opinion, certificate, instruction, determination or decision of whatever nature given or made under this Contract.
- 4.6 All information, data or documentation disclosed or delivered by a Party to the Adjudicator in consequence of or in connection with his appointment as Adjudicator shall be treated as confidential. The Adjudicator shall not disclose to any person or company any such information, data or documentation and all such information, data or documentation shall remain the property of the Party disclosing or delivering the same and all copies shall be returned to such Party on completion of the Adjudicator's work.
- 4.7 The Adjudicator is not liable for anything done or omitted in the discharge or purported discharge of his functions as Adjudicator unless the act or omission is in bad faith. Any employee or agent of the Adjudicator is similarly protected from liability.
- 4.8 If:
- 4.8.1 either Party is dissatisfied with or otherwise wishes to challenge the Adjudicator's decision and the Dispute has a value in excess of £200K;  
or
- 4.8.2 both Parties disagree unequivocally with the Adjudicator's decision,

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then either Party may (within sixty (60) days of receipt of the Adjudicator's decision, where appropriate) notify the other Party of its intention to refer the dispute to arbitration. Such notification shall invite the other Party to concur in the appointment of a sole arbitrator who shall be a solicitor, barrister or arbitrator recognised by the Chartered Institute of Arbitrators of not less than 10 years' standing (the Arbitrator). If the Parties are unable within fourteen (14) days to agree the identity of the Arbitrator either Party may request the Chairman of the Chartered Institute of Arbitrators to make the appointment.

- 4.9 The Arbitrator's decision shall be final and binding on the Parties, subject to 4.10 below.
- 4.10 If the Arbitrator's decision results in or, if implemented would result in, a proposed change to the Contract or commitment to additional or reduced expenditure or any other matter affecting the Contract the proposed change must be submitted to the SP and the Authority for approval.

### **5. CONTINUING WITH CONTRACT OBLIGATIONS**

- 5.1 Unless the Contract has already been terminated, the SP shall, notwithstanding the existence of any disagreement (whether or not it is deemed to be a Dispute), in every case continue to proceed with the Services and meeting the Contract obligations, including the requirements of Schedule 1 (SOR) (except insofar as both Parties agree that it would not be in the best interests of the Contract as a whole for the SP so to continue) with all due diligence, and the Parties must continue to comply with all their obligations under the Contract, regardless of the nature of the disagreement or Dispute and notwithstanding the referral of the disagreement or Dispute for resolution according to the procedures permitted under this Schedule 4.
- 5.2 The continued performance by each Party of its obligations as aforesaid shall not constitute nor be relied upon by the other Party as a waiver of any alleged rights or operate as acquiescence or estoppel in relation to or otherwise prejudice or diminish such rights to the extent that they are the subject of the disagreement or Dispute.

**STANDARD OPERATING PROCEDURES OF**  
**THE PERSONNEL POLICY BRANCH DISPUTE RESOLUTION GROUP**

**1. FUNCTION**

- 1.1 The Personnel Policy Branch Dispute Resolution Group (Pers Pol DRG) is a forum for the resolution of Disputes arising between the Authority and the SP in accordance with the provisions of Schedule 4 (Dispute Resolution Procedures). It has no powers in relation to this Contract or any of the Contract documents save as provided below.

**2. PROCEDURES**

- 2.1 Either Party is entitled by written notice to require the Pers Pol DRG to meet within five (5) Working Days of receipt of the notice with a view to resolving the disagreement.
- 2.2 The SP and the Authority agree that:
- 2.2.1 a quorum of the Pers Pol DRG consists of two of the Authority's Representatives (one of whom must be the Authority's Commercial Manager and one to be either the DO or SO) and two of the SP's Representatives (one of whom must be the SP's Commercial Manager). All of the Authority's Representatives and the SP's Representatives are authorised to attend any such meeting;
- 2.2.2 if a quorum will not be present at a particular meeting of the Pers Pol DRG must be reconvened within five (5) Working Days after the date of the inquorate meeting. The Authority and the SP must each use reasonable endeavours to ensure that all meetings are quorate;
- 2.2.3 the Chairman of the Pers Pol DRG will always be an Authority Representative;



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- 2.2.4 an agenda of items to be discussed by the Pers Pol DRG must be notified to the Authority's and SP's Representatives at the time the meeting is called by the Party that called the meeting;
  - 2.2.5 representatives of third parties may attend the Pers Pol DRG meeting or any part thereof with the consent of any of the Authority's Representatives and the SP's Representatives such consent not to be unreasonably withheld or delayed;
  - 2.2.6 for the purposes of taking minutes of the meetings the SP's Representatives shall be entitled to be accompanied by a secretarial assistant;
  - 2.2.7 all meetings of the Pers Pol DRG shall be held at Andover unless the Parties agree otherwise.
- 2.3 If it is not possible for the Pers Pol DRG to resolve the disagreement at the initial meeting either Party is entitled by written notice to require the Pers Pol DRG to meet again within ten (10) Working Days of receipt of the original notice.
  - 2.4 During the period of such notice, the representatives of the SP and the Authority must seek, from the Party by which they are appointed, the power and authority to resolve the disagreement.
  - 2.5 The SP shall ensure that minutes of each Pers Pol DRG meeting are prepared and circulated to all attendees within one week of the date of the relevant meeting.
  - 2.6 Two copies of each set of minutes are to be signed by one of the Authority's Representatives and one of the SP's Representatives to acknowledge that the minutes are a true reflection of the business conducted at that meeting and one copy of the minutes will be retained by each of the Authority and the SP.
  - 2.7 For the avoidance of doubt, the presence of such signatories on any such minutes will not render such minutes "an appropriate legally binding form", for the purposes of Clause 1.2 of this Schedule and will not bind the Authority or the SP.



# **Ministry of Defence**

**Contract No:  
710318450**



## **THE PROVISION OF LEVEL 7 SENIOR LEADER APPRENTICESHIP (ST0480) TRIAL WITH MASTER'S LEVEL ACADEMIC ACCREDITATION FOR ARMY PERSONNEL**

### **SCHEDULE 5**

**TRANSFER OF UNDERTAKINGS (PROTECTION OF  
EMPLOYMENT) REGULATIONS 2006 (TUPE)**

**TRANSFER REGULATIONS  
EMPLOYEE TRANSFER ARRANGEMENTS ON EXIT**

**1. DEFINITIONS**

1.1 In this Schedule 5 to Contract 710318450, save where otherwise provided, words and terms defined in Schedule 1 (Definitions) of the Contract shall have the meaning ascribed to them in Schedule 1 (Definitions) of the Contract.

1.2 Without prejudice to Schedule 1 (Definitions) of the Contract unless the context otherwise requires:

**"Data protection legislation"** means all applicable data protection and privacy legislation in force from time to time in the UK, including but not limited to:

(i) the General Data Protection Regulation ((EU) 2016/679) as retained in UK law by the EU (Withdrawal) Act 2018 and the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (the "UK General Data Protection Regulation" or "UK GDPR");

(ii) the Data Protection Act 2018;

(iii) the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended; and

(iv) all applicable legislation and regulatory requirements in force from time to time which apply to a party relating to the processing of personal data and privacy and the guidance and codes of practice issued by the Information Commissioner's Office which apply to a party;

**"Employee Liability Information"** has the same meaning as in Regulation 11(2) of the Transfer Regulations;

**"Employing Sub-Contractor"** means any sub-contractor of the Contractor providing all or any part of the Services who employs or engages any person in providing the Services;

**"New Provider"** means any replacement service provider or providers engaged to provide the Services (or part thereof) or substantially similar services or the Authority itself where the Services or substantially similar services or part thereof continue to be provided by the Authority after partial termination, termination or expiry of this Contract;

**"Relevant Transfer"** means a transfer of the employment of Transferring Employees from the Contractor or any Employing Sub-Contractor to a New Provider or the Authority under the Transfer Regulations;

**"Transfer Date"** means the date on which the transfer of a Transferring Employee takes place under the Transfer Regulations;

**"Transferring Employee"** means an employee wholly or mainly employed or otherwise assigned to the Services (or in respect of partial termination, the relevant part of the Services) whose employment transfers under the Transfer Regulations from the Contractor or any Employing Sub-Contractor to a New Provider;

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**"Transfer Regulations"** means the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended from time to time and/or the Service Provision Change (Protection of Employment) Regulations (Northern Ireland) 2006 (as amended from time to time), as appropriate.

## 2. EMPLOYMENT

### 2.1 Information on Re-tender, Partial Termination, Termination or Expiry

2.1.1 No earlier than two years preceding the termination, partial termination or Expiry of this Contract or a potential Transfer Date or at any time after the service of a notice to terminate this Contract or the provision of any of the Services (whether in whole or part) or on receipt of a written request by the Authority, the Contractor shall (and shall procure that any Employing Sub-Contractor shall):

- (a) supply to the Authority such information as the Authority may reasonably require in order to consider the application of the Transfer Regulations on the termination, partial termination or expiry of this Contract;
- (b) supply to the Authority such full and accurate and up-to-date information as may be requested by the Authority including the information listed in Appendix 1 to this Schedule 5 relating to the employees who are wholly or mainly employed, assigned or engaged in providing the Services or part of the Services under this Contract who may be subject to a Relevant Transfer;
- (c) provide the information promptly and in any event not later than three months from the date when a request for such information is made and at no cost to the Authority;
- (d) acknowledge that the Authority will use the information for informing any prospective New Provider for any services which are substantially the same as the Services or part of the Services provided pursuant to this Contract;
- (e) inform the Authority of any changes to the information provided under paragraph 2.1.1(a) or 2.1.1(b) up to the Transfer Date as soon as reasonably practicable.

2.1.2 Three months preceding the termination, partial termination or expiry of this Contract or on receipt of a written request from the Authority the Contractor shall:

- (a) ensure that Employee Liability Information and such information listed in Part A of Appendix 2 of this Schedule 5 (Personnel Information) relating to the Transferring Employees is provided to the Authority and/or any New Provider;
- (b) inform the Authority and/or any New Provider of any changes to the information provided under this Paragraph 2.1.2 up to any Transfer Date as soon as reasonably practicable;
- (c) enable and assist the Authority and/or any New Provider or any sub-contractor of a New Provider to communicate with and meet those employees and their trade union or other employee representatives.

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- 2.1.3 No later than 28 days prior to the Transfer Date the Contractor shall provide the Authority and/or any New Provider with a final list of the Transferring Employees together with the information listed in Part B of Appendix 2 of this Schedule 5 (Personnel Information) relating to the Transferring Employees. The Contractor shall inform the Authority and/or New Provider of any changes to this list or information up to the Transfer Date.
- 2.1.4 Within 14 days following the relevant Transfer Date the Contractor shall provide to the Authority and/or any New Provider the information set out in Part C of Appendix 2 of this Schedule 5 in respect of Transferring Employees.
- 2.1.5 Paragraphs 2.1.1 and 2.1.2 of this Schedule are subject to the Contractor's obligations in respect of the Data Protection Legislation and the Contractor shall use its best endeavours to obtain the consent of its employees (and shall procure that its Sub-Contractors use their best endeavours to obtain the consent of their employees) to the extent necessary under the Data Protection Legislation or provide the data in an anonymous form in order to enable disclosure of the information required under paragraphs 2.1.1 and 2.1.2. Notwithstanding this paragraph 2.1.5, the Contractor acknowledges (and shall procure that its Sub-Contractors acknowledge) that they are required to provide sufficient information to the Authority to enable the Authority to determine the nature of the activities being undertaken by employees engaged in providing the Services, to assess whether there is an organised grouping for the purposes of the Transfer Regulations and to assess who is assigned to such organised grouping. To the extent that anonymous data has been provided by the Contractor pursuant to its obligations under Paragraph 2.1.1 or 2.1.2 above, the Contractor shall provide full data to the Authority no later than 28 days prior to the Transfer Date.
- 2.1.6 On notification to the Contractor by the Authority of a New Provider or within the period of six months prior to the Termination Date or after service of a notice to terminate this Contract (whether in whole or in part), whichever is earlier and in any event on receipt of a written request by the Authority, the Contractor shall not and shall procure that an Employing Sub-Contractor shall not:
- (a) materially amend or promise to amend the rates of remuneration or other terms and conditions of employment of any person wholly or mainly employed or engaged in providing the Services under this Contract; or
  - (b) replace or re-deploy from the Services any person wholly or mainly employed or engaged in providing the Services, or materially increase or decrease the number of persons performing the Services under this Contract or the working time spent on the Services (or any part thereof); or
  - (c) reorganise any working methods or assign to any person wholly or mainly employed or engaged in providing the Services (or any part thereof) any duties unconnected with the Services (or any part thereof) under this Contract; or
  - (d) terminate or give notice to terminate the employment of any person wholly or mainly employed or engaged in providing the Services (or

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any part thereof) under this Contract other than in the case of serious misconduct or for poor performance,

save in the ordinary course of business and with the prior written consent of the Authority (not to be unreasonably withheld or delayed) and the Contractor shall indemnify and keep indemnified the Authority in respect of any reasonable costs (including reasonable legal costs), losses and expenses and all damages, compensation, fines and liabilities arising out of or in connection with any breach of paragraphs 2.1.1, 2.1.2, 2.1.3, 2.1.4 or 2.1.6 of this Schedule 5.

- 2.1.7 The Authority may at any time prior to the period set out in paragraph 2.1.5 of this Schedule 5 request from the Contractor any of the information in sections 1(a) to (d) of Appendix 1 and the Contractor shall and shall procure any Sub-Contractor will provide the information requested within 28 days of receipt of that request.

## 2.2 Obligations in Respect of Transferring Employees

- 2.2.1 To the extent that the Transfer Regulations apply on expiry, termination or partial termination of this contract, the Contractor shall and shall procure any Employing Sub-Contractor shall and the Authority shall and shall procure that a New Provider shall in such circumstances:

- (a) before and in relation to the Transfer Date liaise with each other and shall co-operate with each other in order to implement effectively the smooth transfer of the Transferring Employees to the Authority and/or a New Provider; and
- (b) comply with their respective obligations under the Transfer Regulations including their obligations to inform and consult under Regulation 13 of the Transfer Regulations.

## 2.3 Unexpected Transferring Employees

- 2.3.1 If a claim or allegation is made by an employee or former employee of the Contractor or any Employing Sub-Contractor who is not named on the list of Transferring Employees provided under paragraph 2.1.3 (an "**Unexpected Transferring Employee**") that he has or should have transferred to the Authority and/or New Provider by virtue of the Transfer Regulations, the Party receiving the claim or allegation shall notify the other Party (or the Contractor shall notify the Authority on the Sub-Contractor's behalf and the Authority shall notify the Contractor on the New Provider's behalf) in writing as soon as reasonably practicable and no later than ten Business Days after receiving notification of the Unexpected Transferring Employee's claim or allegation, whereupon:

- (a) the Contractor shall (or shall procure that the Employing Sub-Contractor shall), as soon as reasonably practicable, offer and/or confirm continued employment to the Unexpected Transferring Employee or take such other steps so as to effect a written withdrawal of the claim or allegation; and
- (b) if the Unexpected Transferring Employee's claim or allegation is not withdrawn or resolved the Contractor shall notify the Authority (who will notify any New Provider who is a party to such claim or allegation), and the Authority (insofar as it is permitted) and/or New Provider (as appropriate) shall employ the Unexpected Transferring

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Employee or as soon as reasonably practicable, (subject to compliance with its obligations at paragraph 2.3.1(c)(iii)), serve notice to terminate the Unexpected Transferring Employee's employment in accordance with his contract of employment; and

- (c) the Contractor shall indemnify the Authority against all reasonable costs (including reasonable legal costs) losses and expenses and all damages, compensation, fines and liabilities arising out of or in connection with any of the following liabilities incurred by the Authority or New Provider in dealing with or disposing of the Unexpected Transferring Employee's claim or allegation:
  - (i) any additional costs of employing the Unexpected Transferring Employee up to the date of dismissal where the Unexpected Transferring Employee has been dismissed in accordance with paragraph 2.3.1(b);
  - (ii) any liabilities acquired by virtue of the Transfer Regulations in relation to the Unexpected Transferring Employee;
  - (iii) any liabilities relating to the termination of the Unexpected Transferring Employee's employment but excluding such proportion or amount of any liability for unfair dismissal, breach of contract or discrimination attributable:
    - (A) to a failure by the Authority or a New Provider to act reasonably to mitigate the costs of dismissing such person);
    - (B) directly or indirectly to the procedure followed by the Authority or a New Provider in dismissing the Unexpected Transferee; or
    - (C) to the acts/omissions of the Authority or a New Provider not wholly connected to the dismissal of that person;
  - (iv) any liabilities incurred under a settlement of the Unexpected Transferring Employee's claim which was reached with the express permission of the Contractor (not to be unreasonably withheld or delayed);
  - (v) reasonable administrative costs incurred by the Authority or New Provider in dealing with the Unexpected Transferring Employee's claim or allegation, subject to a cap per Unexpected Transferring Employee of £5,000; and
  - (vi) legal and other professional costs reasonably incurred;

2.3.2 the Authority shall be deemed to have waived its right to an indemnity under paragraph 2.3.1(c) if it fails without reasonable cause to take, or fails to procure any New Provider takes, any action in accordance with any of the timescales referred to in this paragraph 2.3.

## 2.4 **Indemnities on transfer under the Transfer Regulations on Partial Termination, Termination or Expiry of the Contract**

2.4.1 If on the expiry, termination or partial termination of the Contract there is a Relevant Transfer, the Contractor shall indemnify the Authority and any New



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Provider against all reasonable costs (including reasonable legal costs) losses and expenses and all damages, compensation, fines and liabilities arising out of or in connection with any claim by any employee or trade union representative or employee representative arising whether before or after the Transfer Date out of any failure by the Contractor or any Sub-Contractor to comply with their obligations under Regulation 13 of the Transfer Regulations in relation to any Transferring Employee or any other employee of the Contractor or any Sub-Contractor affected by the Relevant Transfer (as defined by Regulation 13 of the Transfer Regulations), save to the extent that all reasonable costs (including reasonable legal costs), losses and expenses and all damages, compensation, fines and liabilities are a result of the act or omission of the Authority or the New Provider.

2.4.2 If there is a Relevant Transfer, the Authority shall indemnify the Contractor against all reasonable costs (including reasonable legal costs) losses and expenses and all damages, compensation, fines and liabilities arising out of, or in connection with:

- (a) any claim or claims by a Transferring Employee at any time on or after the Transfer Date which arise as a result of an act or omission of the Authority or a New Provider or a sub-contractor of a New Provider during the period from and including the Transfer Date;
- (b) subject to paragraph 2.4.1 any claim by any employee or trade union representative or employee representative arising whether before or after the Transfer Date out of any failure by the Authority or a New Provider or a sub-contractor of a New Provider to comply with their obligations under Regulation 13 of the Transfer Regulations in relation to any Transferring Employee or any other employee engaged wholly or mainly in connection with the Services by the New Provider or any other employee of the Authority or any New Provider affected by the Relevant Transfer effected by this Contract (as defined by Regulation 13 of the Transfer Regulations),

save to the extent that all reasonable costs (including reasonable legal costs), losses and expenses and all damages, compensation, fines and liabilities are a result of the act or omission of the Contractor or any Employing Sub-Contractor.

2.4.3 In the event of a Relevant Transfer, the Authority shall indemnify the Contractor in respect of all reasonable costs (including reasonable legal costs), losses and expenses and all damages, compensation, fines and other liabilities arising out of or in connection with or as a result of a substantial change by the Authority [or a New Provider or any sub-contractor of a New Provider] on or after the Transfer Date to the working conditions of any Transferring Employee to the material detriment of any such Transferring Employee. For the purposes of this paragraph 2.4.3, the expressions "substantial change" and "material detriment" shall have the meanings as are ascribed to them for the purposes of Regulation 4(9) of the Transfer Regulations.

## 2.5 **Contracts (Rights of Third Parties) Act 1999**

2.5.1 A New Provider may enforce the terms of paragraph 2.3 and 2.4 against the Contractor in accordance with the Contracts (Rights of Third Parties) Act 1999.

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- 2.5.2 The consent of a New Provider (save where the New Provider is the Authority) is not required to rescind, vary or terminate this Contract.
- 2.5.3 Nothing in this paragraph 2.5 shall affect the accrued rights of the New Provider prior to the rescission, variation, expiry or termination of this Contract.

### 2.6 **General**

- 2.6.1 The Contractor shall not recover any Costs and/or other losses under this Schedule 5 where such Costs and/or losses are recoverable by the Contractor elsewhere in this Contract and/or are recoverable under the Transfer Regulations or otherwise.

**CONTRACTOR PERSONNEL-RELATED INFORMATION TO BE RELEASED UPON  
RE-TENDERING WHERE THE TRANSFER REGULATIONS APPLIES**

1. Pursuant to paragraph 2.1.1(b) of this Schedule 5, the following information will be provided:
  - a) The total number of individual employees (including any employees of Sub-Contractors) that are currently engaged, assigned or employed in providing the Services and who may therefore be transferred. Alternatively the Contractor should provide information why any of their employees or those of their Sub-Contractors will not transfer;
  - b) The total number of posts or proportion of posts expressed as a full-time equivalent value that currently undertakes the work that is to transfer;
  - c) The preceding 12 months total pay costs – (Pay, benefits employee/employer national insurance contributions and overtime);
  - d) Total redundancy liability including any enhanced contractual payments;
2. In respect of those employees included in the total at 1(a), the following information:
  - a) Age (not date of Birth);
  - b) Employment Status (i.e. Fixed Term, Casual, Permanent);
  - c) Length of current period of continuous employment (in years, months) and notice entitlement;
  - d) Weekly conditioned hours of attendance (gross);
  - e) Standard Annual Holiday Entitlement (not "in year" holiday entitlement that may contain carry over or deficit from previous leave years);
  - f) Pension Scheme Membership;
  - g) Pension and redundancy liability information;
  - h) Annual Salary;
  - i) Details of any regular overtime commitments (these may be weekly, monthly or annual commitments for which staff may receive an overtime payment);
  - j) Details of attendance patterns that attract enhanced rates of pay or allowances;
  - k) Regular/recurring allowances;
  - l) Outstanding financial claims arising from employment (i.e. season ticket loans, transfer grants);
3. The information to be provided under this Appendix 1 should not identify an individual employee by name or other unique personal identifier unless such information is being provided 28 days prior to the Transfer Date.
4. The Contractor will provide (and will procure that the Sub-Contractors provide) the Authority/tenderers with access to the Contractor's and Sub-Contractor's general employment terms and conditions applicable to those employees identified at paragraph 1(a) of this Appendix 1.

**PERSONNEL INFORMATION TO BE RELEASED PURSUANT TO THIS CONTRACT**

**Part A**

3. Pursuant to paragraph 2.1.2 of this Schedule 5, the written statement of employment particulars as required by section 1 of the Employment Rights Act 1996 together with the following information (save where that information is included within that statement) which will be provided to the extent it is not included within the written statement of employment particulars:

**3.1 Personal, Employment and Career**

- a) Age;
- b) Security Vetting Clearance;
- c) Job title;
- d) Work location;
- e) Conditioned hours of work;
- f) Employment Status;
- g) Details of training and operating licensing required for Statutory and Health and Safety reasons;
- h) Details of training or sponsorship commitments;
- i) Standard Annual leave entitlement and current leave year entitlement and record;
- j) Annual leave reckonable service date;
- k) Details of disciplinary or grievance proceedings taken by or against transferring employees in the last two years;
- l) Information of any legal proceedings between employees and their employer within the previous two years or such proceedings that the transferor has reasonable grounds to believe that an employee may bring against the transferee arising out of their employment with the transferor;
- m) Issue of Uniform/Protective Clothing;
- n) Working Time Directive opt-out forms; and
- o) Date from which the latest period of continuous employment began.

**3.2 Superannuation and Pay**

- a) Maternity leave or other long-term leave of absence (meaning more than 4 weeks) planned or taken during the last two years;
- b) Annual salary and rates of pay band/grade;

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- c) Shifts, unsociable hours or other premium rates of pay;
- d) Overtime history for the preceding twelve-month period;
- e) Allowances and bonuses for the preceding twelve-month period;
- f) Details of outstanding loan, advances on salary or debts;
- g) Pension Scheme Membership;
- h) For pension purposes, the notional reckonable service date;
- i) Pensionable pay history for three years to date of transfer;
- j) Percentage of any pay currently contributed under additional voluntary contribution arrangements; and
- k) Percentage of pay currently contributed under any added years arrangements.

### 3.3 **Medical**

- a) Details of any period of sickness absence of 3 months or more in the preceding period of 12 months; and
- b) Details of any active restoring efficiency case for health purposes.

### 3.4 **Disciplinary**

- a) Details of any active restoring efficiency case for reasons of performance; and
- b) Details of any active disciplinary cases where corrective action is on going.

### 3.5 **Further information**

- a) Information about specific adjustments that have been made for an individual under the Equality Act 2010;
- b) Short term variations to attendance hours to accommodate a domestic situation;
- c) Individuals that are members of the Reserves, or staff that may have been granted special leave for public duties such as a School Governor; and;
- d) Information about any current or expected maternity or other statutory leave or other absence from work.

## **Part B**

### 3.6 **Information to be provided 28 days prior to the Transfer Date:**

- a) Employee's full name;
- b) Date of Birth
- c) Home address;
- d) Bank/building society account details for payroll purposes Tax Code.

**PART C**

**3.7 Information to be provided within 14 days following a Transfer Date:**

**3.7.1 Performance Appraisal**

The current year's Performance Appraisal;

Current year's training plan (if it exists); and

Performance Pay Recommendations (PPR) forms completed in the current reporting year, or where relevant, any bonus entitlements;

**Superannuation and Pay**

Cumulative pay for tax and pension purposes;

Cumulative tax paid;

National Insurance Number;

National Insurance contribution rate;

Other payments or deductions being made for statutory reasons;

Any other voluntary deductions from pay;

# **Ministry of Defence**

**Contract No:  
710318450**



## **THE PROVISION OF LEVEL 7 SENIOR LEADER APPRENTICESHIP (ST0480) TRIAL WITH MASTER'S LEVEL ACADEMIC ACCREDITATION FOR ARMY PERSONNEL**

### **SCHEDULE 6**

#### **PERFORMANCE MONITORING**

**Schedule 6 - Performance Monitoring**

1. The following Key Performance Indicators (KPIs) shall apply to Contract 710318450 for The Provision of Level 7 Senior Leader Apprenticeship (ST0480) Trial with Masters Level Academic Accreditation:

<u>ID</u>	<u>KPI Title</u>
KPI 1	Communications 1 - Response to the Authority
KPI 2	Communications 2 - Information and Data transfer to the Authority
KPI 3	Training Support and Provision: Tutor / Apprentice Ratios
KPI 4	EPA Assurance

2. Full details of the purpose, measurements, frequency and performance levels for each KPI are provided in this Schedule 6.
3. Full details of the performance monitoring process which shall govern contract 710318450 are detailed in Condition 34 of Schedule 3 (Terms and Conditions).



**KPI 1 - Communications: Response to the Authority**

ID	KPI Title	Purpose of KPI	Measure(s)	Frequency of Measure	Performance Level (Number of Occurrences %)	RAG
KPI 1	Communications 1 - Response to the Authority	To encourage and ensure the maintenance of an excellent standard of communication with the Authority	The Training Provider is to provide a substantive response to 75% of all communications with the Authority within 1 working day and provide a substantive <sup>1</sup> response to all (100%) - communications with the Authority within 3 working days. <sup>2, 3</sup>	At Quarterly Working Group and collated in the Annual report	Target: 100%	
					Minor Fail: 95-99.9%	
					Serious Fail: 90-94.9%	
					Severe Fail: ≤89.9%	

<sup>1</sup> A 'substantive response', being defined as significant, considered, and relevant reply which discusses and advances the issue.

<sup>2</sup> All communication is primarily based on email. Any verbal communication will be backed up by email from the Authority. In this case the timing stipulations of this KPI does not commence until the Date/Time the supporting email is sent by the Authority.

<sup>3</sup> The primary Training Provide POC for all communications with the Authority will be determined after Contract Award, at Kickstart, however it will likely be the Course Director for the apprenticeship or their nominated deputy.

**KPI 2 – Communications: Information and Data transfer to the Authority**

ID	KPI Title	Purpose of KPI	Measure(s)	Frequency of Measure	Performance Level (Number of Occurrences %)	RAG
KPI 2	Communications 2 - Information and Data transfer to the Authority	To encourage and ensure the maintenance of an excellent standard of communication with the Authority	The Training Provider is to inform the Authority of all apprentice requests within 2 working days of receipt of the request <sup>1, 2, 3</sup> .	At Quarterly Working Group and collated in the Annual report	Target: 100%	Green
					Minor Fail: 95-99.9%	Yellow
					Serious Fail: 90-94.9%	Red
					Severe Fail: ≤89.9%	Black

<sup>1</sup> These requests include but are not limited to: Absences from Residential Study Periods, Breaks in Learning, Withdrawal from the apprenticeship, military deployments (Exercises or Operations), significant medical issues, Maternity / Paternity Leave, other compassionate issues.

<sup>2</sup> All communication is primarily based on email. Any verbal communication will be backed up by email from the Training Provider. In this case the timing of this KPI commences when the email request is received from the apprentice.

<sup>3</sup> The primary Training Provide POC for all communications with the Authority will be determined after Contract Award, at Kickstart, however it will likely be the Course Director for the apprenticeship or their nominated deputy.

**KPI 3 - Training Support and Provision: Tutor / Apprentice Ratios**

ID	KPI Title	Purpose of KPI	Measure(s)	Frequency of Measure	Performance Level (Number of Occurrences %)	RAG
KPI 3	Training Support and Provision: Tutor / Apprentice Ratios	To maintain good standard of training delivery, performance and to fully support apprenticeships through the learning journey being flexible to individual needs.	The Training Provider is to ensure that staff to apprenticeship ratios are sufficient to provide an excellent level of individualised student support <sup>1,2</sup> .	At Quarterly Working Group and collated in Annual report	Target: 100%	Green
					Minor Fail: 95-99.9%	Yellow
					Serious Fail: 90-94.9%	Red
					Severe Fail: ≤89.9%	Black

<sup>1</sup> The Authority will determine the specific tutor to apprentice ratio with the Training Provider at the Kickstart meeting with the provider. However, the desired ratio is likely to be in the region of 1: 60 with approximately 25 reviews per month for each tutor on a 12-week cycle.

<sup>2</sup> If the Training Provider has an unplanned change in personnel, the Training Planner is to inform the Authority as soon as the matter emerges and are to provide a mitigation action and recovery plan within 5 working days. This plan will set out a reasonable duration (2 -3 months) for the full recovery of the programme back to the agreed ratio.

Example: A tutor leaves the Training Provider within 5 working days of that tutors last tutorial their workload of apprentices is reallocated temporarily across the appropriately qualified and experienced tutors. The Training Provider then has 8 -12 weeks to recruit, and have operationally effective, a replacement to rebalance to the agreed ratio.

**KPI 4 – End Point Assessment, (EPA) Assurance**

ID	KPI Title	Purpose of KPI	Measure(s)	Frequency of Measure	Performance Level (Number of Occurrences %)*	RAG
KPI 4	EPA Assurance	To ensure that all apprentices sit End Point Assessment.	The Training Provider is to ensure that 100% of apprentice graduates <sup>1</sup> complete End Point Assessment <sup>2</sup> .	Every two years at point of graduation	Target: 100%	Green
					Minor Fail: 95-99.9%	Yellow
					Serious Fail: 90-94.9%	Red
					Severe Fail: ≤89.9%	Black

<sup>1</sup> Graduates' being defined as apprentices who have been, or are to be, awarded a master's qualification by the Training Provider.

<sup>2</sup> This KPI is to mitigate the phenomena of 'EPA flight', where an apprentice gains their master's qualification but then does not attend / complete / achieve their End Point Assessment, which means that the Training Provider does not get their final 20% payment per apprentice, as the apprentice did not sit the EPA. At Kickstart, the Authority and the Training Provider will come to an agreement to ensure that the Training Provider does not administratively issue the academic award until the apprentice has undertaken the EPA.

**SOCIAL VALUE KPI**

[to be agreed with the Authority and inserted post-Contract Award]

**Contract No:  
710318450**



**THE PROVISION OF LEVEL 7 SENIOR LEADER  
APPRENTICESHIP (ST0480) TRIAL WITH  
MASTER'S LEVEL ACADEMIC ACCREDITATION  
FOR ARMY PERSONNEL**

**SCHEDULE 7**

**SERVICE DELIVERY PLAN**

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**Service Delivery Plan for Contract 710318450**

The detail for the Service Delivery Plan for Contract 710318450 provided herein have been extracted from the Technical Responses provided within the Contractor's Tender.

**REDACTED – COMMERCIALLY SENSITIVE**