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Corporate Commercial

Defence Equipment & Support

Spruce 2B #1261

MOD Abbey Wood

Bristol BS34 8JH

3-Apr-20  
700210314

Our Reference:

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DE&S P3M Release 4

Your Reference: CCDT/583

Our Reference: 700210314 - CCDT/583

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Dear Sir/Madam,

Invitation To: Tender Reference Number: 700210314 - CCDT/583 P3M R4

1. You are invited to tender for 700210314 - CCDT/583 P3M R4 in accordance with the attached documentation.
2. The anticipated date for the contract award decision is June-2020, please note that this is an indicative date and may change.
3. You must submit your Tender no later than 06-May-2020 10:00:00. Tenders are to be submitted through AWARD and 1 Priced copy of your tender must also be returned to the Authority Tender Board by emailing your Tender to [DESTECH-Comrcl-TEAM@mod.gov.uk](mailto:DESTECH-Comrcl-TEAM@mod.gov.uk) This will be opened in accordance to Tender Board Rules.
4. The Cyber Risk Profile of the Contract is Moderate, as defined in Def Stan 05-138. Please ensure Cyber Risk Assessment has been completed prior to submitting your tender, the unique reference number to access the questionnaire is RAR-DE9YFUTX. If your Cyber Risk Assessment is incomplete or non-compliant, your tender will be deemed non-compliant.
5. Please confirm receipt of this tender to

Yours faithfully

DES Comrcl Ops CCDT32

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**Invited Suppliers**

Supplier Name	Supplier Address	Contact Name	Contact Email
Ensto (UK) Ltd	744-750 Salisbury House London Hall London Greater London EC2M 5QQ		
Entserv UK Ltd	Royal Pavilion Wellesley Road Aldershot Hampshire GU11 1PZ		
Hyde Park Solutions Ltd	Unit 12C Warwick Innovation Centre Warwick Technology Park Warwick CV34 6UW		
Project EU Ltd	Strathallan House, Midland Road, Hemel Hempstead, Herts, HP2 4LS		
RPC UK Ltd	1 The Courtyard Hawksworth Estate Thorpe Lane Guiseley, Leeds, West Yorkshire LS20 8LG		

## **DEFFORM 47 Terms and Conditions**

### Contents

This invitation consists of the following documentation:

- DEFFORM 47 - Invitation To Tender. The DEFFORM 47 sets out the key requirements that Tenderers need to meet in submitting a valid Tender. It also sets out the conditions relating to this competition. For ease it is broken into:

- o Section A - Introduction

Funding

DEFFORM 47 Definitions

Purpose

ITT Documentation and ITT Material

Tender Expenses

Material Change of Control from Supplier Selection

Contract Conditions

Consultation with Credit Reference Agencies

Other Information

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- Schedule of Requirements: Schedule 2
- Statement of Requirement: Schedule 2 Annex A
- Contract Conditions
- DEFFORM 111 - Appendix to Contract - Addresses and Other Information
- Tenderer's Commercially Sensitive Information Form (DEFFORM 539A)
- Any other relevant documentation: Security Aspects Letter is provided at SC2  
Schedule 16

## Section A - Introduction

### Funding

A1. Funding has been approved.

### DEFFORM 47 Definitions

A2. "The Authority" means the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland, (referred to in this document as "the Authority"), acting as part of the Crown.

A3. "Tenderer" means the economic operator or group of operators in the form of a consortium, including sub-contractors, who have been invited to submit a response to this Invitation to Tender. Where "you" is used this means an action on you the Tenderer.

A4. "Invitation to Tender" (ITT) refers to the first document that the Authority sends out to potential Tenderers that initiates a tender response, competitive dialogue or negotiation.

A5. A "Tender" is the offer that you are making to the Authority.

A6. "Contractor Deliverables" means the works, goods and / or the services, including packaging (and Certificates(s) of Conformity supplied in accordance with any Quality Assurance (QA) requirements, if specified) and any associated technical data which the contractor is required to provide under the contract in accordance with the Schedule of Requirements, but excluding incidentals outside the Schedule of Requirements such as progress reports.

A7. "Schedule of Requirements" Schedule 2 means that part of the contract which identifies, either directly or by reference, the Contractor Deliverables to be supplied or carried out, the quantities involved and the price or pricing terms in relation to each Contractor Deliverable.

A8. The "Statement of Requirement" Annex A Schedule 2 details the technical requirements and acceptance criteria [Schedule 8 in SC2] of the Contractor Deliverables. The Statement of Requirement is attached at Annex A Schedule 2 to this ITT. This may include the System Requirements Document (SRD).

A9. "Conditions of Tendering" means the conditions set out in the DEFFORM 47 that govern the competition.

A10. "Contract Conditions" means the attached conditions that will govern any resultant contract.

A11. A "Third Party" is any person who is not an employee of the Authority or Tenderer, as defined at A3.

### Purpose

A12. The purpose of this ITT is to invite you to propose a solution / best price to meet the Authority's requirement. This documentation explains and sets out the:

a. tender process and timetable for the next stages of the procurement;

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- b. instructions and conditions that govern this competition;
- c. information you must include in your Tender and the required format;
- d. administrative arrangements for the receipt and evaluation of Tenders; and
- e. Contract Conditions that shall apply in the event that the Authority awards a contract following this competition.

A13. The sections in this ITT and associated documents are structured in line with a generic tendering process and do not indicate importance / precedence.

A14. This ITT has been issued to all potential Tenders chosen during the Tender selection stage listed on page 2.

A15. This Requirement was Advertised in MOD DCO (Publication: OJEU; Publication Date: December 2019) and is In accordance with Public Contracts Regulations 2015 Restricted Procedure.

#### ITT Documentation and ITT Material

A16. ITT Documentation means any information in any medium or form (for example drawings, handbooks, manuals, instructions, specifications and notes of pre-tender clarification meetings), issued to you, or to which you have been granted access, by the Authority for the purposes of responding to this ITT. ITT Material means any other material (including patterns and samples), equipment or software issued to you, or to which you have been granted access, by the Authority for the purposes of responding to this ITT. ITT Documentation, ITT Material and any Intellectual Property Rights (IPR) in them shall remain the property of the Authority or other Third Party owners and is released solely for the purposes of enabling you to submit a Tender. You must:

- a. take responsibility for the safe custody of the ITT Documentation and ITT Material and for all loss and damage sustained to it while in your care;
- b. not copy or disclose the ITT Documentation or any part of it to anyone other than the bid team involved in preparing your Tender, and not use it except for the purpose of responding to this ITT;
- c. seek written approval from the Authority if you need to provide access to any ITT Documentation or ITT Material to any Third Party;
- d. abide by any reasonable conditions imposed by the Authority in giving its approval under sub-paragraph A16.c, which at a minimum will require you to ensure any disclosure to a Third Party is made by you in confidence. Alternatively, due to IPR issues for example, the disclosure may be made, in confidence, directly by the Authority;
- e. accept that any further disclosure of ITT Documentation or ITT Material (or use beyond the original purpose), or further use of ITT Documentation or ITT Material, without the Authority's written approval may make you liable for a claim for breach of confidence and / or infringement of IPR, a remedy which may involve a claim for compensation;
- f. inform the named Commercial Officer if you decide not to submit a Tender;

g. immediately return all ITT Documentation, ITT Material and derived information of an unmarked nature, should you decide not to respond to this ITT, or you are notified by the Authority that your Tender has been unsuccessful; and

h. consult the named Commercial Officer to agree the appropriate destruction process if you are in receipt of ITT Documentation and ITT Material marked 'OFFICIAL-SENSITIVE' or 'SECRET'.

A17. Some or all of the ITT Documentation and ITT Material may be subject to one or more confidentiality agreements made between you and either the Authority or a Third Party, for example a confidentiality agreement established in the form of DEFFORM 94. The obligations contained in any such agreement will be in addition to, and not derogate from, your obligations under paragraph A16 above.

#### Tender Expenses

A18. You will bear all costs associated with preparing and submitting your Tender. If the Tender process is terminated or amended by the Authority, the Authority will not reimburse you.

#### Material Change of Control from Supplier Selection

A19. You must inform the Authority in writing if there is any material change in control, composition or membership of your organisation and / or consortium members, including any sub-contractors at any time during the procurement process. This may affect your right to stay in the competition.

#### Contract Conditions

A20. Standardised Contract 2 (SC2) conditions are attached.

#### Consultation with Credit Reference Agencies

A21. The Authority may consult with credit reference agencies to assess your creditworthiness. This information may be used to support and influence decisions to enter into a contract with you.

#### Other Information

A22. Please read SC2 and the Schedules for any further information

**Section B - Key Tendering Activities**

The key dates for this procurement are currently anticipated to be as follows:

Stage	Date and Time	Initiated By	Submit to:
Invitation to Bidders Conference	Not Applicable	Not Applicable	Not Applicable
Date for Confirmation of attendance at Bidders Conference	Not Applicable	Not Applicable	Not Applicable
Final date for Clarification Questions / Requests for additional information	24th April 2020 10:00 AM	Tenderers	DES Comrcl Ops CCDT33 through AWARD software
Final Date for Requests for Extension to return date	27th April 2020 10:00 AM	Tenderers	Email to DESTECH- Comrcl- TEAM@mod.gov.uk
The Authority issues Final Clarification Answers	29th April 2020 10:00 AM	The Authority	All Tenderers through AWARD software
Tender Return	6th May 2020 10:00 AM	Tenderers	AWARD and 1 priced copy emailed to DESTECH-Comrcl- TEAM@mod.gov.uk
Tender Evaluation	From 06/05/2020	The Authority	N/A
Negotiations	N/A	The Authority	N/A
Reverse Auction	N/A	The Authority	N/A

**Notes**

1. A Bidders Conference is where the Authority presents the requirement to all Tenderers at the same time. A copy of the presentation will be issued to all Tenderers regardless of attendance. It gives you an opportunity to ask questions about the requirement. The Tenderer must provide the name(s) of those attending the Bidders Conference to the above named contact, by the date shown, so that access to the site can be arranged (A Bidders Conference is Not Applicable to this ITT).
2. The Tenderer must make requests for an extension in writing (email is sufficient) to the above named contact, by the date and time shown. Any extension is at the sole discretion of the Authority and if granted will be granted to all Tenderers.
3. The Authority will automatically copy questions and answers to all Tenderers, removing the names of those who have raised the questions. If you do not want your question disclosed you must inform the Authority of this and the reason why when submitting

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the question. The Authority may choose to discuss with you whether it is appropriate to disclose the question or response, or both, to other Tenderers. If the Authority decides to disclose, you will be given the opportunity to withdraw your question. Where a question reveals a piece of information that could significantly impact the Tenderers responses this may result in an extension of the Tender return date. The Authority will endeavour to ensure that you have at least 10 working days to submit your Tender.

4. Negotiations are not permitted under the Open or Restricted Procedures.

## **Section C - Instructions on Preparing Tenders**

### Tenders for Selected Contractor Deliverables

C1. The Authority reserves the right to reject all or part of your Tender where you have not tendered for all of the Contractor Deliverables.

### Construction of Tenders

C2. Your Tender must be written in English, using Arial font size 11. Prices must be in GBP. Prices must be Firm Price. Further details of price breakdown are in SC2 Schedule 2 Schedule of Requirement and Schedule 2 Annex B Rate Card.

C3. To assist the Authority's evaluation please set out your Tender response in accordance with Section D (Tender Evaluation).

### Validity

C4. In accordance with F3 your Tender must be valid / open for acceptance for 180 calendar days from the Tender return date. If successful, your Tender must be open for acceptance for a further thirty (30) calendar days.

### Variant Bids

C5. Variant Bids. Any Tender made subject to additional or alternative Contract Conditions alone is not a variant bid. A variant bid is a Tender that offers an alternative approach to, or method of, meeting the Authority's requirements as set out in the ITT Documentation. Where the tender evaluation has a pass / fail for the Contract Conditions the Authority may reject the Tender on the grounds of such additional or alternative Contract Conditions.

C6. The Authority can only evaluate Variant Bids during this competition where it was stated at the expression of interest stage that Variant Bids would be accepted. In these circumstances the Authority will give full and careful consideration to any permitted variant bids received. Any variant bid should, as far as possible, meet the attached Conditions of Tendering and Contract Conditions. Where you submit a variant bid, you are required to submit two Tenders, one against the Statement of Requirement and one variant bid. The standard Tender must meet the 'minimum' tender evaluation criteria as set out in Section D (Tender Evaluation) and must be submitted in accordance with the Conditions of Tendering. Variant bids will be evaluated in accordance with the tender evaluation criteria as set out in Section D (Tender Evaluation) and must be submitted in accordance with the Conditions of Tendering.

### Tender Documents

C7. The Authority have uploaded additional documents onto the AWARD Data room. The bidder will be sent Login information to AWARD from Commerce Decisions Ltd to access these documents (see Section E for further information). Some documents in the data room carry security level of OFFICIAL-SENSITIVE, you must handle these documents in accordance of JSP 440 Annex N, a copy of which is at Schedule 16 Appendix 1 of this ITT.

## Section D - Tender Evaluation

D1. This section details how your Tender will be evaluated, the tools used to evaluate the Tender and the Evaluation Criteria, contained at Appendix A to Section D of this DEFFORM 47.

D2. Tenders will be evaluated using the Most Economically Advantageous Tender (MEAT) methodology based on Public Contracts Regulations 2015. A Real Value for Money model (also known as Willingness to Pay) will be used to determine the MEAT.

### Compliance of Tender

D3. In order to be a Compliant Tender, Tenderers must submit, prior to the Tender Return Date and Time, a tender which contains all mandatory and specified returns as set out below and in the Invitation to Tender:

### Financial Evaluation

D3.1. The Financial Compliance will be assessed by the Commercial Evaluation Team, which will comprise a minimum of two evaluators. The Financial Compliance evaluation will follow the steps below:

D3.1.1 Tenderers must supply a completed Annex A to DEFFORM 47 showing the total Firm Price of their Tender for Schedule items 1, 2, 3 and 4; and

D3.1.2 A completed Contract Schedule of Requirements containing Firm Prices for each of Items 1, 2, 3 and 4; detailing

D3.1.2.1 Where the Tenderer is requesting Milestone Payments for any or all of Items 1, 2 and 4, these shall be set out in the Contract Schedule of Requirements in the Firm Price column. The Authority requires a tangible deliverable element of each Item to be identified as the Payment Milestone for any such interim payments requested (which shall be no more than Qty 3 Milestone Payments per Item, with a description of the tangible deliverable forming each Milestone). The overall total for each Item shall be the Item price, in combination with the other Firm Price Items, to be evaluated for the Tender.

D3.1.2.2 The total Firm Price for Item 3 shall be shown in Total and in quarterly instalments; and

D3.1.3 A firm Rate Card for all Labour types listed in the Annex B to Schedule 2.

(NB The firm Rate Card will not form part of the evaluation but will form part of the Contract if your Tender is successful.)

(NB: Other Schedule Items remain Optional and will therefore be subject to negotiation of Firm Prices, post-Contract award, using the Rate Card, if and when called up by the Authority);

D3.1.4 Tenders not including this pricing information will be considered non-compliant and will be excluded from the competition.

D3.1.5 Compliant Tenders will have the Total Value for Items 1, 2, 3 and 4 entered into the Real Value for Money (Willingness to Pay) calculation which will form the price element of their Real Value for Money (Willingness to Pay) ranking.

### Commercial Evaluation

D3.2 The Commercial Evaluation Team will comprise a minimum of two evaluators. The Commercial Compliance Check will follow the steps below;

D3.2.1 Provision of a completed DEFFORM 47 Mandatory Declarations form and confirmation of full commercial compliance as required for Question 0.1, 0.2, 0.3 and 0.4 of Appendix A to Section D to this DEFFORM 47.

D3.2.2 Your response to the Special Conditions of Tendering at F20 of this DEFFORM 47 (failure to provide the required information at F.20 shall render your Tender non-compliant, and may result in your bid being excluded, but the Authority reserves the right to seek clarification of the Tenderer's response on this requirement.)

D3.2.3 Responses to all the Technical Evaluation and Project Management Questions at Appendix A to Section D of this DEFFORM 47, including all the required documents described in the Evidence sets.

D3.3 Tenderers who fail the above Compliance Checks will receive a 'fail' score and the Authority will exclude the Tenderer from the competition and these tenderers will not be given a technical evaluation of their bid.

#### Technical Evaluation

D3.4 Commercially and financially compliant Tenderers will have their response to each Technical Evaluation and Project Management Question scored in accordance with Appendix A to Section D of this DEFFORM 47. The Technical Evaluation Team will comprise a minimum of two evaluators per question. The Technical Evaluation will follow the steps below:

D3.4.1 Responses to all Technical Evaluation and Project Management Questions at Appendix A to this Section D of this DEFFORM 47 will be evaluated. A minimum of two evaluators will independently evaluate responses to each Technical Evaluation and Project Management Question as detailed in Appendix A and those scores will go forward to a Moderation meeting to agree consensus scores.

D3.4.2 A nominated Authority lead will be assigned to each Technical Evaluation and Project Management Question; and they will make the final decision on the moderated score for the response to that question.

D3.4.3 Tenderers who score 0% in any of the Technical Questions or Project Management Questions in this Technical Evaluation will be excluded from the competition.

#### MEAT and Real Value for Money (also known as Willingness to Pay)

D4.1. The preferred tender will be identified by applying the Real Value for Money MEAT calculation below. Only Financially, Commercially and Technically Compliant Tenders will be considered in the MEAT calculation.

D4.2 The preferred tender will be identified as that with the lowest Real Value for Money (RVfM) Rating as defined by:

D4.3 Tender RVfM Rating = Tender Cost - (Tender Technical Score \* COPIS)

D4.4 COPIS is the Cost of One Point Increase in Score (COPIS)

D4.5 Where:

D4.5.1 The Tender Cost is the total Tender Value of Schedule Items 1, 2, 3 and 4;

D4.5.2 The Tender Technical Score is the score in the range of 0 to 100 calculated in accordance with the Technical Evaluation section above; and

D4.5.3 The COPIS is £16,500.

D4.6 All compliant Tenders will be ranked using this rating, the Tender with the lowest Real Value for Money rating;

D4.7 Should one or more Tenders have the same Real Value for Money rating, the Tender with the lowest cost will be identified as the preferred tender.

D4.8 Not Used

D4.9 Not Used

Real VfM Illustrative Example

D4.19 The following is an illustrative example of the RVfM calculation applied to three tenders.

D4.20 Note that the values used in this example are arbitrary and must NOT be taken as an indication of expected functionality or price for the current procurement.

D4.21 Three tenders have been assessed as being acceptable in this procurement, as follows:

Tender	Cost	Score
TA	£7,000,000	57
TB	£8,500,000	72
TC	£7,900,000	75

D4.22 In this worked example only, the Authority has determined it is willing to pay £78,000 for a one point change in Score.

D4.23 The preferred tender will be identified as that with the lowest RVfM Rating.

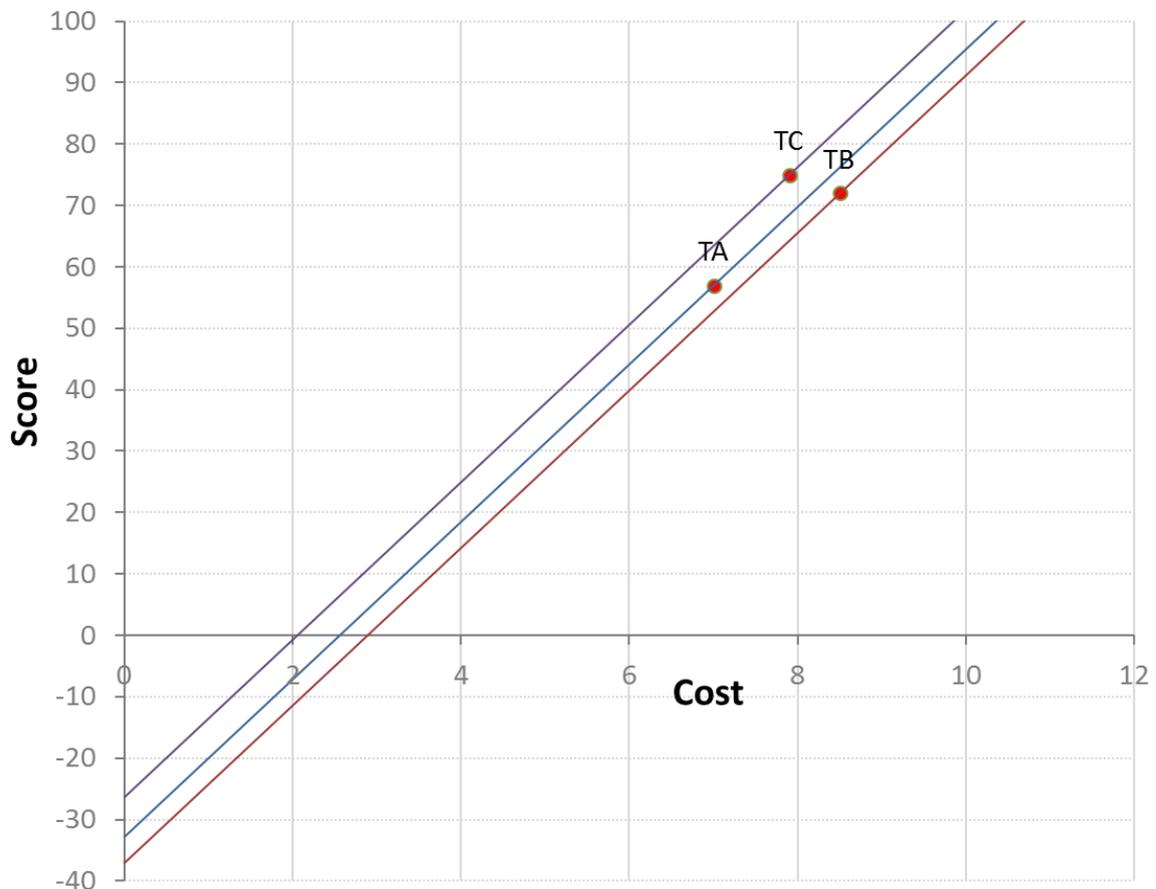
D4.24 This is defined by:

Tender RVfM Rating = Tender Cost – (Tender Score \* £78,000)

Tender	Cost	Score	Acceptable	RVfM Rating	RVfM Rank
TC	£7,900,000	75	TRUE	2,050,000	1
TA	£7,000,000	57	TRUE	2,554,000	2
TB	£8,500,000	72	TRUE	2,884,000	3

D4.25 These tenders can be displayed graphically, where the COPIS value is the gradient. The lines therefore show the “lines of indifference” for each tender, i.e. all points on that line result in the same RVfM rating.

D4.26 The winning tender is the one with the left and uppermost line; i.e. TC.



### Evaluation Process

D4.26 The process will be as follows;

1. Compliance checks in accordance with D3. All compliant Tenders will be evaluated, non-compliant tenders will be given a Fail score and excluded from the competition process.
2. Responses will be issued to Technical and Commercial evaluators. Evaluator clarifications may be issued to tenderers via Award with a response date.
3. Initial marking by individual evaluators will be followed by moderation, where all responsible evaluators meet to discuss their scoring. The moderator will make the final decision on the score.
4. The MEAT model will be run.
5. When a Preferred Tenderer is identified following Tender submissions the Authority will proceed to full approval.
6. The Authority will award the Contract after full approval.

**APPENDIX A TO SECTION D – TENDER EVALUATION**  
**PART A TENDER QUESTIONNAIRE FOR P3M R4**

QUESTIONNAIRE – KEY PARTICIPATION REQUIREMENTS		
GUIDANCE	The following questions are ‘Pass/Fail’ questions. If Potential Providers are unwilling or unable to answer “Yes”, their submission will be deemed non-compliant and shall be rejected. Potential Providers should answer yes or no.	
Question Number	Question	Max
0.1	Have you read, understood and accepted the ITT and all associated appendices and annexes.	Pass/Fail
0.2	Do you agree, without caveats or limitations, that if you are successful the Authority’s SC2 as provided here will govern the provision of this contract?	Pass/Fail
0.3	Have you uploaded DEFFORM 47 Annex A plus additional information where required?	Pass/Fail
0.4	Have you uploaded your ITT in accordance with the response requirement below?	Pass/Fail

**TECHNICAL QUESTIONNAIRE**

<b>Q1. EVM Module -Transition Management Weighting 11.34%</b>
<b>Aim</b>
Describe any transition issues and risks you believe would need to be managed in the implementation of the Unifier EVM capability and the version of Primavera software release you propose to base the R4 configuration upon. Propose a deployment strategy across the portfolio of ~ 600 projects in DE&S.
<b>Evidence</b>
<ol style="list-style-type: none"> <li>1. Document the risks, issues, mitigations, fallbacks of migrating to the Unifier EVM module.</li> <li>2. Explain the basis for your selection of the Primavera product release, along with associated benefits, risks (and mitigations).</li> <li>3. Propose a deployment strategy including how risks and potential issues will be managed.</li> <li>4. Highlight your experience in managing such transitions with real examples.</li> </ol>
The document must not exceed 4 sides of A4.
<b>Evaluation Guidelines</b>

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The Authority will exclude any Tenderer who achieves a score of 0 in any of the Technical Questions.	
Scoring	Scoring Feedback
Excellent (100%)	<p>The description is compelling, and the response clearly and unambiguously describes all the following:</p> <ol style="list-style-type: none"> <li>1. A comprehensive capture of technical and business risks, issues, mitigations and fallbacks of migrating to the Unifier EVM module.</li> <li>2. A compelling justification for the proposed Primavera software release, along with associated benefits, risks (and mitigations)</li> <li>3. A robust deployment strategy which fully describes how the technical issues/risks will be managed.</li> <li>4. Real examples of implementing the Unifier EVM module</li> </ol> <p>This provides the Authority an excellent level of confidence that the Tenderer has a thorough understanding and experience in managing such transitions.</p>
Good (70%)	<p>The description is credible, and response is sufficiently detailed to describe all of the following:</p> <ol style="list-style-type: none"> <li>1. Key technical and business risks, issues, mitigations and fallbacks of migrating to the Unifier EVM module.</li> <li>2. A sound justification for the proposed Primavera software release, along with associated benefits, risks (and mitigations).</li> <li>3. A credible deployment strategy which describes how the technical issues/risks will be managed.</li> <li>4. Real examples of implementing an EVM solution (but not necessarily the Unifier EVM module).</li> </ol> <p>This provides the Authority a good level of confidence that the Tenderer is competent and experienced in managing such transitions.</p>
Adequate (30%)	<p>The description is acceptable, and the response, in the main, provides a high-level description of the following:</p> <ol style="list-style-type: none"> <li>1. Some relevant technical and business risks, issues but credible mitigations and/or fallbacks of migrating to the Unifier EVM module are not necessarily provided.</li> <li>2. A partial justification for the proposed Primavera software release, along with associated benefits, risks (and mitigations).</li> <li>3. A deployment strategy which lacks detail and / or clarity as to how the technical issues/risks will be managed.</li> </ol> <p>However, the response lacks real examples of implementing an EVM solution (either in Unifier EVM Module or another tool). There are some areas of the response where there is an absence of detail, issues with the response that suggest a lack of understanding of the requirement or a lack of justification/evidence that could increase Authority risk/effort.</p>
Major concerns (0%)	<p>The description is unacceptable, and the response describes some, but not all, of the following and/or purely re-iterates the Authority requirement:</p> <ol style="list-style-type: none"> <li>1. Technical and business risks and issues are generic and / or not necessarily relevant and / or mitigations and/or fallbacks of migrating to the Unifier EVM module are not provided.</li> </ol>

	<p>2. A weak justification for the proposed Primavera software release, with little detail on associated benefits, risks (and mitigations).</p> <p>3. A deployment strategy which significantly lacks detail and / or clarity how the technical issues/risks will be managed. Additionally, the response lacks any real examples of implementing the EVM module (in Unifier and/or other).</p> <p>The Tenderer's approach/justification/evidence to this subject matter has areas of major concern and only partially meets the requirement of the question.</p>
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Q2 Unifier EVM and Cost Management Weighting 13.41%	
Aim	
Describe how you would propose to configure a Unifier based solution using the Unifier EVM module and Unifier cost management.	
Evidence	
<p>Produce a document proposing how you would configure the Unifier EVM module and associated Unifier cost management capability in DE&amp;S. This should include:</p> <ol style="list-style-type: none"> <li>1. The System Configuration to satisfy KUR 1, 2 and 5</li> <li>2. The types of EVM cost performance reports that will be provided</li> <li>3. The types of cost forecast reports</li> <li>4. User functionality</li> <li>5. Data sources.</li> <li>6. Real examples of where you have provided this capability previously, specifically stating your role (also described in relation to any other engaged parties) and any lessons learnt that would be applicable to this scope</li> <li>7. Use Cases relevant to KUR 1, 2 and 5 must be addressed in the response.</li> </ol> <p>The document must not exceed 8 sides of A4. The response should support your firm price provided in Schedule 2 Schedule of Requirements Item 4.</p>	
Evaluation Guidelines	
The Authority will exclude any Tenderer who achieves a score of 0 in any of the Technical Questions.	
Scoring	Scoring Feedback
Excellent (100%)	<p>The proposal for configuring the Unifier EVM module is compelling, and response comprehensively and unambiguously describes all the following:</p> <ol style="list-style-type: none"> <li>1. System configuration</li> <li>2. The types of EVM cost performance reports that will be provided.</li> <li>3. The types of cost forecast reports</li> <li>4. User functionality</li> <li>5. Data sources</li> </ol>

	<p>6. Real examples are provided where the Tenderer has delivered Unifier EVM and cost management capability previously, where they have taken a lead role (which is described clearly in relation to any other engaged parties), with meaningful lessons learned captured.</p> <p>7. Use Cases relevant to KUR1, 2 and 5 are clearly addressed.</p> <p>This provides the Authority an excellent level of confidence that the Tenderer has a thorough understanding and experience in delivering such configurations.</p>
<p>Good (70%)</p>	<p>The proposal for configuring the Unifier EVM module is credible and the response sufficiently detailed to describe all the following:</p> <ol style="list-style-type: none"> <li>1. System configuration</li> <li>2. The types of EVM cost performance reports that will be provided.</li> <li>3. The types of cost forecast reports</li> <li>4. User functionality</li> <li>5. Data sources</li> <li>6. Real examples are provided where the Tenderer has delivered this Unifier EVM and cost management capability previously (or that they have delivered similarly representative systems) where they have taken a key role (which is described in relation to any other engaged parties), with lessons learned captured.</li> <li>7. Most Use Cases relevant to KUR 1, 2 and 5 are addressed.</li> </ol> <p>This provides the Authority a good level of confidence that the Tenderer has a competent understanding and experience in delivering such configurations.</p>
<p>Adequate (30%)</p>	<p>The proposal for configuring the Unifier EVM module is acceptable, and response, in the main, provides a high-level description of the following:</p> <ol style="list-style-type: none"> <li>1. System configuration</li> <li>2. The types of EVM cost performance reports that will be provided.</li> <li>3. The types of cost forecast reports</li> <li>4. User functionality</li> <li>5. Data sources</li> <li>6. Limited real examples are provided where the Tenderer has delivered this Unifier EVM and cost management capability previously (or that they have delivered similarly representative systems) where they have taken a role, with some lessons learned captured.</li> </ol>

	<p>7. Use Cases relevant to KUR 1, 2 and 5 are only partially addressed.</p> <p>There are some areas of the response where there is an absence of detail, issues with the response that suggest a lack of understanding of the requirement or a lack of justification/evidence that could increase Authority risk/effort.</p>
<p>Major concerns (0%)</p>	<p>The proposal for configuring the Unifier EVM module is unacceptable and the response provides a high-level description, some, but not all, of the following but this may lack detail and/or credibility and/or is purely re-iterating the Authority requirement:</p> <ol style="list-style-type: none"> <li>1. System configuration</li> <li>2. The types of EVM cost performance reports that will be provided.</li> <li>3. The types of cost forecast reports</li> <li>4. User functionality</li> <li>5. Data sources</li> <li>6. No examples are provided where the Tenderer has delivered this Unifier EVM and cost management capability previously (or that they have delivered similarly representative systems) or the role as described is not considered key/lead.</li> <li>7. Use Cases relevant to KUR1, 2 and 5 are not addressed.</li> </ol> <p>The Tenderer's approach / justification / evidence to this subject matter has areas of major concern and only partially meets the requirement of the question.</p>

<p>Q3 Proposed R4 Configuration Weighting 9.79%</p>	
<p>Aim</p>	
<p>Describe your proposed configuration, configuration schedule and resource estimate to deliver the R4 capability and satisfy the R4 Key User Requirements 1-5 and associated Use cases defined for the project scope types (complex acquisition, basic acquisition and service based) defined in the Statement of Requirement (SOR), Annex A to Schedule 2.</p>	
<p>Evidence</p>	

1. Provide a draft Solution Design document highlighting how the R4 Key User Requirements 1-5 and associated Use Cases are satisfied. This should contain:
  - a) The basic architecture
  - b) The proposed elements of the Primavera toolkit to be used
  - c) User functionality
  - d) Data flows
  - e) High-level processes to support the R4 project management/control system required.

Note: - your response should exclude specific detailed integrations to external systems, but identify where the interfaces could exist.

2. Provide real examples of where you have used the Primavera tools to satisfy a similar requirement previously, where these are relevant and provide supporting detail.
3. Provide a breakdown of technical hours by grade for KUR 3-5 using the template provided at Part B1 with underpinning assumptions. Provide a draft high-level configuration schedule, including the inter-dependencies between the main activities by configuration phase.

Note; Your estimate for KUR 1 and 2 is already covered in Schedule 2 Schedule of Requirements Item 4 and your project management effort is already included in Schedule 2 Schedule of Requirements Item 3. Your estimates for KUR 3-5 should therefore exclude any effort related to KUR 1 and 2 and project management.

Three separate documents are required: For Evidence Item 1, the document must not exceed 10 sides of A4. This response will form Schedule 20 of the contract. A document is required for Evidence Item 2 of 2 A4 pages maximum. A document not exceeding 4 sides of A4 is also required that contains your response to Evidence Item 3.

**Evaluation Guidelines**

The Authority will exclude any Tenderer who achieves a score of 0 in any of the Technical Questions.

Scoring	Scoring Description
<p>Excellent (100%)</p>	<p>The draft solution design is compelling, and the response comprehensively and unambiguously describes all the following:</p> <ol style="list-style-type: none"> <li>1. A comprehensive draft Solution Design document is provided which clearly highlights how the R4 Key User Requirements 1-5 and associated Use Cases will be satisfied for all project scope types. This contains:                             <ol style="list-style-type: none"> <li>a. The basic architecture</li> <li>b. The proposed elements of the Primavera toolkit to be used</li> <li>c. User functionality</li> <li>d. Data flows</li> <li>e. High-level processes to support the R4 project management/control system required.</li> </ol> </li> <li>2. The draft schedule and estimated hours are considered to be reasonable and consistent with the proposal provided.</li> <li>3. Insightful real examples are provided where the Tenderer has used the Primavera tools to satisfy a similar requirement previously.</li> </ol>

	<p>This provides the Authority an excellent level of confidence that basic project management and control processes that underpin the system are understood.</p>
<p>Good (70%)</p>	<p>The draft solution design is credible, and the response sufficiently detailed to describe all of the following:</p> <ol style="list-style-type: none"> <li>1. A credible draft Solution Design document is provided which highlights how the R4 Key User Requirements 1-5 and associated Use Cases will be satisfied for most project scope types, but this has some shortfalls in some specific areas. This contains:             <ol style="list-style-type: none"> <li>a. The basic architecture</li> <li>a. The proposed elements of the Primavera toolkit to be used</li> <li>b. User functionality</li> <li>c. Data flows</li> <li>d. High-level processes to support the R4 project management/control system required.</li> </ol> </li> <li>2. The draft schedule and estimated hours are considered to be reasonable and consistent with the proposal provided</li> <li>3. Limited real examples are provided where the Tenderer has used the Primavera (or similarly representative) tools to satisfy a similar requirement previously.</li> </ol> <p>This provides the Authority a good level of confidence that that basic project management and control processes that underpin the system are understood.</p>
<p>Adequate (30%)</p>	<p>The draft solution design is acceptable and the response, in the main, provides a high-level description of the following:</p> <ol style="list-style-type: none"> <li>1. An adequate draft Solution Design document is provided which highlights how some of the R4 Key User Requirements 1-5 and associated Use Cases will be satisfied for not necessarily for all project scope types and/or this contains insufficient detail in a number of specific areas. This contains:             <ol style="list-style-type: none"> <li>a. The basic architecture</li> <li>b. The proposed elements of the Primavera toolkit to be used</li> <li>c. User functionality</li> <li>d. Data flows</li> <li>e. High-level processes to support the R4 project management/control system required.</li> </ol> </li> <li>2. The draft schedule and estimated hours appear to be adequate and broadly consistent with the proposal provided.</li> <li>3. Very limited or no real examples are provided where the Tenderer has used the Primavera (or similarly representative) tools to satisfy a similar requirement previously.</li> </ol> <p>There are some areas of the response where there is an absence of detail, issues with the response that suggest a lack of</p>

	understanding of the requirement or a lack of justification/evidence that could increase Authority risk/effort.
Major concerns (0%)	<p>The draft solution design is unacceptable, and the response describes some, but not all, of the following and/or purely re-iterates the Authority requirement:</p> <ol style="list-style-type: none"> <li>1. A weak draft Solution Design document is provided which only partially highlights how R4 Key User Requirements 1-5 and associated Use Cases will be satisfied for not necessarily for all project scope types and/or this contains insufficient detail in a number of key areas. This contains:             <ol style="list-style-type: none"> <li>a. The basic architecture</li> <li>b. The proposed elements of the Primavera toolkit to be used</li> <li>c. User functionality</li> <li>d. Data flows</li> <li>e. High-level processes to support the R4 project management/control system required.</li> </ol> </li> <li>2. The estimated hours are excessive, or the tenderer has not demonstrated they understand the complexity of the requirement. The draft schedule is incomplete or does not align with the resource estimate provided.</li> <li>3. No examples are provided where the Tenderer has used the Primavera (or similarly representative) tools to satisfy a similar requirement previously.</li> </ol> <p>The Tenderer's approach / justification / evidence to this subject matter has areas of major concern and only partially meets the requirement of the question.</p>

Q4 – Minor Configuration Changes Weighting 5.15%	
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Aim
Describe your proposed configuration solutions and resource estimates to deliver the 3 configuration change scenarios defined in Part B2 of this Appendix.
Evidence
<ol style="list-style-type: none"> <li>1. Provide a draft Solution Design document containing your response to all the scenarios. This should contain:             <ol style="list-style-type: none"> <li>a. The basic architecture</li> <li>b. The proposed elements of the Primavera toolkit to be used</li> <li>c. User functionality</li> </ol> </li> </ol>

<p>d. Data flows and any proposed workflow                  e. Real client examples (where applicable)</p> <p>2. Provide a breakdown of hours by grade for each scenario using the template provided at Part B3 with underpinning assumptions. Note; your estimate should include a level of management effort as these tasks will be emergent requirements additional to the R4 KURs.</p> <p>The document must not exceed 6 sides of A4 for Q1. The response to question 1 will be included in Schedule 20 of the contract. A separate annex not exceeding a maximum of 2 sides of A4 for question 2 is also required, including a separate Annex C template for each of the three scenarios.</p>	
<p>Evaluation Guidelines</p>	
<p>The Authority will exclude any Tenderer who achieves a score of 0 in any of the Technical Questions.</p>	
<p>Scoring</p>	<p>Scoring Feedback</p>
<p>Excellent  (100%)</p>	<p>The draft solution design is compelling, and the response comprehensively and unambiguously describes all the following:</p> <ol style="list-style-type: none"> <li>1. A comprehensive document is provided which clearly highlights how the scenarios will be satisfied, including:                             <ol style="list-style-type: none"> <li>a. The basic architecture</li> <li>b. The proposed elements of the Primavera toolkit to be used</li> <li>c. User functionality</li> <li>d. Source data, data flows and any proposed work flows</li> </ol> </li> <li>2. Estimated hours are considered to be reasonable and consistent with the proposal provided.</li> <li>3. Insightful real examples are provided where the Tenderer has used the Primavera tools to satisfy a similar requirement previously.</li> </ol> <p>This provides the Authority an excellent level of confidence that basic project management and control processes that underpin the system are understood.</p>
<p>Good  (70%)</p>	<p>The draft solution design is credible, and the response sufficiently detailed to describe all of the following:</p> <ol style="list-style-type: none"> <li>1. A credible draft document is provided which highlights how the scenarios will be satisfied but this has some shortfalls in some specific areas. This contains:                             <ol style="list-style-type: none"> <li>a. The basic architecture</li> <li>b. The proposed elements of the Primavera toolkit to be used</li> <li>c. User functionality</li> </ol> </li> </ol>

	<ul style="list-style-type: none"> <li>d. Source data, data flows and any proposed work flows</li> <li>2. Estimated hours are considered to be reasonable and consistent with the proposal provided</li> <li>3. Limited real examples are provided where the Tenderer has used the Primavera (or similarly representative) tools to satisfy a similar requirement previously.</li> </ul> <p>This provides the Authority a good level of confidence that that basic project management and control processes that underpin the system are understood.</p>
<p>Adequate (30%)</p>	<p>The draft solution design is acceptable and the response, in the main, provides a high-level description of the following:</p> <ul style="list-style-type: none"> <li>1. An adequate draft Solution Design document is provided which highlights how some of the R4 Key User Requirements 1-5 and associated Use Cases will be satisfied for not necessarily for all project scope types and/or this contains insufficient detail in a number of specific areas. This contains: <ul style="list-style-type: none"> <li>a. The basic architecture</li> <li>b. The proposed elements of the Primavera toolkit to be used</li> <li>c. User functionality</li> <li>d. Data flows</li> <li>e. High-level processes to support the R4 project management/control system required.</li> </ul> </li> <li>2. Estimated hours are considered to be reasonable and consistent with the proposal provided.</li> <li>3. Very limited or no real examples are provided where the Tenderer has used the Primavera (or similarly representative) tools to satisfy a similar requirement previously.</li> </ul> <p>There are some areas of the response where there is an absence of detail, issues with the response that suggest a lack of understanding of the requirement or a lack of justification/evidence that could increase Authority risk/effort.</p>
<p>Major concerns (0%)</p>	<p>The draft solution design is unacceptable, and the response describes some, but not all, of the following and/or purely re-iterates the Authority requirement:</p>

	<ol style="list-style-type: none"><li>1. A weak draft document is provided which only partially highlights but this has shortfalls in several specific areas.</li><li>2. The estimated hours are excessive, or the tenderer has not demonstrated they understand the complexity of the requirement.</li><li>3. No examples are provided where the Tenderer has used the Primavera (or similarly representative) tools to satisfy a similar requirement previously.</li></ol> <p>The Tenderer's approach / justification / evidence to this subject matter has areas of major concern and only partially meets the requirement of the question.</p>
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PROJECT MANAGEMENT QUESTIONNAIRE

Q5– Discovery Phase Weighting 8.76%

Aim

Describe the conduct of a short Discovery Phase to undertake due diligence and validate requirements to refine the Solution Design document and configuration prior to the Rapid Prototype Phase.

Note: this will be assessed technically in support of your firm price required at Schedule 2 Schedule of Requirement, Item 1.

Evidence

Provide a proposal for this Discovery Phase, detailing:

1. The activities you would propose to undertake, including durations, locations and named proposed provider personnel
2. Any Authority and/or other support required
3. How you would propose the phase was managed and progress measured in conjunction with the Authority.

The proposal should be no more than 2 sides of A4.

Evaluation Guidelines

The Authority will exclude any Tenderer who achieves a score of 0 in any of the Project Management Questions.

Scoring

Scoring Feedback

Excellent

(100%)

The proposal for the Discovery Phase is compelling and the response is comprehensive, and unambiguous, and completely describes all the following:

1. The activities you would propose to undertake, including logical durations for what is being proposed, locations and appropriate use of named Tenderer's personnel
2. Any Authority and/or other support required is clearly detailed
3. Robust means of management and measurement are proposed.

This provides the Authority an excellent level of confidence that the Tenderer will be able to successfully undertake this phase of work to meet the required outcomes.

Good

(70%)

The proposal for the Discovery Phase is credible and the response sufficiently detailed to describe all of the following:

1. The activities proposed to be undertaken, including acceptable durations for what is being proposed,

	<p>locations and use of named Tenderer's personnel</p> <ol style="list-style-type: none"> <li>2. Any Authority and/or other support required is detailed</li> <li>3. Credible means of management and measurement is provided.</li> </ol> <p>This provides the Authority a good level of confidence that the Tenderer will be able to successfully undertake this phase of work to meet the required outcomes.</p>
<p>Adequate (30%)</p>	<p>The proposal for the Discovery Phase is acceptable and the response, in the main, provides a high-level description of the following:</p> <ol style="list-style-type: none"> <li>1. The activities proposed to be undertaken, include potentially excessive durations for what is being proposed. Locations and / or use of named Tenderer's personnel however this is lacking detail and/or clarity.</li> <li>2. Any Authority and/or other support required is referenced however this is lacking detail and/or clarity.</li> <li>3. Acceptable means of management and measurement is provided however this is lacking detail and/or clarity.</li> </ol> <p>There are some areas of the response where there is an absence of detail, issues with the response that suggest a lack of understanding of the requirement or a lack of justification/evidence that could increase Authority risk/effort.</p>
<p>Major concerns (0%)</p>	<p>The proposal for the Discovery Phase is unacceptable and the response describes some, but not all, of the following and/or purely re-iterates the Authority requirement:</p> <ol style="list-style-type: none"> <li>1. The activities proposed to be undertaken may be considered inappropriate or including inadequate or excessive durations for what is being proposed, locations and use of named Tenderer's personnel however this is significantly lacking detail and/or clarity.</li> <li>2. Any Authority and/or other support required is either not referenced or is significantly lacking detail and/or clarity.</li> <li>3. Weak or no means of management and measurement are proposed.</li> </ol> <p>The Tenderer's approach / justification / evidence to this subject matter has areas of major concern and only partially meets the requirement of the question.</p>

Q6 – Rapid Prototype Phase Weighting 11.34%	
Aim	
<p>Describe the conduct of a phase to reduce risk by exercising, as a minimum, the core KUR elements of EVM, cost/forecasting management and project approval management. The Authority wants to test the functionality and usability of the system during this phase. The successful Tenderer will also be required to work with the Authority to finalise the project and portfolio structures required in the tool set to support the R4 configuration. Tenderers are requested to propose their approach to this phase.</p> <p>Note: this will be assessed technically in support of your firm price required at Schedule 2 Schedule of Requirements Item 2.</p>	
Evidence	
<p>Provide a proposal for the Rapid Prototyping phase, this should detail:</p> <ol style="list-style-type: none"> <li>1. The activities you would propose to undertake during the phase, including durations, locations and named Tenderer’s personnel</li> <li>2. What solution you would propose to configure to satisfy the minimum KURs of EVM, cost/forecasting management and project approval management.</li> <li>3. How you would propose the phase was managed and progress measured in conjunction with the Authority.</li> <li>4. How you would engage Authority personnel in the phase, particularly testing.</li> </ol> <p>The document should be no longer than 6 sides of A4.</p>	
Evaluation Guidelines	
<p>The Authority will exclude any Tenderer who achieves a score of 0 in any of the Project Management Questions.</p>	
Scoring	Scoring Feedback
<p>Excellent (100%)</p>	<p>The proposal for the Rapid Prototyping Phase is compelling and the response is comprehensive, and unambiguous, and completely describes all the following:</p> <ol style="list-style-type: none"> <li>1. The activities you would propose to undertake, including logical durations for what is being proposed, locations and appropriate use of named Tenderer’s personnel</li> <li>2. Solution clearly satisfies the defined minimum KUR of EVM, cost/forecasting management and project approval management and promises significant de-risking of the configuration phase.</li> <li>3. Robust means of management and measurement are proposed.</li> <li>4. Any Authority and/or other support required is clearly detailed, and the role of Authority personnel in the testing of the configuration is clearly described.</li> </ol>

	<p>This provides the Authority an excellent level of confidence that the Tenderer will be able to successfully undertake this phase of work to meet the required outcomes.</p>
<p>Good (70%)</p>	<p>The proposal for the Rapid Prototyping Phase is credible and the response sufficiently detailed to describe all of the following:</p> <ol style="list-style-type: none"> <li>1. The activities you would propose to undertake, including acceptable durations for what is being proposed, locations and appropriate use of named Tenderer's personnel</li> <li>2. Solution satisfies the defined minimum KUR of EVM, cost/forecasting management and project approval management promises sound de-risking of the configuration phase.</li> <li>3. Credible means of management and measurement are proposed.</li> <li>4. Any Authority and/or other support required is detailed, and the role of Authority personnel in the testing of the configuration is described.</li> </ol> <p>This provides the Authority a good level of confidence that the Tenderer will be able to successfully undertake this phase of work to meet the required outcomes.</p>
<p>Adequate (30%)</p>	<p>The proposal for the Rapid Prototyping Phase is acceptable and the response, in the main, provides a high-level description of the following:</p> <ol style="list-style-type: none"> <li>1. The activities propose to be undertaken, include potentially excessive durations for what is being proposed. Locations and use of named Tenderer's personnel however this is lacking detail and/or clarity.</li> <li>2. Solution partially satisfies the defined minimum KUR of EVM, cost/forecasting management and project approval management promises some de-risking of the configuration phase.</li> <li>3. Acceptable means of management and measurement are proposed, however, this is lacking detail and/or clarity.</li> <li>4. Any Authority and/or other support required is detailed, and the role of Authority personnel in the testing of the configuration is described, however one or both is lacks detail and/or clarity.</li> </ol> <p>There are some areas of the response where there is an absence of detail, issues with the response that suggest a lack of understanding</p>

	<p>of the requirement or a lack of justification/evidence that could increase Authority risk/effort.</p>
<p>Major concerns (0%)</p>	<p>The proposal for the Rapid Prototyping Phase is unacceptable and the response describes some, but not all, of the following and/or purely re-iterates the Authority requirement:</p> <ol style="list-style-type: none"> <li>1. The activities proposed to be undertaken may be considered inappropriate or include potentially inadequate or excessive durations for what is being proposed. Locations and use of named Tenderer's personnel however this is lacking detail and/or clarity.</li> <li>2. Solution does not satisfy the defined minimum KUR of EVM, cost/forecasting management and project approval management promises no de-risking of the configuration phase.</li> <li>3. Weak or no means of management and measurement are proposed.</li> <li>4. Any Authority and/or other support required and the role of Authority personnel in the testing of the configuration is either not referenced or is significantly lacking detail and/or clarity.</li> </ol> <p>The Tenderer's approach / justification / evidence to this subject matter has areas of major concern and only partially meets the requirement of the question.</p>

<p>Q7 – Personnel Experience Weighting 13.92%</p>	
<p>Aim</p>	
<p>Describe details of the personnel who you plan to deploy on the contract with details of their experience and the roles that you intend them to fulfil in the execution of the contract.</p>	
<p>Note that these personnel will become Key Personnel in accordance with the Conditions of the Contract, Annex D to Schedule 2.</p>	
<p>Evidence</p>	
<p>Provide a document detailing the following:</p> <ol style="list-style-type: none"> <li>1. Roles of the individuals in the managing and configuring the Primavera tool suite in this contract.</li> <li>2. A resumé for each individual detailing the specific role they will fulfil in executing this contract, and their experiences specific to the role proposed in satisfying KUR 1-5.</li> </ol>	

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<p>The main roles document (Evidence item 1) must not exceed 2 sides of A4, each personal resumé (Evidence item 2) is limited to 1 side of A4 per individual.</p>	
<p>Evaluation Guidelines</p>	
<p>The Authority will exclude any Tenderer who achieves a score of 0 in any of the Project Management Questions.</p>	
Scoring	Scoring Feedback
<p>Excellent (100%)</p>	<p>The response comprehensively and unambiguously defines the roles of the individuals in this contract. The resúmes specify relevant direct experience in relation to the Unifier requirements proposed for R4. This demonstrates their capability to successfully perform the role delivering the R4 requirement. This provides the Authority an excellent level of confidence that the personnel proposed will be able to deliver this requirement.</p>
<p>Good (70%)</p>	<p>The response sufficiently defines the roles of the individuals in this contract. The resúmes specify relevant experience in relation to the Unifier requirements proposed for R4. This demonstrates their capability to competently perform the role delivering the R4 requirement. This provides the Authority a good level of confidence that the personnel proposed will be able to deliver this requirement.</p>
<p>Adequate (30%)</p>	<p>The response, in the main, provides a high-level definition of the roles of the individuals in this contract. The resúmes specify experience in relation to Unifier, but not necessarily related to requirements proposed for R4. This demonstrates some limitations in their capability to perform the role delivering the R4 requirement. There are some areas of the response where there is an absence of detail, issues with the response that suggest a lack of understanding of the requirement or a lack of justification/evidence that could increase Authority risk/effort.</p>
<p>Major concerns (0%)</p>	<p>The response defines some, but not all, of the roles of the individuals in this contract. The resúmes specify very limited experience in relation to the Unifier and/or work related to the R4 requirement. This demonstrates significant limitations in their capability to perform the role delivering the R4 requirement.</p>

	The Tenderer's approach / justification / evidence to this subject matter has areas of major concern and only partially meets the requirement of the question.
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<b>Q8 Project Management - Weighting 8.25%</b>	
<b>Aim</b>	
Describe how you would propose to project manage the development and configuration activities during the main configuration phase.	
<b>Evidence</b>	
<p>Produce a document describing the following for the main configuration phase:</p> <ol style="list-style-type: none"> <li>1. Proposed delivery methodology for the contract</li> <li>2. The role of the R4 Configuration Contractor (e.g. the successful Tenderer)</li> <li>3. Proposed metrics and reporting frequency to measure progress</li> <li>4. The role of the Authority</li> <li>5. Proposed means of configuration knowledge transfer of Primavera tool set (particularly Unifier) for up to 2 suitably qualified Authority personnel.</li> </ol> <p>The document must not exceed 4 sides of A4. Your response will become Schedule 21 of the contract.                  Note: Your response to this question will be assessed as the technical element supporting Schedule 2 Schedule of Requirements, Item 3.</p>	
<b>Evaluation Guidelines</b>	
The Authority will exclude any Tenderer who achieves a score of 0 in any of the Project Management Questions.	
<b>Scoring</b>	<b>Scoring Feedback</b>
Excellent  (100%)	The proposal for project management of the main configuration phase is compelling, the response is comprehensive and unambiguous and completely describes all the following: <ol style="list-style-type: none"> <li>1. A robust delivery methodology is proposed for the contract.</li> <li>2. The role of the R4 Configuration Contractor is clearly described.</li> <li>3. Insightful metrics are proposed with regular reporting frequency.</li> <li>4. The role of the Authority is clearly described.</li> <li>5. Means of transfer of configuration knowledge is clearly described.</li> </ol> This provides the Authority an excellent level of confidence that the Tenderer will successfully project manage the contract.

<p>Good (70%)</p>	<p>The proposal for project management of the main configuration phase is credible, the response is sufficiently detailed to describe all the following:</p> <ol style="list-style-type: none"> <li>1. A credible delivery methodology is proposed for the contract.</li> <li>2. The role of the R4 Configuration Contractor is described.</li> <li>3. Meaningful metrics are proposed with regular reporting frequency.</li> <li>4. The role of the Authority is described.</li> <li>5. Means of transfer of configuration knowledge is described.</li> </ol> <p>This provides the Authority a good level of confidence that the Tenderer will successfully project manage the contract.</p>
<p>Adequate (30%)</p>	<p>The proposal for project management of the main configuration phase is acceptable, the response, in the main, provides a high-level description of the following:</p> <ol style="list-style-type: none"> <li>1. An acceptable delivery methodology is proposed for the contract, however, this however this is lacking detail and/or clarity in places.</li> <li>2. The role of the R4 Configuration Contractor is described, however, this is lacking detail and/or clarity.</li> <li>3. Acceptable metrics are proposed with regular reporting frequency; however, this is lacking detail and/or clarity.</li> <li>4. The role of the Authority is described, however, this is lacking detail and/or clarity.</li> <li>5. Means of transfer of configuration knowledge is described, however, this is lacking detail and/or clarity.</li> </ol> <p>There are some areas of the response where there is an absence of detail, issues with the response that suggest a lack of understanding of the requirement or a lack of justification/evidence that could increase Authority risk/effort.</p>
<p>Major concerns (0%)</p>	<p>The proposal for project management of the main configuration phase is unacceptable, the response describes some, but not all, of the following and/or purely re-iterates the Authority requirement:</p> <ol style="list-style-type: none"> <li>1. A weak delivery methodology is proposed for the contract, and this is significantly lacking detail and/or clarity.</li> <li>2. The role of the R4 Configuration Contractor is not described adequately, and this is significantly lacking detail and/or clarity</li> </ol>

	<ol style="list-style-type: none"> <li>3. Unacceptable or no metrics are proposed with potentially with infrequent reporting frequency</li> <li>4. The role of the Authority is not described adequately, and this is significantly lacking detail and/or clarity.</li> <li>5. Means of transfer of configuration knowledge is not described or accepted by the Tenderer and / or it is significantly lacking detail and/or clarity.</li> </ol> <p>The Tenderer's approach / justification / evidence to this subject matter has areas of major concern and only partially meets the requirement of the question.</p>
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Q9 – Collaboration Weighting 8.25%	
Aim	
A collaborative approach is required between the R4 Configuration Contractor, the Authority and the P3M Support contractor(s). Describe the approach and collaborative principles that the Tenderer would propose to adopt during delivery of the contract.	
Evidence	
<p>Provide a document describing the following:</p> <ol style="list-style-type: none"> <li>1. How you would propose to adopt a collaborative approach with the Authority and the P3M Support contractor(s) based on the principles contained in the draft Project Charter in Schedule 9 Annex A.</li> <li>2. Real examples of previous collaborative relationships where these demonstrate relevance to this requirement.</li> </ol> <p>The document must not exceed 2 sides of A4.</p>	
Evaluation Guidelines	
The Authority will exclude any Tenderer who achieves a score of 0 in any of the Project Management Questions.	
Scoring	Scoring Feedback
<p>Excellent (100%)</p>	<p>The proposal for collaborative approach is compelling, the response is comprehensive and unambiguous and completely describes all the following:</p> <ol style="list-style-type: none"> <li>1. A robust collaborative approach between the Authority and the P3M Support contractor(s) is proposed</li> <li>2. Highly relevant real examples of working in a similar environment to that of the Authority and P3M support contractor(s).</li> </ol> <p>This provides the Authority an excellent level of confidence that the Tenderer will successfully collaborate on the contract.</p>

<p>Good (70%)</p>	<p>The proposal for collaborative approach is credible, the response is sufficiently detailed to describe all the following:</p> <ol style="list-style-type: none"> <li>1. A credible collaborative approach between the Authority and the P3M Support contractor(s) is proposed</li> <li>2. Relevant real examples of working in a similar environment to that of the Authority and P3M support contractor(s).</li> </ol> <p>This provides the Authority a good level of confidence that the Tenderer will successfully collaborate on the contract.</p>
<p>Adequate (30%)</p>	<p>The proposal for collaborative approach is acceptable, the response, in the main, provides a high-level description of the following:</p> <ol style="list-style-type: none"> <li>1. An acceptable collaborative approach between the Authority and the P3M Support contractor(s) is proposed.</li> <li>2. Relevant real examples are provided but not necessarily working in a similar environment to that of the Authority and P3M support contractor(s).</li> </ol> <p>There are some areas of the response where there is an absence of detail, issues with the response that suggest a lack of understanding of the requirement or a lack of justification/evidence that could increase Authority risk/effort.</p>
<p>Major concerns (0%)</p>	<p>The proposal for collaborative approach is unacceptable, the response describes some, but not all, of the following and/or purely re-iterates the Authority requirement:</p> <ol style="list-style-type: none"> <li>1. An unacceptable collaborative approach between the Authority and the P3M Support contractor(s) is proposed and/or that this is significantly lacking detail or clarity.</li> <li>2. No relevant real examples are provided of a collaborative approach.</li> </ol> <p>The Tenderer's approach / justification / evidence to this subject matter has areas of major concern and only partially meets the requirement of the question.</p>

<p>Q 10– Configuration and Test Management Weighting 9.79%</p>	
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<p>Aim</p>
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<p>The Authority requires the Configuration Contractor to document and maintain the functional configuration of P3M Release 4. The Contractor will also be responsible for system testing and UAT for specific software releases.</p>	
<p><b>Evidence</b></p>	
<p>Provide a document detailing:</p> <ol style="list-style-type: none"> <li>1. A proposal as to how the functional configuration of Release 4 is produced and maintained as it is progressively configured and released.</li> <li>2. A proposed test strategy that the successful Tenderer will follow, aligned with the responsibilities outlined in P3M Change and Software Release Management, Schedule10</li> <li>3. Confirmation that the functional configuration document to the latest software release standard will be provided to the Authority and any nominated contractor.</li> </ol> <p>The document must not exceed 2 sides A4. Your response will become Schedule 22 of the contract.</p>	
<p><b>Evaluation Guidelines</b></p>	
<p>The Authority will exclude any Tenderer who achieves a score of 0 in any of the Project Management Questions.</p>	
<p><b>Scoring</b></p>	<p><b>Scoring Feedback</b></p>
<p>Excellent (100%)</p>	<p>The proposal for configuration and testing is compelling, the response is comprehensive and unambiguous and completely describes all the following:</p> <ol style="list-style-type: none"> <li>1. How the functional configuration of Release 4 is produced and maintained is clearly detailed and robust as it is progressively configured and released.</li> <li>2. A proposed test strategy that the Tenderer will follow, is clearly detailed and fully aligned with the responsibilities outlined in P3M Change and Release Management, Schedule 10.</li> <li>3. Confirmation that the functional configuration document to the latest software release standard will be provided to the Authority (and any nominated contractor), along with acceptance of the contract exit requirements.</li> </ol> <p>This provides the Authority an excellent level of confidence that the Tenderer will successfully manage the functional configuration and testing within the contract. .</p>
<p>Good (70%)</p>	<p>The proposal for configuration and testing is credible, the response is sufficiently detailed to describe all the following:</p> <ol style="list-style-type: none"> <li>1. How the functional configuration of Release 4 is produced and maintained is detailed and credible as it is progressively configured and released.</li> </ol>

	<ol style="list-style-type: none"> <li>2. A proposed test strategy that the Tenderer will follow, is detailed and aligned with the responsibilities outlined in P3M Change and Release Management, Schedule 10.</li> <li>3. Confirmation that the functional configuration document to the latest software release standard will be provided to the Authority (and any nominated contractor), along with acceptance of the contract exit requirements.</li> </ol> <p>This provides the Authority a good level of confidence that the Tenderer will successfully manage the functional configuration and testing within the contract.</p>
<p>Adequate (30%)</p>	<p>The proposal for configuration and testing is acceptable, the response, in the main, provides a high-level description of the following:</p> <ol style="list-style-type: none"> <li>1. How the functional configuration of Release 4 is produced and maintained is described acceptably as it is progressively configured and released, but lacks clarity and / or detail.</li> <li>2. A proposed test strategy that the Tenderer will follow, is described but lacks clarity and / or detail and/or is only partially aligned with the responsibilities outlined in P3M Change and Release Management, Schedule 10.</li> <li>3. Confirmation that the functional configuration document to the latest software release standard will be provided to the Authority (and any nominated contractor), along with acceptance of the contract exit requirements.</li> </ol> <p>There are some areas of the response where there is an absence of detail, issues with the response that suggest a lack of understanding of the requirement or a lack of justification/evidence that could increase Authority risk/effort.</p>
<p>Major concerns (0%)</p>	<p>The proposal for configuration and testing is unacceptable, the response describes some, but not all, of the following and/or purely reiterates the Authority requirement:</p> <ol style="list-style-type: none"> <li>1. How the functional configuration of Release 4 is produced and maintained is unacceptable and / or it significantly lacks clarity and / or detail.</li> <li>2. A proposed test strategy that the Tenderer will follow is unacceptable and / or it significantly lacks clarity and / or detail and/or is only not aligned with the</li> </ol>

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	<p>responsibilities outlined in P3M Change and Release Management, Schedule 10.</p> <p>Or that the response states that the functional configuration document to the latest software release standard will not be provided to the Authority (or any nominated contractor). The Tenderer's approach / justification / evidence to this subject matter has areas of major concern and only partially meets the requirement of the question.</p>
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### Clarification for Tenderers of Tender Pricing Structure

Figure 1 illustrates the relationship of the pricing elements of the tender to the contract and the proposed phasing of the R4 project. It also lists the tender inputs that will form contract schedules.

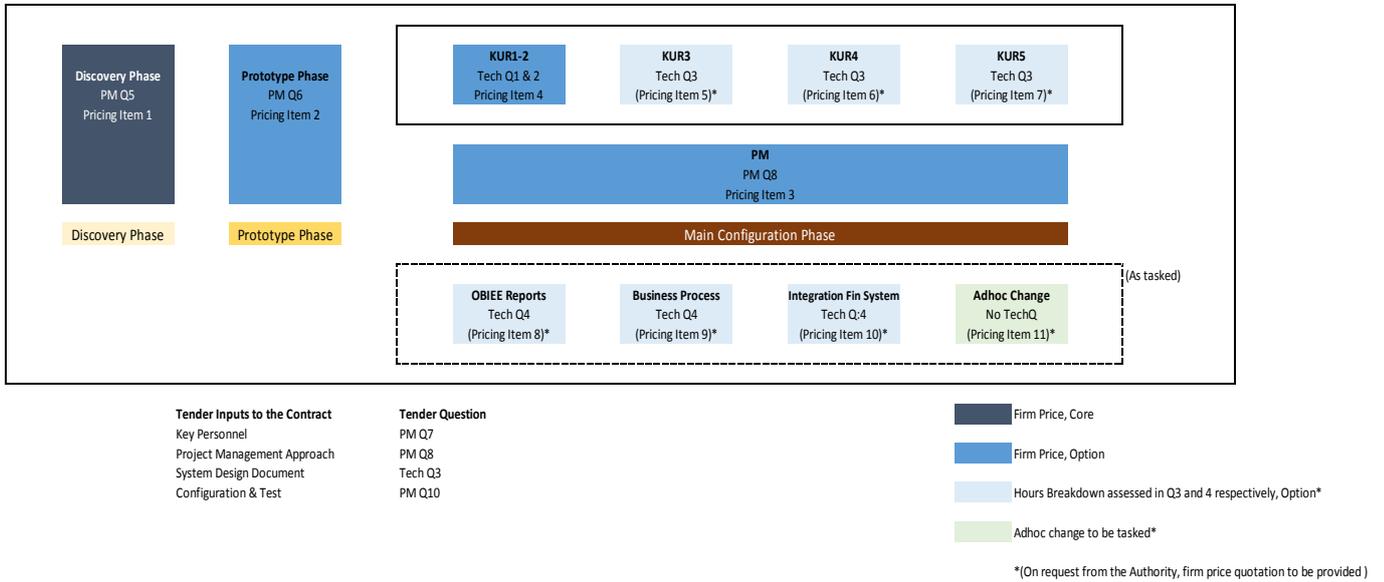


Figure 1

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Part B1

Estimating Template for KUR 3-5 Technical Question 3

	Requirements Capture	Configuration & Testing	Report Development & Testing
Level / Scope	Hours by Grade	Hours by Grade	Hours by Grade
1. Follow			
2. Assist			
3. Apply			
4. Enable			
5. Ensure/Advise			
6. Initiate/Influence			
7. Set Strategy/Inspire			
8. Estimated % of hours on site at Abbey Wood, Bristol			

## Part B2

## Minor Configuration Change Scenarios

**Minor Change Scenario 1- OBIEE EVM Reports Background**

We currently use Store Period Performance to hold values for each period and report using project level data held in Unifier with the detail data in P6 where the Control Accounts, Work Packages and Planning Packages are identified in a User Defined Field (UDF) held against the WBS Nodes.

You should assume that these are reports generated from new in OBIEE and that the requirements have been captured. The task is to configure and test a Project Performance dashboard in R4 based on using the Unifier EVM module, where the it consists of:

- A Summary Table (Figure 2)
- CPR 1 type report showing Work Package and Control Accounts (Figure 3 and 4)

**Summary Table**  
The Summary table is shown in Figure 2 Summary Tab for Project Cost Performance and consists of two sections:

- Project information taken from the Unifier shell
- A Table of values showing those for the selected period and the cumulative to date values of at the selected period.

**Cost Performance Report (CPR) 1 Report (Figures 3 and 4)**

The CPR 1 type report requires a row for each Work Package which are summated up to a line for each Control Account.

The first column section identifies the Control Account and Work Package.

The capability to drill down by double clicking from the project level down to the control account to specific work package is required. Work package is the lowest level of drill down required.

The next two columns sections are split by period and cumulative data and contain the listed values:

- Planned Value - PV (BCWS)
- Earned Value - EV (BCWP)
- Schedule Variance - SV
- Cost Variance - CV
- Schedule Performance Index - SPI
- Cost Performance Index - CPI
- The final column section contains the at completion values report for the selected period showing:
  - Budget at Completion – BAC
  - Estimate At Completion - EAC
  - Variance At Completion - VAC

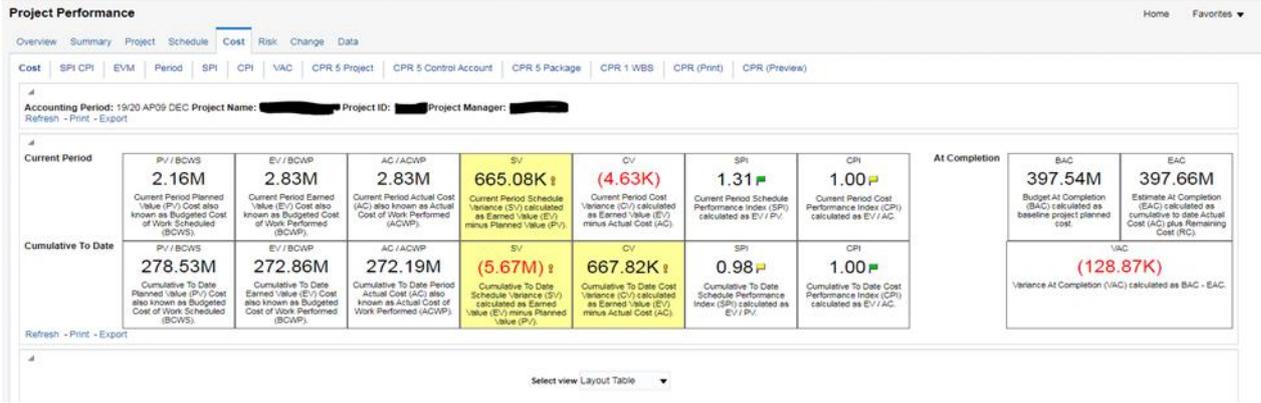


Figure 2

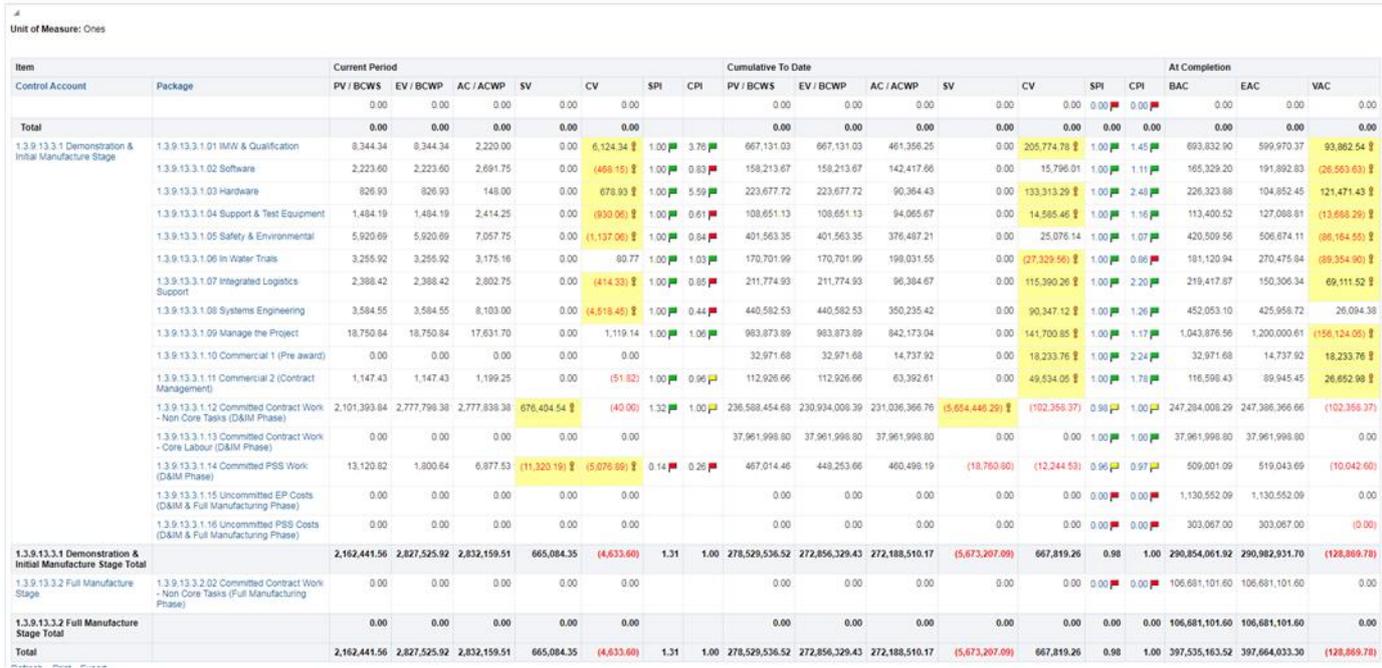


Figure 3

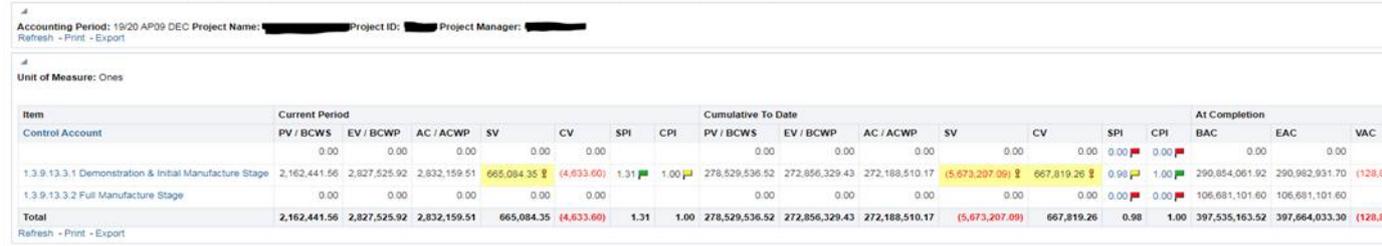


Figure 4

**Minor Change Scenario 2 – Unifier Business Process Configuration**

We have a project baseline change management process and we wish to use Unifier to manage and monitor this process. An example workflow is shown in Figure 5. It contains two approvals, one to decide whether to go ahead with the change and one to approve the implementation of the change in the P3M system.

A change may contain one or more of the following types of change:

- Scope -WBS dictionary
- Basis of estimate
- Performance Measurement Baseline (PMB)
- Project Approval
- Control Total

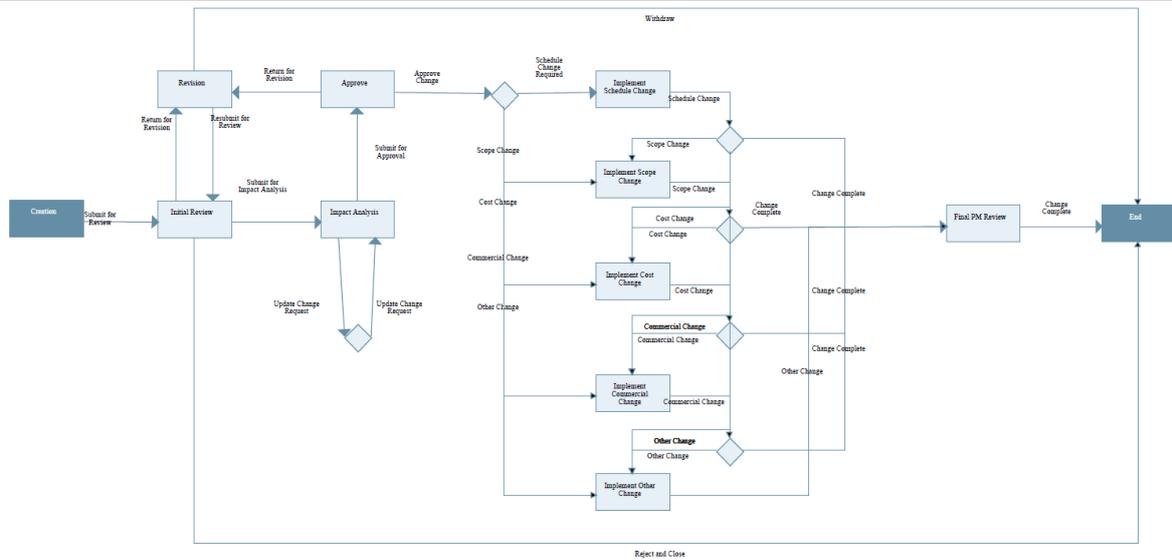


Figure 5

Minor Change Scenario 3 – Integration with external Systems Application Programming Interface (API) Background

The role of the P3M system is to enable project performance management. It needs to provide a forecast to the financial system, but before it does that it has to exchange actual cost data with the financial system. Assume that the project ledger element of Oracle E-Business Suite general ledger Project is the target system.

It should be assumed that the standard Oracle E-Business Suite Project API is available to use. You should assume that the requirement has been fully captured.

The P3M System includes Team Member and needs to send Actual Hours from Team Member into the finance system.

The accounts system will provide supplier actuals to the P3M system for costs paid to suppliers.

The P3M system will create a forecast for both the supplier and internal labour costs and send it to the finance system.

Assume the Project Id, WBS Path, LPC and Unifier CBS code are needed as part of the exchange as well as the core data by financial period.

Figure 6 illustrates the anticipated P3M Interfaces to Oracle E-Business Suite and PB&F as well.

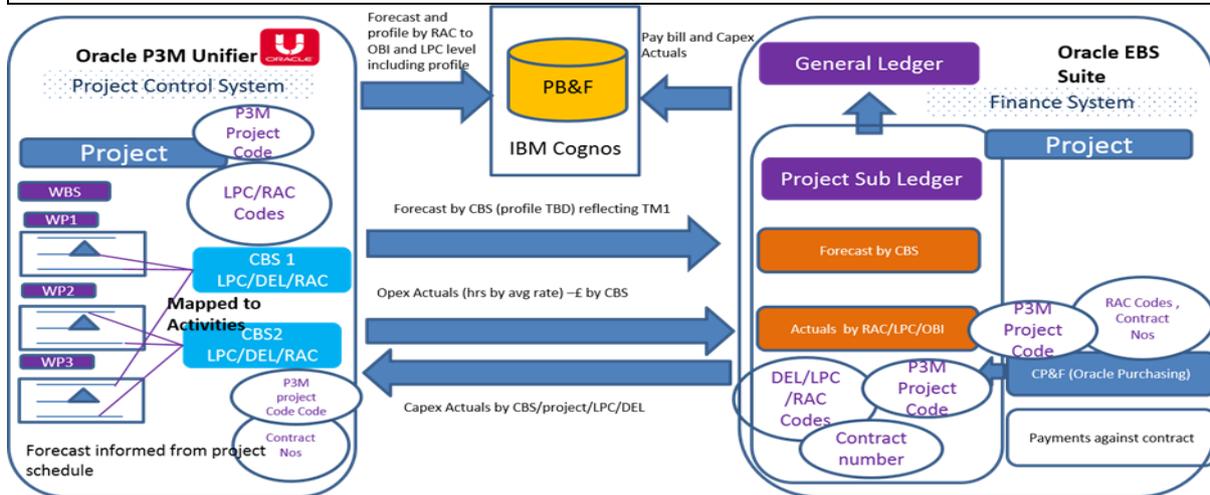


Figure 6

Part B3

Estimating Template for Technical Question 4

A separate table for each of the three scenarios is required in your response.

	Project Management	Requirements Capture	Configuration & Testing	Report Development & Testing
Level / Scope	Hours by Grade	Hours by Grade	Hours by Grade	Hours by Grade
1. Follow				
2. Assist				
3. Apply				
4. Enable				
5. Ensure/Advise				
6. Initiate/Influence				
7. Set Strategy/Inspire				
8. Estimated % of hours on site at Abbey Wood, Bristol				

## **Section E - Instructions on Submitting Tenders**

### Submission of your Tender

- E1. Tenders must be submitted by the date and time stated in the covering letter to this DEFFORM 47. The Authority reserve the right to reject any Tender received after the stated date and time. You must provide one (1) priced copy of your Tender.
- E2. You must upload an electronic copy of your Tender to AWARD.
- E3. You must complete and include DEFFORM 47 Annex A (Offer) with your Tender. Where you select 'Yes' to any questions you must attach the relevant information.
- E4. You must include the original signed DEFFORM 47 Annex A (Offer) included in your email submission.
- E5. Not Used.
- E6. You must email a full priced copy of your tender to DESTECH-Comrc-TEAM@mod.gov.uk
- E7. If you intend to hand deliver your Tender you must inform the named Commercial Officer of your intention and seek further delivery instructions. Failure to do so may result in your Tender being refused and / or returned.
- E8. You must ensure you include all relevant information in your Tender. The Authority can only evaluate information that you include in your Tender.

### Account Access to AWARD

- E9. You will be emailed login information to access extra documents in the AWARD Data Room. You will then have login access to view the documents and be able to submit clarification questions through AWARD. All clarification questions should be submitted through AWARD, the Authority will answer clarification questions through AWARD.

## Section F - Conditions of Tendering

F1. The issue of ITT Documentation or ITT Material is not a commitment by the Authority to place a contract as a result of this competition or at a later stage. Any expenditure, work or effort undertaken prior to any offer and subsequent acceptance of contract, is a matter solely for your commercial judgement. The Authority reserves the right to:

- a. seek clarification or additional documents in respect of a Tenderer's submission;
- b. visit your site;
- c. disqualify any Tenderer that does not submit a compliant Tender in accordance with the instructions in this ITT;
- d. disqualify any Tenderer that is guilty of misrepresentation in relation to its Tender, expression of interest, the dynamic Pre-Qualification Questionnaire (PQQ) or the tender process;
- e. re-assess your suitability to remain in the competition, for example where there is a material change of control from supplier selection;
- f. withdraw this ITT at any time, or re-invite Tenders on the same or any alternative basis;
- g. re-issue this ITT on a single source basis, in the event that this procurement does not result in a 'competitive process' as defined in the Single Source Contract Regulations 2014, making such adjustments as would be required by the application of the Defence Reform Act 2014 and / or the Single Source Contract Regulations 2014;
- h. choose not to award any contract as a result of the current procurement process;
- i. award a contract for some of the Contractor Deliverables, unless you specifically oppose this in your Tender or state any minimum order quantities; and / or:
- j. ask for an explanation of the costs or price proposed in the tender where the tender appears to be abnormally low.

F2. The contract will be entered into when the Authority sends written notification of its entry into the contract, via a DEFFORM 159. Written notification will be issued, to the address you provide, on or before the end of the validity period specified in paragraph C4 and subject to paragraph F3.

F3. It is a Condition of Tendering that the winning Tenderer holds their Tender open for acceptance for the period stated in C4. This period starts on the day the Authority announces its decision to award the contract to the winning Tenderer in accordance with the Tender. In the event that legal proceedings are instigated, challenging the award of the contract, prior to entry into contract, it is a condition of this ITT that you hold your Tender open for acceptance during this period, and up to fourteen (14) days after the result of the legal proceedings. In the event of such legal challenge, the Authority agrees to use all reasonable measures to accelerate proceedings.

### Conforming to the Law

F4. You must comply with the UK Competition Act 1998, the UK Bribery Act 2010, applicable EU and UK legislation and any equivalent legislation in a third state.

F5. Your attention is drawn to legislation relating to the canvassing of a public official, collusive behaviour and bribery. If you act in breach of this legislation your Tender may be

disqualified from this procurement. Disqualification will be without prejudice to any civil remedy available to the Authority or any criminal liability that your conduct may attract.

#### Bid Rigging and Other Illegal Practices

F6. You must report any bid rigging, fraud, bribery, corruption, or any other dishonest irregularity in connection to this tendering exercise to:

Defence Regulatory Reporting Cell Hotline

0800 161 3665 (UK) or

+44 1371 85 4881 (Overseas)

#### Conflicts of Interest

F7. You must notify the Authority immediately of any Conflicts of Interest (COI) that have arisen or that arise at any point prior to contract award decision. There may be instances where it is essential that you do not have a Conflict of Interest (COI).

F8. Where there is an existing or potential Conflict of Interest (COI) you must include a proposed Compliance Regime in your Tender. As a minimum this must include:

- a. manner of operation and management;
- b. roles and responsibilities;
- c. standards for integrity and fair dealing;
- d. levels of access to and protection of competitors sensitive information and Government Furnished Information;
- e. confidentiality / non-disclosure agreements (e.g. DEFFORM 702);
- f. the Authority's rights of audit; and
- g. physical and managerial separation.

Should your Tender be accepted your proposed Compliance Regime will become part of the Contract Conditions and shall be legally binding.

#### Government Furnished Assets

F9. Where the Authority provides Government Furnished Assets (GFA) in support of this competition, you must include details of the GFA in your Public Store Account and treat it in accordance with Def Stan 05-099. If unsuccessful in this competition, you must seek instructions for the GFA from the named Commercial Officer.

#### Standstill Period

F10. The Authority is obliged under certain circumstances to allow a space of ten (10) calendar days between the date of dispatch of its notice to Tenderers before entering into a contract, known as the standstill period. This period is to give unsuccessful Tenderers an opportunity to make a legal challenge before the contract is entered into if there has been, or it is alleged that there has been, a breach of the Regulations. The standstill period ends at midnight at the end of the 10th day after the date the DEFFORM 158 is sent. Where this is not a working day, it extends to midnight at the end of the next working day.

#### Publicity Announcements

F11. The Authority will publish notification of the contract and shall publish contract documents under the FOI Act except where publishing such information would hinder law enforcement; would otherwise be contrary to the public interest; would prejudice the legitimate commercial interest of any person, or might prejudice fair competition between suppliers. You should complete and return DEFFORM 539A as explained in the DEFFORM 47 Annex A and associated Appendix 1.

F12. If you wish to make a similar announcement, you must seek approval from the named Commercial Officer.

F13. Under no circumstances should you confirm to any Third Party the Authority's acceptance of an offer of contract prior to either informing the Authority of your acceptance or the Authority's announcement of the award of contract, whichever occurs first.

#### Sensitive Information

F14. All Central Government Departments and their Executive Agencies and Non Departmental Public Bodies are subject to control and reporting within Government. In particular, they report to the Cabinet Office and HM Treasury for all expenditure. Further, the Cabinet Office has a cross-governmental role delivering overall Government policy on public procurement, including ensuring value for money, related aspects of good procurement practice and answering Freedom Of Information requests.

F15. For these purposes, the Authority may share within Government any of the Contractor's documentation / information (including any that the Contractor considers to be confidential and / or commercially sensitive such as specific bid information) submitted by the Contractor to the Authority during this procurement. Contractors taking part in this competition must identify any sensitive material in the DEFFORM 539A (or SC1B Schedule 4 or SC2 Schedule 5) and consent to these terms as part of the competition process. This allows the MOD to share information with other Government Departments while complying with our obligations to maintain confidentiality.

F16. The Authority reserves the right to disclose on a confidential basis any information it receives from Tenderers during the procurement process (including information identified by the Tenderer as Commercially Sensitive Information in accordance with the provisions of this ITT/ITN) to any third party engaged by the Authority for the specific purpose of evaluating or assisting the Authority in the evaluation of the Tenderer's Tender. In providing such information the Tenderer consents to such disclosure.

#### Reportable Requirements

F17. Listed in the DEFFORM 47 Annex A (Offer) are the Mandatory Declarations. It is a Condition of Tendering that you complete and attach the returns listed in the Annex and, where you select yes, you attach the relevant information.

F18. Failure to complete this part of the Annex in full makes your Tender non-compliant. Additional information provided in response to Appendix 1 may be used to support the Authority's evaluation of your tender, as detailed in Section D.

F19. If you are an overseas Contractor and your Tender is successful you will be required to provide the name and address of your bank and the relevant bank account number on contract award.

#### Specific Conditions of Tendering

F20. Following a pre-assessment of the risks associated with the potential contract the Authority is permitting tenderers to limit their liability in respect of the following risk as set out below:

a. DEFCON 76 shall not exceed £5M per incident

F20.1. Tenderers must confirm that;

they have a minimum of £5M Public Liability Insurance and provide an extract from their insurance policy as evidence or;

written confirmation they are content with uncapped liabilities under DEFCON 76

F20.2 Limitation of Contractor's Liability for Material Breach

F20.2.1. Following a pre-assessment of the risks associated with the potential contract the Authority is permitting tenderers to limit their liability in respect of the following risk as set out below:

a. under Clause 43.b of SC2 shall not exceed 125% of the Contract Value.

F20.2.2. An appropriate clause has been included in the ITT Terms and Conditions. Tenderers are to note that the wording, scope of the clause itself and the stated limit are not subject to negotiation.

F20.2.3. In order for the Authority to maintain its own Risk Register, the following information must be supplied as part of the tender response:

a. the maximum layer of insurance the tenderer holds against the specific risk;

b. competitive quotes for additional layers of insurances against the specific risk in the event the tenderer's maximum layer of insurance is insufficient;

c. the actual or proposed risk mitigation activities the tenderer will be undertaking against the specific risk.

F20.2.4. Tenderers should note that the proposed risk mitigation activities provided as part of the tender return will form part of the subsequent contract should the tender be successful.

F21. If required, the Authority will sponsor Security Clearance through UKSV once the contract is awarded

DEFFORM 47 Annex A - Edn 07/18

Ministry of Defence

Tender Ref No. 700210314 - CCDT/583

**TENDER SUBMISSION DOCUMENT (OFFER)**

**To the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland (hereafter called “the Authority”)**

The undersigned Tenderer, having read the ITT Documentation, offers to supply the Contractor Deliverables at the stated price(s), in accordance with any referenced drawings and / or specifications, subject to the Conditions of Tendering. It is agreed that only the Contract Conditions or any amendments issued by the Authority shall apply.

Applicable Law				
I agree that any contract resulting from this competition shall be subject to English Law				Yes / No*
*Where 'No' is selected, Scots Law will apply.				
Total Value of Tender (excluding VAT)				
£				
.....				
...				
WORDS				
.....				
.....				
UK Value Added Tax				
If registered for Value Added Tax purposes, please insert:				
a. Registration No .....				
b. Total amount of Value Added Tax payable on this Tender (at current rate(s)) £.....				
Location of work (town / city) where contract will be performed by Prime:				
Where items which are subject of your Tender are not supplied or provided by you, state location in town / city to be performed column (continue on another page if required)				
Tier 1 Sub-contractor Company Name	Town / city to be Performed	Contractor Deliverables	Estimated Value	SME Yes / No

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Mandatory Declarations (further details are contained in Appendix 1 to DEFFORM 47 Annex A (Offer)):			Tenderer's Declaration	
Is the offer subject to the Authority contracting for all the Contractor Deliverables?			Yes* / No	
Is the offer made subject to a Minimum Order Quantity?			Yes* / No	
Are the Contractor Deliverables subject to IPR that has been exclusively or part funded by Private Venture, Foreign Investment or otherwise than by Authority funding?			Yes* / No	
Are the Contractor Deliverables subject to Foreign Export Control and Security Restrictions? If the answer is Yes, please complete and attach DEFFORM 528			Yes* / No	
Have you obtained foreign export approval necessary to secure IP user rights for the Authority in Contract Deliverables, including technical data, as determined in the Contract Conditions?			Yes* / No	
Have you provided details of how you will comply with all regulations relating to the operation of the collection of custom import duties, including the proposed Customs procedure to be used and an estimate of duties to be incurred or suspended?			Yes / No	
Have you completed Form 1686 for sub-contracts?			Yes / No	
Have you completed the compliance matrix/ matrices?			Yes / No / Not Required	
Are you a Small Medium Sized Enterprise (SME)?			Yes / No	
Have you and your sub-contractors registered with the Prompt Payment Code with regards to SMEs?			Yes / No	
Have you completed and attached Tenderer's Commercially Sensitive Information Form (DEFFORM 539A)?			Yes / No	
If you have not previously submitted a Statement Relating to Good Standing, or circumstances have changed have you attached a revised version?			Yes* / No / N/A	
Do the Contractor Deliverables contain Asbestos, as defined by the control of Asbestos Regulations 2012?			Yes* / No	
Have you completed and attached a DEFFORM 68 - Hazardous Articles, Deliverables materials or substances statement?			Yes* / No	
Do the Contractor Deliverables (including Packaging) use Substances that deplete the Ozone Layer, as defined in Regulation (EC) 1005/2009			Yes* / No	

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(as amended by <a href="#">EC 744/2010</a> ) of the European Parliament and of the Council.	
Have you attached The Bank / Parent Company Guarantee?	Yes* / No / Not Required
Have you complied with the requirements of the Military Aviation Authority Regulatory Articles?	Yes / No / Not Required
Have you completed the additional Mandatory Requirements?	Yes / No / Not Required
*If selecting Yes to any of the above questions, please attach the information detailed in Appendix 1 to DEFFORM 47 Annex A (Offer).	
Tenderer's Declaration of Compliance with Competition Law	
<p>We certify that the offer made is intended to be genuinely competitive. No aspect of the price has been fixed or adjusted by any arrangement with any Third Party. Arrangement in this context includes any transaction, or agreement, private or open, or collusion, formal or informal, and whether or not legally binding. In particular:</p> <ul style="list-style-type: none"> <li>a. the offered price has not been divulged to any Third Party,</li> <li>b. no arrangement has been made with any Third Party that they should refrain from tendering,</li> <li>c. no arrangement with any Third Party has been made to the effect that we will refrain from bidding on a future occasion,</li> <li>d. no discussion with any Third Party has taken place concerning the details of either's proposed price, and</li> <li>e. no arrangement has been made with any Third Party otherwise to limit genuine competition.</li> </ul> <p>We understand that any instances of illegal cartels or market sharing arrangements, or other anti-competitive practices, suspected by the Authority will be referred to the Competition and Markets Authority for investigation and may be subject to action under the Competition Act 1998 and the Enterprise Act 2002.</p> <p>We understand that any misrepresentations may also be the subject of criminal investigation or used as the basis for civil action.</p> <p>We agree that the Authority may share the Contractor's information / documentation (submitted to the Authority during this Procurement) more widely within Government for the purpose of ensuring effective cross-Government procurement processes, including value for money and related purposes. We certify that we have identified any sensitive material in DEFFORM 539A.</p>	
Dated this..... day of ..... Year .....	
<p>Signature:                      In the capacity of</p> <p>.....</p> <p>(Must be original)                      (State official position e.g. Director, Manager, Secretary etc.)</p>	

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<p>Name: (in BLOCK CAPITALS)</p> <p>duly authorised to sign this Tender for and on behalf of:</p> <p>(Tenderer's Name)</p>	<p>Postal Address:</p> <p>Telephone No:</p> <p>Registered Company Number:</p> <p>Dunn And Bradstreet number:</p>
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## Appendix 1 to Annex A (Offer)

Edn07/18

### Information on Mandatory Declarations

#### Part Tender

1. Under Condition of Tendering F1, the Authority reserves the right to order some or part of your Tender. If your offer is subject to the Authority contracting for all the Contractor Deliverables, select 'Yes' and provide further details in your Tender.

#### Minimum Order Quantities

2. Where your offer is subject to minimum order quantities select 'Yes' and provide further details in your Tender.

#### IPR Restrictions

3. Where the Contractor Deliverables are subject to IPR that has been exclusively or part funded by Private Venture, Foreign Investment or otherwise than by Authority funding you must select 'Yes' in Annex A (Are the Contractor Deliverables subject to IPR that has been exclusively or part funded by Private Venture, Foreign Investment or otherwise than by Authority funding) .

4. If you have answered 'Yes' in Annex A (Offer) as directed by paragraph 3 above, you must provide details in your Tender of any Contractor Deliverable which will be, or is likely to be, subject to any IPR restrictions or any other restriction on the Authority's ability to use or disclose the Contractor Deliverable, including export restrictions. In particular, you must identify:

- a. any restriction on the provision of information to the Authority; any restriction on disclosure or the use of information by the Authority; any obligations to make payments in respect of IPR, and any Patent or Registered Design (or application for either) or other IPR (including unregistered Design Right) owned or controlled by you or a Third Party;
- b. any allegation made against you, whether by claim or otherwise, of an infringement of Intellectual Property Rights (whether a Patent, Registered Design, unregistered Design Right, Copyright or otherwise) or of a breach of confidence, which relates to the performance of any resultant contract or subsequent use by or for the Authority of any Contractor Deliverables;
- c. the nature of any allegation referred to under sub-paragraph 4.b., including any obligation to make payments in respect of the Intellectual Property Right of any confidential information and / or;
- d. any action you need to take or the Authority is required to take to deal with the consequences of any allegation referred to under sub-paragraph 4.b.

5. You must, when requested, give the Authority details of every restriction and obligation referred to in paragraph 4. The Authority will not acknowledge any such restriction unless so notified under paragraph 4 or as otherwise agreed under any resultant Contract. You must also provide, on request, any information required for authorisation to be given under Section 2 of the Defence Contracts Act 1958.

6. If you have previously provided information under paragraphs 4 and 5 you can provide details of the previous notification, updated as necessary to confirm their validity.

#### Notification of Foreign Export Control Restrictions

7. If, in the performance of the Contract, you need to import into the UK or export out of the UK anything not supplied by or on behalf of the Authority and for which a UK import or export licence is required, you will be responsible for applying for the licence. The Authority will provide you with all reasonable assistance in obtaining any necessary UK import or export licence.

8. In respect of any Contractor Deliverables, likely to be required for the performance of any resultant contract, you must provide the following information in your Tender:

a. Whether all or part of any Contractor Deliverables are or will be subject to:

(1) a non-UK export licence, authorisation or exemption; or

(2) any other related transfer control that restricts or will restrict end use, end user, re-transfer or disclosure.

You must complete DEFFORM 528 (or other mutually agreed alternative format) in respect of any Contractor Deliverables identified at paragraph 8 and return it as part of your Tender. If you have previously provided this information you can provide details of the previous notification and confirm the validity.

9. You must use reasonable endeavours to obtain sufficient information from your potential supply chain to enable a full response to paragraph 8. If you are unable to obtain adequate information, you must state this in your Tender. If you become aware at any time during the competition that all or part of any proposed Contractor Deliverable is likely to become subject to a non-UK Government Control through a Government-to-Government sale only, you must inform the Authority immediately by updating your previously submitted DEFFORM 528 or completing a new DEFFORM 528.

10. This does not include any Intellectual Property specific restrictions mentioned in paragraph 4.

11. You must notify the named Commercial Officer immediately if you are unable for whatever reason to abide by any restriction of the type referred to in paragraph 8.

12. Should you propose the supply of Contractor Deliverables of US origin the export of which from the USA is subject to control under the US International Traffic in Arms Regulations (ITAR), you must include details on the DEFFORM 528. This will allow the Authority to make a decision whether the export can or cannot be made under the US-UK Defense Trade Co-operation Treaty. The Authority shall then convey its decision to the Tenderer. If the Authority decides that use of the Treaty for the export is permissible, it is your responsibility to make a final decision whether you want to use that route for the export concerned if you are awarded the contract.

#### Import Duty

13. European Union (EU) legislation permits the use of various procedures to suspend customs duties.

14. For the purpose of this competition, for any deliverables not yet imported into the EU, you are required to provide details of your plans to address customs compliance, including

the Customs procedures to be applied (together with the procedure code) and the estimated Import Duty to be incurred and / or suspended.

15. You should note that it is your responsibility to ensure compliance with all regulations relating to the operation of the accounting for import duties. This includes but is not limited to obtaining the appropriate Her Majesty's Revenue & Customs (HMRC) authorisations.

Sub-contracts Form 1686

16. [Form 1686](#) (also known as Appendix 5) is to be used in all circumstances where contractors wish to place a sub-contract with a contractor where the release of OFFICIAL-SENSITIVE information is involved. The process will require submission of the single page document either directly to the MOD Project Team or, where specified, to the DE&S Security Advice Centre. You can find further information in the [Security Policy Framework - Contractual Process](#).

Small and Medium Enterprises

17. The Authority is committed to supporting the Government's small and medium-sized enterprise (SME) initiative; its ambitious target is that every £1 in every £3 that the Government spends should be with small businesses by 2020. Our goal is that 25% of MOD spending should be spent with SMEs by 2020; this applies to the money which the MOD spends directly with SMEs and through the supply chain. The Authority uses the European Commission definition of an SME.

18. A key aspect of the Government's SME Policy is ensuring that its suppliers throughout the supply chain are paid promptly. All suppliers to the Authority and their sub-contractors are encouraged to make their own commitment and register with the [Prompt Payment Code](#).

19. Suppliers are also encouraged to work with the Authority to support the Authority's SME initiative. Information on the Authority's purchasing arrangements, our commercial policies and our SME policy can be found at [Gov.UK](#).

20. The opportunity also exists for Tenderers to advertise any sub-contract valued at over £10,000 in the MOD Contracts Bulletin and further details can be obtained directly from:

BiP Solutions Ltd

Web address: [www.contracts.mod.uk](http://www.contracts.mod.uk)

Tel No: 0845 270 7099

Transparency, Freedom of Information and Environmental Information Regulations

21. You should be aware that the contents of any resultant contract may be published in line with government policy set out in the Prime Minister's letter of May 2010 ([Government Transparency and Accountability](#)) and the information contained within SC2 Conditions of Contract Clause.

22. Before publishing the contract, the Authority will redact any information which is exempt from disclosure under the Freedom of Information Act 2000 ("the FOIA") or the Environmental Information Regulations 2002 ("the EIR").

23. You should complete the attached Tenderer's Commercially Sensitive Information Form (DEFFORM 539A or SC1B Schedule 4 or SC2 Schedule 5) explaining which parts of

your Tender you consider to be commercially sensitive. This includes providing a named individual who can be contacted with regard to FOIA and EIR.

24. You should note that while your views will be taken into consideration, the ultimate decision whether to publish or disclose information lies with the Authority. You are advised to provide as much detail as possible on the form. It is highly unlikely that a Tender will be exempt from disclosure in its entirety. Should the Authority decide to publish or disclose information against your wishes, you will be given prior notification.

#### Electronic Purchasing

25. Tenderers must note that use of the [Contracting, Purchasing and Finance \(CP&F\)](#) electronic procurement tool is a mandatory requirement for any resultant contract awarded following this Tender. By submitting this Tender you agree to electronic payment. Please feel free to consult the service provider on connectivity options. Failure to accept electronic payment will result in your Tender being non-compliant.

#### Change of Circumstances

26. If you have not previously submitted a Statement Relating to Good Standing or circumstances have changed, please select 'Yes' and submit a Statement Relating to Good Standing with your Tender.

#### Asbestos, Hazardous Items and Depletion of the Ozone Layer

27. The Authority is required to report any items that use asbestos, that are hazardous or where there is an impact on the Ozone. Where any Contractor Deliverables fall into one of these categories select 'Yes' and provide further details in your Tender.

#### Military Aviation Authority (MAA) Requirements

28. Not Required

#### Bank or Parent Company Guarantee

29. A Parent Company or Bank Guarantee may be required. In the event that your tender is identified as the most favourable / compliant tender, but MOD assesses that a Parent Company or Bank Guarantee is required, then one will be requested (in the form of DEFFORM 24 / 24A as appropriate). No contract will be awarded until a suitable Parent Company or Bank Guarantee, as appropriate, is in place.

#### The Armed Forces Covenant

30. The Armed Forces Covenant is a promise from the nation to those who serve, or who have served, and their families, to ensure that they are treated fairly and are not disadvantaged in their day to day lives as a result of their service.

31. The Covenant is based on two principles:

- a. the Armed Forces community would not face disadvantages when compared to other citizens in the provision of public and commercial services; and
- b. special consideration is appropriate in some cases, especially for those who have given most such as the injured and the bereaved.

The Authority encourages all Tenderers, and their suppliers, to sign the Armed Forces Covenant, declaring their support for the Armed Forces community by displaying the values and behaviours set out therein.

32. [The Armed Forces Covenant](#) provides guidance on the various ways you can demonstrate your support through your Covenant pledges and how by engaging with the Covenant and Armed Forces such as employing Reservists, a company or organization can also see real benefits in their business.

33. If you wish to register your support you can provide a point of contact for your company on this issue to the Armed Forces Covenant Team at the address below, so that the MOD can alert you to any events or initiatives in which you may wish to participate. The Covenant Team can also provide any information you require in addition to that included on the website.

Email address: [employerrelations@rfca.mod.uk](mailto:employerrelations@rfca.mod.uk)

Address: Defence Relationship Management

Ministry of Defence

Holderness House

51-61 Clifton Street

London, EC2A 4EY

34. Paragraphs 30 – 33 above are not a condition of working with the Authority now or in the future, nor will this issue form any part of the tender review, contract award procedure or any resulting contract. However, the Authority very much hopes you will want to provide your support.

## Standardised Contracting Terms

SC2

### GENERAL CONDITIONS

1. General

a. The defined terms in the Contract shall be as set out in Schedule 1.

b. The Contractor shall comply with all applicable Legislation, whether specifically referenced in this Contract or not.

c. The Contractor warrants and represents, that:

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

(2) from the Effective Date of Contract and for so long as the Contract remains in force it shall give the Authority Notice of any litigation, arbitration (unless expressly prohibited from doing so in accordance with the terms of the arbitration), administrative or adjudication or mediation proceedings before any court, tribunal, arbitrator, administrator or adjudicator or mediator or relevant authority against itself or a Subcontractor which would adversely affect the Contractor's ability to perform its obligations under the Contract;

(3) as at the Effective Date of Contract no proceedings or other steps have been taken and not discharged (nor, to the best of the knowledge of the Contractor, threatened) for its winding-up or dissolution or for the appointment of a receiver, administrative receiver, administrator, liquidator, trustee or similar officer in relation to any of its assets or revenues;

(4) for so long as the Contract remains in force it shall give the Authority Notice of any proceedings or other steps that have been taken but not discharged (nor to the best of the knowledge of the Contractor, threatened) for its winding-up or dissolution or for the appointment of a receiver, administrator, liquidator, trustee or similar officer in relation to any of its assets or revenues.

d. Unless the context otherwise requires:

(1) The singular includes the plural and vice versa, and the masculine includes the feminine and vice versa.

(2) The words "include", "includes", "including" and "included" are to be construed as if they were immediately followed by the words "without limitation", except where explicitly stated otherwise.

(3) The expression "person" means any individual, firm, body corporate, unincorporated association or partnership, government, state or agency of a state or joint venture.

(4) References to any statute, enactment, order, regulation, or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation, or instrument as amended, supplemented, replaced or consolidated by any subsequent statute, enactment, order, regulation, or instrument.

(5) The heading to any Contract provision shall not affect the interpretation of that provision.

(6) Any decision, act or thing which the Authority is required or authorised to take or do under the Contract may be taken or done only by the person (or their nominated deputy) authorised in Schedule 3 (Contract Data Sheet) to take or do that decision, act, or thing on behalf of the Authority.

(7) Unless excluded within the Conditions of the Contract or required by law, references to submission of documents in writing shall include electronic submission.

## 2. Duration of Contract

This Contract comes into effect on the Effective Date of Contract and will expire automatically on the date identified in Schedule 3 (Contract Data Sheet) unless it is otherwise terminated in accordance with the provisions of the Contract, or otherwise lawfully terminated.

## 3. Entire Agreement

This 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. Governing Law

a. Subject to clause 4.d, the Contract shall be considered as a contract made in England and subject to English Law.

b. Subject to clause 4.d and 40 (Dispute Resolution) 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.

c. Subject to clause 4.d 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 4 and for the enforcement of any judgment, order or award given under English jurisdiction.

d. If the Parties agree pursuant to the Contract that Scots Law should apply then the following amendments shall apply to the Contract:

(1) Clause 4.a, 4.b and 4.c 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 40 (Dispute Resolution) 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 4 and for the enforcement of any judgment, order or award given under Scottish jurisdiction.”

Clause 40.b shall be amended to read:

“In the event that the dispute or claim is not resolved pursuant to clause 40.a the dispute shall be referred to arbitration. Unless otherwise agreed in writing by the Parties, the arbitration and this clause 40.b shall be governed by the Arbitration (Scotland) Act 2010. The seat of the arbitration shall be Scotland. For the avoidance of doubt, for the purpose of arbitration the tribunal shall have the power to make provisional awards pursuant to Rule 53 of the Scottish Arbitration Rules, as set out in Schedule 1 to the Arbitration (Scotland) Act 2010.”

e. 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.

f. Each Party agrees with each other Party that the provisions of this condition 4 shall survive any termination of the Contract for any reason whatsoever and shall remain fully enforceable as between the Parties notwithstanding such a termination.

g. Where the Contractor's place of business is not in England or Wales (or Scotland where the Parties agree pursuant to this Contract that Scots Law should apply), the Contractor irrevocably appoints the solicitors or other persons in England and Wales (or Scotland where the Parties agree pursuant to the Contract that Scots Law should apply) detailed in Schedule 3 (Contract Data Sheet) as its agents to accept on its behalf service of all process and other documents of whatever description to be served on the Contractor in connection with any litigation or arbitration within the English jurisdiction (or Scottish jurisdiction where the Parties agree pursuant to this Contract that Scots Law should apply) arising out of or relating to the Contract or any issue connected therewith.

## 5. Precedence

a. If there is any inconsistency between the different provisions of the Contract the inconsistency shall be resolved according to the following descending order of precedence:

- (1) Conditions 1 - 44 (and 45 - 47, if included in this Contract) of the Conditions of the Contract shall be given equal precedence with Schedule 1 (Definitions of Contract) and Schedule 3 (Contract Data Sheet);
- (2) Schedule 2 (Schedule of Requirements) and Schedule 8 (Acceptance Procedure);
- (3) the remaining Schedules; and
- (4) any other documents expressly referred to in the Contract.

b. If either Party becomes aware of any inconsistency within or between the documents referred to in clause 5.a such Party shall notify the other Party forthwith and the Parties will seek to resolve that inconsistency on the basis of the order of precedence set out in clause 5.a. Where the Parties fail to reach agreement, and if either Party considers the inconsistency to be material to its rights and obligations under the Contract, then the matter will be referred to the dispute resolution procedure in accordance with condition 40 (Dispute Resolution).

## 6. Amendments to Contract

a. Except as provided in condition 31 all amendments to this Contract shall be serially numbered, in writing, issued only by the Authority's Representative (Commercial), and agreed by both Parties.

b. Where the Authority or the Contractor wishes to introduce a change which is not minor or which is likely to involve a change to the Contract Price, the provisions of Schedule 4 (Contract Change Control Procedure) shall apply. The Contractor shall not carry out any work until any necessary change to the Contract Price has been agreed and a written amendment in accordance with clause 6.a above has been issued.

## 7. Variations to Specification

a. The Authority's Representative may, by Notice (following consultation with the Contractor as necessary), alter the Specification as from a date agreed by both Parties and to the extent specified by the Authority, provided that any such variations shall be limited to the extent that they do not alter the fit, form, function or characteristics of the Contractor Deliverables to be supplied under the Contract. The Contractor shall ensure that the Contractor Deliverables take account of any such variations. Such variations shall not require formal amendment of the Contract in accordance with the process set out in condition 6 (Amendments to Contract) and shall be implemented upon receipt, or at the date specified in the Authority's Notice, unless otherwise specified.

b. Any variations that cause a change to:

- (1) fit, form, function or characteristics of the Contractor Deliverables;
- (2) the cost;
- (3) Delivery Dates;
- (4) the period required for the production or completion; or
- (5) other work caused by the alteration,

shall be the subject to condition 6 (Amendments to Contract). Each amendment under condition 6 shall be classed as a formal change.

## 8. Authority Representatives

a. Any reference to the Authority in respect of:

- (1) the giving of consent;

- (2) the delivering of any Notices; or
- (3) the doing of any other thing that may reasonably be undertaken by an individual acting on behalf of the Authority, shall be deemed to be references to the Authority's Representatives in accordance with this condition 8.

b. The Authority's Representatives detailed in Schedule 3 (Contract Data Sheet) (or their nominated deputy) shall have full authority to act on behalf of the Authority for all purposes of the Contract. Unless notified in writing before such act or instruction, the Contractor shall be entitled to treat any act of the Authority's Representatives which is authorised by the Contract as being expressly authorised by the Authority and the Contractor shall not be required to determine whether authority has in fact been given.

c. In the event of any change to the identity of the Authority's Representatives, the Authority shall provide written confirmation to the Contractor, and shall update Schedule 3 (Contract Data Sheet) in accordance with condition 6 (Amendments to Contract).

## 9. Severability

a. If any provision of the Contract is held to be invalid, illegal or unenforceable to any extent then:

(1) such provision shall (to the extent that it is invalid, illegal or unenforceable) be given no effect and shall be deemed not to be included in the Contract but without invalidating any of the remaining provisions of the Contract; and

(2) the Parties shall use all reasonable endeavours to replace the invalid, illegal or unenforceable provision by a valid, legal and enforceable substitute provision the effect of which is as close as possible to the intended effect of the invalid, illegal or unenforceable provision.

## 10. Waiver

a. 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.

b. No waiver in respect of any right or remedy shall operate as a waiver in respect of any other right or remedy.

## 11. Assignment of Contract

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

## 12. Third Party Rights

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.

13. Transparency

- a. Subject to clause 13.b but notwithstanding condition 14 (Disclosure of Information), the Contractor understands that the Authority may publish the Transparency Information to the general public. The Contractor shall assist and cooperate with the Authority to enable the Authority to publish the Transparency Information.
- b. Before publishing the Transparency Information to the general public in accordance with clause 13.a, the Authority shall redact any Information that would be exempt from disclosure if it was the subject of a request for Information under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004, and any Information which has been acknowledged by the Authority at Schedule 5 – Contractor’s Commercially Sensitive Information.
- c. The Authority may consult with the Contractor before redacting any Information from the Transparency Information in accordance with clause 13.b. The Contractor acknowledges and accepts that its representations on redactions during consultation may not be determinative and that the decision whether to redact Information is a matter in which the Authority shall exercise its own discretion, subject always to the provisions of the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.
- d. For the avoidance of doubt, nothing in this condition 13 shall affect the Contractor’s rights at law.

14. Disclosure of Information

- a. Subject to clauses 14.d, 14.e, 14.h and condition 13 each Party:
  - (1) shall treat in confidence all Information it receives from the other;
  - (2) shall not disclose any of that Information to any third party without the prior written consent of the other Party, which consent shall not unreasonably be withheld, except that the Contractor may disclose Information in confidence, without prior consent, to such persons and to such extent as may be necessary for the performance of the Contract;
  - (3) shall not use any of that Information otherwise than for the purpose of the Contract; and
  - (4) shall not copy any of that Information except to the extent necessary for the purpose of exercising its rights of use and disclosure under the Contract.
- b. The Contractor shall take all reasonable precautions necessary to ensure that all Information disclosed to the Contractor by or on behalf of the Authority under or in connection with the Contract:
  - (1) is disclosed to its employees and Subcontractors, only to the extent necessary for the performance of the Contract; and
  - (2) is treated in confidence by them and not disclosed except with the prior written consent of the Authority or used otherwise than for the purpose of performing work or having work performed for the Authority under the Contract or any subcontract.

c. The Contractor shall ensure that its employees are aware of the Contractor's arrangements for discharging the obligations at clauses 14.a and 14.b before receiving Information and shall take such steps as may be reasonably practical to enforce such arrangements.

d. Clauses 14.a and 14.b shall not apply to any Information to the extent that either Party:

(1) exercises rights of use or disclosure granted otherwise than in consequence of, or under, the Contract;

(2) has the right to use or disclose the Information in accordance with other Conditions of the Contract; or

(3) can show:

(a) that the Information was or has become published or publicly available for use otherwise than in breach of any provision of the Contract or any other agreement between the Parties;

(b) that the Information was already known to it (without restrictions on disclosure or use) prior to receiving the Information under or in connection with the Contract;

(c) that the Information was received without restriction on further disclosure from a third party which lawfully acquired the Information without any restriction on disclosure; or

(d) from its records that the same Information was derived independently of that received under or in connection with the Contract;

provided that the relationship to any other Information is not revealed.

e. Neither Party shall be in breach of this condition where it can show that any disclosure of Information was made solely and to the extent necessary to comply with a statutory, judicial or parliamentary obligation. Where such a disclosure is made, the Party making the disclosure shall ensure that the recipient of the Information is made aware of and asked to respect its confidentiality. Such disclosure shall in no way diminish the obligations of the Parties under this condition.

f. The Authority may disclose the Information:

(1) on a confidential basis to any Central Government Body for any proper purpose of the Authority or of the relevant Central Government Body, which shall include: disclosure to the Cabinet Office and/or HM Treasury for the purpose of ensuring effective cross-Government procurement processes, including value for money and related purposes;

(2) to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;

(3) to the extent that the Authority (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;

(4) on a confidential basis to a professional adviser, consultant or other person engaged by any of the entities defined in Schedule 1 (including benchmarking organisations) for any purpose relating to or connected with this Contract;

(5) on a confidential basis for the purpose of the exercise of its rights under the Contract; or

(6) on a confidential basis to a proposed body in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under the Contract;

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

g. Before sharing any Information in accordance with clause 14.f, the Authority may redact the Information. Any decision to redact Information made by the Authority shall be final.

h. The Authority shall not be in breach of the Contract where disclosure of Information is made solely and to the extent necessary to comply with the Freedom of Information Act 2000 (the "Act") or the Environmental Information Regulations 2004 (the "Regulations"). To the extent permitted by the time for compliance under the Act or the Regulations, the Authority shall consult the Contractor where the Authority is considering the disclosure of Information under the Act or the Regulations and, in any event, shall provide prior notification to the Contractor of any decision to disclose the Information. The Contractor acknowledges and accepts that its representations on disclosure during consultation may not be determinative and that the decision whether to disclose Information in order to comply with the Act or the Regulations is a matter in which the Authority shall exercise its own discretion, subject always to the provisions of the Act or the Regulations.

i. Nothing in this condition shall affect the Parties' obligations of confidentiality where Information is disclosed orally in confidence.

#### 15. Publicity and Communications with the Media

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

#### 16. Change of Control of Contractor

a. The Contractor shall notify the Representative of the Authority at the address given in clause 16.b, as soon as practicable, in writing of any intended, planned or actual change in control of the Contractor. The Contractor shall not be required to submit any notice which is unlawful or is in breach of either any pre-existing non-disclosure agreement or any regulations governing the conduct of the Contractor in the UK or other jurisdictions where the Contractor may be subject to legal sanction arising from issuing such a notice.

b. Each notice of change of control shall be taken to apply to all contracts with the Authority. Notices shall be submitted to:

Mergers & Acquisitions Section

Strategic Supplier Management Team

Spruce 3b # 1301

MOD Abbey Wood,

Bristol, BS34 8JH

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The Representative of the Authority shall consider the notice of change of control and advise the Contractor in writing of any concerns the Authority may have. Such concerns may include but are not limited to potential threats to national security, the ability of the Authority to comply with its statutory obligations or matters covered by the declarations made by the Contractor prior to Contract Award.

c. The Authority may terminate the Contract by giving written notice to the Contractor within six months of the Authority being notified in accordance with clause 16.a. The Authority shall act reasonably in exercising its right of termination under this condition.

d. If the Authority exercises its right to terminate in accordance with clause 16.c the Contractor shall be entitled to request the Authority to consider making a payment representing any commitments, liabilities or expenditure incurred by the Contractor in connection with the Contract up to the point of termination. Such commitments, liabilities or expenditure shall be reasonably and properly chargeable by the Contractor, and shall otherwise represent an unavoidable loss by the Contractor by reason of the termination of the Contract. Any payment under this clause 16.d must be fully supported by documentary evidence. The decision whether to make such a payment shall be at the Authority's sole discretion.

e. Notification by the Contractor of any intended, planned or actual change of control shall not prejudice the existing rights of the Authority or the Contractor under the Contract nor create or imply any rights of either the Contractor or the Authority additional to the Authority's rights set out in this condition.

### 17. Environmental Requirements

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

### 18. Contractor's Records

a. The Contractor and its sub-contractors shall maintain all records specified in and connected with the Contract (expressly or otherwise) and make them available to the Authority when requested on reasonable notice.

b. The Contractor and its sub-contractors shall also permit access to relevant records that relate to the contractual obligations to supply goods or services under the Contract, held by or controlled by them and reasonably required by the Comptroller and Auditor General, their staff and any appointed representative of the National Audit Office, and provide such explanations and information as reasonably necessary for the following purposes:

(1) to enable the National Audit Office to carry out the Authority's statutory audits and to examine and/or certify the Authority's annual and interim report and accounts; and

(2) to enable the National Audit Office to carry out an examination pursuant to Part II of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources.

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c. With regard to the records made available to the Authority under clause 1 of this Condition, and subject to the provisions of SC2 conditions of contract clause 14, the Contractor shall permit records to be examined and if necessary copied, by the Authority, or Representative of the Authority, as the Authority may require.

d. Unless the Contract specifies otherwise the records referred to in this Condition shall be retained for a period of at least 6 years from:

- (1) the end of the Contract term;
- (2) termination of the Contract; or
- (3) the final payment

whichever occurs latest.

19. Notices

a. A Notice served under the Contract shall be:

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

b. Notices shall be deemed to have been received:

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

20. Progress Monitoring, Meetings and Reports

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- a. The Contractor shall attend progress meetings at the frequency or times (if any) specified in Schedule 3 (Contract Data Sheet) and shall ensure that its Contractor's Representatives are suitably qualified to attend such meetings.
- b. The Contractor shall submit progress reports to the Authority's Representatives at the times and in the format (if any) specified in Schedule 3 (Contract Data Sheet). The reports shall detail as a minimum:
  - (1) performance/Delivery of the Contractor Deliverables;
  - (2) risks and opportunities;
  - (3) any other information specified in Schedule 3 (Contract Data Sheet); and
  - (4) any other information reasonably requested by the Authority.

## SUPPLY OF CONTRACTOR DELIVERABLES

### 21. Supply of Contractor Deliverables and Quality Assurance

- a. The Contractor shall provide the Contractor Deliverables to the Authority, in accordance with the Schedule of Requirements and the Specification, and shall allocate sufficient resource to the provision of the Contractor Deliverables to enable it to comply with this obligation.
- b. The Contractor shall:
  - (1) comply with any applicable quality assurance requirements specified in Schedule 3 (Contract Data Sheet) in providing the Contractor Deliverables; and
  - (2) discharge its obligations under the Contract with all due skill, care, diligence and operating practice by appropriately experienced, qualified and trained personnel.
- c. The provisions of clause 21.b. shall survive any performance, acceptance or payment pursuant to the Contract and shall extend to any remedial services provided by the Contractor.
- d. The Contractor shall:
  - (1) observe, and ensure that the Contractor's Team observe, all health and safety rules and regulations and any other security requirements that apply at any of the Authority's premises;
  - (2) notify the Authority as soon as it becomes aware of any health and safety hazards or issues which arise in relation to the Contractor Deliverables; and
  - (3) before the date on which the Contractor Deliverables are to start, obtain, and at all times maintain, all necessary licences and consents in relation to the Contractor Deliverables.

### 22. Marking of Contractor Deliverables

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a. Each Contractor Deliverable shall be marked in accordance with the requirements specified in Schedule 3 (Contract Data Sheet), if no such requirement is specified, the Contractor shall mark each Contractor Deliverable clearly and indelibly in accordance with the requirements of the relevant DEF-STAN 05-132 as specified in the contract or specification. In the absence of such requirements, the Contractor Deliverables shall be marked with the MOD stock reference, NATO Stock Number (NSN) or alternative reference number specified in Schedule 2 (Schedule of Requirements).

b. Any marking method used shall not have a detrimental effect on the strength, serviceability or corrosion resistance of the Contractor Deliverables.

c. The marking shall include any serial numbers allocated to the Contractor Deliverable.

d. Where because of its size or nature it is not possible to mark a Contractor Deliverable with the required particulars, the required information should be included on the package or carton in which the Contractor Deliverable is packed, in accordance with condition 23 (Packaging and Labelling (excluding Contractor Deliverables containing Munitions)).

23. Packaging and Labelling (excluding Contractor Deliverables containing Munitions)

a. Packaging responsibilities are as follows:

(1) The Contractor shall be responsible for providing Packaging which fully complies with the requirements of the Contract.

(2) The Authority shall indicate in the Contract the standard or level of Packaging required for each Contractor Deliverable, including the PPQ. If a standard or level of Packaging (including the PPQ) is not indicated in the Contract, the Contractor shall request such instructions from the Authority before proceeding further.

(3) The Contractor shall ensure all relevant information necessary for the effective performance of the Contract is made available to all subcontractors.

(4) Where the Contractor or any of their subcontractors have concerns relating to the appropriateness of the Packaging design and or MPL prior to manufacture or supply of the Contractor Deliverables they shall use DEFFORM 129B to feedback these concerns to the Contractor or Authority, as appropriate.

b. The Contractor shall supply Commercial Packaging meeting the standards and requirements of Def Stan 81-041 (Part 1). In addition the following requirements apply:

(1) The Contractor shall provide Packaging which:

(a) will ensure that each Contractor Deliverable may be transported and delivered to the consignee named in the Contract in an undamaged and serviceable condition; and

(b) is labelled to enable the contents to be identified without need to breach the package; and

(c) is compliant with statutory requirements and this Condition.

(2) The Packaging used by the Contractor to supply identical or similar Contractor Deliverables to commercial customers or to the general public (i.e. point of sale packaging) will be acceptable, provided that it complies with the following criteria:

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(a) reference in the Contract to a PPQ means the quantity of a Contractor Deliverable to be contained in an individual package, which has been selected as being the most suitable for issue(s) to the ultimate user;

(b) Robust Contractor Deliverables, which by their nature require minimal or no packaging for commercial deliveries, shall be regarded as "PPQ packages" and shall be marked in accordance with Clauses 23.i to 23.l. References to "PPQ packages" in subsequent text shall be taken to include Robust Contractor Deliverables; and

(c) for ease of handling, transportation and delivery, packages which contain identical Contractor Deliverables may be bulked and overpacked, in accordance with clauses 23.i to 23.k.

c. The Contractor shall ascertain whether the Contractor Deliverables being supplied are, or contain, Dangerous Goods, and shall supply the Dangerous Goods in accordance with:

(1) The Health and Safety At Work Act 1974 (as amended);

(2) The Classification Hazard Information and Packaging for Supply Regulations (CHIP4) 2009 (as amended);

(3) The REACH Regulations 2007 (as amended); and

(4) The Classification, Labelling and Packaging Regulations (CLP) 2009 (as amended).

d. The Contractor shall package the Dangerous Goods as limited quantities, excepted quantities or similar derogations, for UK or worldwide shipment by all modes of transport in accordance with the regulations relating to the Dangerous Goods and:

(1) The Safety Of Lives At Sea Regulations (SOLAS) 1974 (as amended); and

(2) The Air Navigation Order.

e. As soon as possible, and in any event no later than one month before delivery is due, the Contractor shall provide a Safety Data Sheet in respect of each Dangerous Good in accordance with the REACH Regulations 2007 (as amended) and the Health and Safety At Work Act 1974 (as amended) and in accordance with condition 24 (Supply of Hazardous Materials or Substances in Contractor Deliverables).

f. The Contractor shall comply with the requirements for the design of MLP which include clauses 23.f and 23.g as follows:

(1) Where there is a requirement to design UK or NATO MLP, the work shall be undertaken by an MPAS registered organisation, or one that although non-registered is able to demonstrate to the Authority that its quality systems and military package design expertise are of an equivalent standard.

(a) The MPAS certification (for individual designers) and registration (for organisations) scheme details are available from:

DES SEOC SCP-SptEng-Pkg

MOD Abbey Wood

Bristol, BS34 8JH

Tel. +44(0)30679-35353

DESSEOCSCP-SptEng-PKg@mod.uk

- (b) The MPAS Documentation is also available on the DStan website.
- (2) MLP shall be designed to comply with the relevant requirements of Def Stan 81-041, and be capable of meeting the appropriate test requirements of Def Stan 81-041 (Part 3). Packaging designs shall be prepared on a SPIS, in accordance with Def Stan 81-041 (Part 4).
- (3) The Contractor shall ensure a search of the SPIS index (the 'SPIN') is carried out to establish the SPIS status of each requirement (using DEFFORM 129a 'Application for Packaging Designs or their Status').
- (4) New designs shall not be made where there is an existing usable SPIS, or one that may be easily modified.
- (5) Where there is a usable SFS, it shall be used in place of a SPIS design unless otherwise stated by the Contract. When an SFS is used or replaces a SPIS design, the Contractor shall upload this information on to SPIN in Adobe PDF.
- (6) All SPIS, new or modified (and associated documentation), shall, on completion, be uploaded by the Contractor on to SPIN. The format shall be Adobe PDF.
- (7) Where it is necessary to use an existing SPIS design, the Contractor shall ensure the Packaging manufacturer is a registered organisation in accordance with clause 23.f(1) above, or if un-registered, is compliant with MPAS ANNEX A Supplement (Code) M. The Contractor shall ensure, as far as possible, that the SPIS is up to date.
- (8) The documents supplied under clause 23.f(6) shall be considered as a contract data requirement and be subject to the terms of DEFCON 15 and DEFCON 21.
- g. Unless otherwise stated in the Contract, one of the following procedures for the production of new or modified SPIS designs shall be applied:
- (1) If the Contractor or their subcontractor is the PDA they shall:
- (a) On receipt of instructions received from the Authority's representative nominated in Box 2 of DEFFORM 111 at Annex A to Schedule 3 (Contract Data Sheet), prepare the required package design in accordance with clause 23.f.
- (b) Where the Contractor or their subcontractor is registered they shall, on completion of any design work, provide the Authority with the following documents electronically:
- i. a list of all SPIS which have been prepared or revised against the Contract; and
- ii. a copy of all new / revised SPIS, complete with all continuation sheets and associated drawings, where applicable, to be uploaded onto SPIN.
- (c) Where the PDA is not a registered organisation, then they shall obtain approval for their design from a registered organisation before proceeding, then follow clause 23.g(1)(b).
- (2) Where the Contractor or their subcontractor is not the PDA and is un-registered, they shall not produce, modify, or update SPIS designs. They shall obtain current SPIS design(s) from the Authority or a registered organisation before proceeding with manufacture of Packaging. To allow designs to be provided in ample time, they should apply for SPIS designs as soon as practicable.

(3) Where the Contractor or their subcontractor is un-registered and has been given authority to produce, modify, and update SPIS designs by the Contract, he shall obtain approval for their design from a registered organisation using DEFFORM 129a before proceeding, then follow clause 23.g(1)(b).

(4) Where the Contractor or their subcontractor is not a PDA but is registered, he shall follow clauses 23.g(1)(a) and 23.g(1)(b).

h. If special jigs, tooling etc., are required for the production of MLP, the Contractor shall obtain written approval from the Commercial Officer before providing them. Any approval given will be subject to the terms of DEFCON 23 (SC2) or equivalent condition, as appropriate.

i. In addition to any marking required by international or national legislation or regulations, the following package labelling and marking requirements apply:

(1) If the Contract specifies UK or NATO MPL, labelling and marking of the packages shall be in accordance with Def Stan 81-041 (Part 6) and this Condition as follows:

(a) Labels giving the mass of the package, in kilograms, shall be placed such that they may be clearly seen when the items are stacked during storage.

(b) Each consignment package shall be marked with details as follows:

i. name and address of consignor;

ii. name and address of consignee (as stated in the Contract or order);

iii. destination where it differs from the consignee's address, normally either:

(i). delivery destination / address; or

(ii). transit destination, where delivery address is a point for aggregation / disaggregation and / or onward shipment elsewhere, e.g. railway station, where that mode of transport is used;

iv. the unique order identifiers and the CP&F Delivery Label / Form which shall be prepared in accordance with DEFFORM 129J.

(i). If aggregated packages are used, their consignment marking and identification requirements are stated at clause 23.l.

(2) If the Contract specifies Commercial Packaging, an external surface of each PPQ package and each consignment package, if it contains identical PPQ packages, shall be marked, using details of the Contractor Deliverables as shown in the Contract schedule, to state the following:

(a) description of the Contractor Deliverable;

(b) the full thirteen digit NATO Stock Number (NSN);

(c) the PPQ;

(d) maker's part / catalogue, serial and / or batch number, as appropriate;

(e) the Contract and order number when applicable;

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- (f) the words "Trade Package" in bold lettering, marked in BLUE in respect of trade packages, and BLACK in respect of export trade packages;
  - (g) shelf life of item where applicable;
  - (h) for rubber items or items containing rubber, the quarter and year of vulcanisation or manufacture of the rubber product or component (marked in accordance with Def Stan 81-041);
  - (i) any statutory hazard markings and any handling markings, including the mass of any package which exceeds 3kg gross; and
  - (j) any additional markings specified in the Contract.
- j. Bar code marking shall be applied to the external surface of each consignment package and to each PPQ package contained therein. The default symbology shall be as specified in Def Stan 81-041 (Part 6). As a minimum the following information shall be marked on packages:
- (1) the full 13-digit NSN;
  - (2) denomination of quantity (D of Q);
  - (3) actual quantity (quantity in package);
  - (4) manufacturer's serial number and / or batch number, if one has been allocated; and
  - (5) the CP&F-generated unique order identifier.
- k. Requirements for positioning bar codes in relation to related text, as well as positioning on package etc., are defined in Def Stan 81-041 (Part 6). If size of the bar code does not allow a label to be directly attached, then a tag may be used. Any difficulties over size or positioning of barcode markings shall initially be referred to the organisation nominated in Box 3 of DEFFORM 111 at Annex A to Schedule 3 (Contract Data Sheet).
- l. The requirements for the consignment of aggregated packages are as follows:
- (1) With the exception of packages containing Dangerous Goods, over-packing for delivery to the consignee shown in the Contract may be used by the consignor to aggregate a number of packages to different Packaging levels, provided that the package contains Contractor Deliverables of only one NSN or class group. Over-packing shall be in the cheapest commercial form consistent with ease of handling and protection of over-packed items.
  - (2) Two adjacent sides of the outer container shall be clearly marked to show the following:
    - (a) class group number;
    - (b) name and address of consignor;
    - (c) name and address of consignee (as stated on the Contract or Order);
    - (d) destination if it differs from the consignee's address, normally either:
      - i. delivery destination / address; or

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- ii. transit destination, if the delivery address is a point of aggregation / disaggregation and / or onward shipment e.g. railway station, where that mode of transport is used;
  - (e) where applicable, the reference number of the delivery note produced by CP&F relating to the contents. The consignee's copy of each delivery note shall be placed in the case / container. If the Contractor Deliverables listed in the delivery note are packed in several cases, the consignee's copy shall be placed in the first case and a separate list detailing the contents shall be prepared for each case after the first and placed in the case to which it relates. Each case is to be numbered to indicate both the number of the case and the total number of cases concerned e.g. 1/3, 2/3, 3/3;
  - (f) the CP&F-generated shipping label; and
  - (g) any statutory hazard markings and any handling markings.
- m. Authorisation of the Contractor to undertake Packaging design, or to use a packaging design, that was not part of the original requirement under the Contract, shall be considered as an alteration to the specification in accordance with condition 7 (Variations to Specification).
- n. The Contractor shall ensure that timber and wood-containing products supplied under the Contract comply with the provisions of condition 25 (Timber and Wood-Derived Products) and Annex I and Annex II of the International Standards for Phytosanitary Measures, "Guidelines for Regulating Wood Packaging Material in International Trade", Publication No 15 (ISPM 15).
- o. All Packaging shall meet the requirements of the Packaging (Essential Requirements) Regulations 2003 (as amended) where applicable.
- p. In any design work the Contractor shall comply with the Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (as amended) or equivalent legislation. Evidence of compliance shall be a contractor record in accordance with condition 18 (Contractor's Records).
- q. This Condition is concerned with the supply of Packaging suitable to protect and ease handling, transport and storage of specified items. Where there is a failure of suitable Packaging (a design failure), or Packaging fails and this is attributed to the Packaging supplier, then the supplier shall be liable for the cost of replacing the Packaging.
- r. Liability for other losses resulting from Packaging failure or resulting from damage to Packaging, (such as damage to the packaged item etc.), shall be specified elsewhere in the Contract.
- s. General requirements for service Packaging, including details of UK and NATO MLP and Commercial Packaging descriptions, are contained in Def Stan 81-041 (Part 1) "Packaging of Defence Materiel". Def Stans, NATO Standardisation Agreements (STANAGs), and further information are available from the DStan internet site at: <https://www.dstan.mod.uk/>
- t. Unless specifically stated otherwise in the invitation to tender or the Contract, reference to any standard including Def Stans or STANAGs in any invitation to tender or Contract document means the edition and all amendments extant at the date of such tender or Contract.

u. In the event of conflict between the Contract and Def Stan 81-041, the Contract shall take precedence.

24. Supply of Hazardous Materials or Substances in Contractor Deliverables

a. The Contractor shall provide to the Authority:

(1) for each hazardous material or substance supplied, a Safety Data Sheet (SDS) in accordance with the extant Chemicals (Hazard Information and Packaging for Supply) Regulations (CHIP) and / or the Classification, Labelling and Packaging (CLP) Regulation 1272/2008 (whichever is applicable), and

(2) for each Contractor Deliverable containing hazardous materials or substances, safety information as required by the Health and Safety at Work, etc Act 1974, at the time of supply.

Nothing in this Condition shall reduce or limit any statutory duty or legal obligation of the Authority or the Contractor.

b. If the Contractor Deliverable contains hazardous materials or substances, or is a substance falling within the scope of the REACH Regulation (EC) No 1907/2006:

(1) the Contractor shall provide to the Authority an SDS for the substance in accordance with the Regulation. If the Contractor becomes aware of new information which may affect the risk management measures or new information on the hazard, the Contractor shall update the SDS and forward it to the Authority and to the address listed in clause 24.h below, and

(2) the Authority, if it becomes aware of new information regarding the hazardous properties of the substance, or any other information that might call into question the appropriateness of the risk management measures identified in the SDS supplied, shall report this information in writing to the Contractor.

c. If the Contractor is required, under, or in connection with the contract, to supply Contractor Deliverables or components of Contractor Deliverables that, in the course of their use, maintenance, disposal, or in the event of an accident, may release hazardous materials or substances, they shall provide to the Authority a list of those hazardous materials or substances, and for each hazardous material or substance listed, provide an SDS.

d. The Contractor shall provide to the Authority a completed Schedule 6 (Hazardous Contractor Deliverables, Materials or Substances Supplied under the Contract: Data Requirements) in accordance with Schedule 3 (Contract Data Sheet).

e. If the Contractor Deliverables, materials or substances are ordnance, munitions or explosives, in addition to the requirements of CHIP and / or the CLP Regulation 1272/2008 (whichever is applicable) and REACH the Contractor shall comply with hazard reporting requirements of DEF STAN 07-085 Design Requirements for Weapons and Associated Systems.

f. If the Contractor Deliverables, materials or substances are or contain or embody a radioactive substance as defined in the Ionising Radiation Regulations SI 1999/3232, the Contractor shall additionally provide details of:

(1) activity;

(2) the substance and form (including any isotope);

g. If the Contractor Deliverables, materials or substances have magnetic properties, the Contractor shall additionally provide details of the magnetic flux density at a defined distance, for the condition in which it is packed.

h. Any SDS to be provided in accordance with this Condition, including any related information to be supplied in compliance with the Contractor's statutory duties under Clause 24.a, any information arising from the provisions of Clauses 24.e, 24.f and 24.g and the completed Schedule 6, shall be sent directly to the Authority's Representative (Commercial) as soon as practicable, and no later than one (1) month prior to the Contract delivery date, unless otherwise stated in Schedule 3 (Contract Data Sheet). In addition, so that the safety information can reach users without delay, a copy shall be sent preferably as an email with attachment(s) in Adobe PDF or MS WORD format, or, if only hardcopy is available, to the addresses below:

(1) Hard copies to be sent to:

Hazardous Stores Information System (HSIS)

Defence Safety Authority (DSA)

Movement Transport Safety Regulator (MTSR)

Hazel Building Level 1, #H019

MOD Abbey Wood (North)

Bristol, BS34 8QW

(2) Emails to be sent to:

DSA-DLSR-MovTpt-DGHSIS@mod.uk

i. Failure by the Contractor to comply with the requirements of this Condition shall be grounds for rejecting the affected Contractor Deliverables. Any withholding of information concerning hazardous Contractor Deliverables, materials or substances shall be regarded as a material breach of Contract under Condition 43 (Material Breach) for which the Authority reserves the right to require the Contractor to rectify the breach immediately at no additional cost to the Authority or to terminate the Contract in accordance with Condition 43.

## 25. Timber and Wood-Derived Products

a. All Timber and Wood-Derived Products supplied by the Contractor under the Contract:

(1) shall comply with the Contract Specification; and

(2) must originate either:

(a) from a Legal and Sustainable source; or

(b) from a FLEGT-licensed or equivalent source.

b. In addition to the requirements of clause 25.a, all Timber and Wood-Derived Products supplied by the Contractor under the Contract shall originate from a forest source where management of the forest has full regard for:

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- (1) identification, documentation and respect of legal, customary and traditional tenure and use rights related to the forest;
  - (2) mechanisms for resolving grievances and disputes including those relating to tenure and use rights, to forest management practices and to work conditions; and
  - (3) safeguarding the basic labour rights and health and safety of forest workers.
- c. If requested by the Authority, the Contractor shall provide to the Authority Evidence that the Timber and Wood-Derived Products supplied to the Authority under the Contract comply with the requirements of clause 25.a or 25.b or both.
- d. The Authority reserves the right at any time during the execution of the Contract and for a period of five (5) years from final Delivery under the Contract to require the Contractor to produce the Evidence required for the Authority's inspection within fourteen (14) days of the Authority's request.
- e. If the Contractor has already provided the Authority with the Evidence required under clause 25.c, the Contractor may satisfy these requirements by giving details of the previous notification and confirming the Evidence remains valid and satisfies the provisions of clauses 25.a or 25.b or both.
- f. The Contractor shall maintain records of all Timber and Wood-Derived Products delivered to and accepted by the Authority, in accordance with condition 18 (Contractor's Records).
- g. Notwithstanding clause 25.c, if exceptional circumstances render it strictly impractical for the Contractor to record Evidence of proof of timber origin for previously used Recycled Timber, the Contractor shall support the use of this Recycled Timber with:
- (1) a record tracing the Recycled Timber to its previous end use as a standalone object or as part of a structure; and
  - (2) an explanation of the circumstances that rendered it impractical to record Evidence of proof of timber origin.
- h. The Authority may disclose the Information:
- (1) The Authority reserves the right to decide, except where in the Authority's opinion the timber supplied is incidental to the requirement and from a low risk source, whether the Evidence submitted to it demonstrates compliance with clause 25.a or 25.b, or both. In the event that the Authority is not satisfied, the Contractor shall commission and meet the costs of an Independent Verification and resulting report that will:
    - (2) verify the forest source of the timber or wood; and
    - (3) assess whether the source meets the relevant criteria of clause 25.b.
- i. The statistical reporting requirement at clause 25.j applies to all Timber and Wood-Derived Products delivered under the Contract. The Authority reserves the right to amend the requirement for statistical reporting, in the event that the UK Government changes the requirement for reporting compliance with the Government Timber Procurement Policy. Amendments to the statistical reporting requirement will be made in accordance with condition 6 (Amendments to Contract).

j. The Contractor shall provide to the Authority, a completed Schedule 7 (Timber and Wood-Derived Products Supplied under the Contract: Data Requirements), the data or Information the Authority requires in respect of Timber and Wood-Derived Products delivered to the Authority under the Contract, or in respect of each Order in the case of a Framework Agreement, or at such other frequency as stated in the Contract. The Contractor shall send all completed Schedule 7s (Timber and Wood-Derived Products Supplied under the Contract: Data Requirements), including Nil Returns where appropriate, to the Authority's Representative (Commercial).

k. The Schedule 7 (Timber and Wood-Derived Products Supplied under the Contract: Data Requirements) may be amended by the Authority from time to time, in accordance with condition 6 (Amendments to Contract).

l. The Contractor shall obtain any wood, other than processed wood, used in Packaging from:

(1) companies that have a full registered status under the Forestry Commission and Timber Packaging and Pallet Confederation's UK Wood Packaging Material Marking Programme (more detailed information can be accessed at [www.forestry.gov.uk](http://www.forestry.gov.uk)) and all such wood shall be treated for the elimination of raw wood pests and marked in accordance with that Programme; or

(2) sources supplying wood treated and marked so as to conform to Annex I and Annex II of the International Standard for Phytosanitary Measures, "Guidelines for Regulating Wood Packaging Material in International Trade", Publication No 15 published by the Food and Agricultural Organisation of the United Nations (ISPM15) (more detailed information can be accessed at [www.fao.org](http://www.fao.org)).

## 26. Certificate of Conformity

a. Where required in Schedule 3 (Contract Data Sheet) the Contractor shall provide a Certificate of Conformity (CofC) in accordance with Schedule 2 (Schedule of Requirements) and any applicable Quality Plan. One copy of the CofC shall be sent to the Authority's Representative (Commercial) upon Delivery, and one copy shall be provided to the Consignee upon Delivery.

b. The Contractor shall consider the CofC to be a record in accordance with condition 18 (Contractor's Records).

c. The Information provided on the CofC shall include:

- (1) Contractor's name and address;
- (2) Contractor unique CofC number;
- (3) Contract number and where applicable Contract amendment number;
- (4) details of any approved concessions;
- (5) acquirer name and organisation;
- (6) Delivery address;
- (7) Contract Item Number from Schedule 2 (Schedule of Requirements);

- (8) description of Contractor Deliverable, including part number, specification and configuration status;
- (9) identification marks, batch and serial numbers in accordance with the Specification;
- (10) quantities;
- (11) a signed and dated statement by the Contractor that the Contractor Deliverables comply with the requirements of the Contract and approved concessions.

Exceptions or additions to the above are to be documented.

d. Where Schedule 2 (Schedule of Requirements) and any applicable Quality Plan require demonstration of traceability and design provenance through the supply chain the Contractor shall include in any relevant subcontract the requirement for the Information called for at clause 26.c. The Contractor shall ensure that this Information is available to the Authority through the supply chain upon request in accordance with condition 18 (Contractor Records).

## 27. Access to Contractor's Premises

- a. The Contractor shall provide to the Authority's Representatives following reasonable Notice, relevant accommodation/facilities, at no direct cost to the Authority, and all reasonable access to its premises for the purpose of monitoring the Contractor's progress and quality standards in performing the Contract.
- b. As far as reasonably practical, the Contractor shall ensure that the provisions of clause 1 are included in their subcontracts with those suppliers identified in the Contract. The Authority, through the Contractor, shall arrange access to such subcontractors.

## 28. Delivery / Collection

- a. Schedule 3 (Contract Data Sheet) shall specify whether the Contractor Deliverables are to be Delivered to the Consignee by the Contractor or Collected from the Consignor by the Authority.
- b. Where the Contractor Deliverables are to be Delivered by the Contractor (or a third party acting on behalf of the Contractor), the Contractor shall, unless otherwise stated in writing:
  - (1) contact the Authority's Representative as detailed in Schedule 3 (Contract Data Sheet) in advance of the Delivery Date in order to agree administrative arrangements for Delivery and provide any Information pertinent to Delivery requested;
  - (2) comply with any special instructions for arranging Delivery in Schedule 3 (Contract Data Sheet);
  - (3) ensure that each consignment of the Contractor Deliverables is accompanied by, (as specified in Schedule 3 (Contract Data Sheet)), a DEFFORM 129J in accordance with the instructions;
  - (4) be responsible for all costs of Delivery; and

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(5) Deliver the Contractor Deliverables to the Consignee at the address stated in Schedule 2 (Schedule of Requirements) by the Delivery Date between the hours agreed by the Parties.

c. Where the Contractor Deliverables are to be Collected by the Authority (or a third party acting on behalf of the Authority), the Contractor shall, unless otherwise stated in writing:

(1) contact the Authority's Representative (Transport) as detailed in box 10 of DEFFORM 111 at Annex A to Schedule 3 (Contract Data Sheet) in advance of the Delivery Date in order to agree specific arrangements for Collection and provide any Information pertinent to the Collection requested;

(2) comply with any special instructions for arranging Collection in Schedule 3 (Contract Data Sheet);

(3) ensure that each consignment of the Contractor Deliverables is accompanied by, (as specified in Schedule 3 (Contract Data Sheet)), a DEFFORM 129J in accordance with the instructions;

(4) ensure that the Contractor Deliverables are available for Collection by the Authority from the Consignor (as specified in Schedule 3 (Contract Data Sheet)) by the Delivery Date between the hours agreed by the Parties; and

(5) in the case of Overseas consignments, ensure that the Contractor Deliverables are accompanied by the necessary transit documentation. All Customs clearance shall be the responsibility of the Authority's Representative (Transport).

d. Title and risk in the Contractor Deliverables shall only pass from the Contractor to the Authority:

(1) on the Delivery of the Contractor Deliverables by the Contractor to the Consignee in accordance with clause 28.b; or

(2) on the Collection of the Contractor Deliverables from the Consignor by the Authority once they have been made available for Collection by the Contractor in accordance with clause 28.c.

## 29. Acceptance

a. Acceptance of the Contractor Deliverables shall occur in accordance with any acceptance procedure specified in Schedule 8 (Acceptance Procedure). If no acceptance procedure is so specified acceptance shall occur when either:

(1) the Authority does any act in relation to the Contractor Deliverable which is inconsistent with the Contractor's ownership; or

(2) the time limit in which to reject the Contractor Deliverables defined in clause 30.b has elapsed.

## 30. Rejection

a. If any of the Contractor Deliverables Delivered to the Authority do not conform to the Specification or any other terms of this Contract, then (without limiting any other right or

remedy that the Authority may have) the Authority may reject the Contractor Deliverables (in whole or in part). The Authority shall return these Contractor Deliverables to the Contractor at the Contractor's risk and cost.

b. Rejection of any of the Contractor Deliverables under clause 30.a shall take place by the time limit for rejection specified in Schedule 3 (Contract Data Sheet), or if no such period is specified within thirty (30) Business Days.

### 31. Diversion Orders

a. The Authority shall notify the Contractor at the earliest practicable opportunity if it becomes aware that a Contractor Deliverable is likely to be subject to a Diversion Order.

b. The Authority may issue a Diversion Order for the urgent delivery of the Contractor Deliverables identified in it. These Contractor Deliverables are to be delivered by the Contractor using the quickest means available as agreed by the Authority.

c. The Authority reserves the right to cancel the Diversion Order.

d. If the terms of the Diversion Order are unclear, the Contractor shall immediately contact the Representative of the Authority who issued it for clarification and/or further instruction.

e. If the Diversion Order increases the quantity of Contractor Deliverables beyond the scope of the Contract, it is to be returned immediately to the Authority's Commercial Officer with an appropriate explanation.

f. The Contractor shall be entitled to reasonable additional delivery and packaging costs incurred in complying with the Diversion Order or cancellation. Claims are to be submitted by the Contractor to the Authority's Commercial Officer together with applicable receipts and agreed as an amendment to the Contract in accordance with condition 6 (Amendments to Contract). The Contractor shall comply with the requirements of the Diversion Order upon receipt of the Diversion Order.

### 32. Self-to-Self Delivery

Where it is stated in Schedule 3 (Contract Data Sheet) that any Contractor Deliverable is to be Delivered by the Contractor to its own premises, or to those of a Subcontractor ('self-to-self delivery'), the risk in such a Contractor Deliverable shall remain vested in the Contractor until such time as it is handed over to the Authority.

## LICENCES AND INTELLECTUAL PROPERTY

### 33. Import and Export Licences

a. If, in the performance of the Contract, the Contractor needs to import into the UK or export out of the UK anything not supplied by or on behalf of the Authority and for which a UK import or export licence is required, the responsibility for applying for the licence shall rest with the Contractor. The Authority shall provide the Contractor with sufficient

information, certification, documentation and other reasonable assistance in obtaining any necessary UK import or export licence.

b. When an export licence or import licence or authorisation either singularly or in combination is required from a foreign government for the performance of the Contract, the Contractor shall as soon as reasonably practicable consult with the Authority on the licence requirements. Where the Contractor is the applicant for the licence or authorisation the Contractor shall:

(1) ensure that when end use or end user restrictions, or both, apply to all or part of any Contractor Deliverable (which for the purposes of this Condition shall also include information, technical data and software), the Contractor, unless otherwise agreed with the Authority, shall identify in the application:

(a) the end user as: Her Britannic Majesty's Government of the United Kingdom of Great Britain and Northern Ireland (hereinafter "HM Government"); and

(b) the end use as: For the Purposes of HM Government; and

(2) include in the submission for the licence or authorisation a statement that "information on the status of processing this application may be shared with the Ministry of Defence of the United Kingdom".

c. If the Contractor or any subcontractor in the performance of the Contract needs to export materiel not previously supplied by or on behalf of the Authority for which an export licence or import licence or authorisation from a foreign government is required, the responsibility for instituting expeditious action to apply for and obtain the licence shall rest with the Contractor or that subcontractor. For the purposes of this Condition materiel shall mean information, technical data and items, including Contractor Deliverables, components of Contractor Deliverables and software.

d. Where the Contract performance requires the export of materiel for which a foreign export licence or import licence or authorisation is required, the Contractor shall include the dependencies for the export licence or import licence or authorisation application, grant and maintenance in the Contract risk register and in the risk management plan for the Contract, with appropriate review points. Where there is no requirement under the Contract for a risk management plan the Contractor shall submit this information to the Authority's representative.

e. During the term of the Contract and for a period of up to 2 years from completion of the Contract, the Authority may make a written request to the Contractor to seek a variation to the conditions to a foreign export licence or import licence or authorisation to enable the Authority to re-export or re-transfer a licensed or authorised item or licensed or authorised information from the UK to a non-licensed or unauthorised third party. If the Authority makes such a request it will consult with the Contractor before making a determination of whether the Authority or the Contractor is best placed in all the circumstance to make the request. Where, subsequent to such consultation the Authority notifies the Contractor that the Contractor is best placed to make such request:

(1) the Contractor shall, or procure that the Contractor's subcontractor shall, expeditiously consider whether or not there is any reason why it should object to making the request and, where it has no objection, file an application to seek a variation of the applicable export licence or import licence or authorisation in accordance with the procedures of the licensing authority. Where the contractor has an objection, the Parties

shall meet within five (5) working days to resolve the issue and should they fail the matter shall be escalated to an appropriate level within both Parties' organisations, to include their respective export licensing subject matter experts; and

(2) the Authority shall provide sufficient information, certification, documentation and other reasonable assistance as may be necessary to support the application for the requested variation.

f. Where the Authority determines that it is best placed to make such request the Contractor shall provide sufficient information, certification, documentation and other reasonable assistance as may be necessary to support the Authority to make the application for the requested variation.

g. Where the Authority invokes clause 33.e or 33.f the Authority will pay the Contractor a fair and reasonable charge for this service based on the cost of providing it.

h. Where the Contractor subcontracts work under the Contract, which is likely to be subject to foreign export control, import control or both the Contractor shall use reasonable endeavours to incorporate in each subcontract equivalent obligations to those set out in this Condition. Where it is not possible to include equivalent terms to those set out in this Condition, the Contractor shall report that fact and the circumstances to the Authority.

i. Without prejudice to HM Government's position on the validity of any claim by a foreign government to extra-territoriality, the Authority shall provide the Contractor with sufficient information, certification, documentation and other reasonable assistance to facilitate the granting of export licences or import licences or authorisations by a foreign Government in respect of the performance of the Contract.

j. The Authority shall provide such assistance as the Contractor may reasonably require in obtaining any UK export licences necessary for the performance of the Contract.

k. The Contractor shall use reasonable endeavours to identify whether any Contractor Deliverable is subject to:

- (1) a non-UK export licence, authorisation or exemption; or
- (2) any other related transfer or export control,

that imposes or will impose end use, end user or re-transfer or re-export restrictions, or restrictions on disclosure to individuals based upon their nationality. This does not include the Intellectual Property-specific restrictions of the type referred to in condition 34 (Third Party Intellectual Property – Rights and Restrictions).

l. If at any time during the term of the Contract the Contractor becomes aware that all or any part of the Contractor Deliverables are subject to Clause 33.k(1) or 33.k(2), it shall notify the Authority of this as soon as reasonably practicable by providing details in the DEFFORM 528 or other mutually agreed alternative format. Such notification shall be no later than thirty (30) days of knowledge of any affected Contractor Deliverable and in any event such notification shall be not less than thirty (30) days prior to delivery of the Contractor Deliverables.

m. If the information to be provided under Clause 33.l has been provided previously to the Authority by the Contractor under the Contract, the Contractor may satisfy these requirements by giving details of the previous notification and confirming they remain valid and satisfy the provisions of Clause 33.l.

- n. During the term of the Contract, the Contractor shall notify the Authority as soon as reasonably practicable of any changes in the information notified previously under clauses 33.l or 33.m of which it becomes or is aware that would affect the Authority's ability to use, disclose, re-transfer or re-export an item or part of it as is referred to in those Clauses by issuing an updated DEFFORM 528 to the Authority.
- o. For a period of up to 2 years from completion of the Contract and in response to a specific request by the Authority, the Contractor shall notify the Authority as soon as reasonably practicable of any changes in the information notified previously under Clause 33.l or 33.m of which it becomes aware that would affect the Authority's ability to use, disclose, re-transfer or re-export an item or part of it as is referred to in those Clauses by issuing an updated DEFFORM 528 to the Authority.
- p. Where following receipt of materiel from a subcontractor or any of its other suppliers restrictions are notified to the Contractor by that subcontractor, supplier or other third party or are identified by the Contractor, the Contractor shall immediately inform the Authority by issuing an updated DEFFORM 528. Within days of such notification, the Contractor shall propose to the Authority actions to mitigate the impact of such restrictions. Such proposals may include, where appropriate, mutually supported attempts to obtain removal or modification to the restrictions or to obtain appropriate authorisations from the relevant foreign government. The Authority shall notify the contractor within days of receipt of a proposal whether it is acceptable and where appropriate the Contract shall be modified in accordance with its terms to implement the proposal.
- q. If the restrictions prevent the Contractor from performing its obligations under the Contract and have not been removed, modified or otherwise satisfactorily managed within a reasonable time, the Authority may at its absolute discretion elect to amend the contract in accordance with condition 6 or 7 or as otherwise may be provided by the Contract, or to terminate the Contract. Except as set out in clause 33.r, in the event of termination in these circumstances termination shall be on fair and reasonable terms having regard to all the circumstances including payments already made and that would otherwise be due under the Contract, costs incurred by the Contractor and benefits received by the Authority. The Parties, acting in good faith, will use all reasonable endeavours to agree such fair and reasonable terms failing which either Party may refer the matter to dispute resolution in accordance with the provisions in the Contract.
- r. In the event that the restrictions notified to the Authority pursuant to Clause 33.l were known or ought reasonably have been known by the Contractor (but were not disclosed) at contract award or if restrictions notified to the Authority pursuant to clauses 33.n or 33.p were known or ought reasonably to have been known by the Contractor at the date of submission of the most recent DEFFORM 528 submitted to the Authority in accordance with Clause 33.l, termination under Clause 33.q will be in accordance with condition 43 (Material Breach) and the provisions of clause 33.v will not apply.
- s. The Authority shall use reasonable endeavours to identify any export control restrictions applying to materiel to be provided to the Contractor as Government Furnished Assets (GFA). Where the Authority is to provide materiel necessary to enable the Contractor to perform the Contract or in respect of which the Services are to be provided, and that materiel is subject to a non-UK export licence, authorisation, exemption or other related transfer or export control as described in the provisions of Clause 33.k, the Authority shall provide a completed DEFFORM 528 or will provide a new or updated DEFFORM 528 to the Contractor within thirty (30) days of the date of knowledge and in any case not later than thirty (30) days prior to the delivery of such materiel to the Contractor.

t. In the event that the Authority becomes aware that the DEFFORM 528 disclosure was incomplete or inaccurate or in the event additional such material is identified then the Authority shall provide, as soon as reasonably practicable a new or revised DEFFORM 528. In the event that the Authority becomes aware that a prior disclosure included in DEFFORM 528 submitted to the Contractor was incomplete or inaccurate less than thirty (30) days prior to the delivery to the Contractor of any material to which the updated or new disclosure relates, the Parties will meet as soon as reasonably practicable to discuss how to mitigate the impact of the incomplete or inaccurate disclosure.

u. Where:

(1) restrictions are advised by the Authority to the Contractor in a DEFFORM 528 provided pursuant to Clauses 33.s or 33.t or both; or

(2) any of the information provided by the Authority in any DEFFORM 528 proves to be incorrect or inaccurate;

the Authority and the Contractor shall act promptly to mitigate the impact of such restrictions or incorrect or inaccurate information. Such mitigation shall include, where appropriate, mutually supported attempts to obtain removal or modification to the restrictions or to obtain appropriate authorisations from the relevant foreign government. If the restrictions or incorrect or inaccurate information adversely affect the ability of the Contractor to perform its obligations under the Contract, the matter shall be handled under the terms of condition 6 (Amendments to Contract) or condition 7 (Variations to Specification) or as may otherwise be provided by the Contract as appropriate and if no alternative solution satisfies the essential terms of the Contract and the restrictions have not been removed, modified or otherwise satisfactorily managed within a reasonable time the Authority may terminate the Contract. Termination under these circumstances will be under the terms of condition 42 (Termination for Convenience) and as referenced in the Contract.

v. Pending agreement of any amendment of the Contract as set out in clause 33.q or 33.u, provided the Contractor takes such steps as are reasonable to mitigate the impact, the Contractor shall be relieved from its obligations to perform those elements of the Contract directly affected by the restrictions or provision of incorrect or incomplete information.

#### 34. Third Party Intellectual Property – Rights and Restrictions

a. The Contractor and, where applicable any Subcontractor, shall promptly notify the Authority as soon as they become aware of:

(1) any invention or design the subject of patent or registered Design Rights (or application thereof) owned by a third party which appears to be relevant to the performance of the Contract or to use by the Authority of anything required to be done or delivered under the Contract;

(2) any restriction as to disclosure or use, or obligation to make payments in respect of any other intellectual property (including technical Information) required for the purposes of the Contract or subsequent use by the Authority of anything delivered under the Contract and, where appropriate, the notification shall include such Information as is required by Section 2 of the Defence Contracts Act 1958;

(3) any allegation of infringement of intellectual property rights made against the Contractor and which pertains to the performance of the Contract or subsequent use by the Authority of anything required to be done or delivered under the Contract.

Clause 34.a does not apply in respect of Contractor Deliverables normally available from the Contractor as a Commercial Off The Shelf (COTS) item or service.

b. If the Information required under clause 34.a has been notified previously, the Contractor may meet its obligations by giving details of the previous notification.

c. For COTS Contractor Deliverables patents and registered designs in the UK, in respect of any question arising (by way of an allegation made to the Authority or Contractor, or otherwise) that the manufacture or provision under the Contract of Contractor Deliverables normally available from the Contractor as a COTS item or service is an infringement of a UK patent or registered design not owned or controlled by the Contractor or the Authority, the Contractor shall, subject to the agreement of the third party owning such patent or registered design, be given exclusive conduct of any and all negotiations for the settlement of any claim or the conduct of any litigation arising out of such question. The Contractor shall indemnify the Authority, its officers, agents and employees against any liability and cost arising from such allegation. This condition shall not apply if:

(1) the Authority has made or makes an admission of any sort relevant to such question;

(2) the Authority has entered or enters into any discussions on such question with any third party without the prior written agreement of the Contractor;

(3) the Authority has entered or enters into negotiations in respect of any relevant claim for compensation in respect of Crown Use under Section 55 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1977;

(4) legal proceedings have been commenced against the Authority or the Contractor in respect of Crown Use, but only to the extent of such Crown Use that has been properly authorised.

d. The indemnity in clause 34.c does not extend to use by the Authority of anything supplied under the Contract where that use was not reasonably foreseeable at the time of the Contract.

e. In the event that the Authority has entered into negotiation in respect of a claim for compensation, or legal proceedings in respect of the Crown Use have commenced, the Authority shall forthwith authorise the Contractor for the purposes of performing the Contract (but not otherwise) to utilise a relevant invention or design in accordance with Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949 and to use any model, document or information relating to any such invention or design which may be required for that purpose.

f. For all other Contractor Deliverables patents and registered designs in the UK, if a relevant invention or design has been notified to the Authority by the Contractor prior to the Effective Date of Contract, then unless it has been otherwise agreed, under the provisions of Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949, the Contractor is hereby authorised to utilise that invention or design, notwithstanding the fact that it is the subject of a UK Patent or UK Registered Design, for the purpose of performing the Contract.

g. If, under clause 34.a, a relevant invention or design is notified to the Authority by the Contractor after the Effective Date of Contract, then:

(1) if the owner (or its exclusive licensee) takes or threatens in writing to take any relevant action against the Contractor, the Authority shall issue to the Contractor a written authorisation in accordance with the provisions of Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949, and

(2) in any event, unless the Contractor and the Authority can agree an alternative course of action, the Authority shall not unreasonably delay the issue of a written authorisation in accordance with the provisions of Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949.

h. The Authority shall assume all liability and shall indemnify the Contractor, its officers, agents and employees against liability, including the Contractor's costs, as a result of infringement by the Contractor or their suppliers of any patent, utility model, registered design or like protection outside the United Kingdom in the performance of the Contract when such infringement arises from or is incurred by reason of the Contractor following any specification, statement of work or instruction in the Contract or using, keeping or disposing of any item given by the Authority for the purpose of the Contract in accordance with the Contract.

i. The Contractor shall assume all liability and shall indemnify the Authority, its officers, agents and employees against liability, including the Authority's costs, as a result of infringement by the Contractor or their suppliers of any patent, utility model, registered design or like protection outside the UK in the performance of the Contract when such infringement arises from or is incurred otherwise than by reason of the Contractor following any specification, statement of work or instruction in the Contract or using, keeping or disposing of any item given by the Authority for the purpose of the Contract in accordance with the Contract.

j. The Contractor shall not be entitled to any reimbursement of any royalty, licence fee or similar expense incurred in respect of anything to be done under the Contract, where:

(1) a relevant discharge has been given under Section 2 of the Defence Contracts Act 1958, or relevant authorisation in accordance with Sections 55 or 57 of the Patents Act 1977, Section 12 of the Registered Designs Act 1949 or Section 240 of the Copyright, Designs and Patents Act 1988 in respect of any intellectual property; or

(2) any obligation to make payments for intellectual property has not been promptly notified to the Authority under clause 34.a.

k. Where authorisation is given by the Authority under clause 34.e, 34.f or 34.g, to the extent permitted by Section 57 of the Patents Act 1977, Section 12 of the Registered Designs Act 1949 or Section 240 of the Copyright, Designs and Patents Act 1988, the Contractor shall also be:

(1) released from payment whether by way of royalties, licence fees or similar expenses in respect of the Contractor's use of the relevant invention or design, or the use of any relevant model, document or information for the purpose of performing the Contract; and

(2) authorised to use any model, document or information relating to any such invention or design which may be required for that purpose.

l. The Contractor shall assume all liability and indemnify the Authority and its officers, agents and employees against liability, including costs as a result of:

- (1) infringement or alleged infringement by the Contractor or their suppliers of any copyright, database right, Design Right or the like protection in any part of the world in respect of any item to be supplied under the Contract or otherwise in the performance of the Contract;
- (2) misuse of any confidential information, trade secret or the like by the Contractor in performing the Contract;
- (3) provision to the Authority of any Information or material which the Contractor does not have the right to provide for the purpose of the Contract.

m. The Authority shall assume all liability and indemnify the Contractor, its officers, agents and employees against liability, including costs as a result of:

- (1) infringement or alleged infringement by the Contractor or their suppliers of any copyright, database right, Design Right or the like protection in any part of the world in respect of any item provided by the Authority for the purpose of the Contract but only to the extent that the item is used for the purpose of the Contract;
- (2) alleged misuse of any confidential Information, trade secret or the like by the Contractor as a result of use of Information provided by the Authority for the purposes of the Contract, but only to the extent that Contractor's use of that Information is for the purposes intended when it was disclosed by the Authority.

n. The general authorisation and indemnity is:

- (1) clauses 34.a – 34.m represents the total liability of each Party to the other under the Contract in respect of any infringement or alleged infringement of patent or other Intellectual Property Right (IPR) owned by a third party;
- (2) neither Party shall be liable, one to the other, for any consequential loss or damage arising as a result, directly or indirectly, of a claim for infringement or alleged infringement of any patent or other IPR owned by a third party;
- (3) a Party against whom a claim is made or action brought, shall promptly notify the other Party in writing if such claim or action appears to relate to an infringement which is the subject of an indemnity or authorisation given under this Condition by such other Party. The notification shall include particulars of the demands, damages and liabilities claimed or made of which the notifying Party has notice;
- (4) the party benefiting from the indemnity or authorisation shall allow the other Party, at its own expense, to conduct any negotiations for the settlement of the same, and any litigation that may arise therefrom and shall provide such information as the other Party may reasonably require;
- (5) following a notification under clause 34.n(3), the Party notified shall advise the other Party in writing within thirty (30) Business Days whether or not it is assuming conduct of the negotiations or litigation. In that case the Party against whom a claim is made or action brought shall not make any statement which might be prejudicial to the settlement or defence of such a claim without the written consent of the other Party;

(6) the Party conducting negotiations for the settlement of a claim or any related litigation shall, if requested, keep the other Party fully informed of the conduct and progress of such negotiations.

o. If at any time a claim or allegation of infringement arises in respect of copyright, database right, Design Right or breach of confidence as a result of the provision of any Contractor Deliverable by the Contractor to the Authority, the Contractor may at its own expense replace the item with an item of equivalent functionality and performance so as to avoid infringement or breach. The Parties will co-operate with one another to mitigate any claim or damage which may arise from use of third party IPR.

p. Nothing in condition 34 shall be taken as an authorisation or promise of an authorisation under Section 240 of the Copyright, Designs and Patents Act 1988.

## PRICING AND PAYMENT

### 35. Contract Price

a. The Contractor shall provide the Contractor Deliverables to the Authority at the Contract Price. The Contract Price shall be a Firm Price unless otherwise stated in Schedule 3 (Contract Data Sheet).

b. Subject to condition 35.a the Contract Price shall be inclusive of any UK custom and excise or other duty payable. The Contractor shall not make any claim for drawback of UK import duty on any part of the Contract Deliverables supplied which may be for shipment outside of the UK.

### 36. Payment and Recovery of Sums Due

a. Payment for Contractor Deliverables will be made by electronic transfer and prior to submitting any claims for payment under clause 36b the Contractor will be required to register their details (Supplier on-boarding) on the Contracting, Purchasing and Finance (CP&F) electronic procurement tool.

b. Where the Contractor submits an invoice to the Authority in accordance with clause 36a, the Authority will consider and verify that invoice in a timely fashion.

c. The Authority shall pay the Contractor any sums due under such an invoice no later than a period of 30 days from the date on which the Authority has determined that the invoice is valid and undisputed.

d. Where the Authority fails to comply with clause 36a and there is undue delay in considering and verifying the invoice, the invoice shall be regarded as valid and undisputed for the purpose of clause 36c after a reasonable time has passed.

e. The approval for payment of a valid and undisputed invoice by the Authority shall not be construed as acceptance by the Authority of the performance of the Contractor's obligations nor as a waiver of its rights and remedies under this Contract.

f. Without prejudice to any other right or remedy, the Authority reserves the right to set off any amount owing at any time from the Contractor to the Authority against any amount

payable by the Authority to the Contractor under the Contract or under any other contract with the Authority, or with any other Government Department.

37. Value Added Tax

a. The Contract Price excludes any UK output Value Added Tax (VAT) and any similar EU (or non-EU) taxes chargeable on the supply of Contractor Deliverables by the Contractor to the Authority.

b. If the Contractor is required by UK VAT law to be registered for UK VAT (or has registered voluntarily) in respect of his business activities at the time of any supply, and the circumstances of any supply are such that the Contractor is liable to pay the tax due to HM Revenue and Customs (HMRC), the Authority shall pay to the Contractor in addition to the Contract Price (or any other sum due to the Contractor) a sum equal to the output VAT chargeable on the tax value of the supply of Contractor Deliverables, and all other payments under the Contract according to the law at the relevant tax point.

c. The Contractor is responsible for the determination of VAT liability. The Contractor shall consult its Client Relationship Manager or the HMRC Enquiries Desk (and not the Authority's Representative (Commercial)) in cases of doubt. The Contractor shall notify the Authority's Representative (Commercial) of the Authority's VAT liability under the Contract, and any changes to it, within twenty (20) Business Days of becoming aware the liability is other than at the standard rate of VAT. In the event of any doubt about the applicability of the tax in such cases, the Authority may require the Contractor to obtain, and pass to the Authority, a formal ruling from HMRC. The Contractor shall comply promptly with any such requirement. Where the Contractor obtains a ruling from HMRC, it shall supply a copy to the Authority within three (3) Business Days of receiving that ruling unless it proposes to challenge the ruling. Where the Contractor challenges the ruling it shall supply to the Authority a copy of any final decisions issued by HMRC on completion of the challenge within three (3) Business Days of receiving the decision.

d. Where supply of Contractor Deliverables comes within the scope of UK VAT, but the Contractor is not required by UK VAT law to be registered for UK VAT (and has not registered voluntarily), the Authority shall be responsible for assessing and paying over directly to HMRC any UK output VAT due in respect of the Contractor Deliverables. The Contractor shall be responsible for ensuring it takes into account any changes in VAT law regarding registration.

e. Where Contractor Deliverables are deemed to be supplied to the Authority outside the UK, the Contractor may be required by the laws of the country where the supply takes place to register there for EU (or non-EU) turnover or similar tax. In that event, the Authority shall pay to the Contractor in addition to the Contract Price (and any other sum due to the Contractor under the Contract) a sum equal to the tax the Contractor is liable to pay to the tax authorities of the country in question in relation to the Contractor Deliverables within thirty (30) calendar days of a written request for payment of any such sum by the Contractor.

f. In relation to the Contractor Deliverables supplied under the Contract the Authority shall not be required to pay any sum in respect of the Contractor's input VAT (or similar EU or non-EU or both input taxes). However, these input taxes will be allowed where it is established that, despite the Contractor having taken all reasonable steps to recover them, it has not been possible to do so. Where there is any doubt that the Contractor has complied

with this requirement the matter shall be resolved in accordance with condition 40 (Dispute Resolution).

g. Should HMRC decide that the Contractor has incorrectly determined the VAT liability, in accordance with clause 37.b above, the Authority will pay the VAT assessed by HMRC. In the event that HMRC so determines, the Contractor shall pay any interest charged on any assessment or penalties or both directly to HMRC. Such interest or penalties or both shall not be recoverable from the Authority under this Contract or any other contract. The Contractor shall supply the Authority with a copy of all correspondence between HMRC and the Contractor's advisors regarding the VAT assessment within three (3) Business Days of a written request from the Authority for such correspondence.

### 38. Debt Factoring

a. Subject to the Contractor obtaining the prior written consent of the Authority in accordance with condition 11 (Assignment of Contract), the Contractor may assign to a third Party ("the Assignee") the right to receive payment of the Contract Price or any part thereof due to the Contractor under the Contract (including interest which the Authority incurred through late payment under the Late Payment of Commercial Debts (Interest) Act 1998 ("the Act")). Any assignment of the right to receive payment of the Contract Price (or any part thereof) under this condition 38 shall be subject to:

- (1) reduction of any sums in respect of which the Authority exercises its right of recovery under clause 36.f
- (2) all related rights of the Authority under the Contract in relation to the recovery of sums due but unpaid; and
- (3) the Authority receiving notification under both clauses 38.b and 38.c(2).

b. In the event that the Contractor obtains from the Authority the consent to assign the right to receive the Contract Price (or any part thereof) under clause 38.a, the Contractor shall notify the Authority in writing of the assignment and the date upon which the assignment becomes effective.

c. The Contractor shall ensure that the Assignee:

- (1) is made aware of the Authority's continuing rights under clauses 38.a(1) and 38.a(2); and
- (2) notifies the Authority of the Assignee's contact information and bank account details to which the Authority shall make payment, subject to any reduction made by the Authority in accordance with clauses 38.a(1) and 38.a(2).

d. The provisions of condition 36 (Payment and Recovery of Sums Due) shall continue to apply in all other respects after the assignment and shall not be amended without the prior approval of the Authority.

### 39. Subcontracting and Prompt Payment

a. Subcontracting any part of the Contract shall not relieve the Contractor of any of the Contractor's obligations, duties or liabilities under the Contract.

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b. Where the Contractor enters into a Subcontract he shall cause a term to be included in such Subcontract:

- (1) providing that where the Subcontractor submits an invoice to the Contractor, the Contractor will consider and verify that invoice in a timely fashion;
- (2) providing that the Contractor shall pay the Subcontractor any sums due under such an invoice no later than a period of thirty (30) days from the date on which the Contractor has determined that the invoice is valid and undisputed;
- (3) providing that where the Contractor fails to comply with clause 39.b(1) above, and there is an undue delay in considering and verifying the invoice, that the invoice shall be regarded as valid and undisputed for the purposes of clause 39.b(2) after a reasonable time has passed; and
- (4) requiring the counterparty to that Subcontract to include in any Subcontract which it awards, provisions having the same effect as clauses 39.b(1) to 39.b(4).

## TERMINATION

### 40. Dispute Resolution

a. The Parties will attempt in good faith to resolve any dispute or claim arising out of or relating to the Contract through negotiations between the respective representatives of the Parties having authority to settle the matter, which attempts may include the use of any alternative dispute resolution procedure on which the Parties may agree.

b. In the event that the dispute or claim is not resolved pursuant to clause 40.a the dispute shall be referred to arbitration. Unless otherwise agreed in writing by the Parties, the arbitration and this clause 40.b shall be governed by the Arbitration Act 1996. For the purposes of the arbitration, the arbitrator shall have the power to make provisional awards pursuant to Section 39 of the Arbitration Act 1996.

c. For the avoidance of doubt, anything said, done or produced in or in relation to the arbitration process (including any awards) shall be confidential between the Parties, except as may be lawfully required in judicial proceedings relating to the arbitration or otherwise.

### 41. Termination for Insolvency or Corrupt Gifts

Insolvency:

a. 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:

Where the Contractor is an individual or a firm:

- (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

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- (2) the court making an interim order pursuant to Section 252 of the Insolvency Act 1986; or
- (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 his or its creditors; or
- (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
- (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
- (6) where the Contractor is either unable to pay his 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 his debts if:
  - (a) he has 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 him; 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.
- (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
- (8) the court making an award of sequestration in relation to the Contractor's estates.

Where the Contractor is a company registered in England:

- (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
- (10) the court making an administration order in relation to the company; or
- (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
- (12) the company passing a resolution that the company shall be wound-up; or
- (13) the court making an order that the company shall be wound-up; or
- (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 it is subject, are similar in nature or effect to those specified in clauses 41.a(9) to 41.a(14) inclusive above.

b. 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:

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

(1) offer, promise or give to any Crown servant any gift or financial or other advantage of any kind as an inducement or reward;

(a) 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

(b) for showing or not showing favour or disfavour to any person in relation to this or any other Contract with the Crown.

(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 it or on its behalf, or to its knowledge, unless before the Contract is made particulars of any such commission and of the terms and conditions of any such agreement for the payment thereof have been disclosed in writing to the Authority.

d. If the Contractor, its employees, agents or any subcontractor (or anyone acting on its behalf or any of its or 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:

(1) to terminate the Contract and recover from the Contractor the amount of any loss resulting from the termination;

(2) to recover from the Contractor the amount or value of any such gift, consideration or commission; and

(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.

e. In exercising its rights or remedies under this condition, the Authority shall:

(1) act in a reasonable and proportionate manner having regard to such matters as the gravity of, and the identity of the person performing, the prohibited act;

(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 its or their behalf;

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

f. 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.

42. Termination for Convenience

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a. 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 (or such other period as may be stated in Schedule 3 (Contract Data Sheet)). 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.

b. 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:

- (1) not start work on any element of the Contractor Deliverables not yet started;
- (2) complete in accordance with the Contract the provision of any element of the Contractor Deliverables;
- (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;
- (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 clauses 42.b(2) and 42.b(3) of this condition.

c. Where this condition applies (and subject always to the Contractor's compliance with any direction given by the Authority under clause 42.b):

(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;

(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:

- (c) all such unused and undamaged materiel; and
- (d) 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;

(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.

d. The Authority shall (subject to clause 42.e below and to the Contractor's compliance with any direction given by the Authority in clause 42.b 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:

- (1) the Contractor taking all reasonable steps to mitigate such loss; and

(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.

e. 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.

f. The Contractor shall include in any subcontract over £250,000 which it may enter into for the purpose of the Contract, the right to terminate the subcontract under the terms of clauses 42.a to 42.e except that:

(1) the name of the Contractor shall be substituted for the Authority except in clause 42.c(1);

(2) the notice period for termination shall be as specified in the subcontract, or if no period is specified twenty (20) business days; and

(3) the Contractor's right to terminate the subcontract shall not be exercised unless the main Contract, or relevant part, has been terminated by the Authority in accordance with the provisions of this condition 42.

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

#### 43. Material Breach

a. In addition to any other rights and remedies, the Authority shall have the right to terminate the Contract (in whole or in part) with immediate effect by giving written Notice to the Contractor where the Contractor is in material breach of its obligations under the Contract.

b. Where the Authority has terminated the Contract under clause 43.a 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:

(1) carrying out any work that may be required to make the Contractor Deliverables comply with the Contract; or

(2) obtaining the Contractor Deliverable in substitution from another supplier.

#### 44. Consequences of Termination

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.

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**45 Project specific DEFCONs and DEFCON SC variants that apply to this contract**

DEFCON 076 (SC2)

DEFCON 076 (SC2) (Edn. 11/17) - Contractor's Personnel at Government Establishments

For the purposes of this Contract, the Contractor's liability under Clause 3 of DEFCON 76 (Edn 11/17) shall either be limited to £5M five million pounds per incident or it shall be uncapped as agreed between the parties.

DEFCON 127

DEFCON 127 (Edn. 12/14) - Price Fixing Condition for Contracts of Lesser Value

DEFCON 524A

DEFCON 524A (Edn. 02/20) – Counterfeit Materiel

DEFCON 601 (SC)

DEFCON 601 (SC) (Edn. 03/15) - Redundant Material

DEFCON 611 (SC2)

DEFCON 611 (SC2) (Edn. 02/16) - Issued Property

DEFCON 630 (SC2)

DEFCON 630 (SC2) (Edn. 11/17) - Framework Agreements

DEFCON 637 (SC2)

DEFCON 637 (SC2) (Edn. 05/17) - Defect Investigation And Liability

DEFCON 649 (SC2)

DEFCON 649 (SC2) (Edn. 11/17) - Vesting

DEFCON 658 (SC2)

DEFCON 658 (SC2) (Edn. 11/17) - Cyber

DEFCON 658 - Cyber Risk Profile - Moderate

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Note: Further to DEFCON 658 the Cyber Risk Profile of the Contract is Moderate, as defined in Def Stan 05-138. The unique reference number is RAR-DE9YFUTX.

DEFCON 660

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

DEFCON 694 (SC2)

DEFCON 694 (SC2) (Edn. 08/18) - Accounting For Property of the Authority

**General Conditions**

45.1. DEFCON 532B

DEFCON 532B (Edn. 05/18) - Protection Of Personal (Where Personal Data is being processed on behalf of the Authority) Data

DEFFORM 532

Personal Data Particulars

DEFFORM 532

Edn 10/19

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

Data Controller	The Data Controller is the Secretary of State for Defence (the Authority).  The Personal Data will be provided by:  P3M Project Team
Data Processor	The Data Processor is the Contractor.  The Personal Data will be processed at:  [insert location(s), address and contact details]
Data Subjects	The Personal Data to be processed under the Contract concern the following Data Subjects or categories of Data Subjects: [please specify]  [Examples include: Staff (including volunteers, agents, and temporary workers), customers/ clients, suppliers, patients, students / pupils, members of the public, users of a particular website etc]
Categories of Data	The Personal Data to be processed under the Contract concern the following categories of data: [please specify]  [Examples include name, address, telephone number, medical records etc]
Special Categories of data (if appropriate)	The Personal Data to be processed under the Contract concern the following Special Categories of data: [A Special Category of Personal Data is anything that reveals racial or ethnic origin, political

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	opinions, religious or philosophical beliefs, trade union membership, sex life or sexual orientation or genetic or biometric data]
Subject matter of the processing	The processing activities to be performed under the contract are as follows: [please specify]  [This should be a high-level, short description of what processing will be taking place and its overall outcome i.e. its subject matter]
Nature and the purposes of the Processing	The Personal Data to be processed under the Contract will be processed as follows: [please specify]  [The nature of the processing means any operation such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether by automated means or not) etc. The purpose might include: employment processing, statutory obligation, recruitment assessment etc]
Technical and organisational measures	The following technical and organisational measures to safeguard the Personal Data are required for the performance of this Contract: [please specify]  [Provide an overview of the measures described in the System Requirements, Statement of Work and/or the controls required in accordance with the Cyber Risk Profile relevant to the Contract, as detailed in Annex A to Def Stan 05-138. Examples include anonymisation, authorised access, data processed on closed/restricted systems]
Instructions for disposal of Personal Data	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): [please specify]  [Describe how long the data will be retained for and how it will be returned or destroyed]
Date from which Personal Data is to be processed	Where the date from which the Personal Data will be processed is different from the Contract commencement date this should be specified here: [please specify if applicable]

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

## 45.2 Intellectual Property Rights

### 45.2.1 Allocation of title to IPR

#### 45.2.1.1 Save as expressly granted elsewhere under this Contract:

(a) the Authority shall not acquire any right, title or interest in or to the Intellectual Property Rights of the Contractor or his licensors, including:

- (i) in the Contractor Software;
- (ii) the Contractor Background IPR;
- iii) in the Third Party Software;
- (iv) the Third Party IPR;
- (v) in the Specially Written Software; and
- (vi) the Project Specific IPR.

(b) the Contractor shall not acquire any right, title or interest in or to the Intellectual Property Rights of the Authority or its licensors, including the:

- (i) Authority Software;
- (ii) Authority Background IPR; and
- (iii) Authority Data.

45.2.1.2 Where either Party acquires, by operation of Law, title to Intellectual Property Rights that is inconsistent with the allocation of title set out in Clause 45.2.1, it shall assign in writing such Intellectual Property Rights as it has acquired to the other Party on the request of the other Party (whenever made).

45.2.1.3 Neither Party shall have any right to use any of the other Party's names, logos or trade marks on any of its products or services without the other Party's prior written consent.

### 45.2.2 Licences granted by the Contractor: Specially Written Software and Project Specific IPR

45.2.2.1 The Contractor hereby grants to the Authority, or shall procure the direct grant to the Authority of, a perpetual, royalty-free, irrevocable, non-exclusive licence to use:

(a) the Documentation, Source Code and the Object Code of the Specially Written Software (including any Contractor Background IPR or Third Party IPR that are embedded in or which are an integral part of the Specially Written Software) which shall include the right to load, execute, interpret, store, transmit, display, copy (for the purposes of loading, execution,

interpretation, storage, transmission or display), modify, adapt, enhance, reverse compile, decode and translate such Specially Written Software;

(b) all build instructions, test instructions, test scripts, test data, operating instructions and other documents and tools necessary for maintaining and supporting the Specially Written Software (together the Software Supporting Materials); and

(c) the Project Specific IPR including but not limited to the right to copy, adapt, publish (including on the ICT Environment) and distribute such Project Specific IPR.

45.2.2.2 The Contractor shall:

(a) inform the Authority of all Specially Written Software that constitutes a modification or enhancement to Contractor Software or Third Party Software; and

(b) deliver to the Authority the Specially Written Software in both Source Code and Object Code forms together with relevant Documentation and all related Software Supporting Materials within seven days of completion or, if a relevant Milestone has been identified in an Implementation Plan, Achievement of that Milestone and shall provide updates of the Source Code and of the Software Supporting Materials promptly following each new release of the Specially Written Software, in each case on media that is reasonably acceptable to the Authority.

45.2.2.3 The Contractor acknowledges and agrees that the ownership of the media referred to in Clause 45.2.2.2(b) shall vest in the Authority upon their receipt by the Authority.

45.2.3 Licences granted by the Contractor: Contractor Software and Contractor Background IPR

45.2.3.1 The Contractor hereby grants to the Authority, for the Contract Period a royalty-free and non-exclusive licence to use:

(a) the Contractor Software for any purpose relating to the Goods and Services (or substantially equivalent Goods and Services) or for any purpose relating to the exercise of the Authority's (or, where the Authority is a Central Government Body, any other Central Government Body's) business or function including but not limited to the right to load, execute, store, transmit, display and copy (for the purposes of archiving, backing-up, loading, execution, storage, transmission or display); and

(b) the Contractor Background IPR for any purpose relating to the Goods and Services (or substantially equivalent Goods and Services) or for any purpose relating to the exercise of the Authority's (or, where the Authority is a Central Government Body, any other Central Government Body's) business or function.

45.2.3.2 At any time during the Contract Period or following the Contract Expiry Date, the Contractor may terminate a licence granted in respect of the Contractor Software or the Contractor Background IPR under Clause 45.2.3.1 by giving thirty (30) days' notice in writing (or such other period as agreed by the Parties) if there is a Clause which constitutes a material breach of the terms of Clauses 45.2.3.1(a) or 45.2.3.1(b) (as the case may be)

which, if the breach is capable of remedy, is not remedied within twenty (20) Working Days after the Contractor gives the Customer written notice specifying the breach and requiring its remedy.

45.2.3.3 In the event the licence of the Contractor Software or the Contractor Background IPR is terminated pursuant to Clause 33.3.2), the Authority shall:

- (a) immediately cease all use of the Contractor Software or the Contractor Background IPR (as the case may be);
- (b) at the discretion of the Contractor, return or destroy documents and other tangible materials that contain any of the Contractor Software and/or the Contractor Background IPR, provided that if the Contractor has not made an election within six (6) months of the termination of the licence, the Authority may destroy the documents and other tangible materials that contain any of the Contractor Software and/or the Contractor Background IPR (as the case may be); and
- (c) ensure, so far as reasonably practicable, that any Contractor Software and/or Contractor Background IPR that are held in electronic, digital or other machine-readable form ceases to be readily accessible (other than by the information technology staff of the Authority) from any computer, word processor, voicemail system or any other device containing such Contractor Software and/or Contractor Background IPR.

#### 45.2.4 Authority's right to sub-license

45.2.4.1 The Authority shall be freely entitled to sub-license the rights granted to it pursuant to Clause 45.2.2.1 (Licences granted by the Contractor: Specially Written Software and Project Specific IPR).

45.2.4.2 The Authority may sub-license:

- (a) the rights granted under Clause 45.2.3.1 (Licences granted by the Contractor: Contractor Software and Contractor Background IPR) to a third party (including for the avoidance of doubt, any Replacement Contractor) provided that:
  - (i) the sub-license is on terms no broader than those granted to the Authority; and
  - (ii) the sub-license only authorises the third party to use the rights licensed in Clause 45.2.3.1 (Licences granted by the Contractor: Contractor Software and Contractor Background IPR) for purposes relating to the Goods and Services (or substantially equivalent Goods and Services) or for any purpose relating to the exercise of the Authority's (or, where the Authority is a Central Government Body, any other Central Government Body's) business or function; and
- (b) the rights granted under Clause 45.2.3.1 (Licences granted by the Contractor: Contractor Software and Contractor Background IPR) to any Approved Sub-Licensee to the extent necessary to use and/or obtain the benefit of the Specifically Written Software and/or the Project Specific IPR provided that the sub-license is on terms no broader than those granted to the Authority.

#### 45.2.5 Authority's right to assign/novate licences

##### 45.2.5.1 The Authority:

(a) shall be freely entitled to assign, novate or otherwise transfer its rights and obligations under the licence granted to it pursuant to Clause 45.2.1 (Licences granted by the Contractor: Specially Written Software and Project Specific IPR); and

(b) may assign, novate or otherwise transfer its rights and obligations under the licence granted pursuant to Clause 45.2.3.1 (Licences granted by the Contractor: Contractor Software and Contractor Background IPR) to:

(i) a Central Government Body; or

(ii) to any public body or any body (including any private sector body) which performs or carries on any of the functions and/or activities that previously had been performed and/or carried on by the Authority.

(c) Where the Authority is a Central Government Body, any change in the legal status of the Authority which means that it ceases to be a Central Government Body shall not affect the validity of any licence granted in Clause 45.2.2.1 (Licences granted by the Contractor: Specially Written Software and Project Specific IPR) and/or Clause 45.2.3.1 (Licences granted by the Contractor: Contractor Software and Contractor Background IPR). If the Authority ceases to be a Central Government Body, the successor body to the Authority shall still be entitled to the benefit of the licences granted in Clause 45.2.2.1 (Licences granted by the Contractor: Specially Written Software and Project Specific IPR) and Clause 45.2.3.1 (Licences granted by the Contractor: Contractor Software and Contractor Background IPR).

(d) If a licence granted in Clause 45.2.2.1 (Licences granted by the Contractor: Specially Written Software and Project Specific IPR) and/or Clause 45.2.3.1 (Licences granted by the Contractor: Contractor Software and Contractor Background IPR) is novated under Clause 45.2.5.1(b) or there is a change of the Authority's status pursuant to Clause 45.2.5.1(c) (both such bodies being referred to as the Transferee), the rights acquired by the Transferee shall not extend beyond those previously enjoyed by the Authority.

#### 45.2.6 Third Party IPR and Third Party Software

45.2.6.1 The Contractor shall procure that the owners or the authorised licensors of any Third Party IPR and any Third Party Software which is not commercial off-the-shelf software or Open Source Software grant a direct licence to the Authority on terms at least equivalent to those set out in Clause 45.2.3.1 (Licences granted by the Contractor: Contractor Software and Contractor Background IPR) and Clause 45.2.5.1(b) (Authority's right to assign/novate licences). If the Contractor cannot obtain for the Authority a licence materially in accordance with the licence terms set out in Clause 45.2.3.1 (Licences granted by the Contractor: Contractor Software and Contractor Background IPR) and Clause 45.2.5.1(b) (Authority's

right to assign/novate licences) in respect of any such Third Party IPR and/or Third Party Software, the Contractor shall:

(a) notify the Authority in writing giving details of what licence terms can be obtained from the relevant third party and whether there are alternative software providers which the Contractor could seek to use; and

(b) only use such Third Party IPR and/or Third Party Software if the Authority approves the terms of the licence from the relevant third party.

45.2.6.2 The Contractor shall procure that the owners or the authorised licensors of any Third Party Software which is commercial off-the-shelf software grants a direct licence to the Authority on terms no less favourable than such software is usually made available and includes these licence terms within the terms of the Contract.

#### 45.2.7 Licence granted by the Authority

45.2.7.1 The Authority hereby grants to the Contractor a royalty-free, non-exclusive, non-transferable licence during the Contract Period to use the Authority Software, the Authority Background IPR and the Authority Data solely to the extent necessary for providing the Goods and Services in accordance with this Contract, including (but not limited to) the right to grant sub-licences to Sub-Contractors provided that:

(a) any relevant Sub-Contractor has entered into a confidentiality undertaking with the Contractor on the same terms as set out in Condition 14. Disclosure of Information; and

(b) the Contractor shall not without Approval use the licensed materials for any other purpose or for the benefit of any person other than the Authority.

#### 45.2.8 Termination of licenses

45.2.8.1 Subject to Clauses 45.2.3.2 and/or 45.2.3.3 (Licences granted by the Contractor: Contractor Software and Contractor Background IPR), all licences granted pursuant to this Clause 45.2 (Intellectual Property Rights) (other than those granted pursuant to Clause 45.2.6.2 (Third Party IPR and Third Party Software) and 45.2.7.1 (Licence granted by the Authority) shall survive the Contract Expiry Date.

45.2.8.2 The Contractor shall, if requested by the Authority in accordance with Schedule 15 Annex B (Exit Plan), grant (or procure the grant) to the Replacement Contractor of a licence to use any Contractor Software, Contractor Background IPR, Third Party IPR and/or Third Party Software on terms equivalent to those set out in Clause 45.2.3.1 (Licences granted by the Contractor: Contractor Software and Supplier Background IPR) subject to the Replacement Contractor entering into reasonable confidentiality undertakings with the Contractor.

45.2.8.3 The licence granted pursuant to Clause 45.2.7.1 (Licence granted by the Authority) and any sub-licence granted by the Contractor in accordance with Clause 45.2.7.1 (Licence

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granted by the Authority) shall terminate automatically on the Contract Expiry Date and the Contractor shall:

(a) immediately cease all use of the Authority Software, the Authority Background IPR and the Authority Data (as the case may be);

(b) at the discretion of the Authority, return or destroy documents and other tangible materials that contain any of the Authority Software, the Authority Background IPR and the Authority Data, provided that if the Authority has not made an election within six months of the termination of the licence, the Contractor may destroy the documents and other tangible materials that contain any of the Authority Software, the Authority Background IPR and the Authority Data (as the case may be); and

(c) ensure, so far as reasonably practicable, that any Authority Software, Authority Background IPR and Authority Data that are held in electronic, digital or other machine-readable form ceases to be readily accessible from any computer, word processor, voicemail system or any other device of the Contractor containing such Authority Software, Authority Background IPR and/or Authority Data.

### 45.3. Payment Terms

#### 45.3.1 Milestone Payments

45.3.1.1 The Authority shall, subject to the following provisions of this Condition, make to the Contractor advances against the price(s) payable for Items 1, 2 and 4 (“interim payments”) in accordance with the Milestone Payment Scheme set out in the Contract Schedule of Requirements.

45.3.1.2. The Contractor shall be entitled to interim payments, to be claimed in accordance with Condition 36 for each stage under the Milestone Payment Scheme, when:

45.3.1.2.a. the Contractor has completed all work comprised in the Milestone for which the interim payment is sought in accordance with the Statement of Requirement at Schedule 2 Annex A;

45.3.1.2.b. all previous Milestones have been completed, unless the parties expressly agree otherwise; and

45.3.1.2.c. the Contractor shall have complied with all his contractual obligations which enable the Authority to monitor the Contractor’s contractual performance, including but not limited to those obligations related to the provision of information to the Authority.

45.3.1.3. Notwithstanding clause 45.3.1.2 above, the Authority shall not be obliged to make an interim payment to the Contractor if it has reasonable cause to believe that the Contractor will be unlikely to render complete performance of its obligations in respect of any of Items 1, 2 and 4 of the Contract.

45.3.1.4. Where the Authority intends to rely on clause 45.3.1.3 above as the basis for rejecting any claim for an interim payment which the Contractor may make, the Authority shall give to the Contractor notice in writing of its intention together with the Authority’s reasons for the rejection.

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

45.3.1.5.a. the Contract, or the part of the Contract under which Items 1, 2 and 4 are to be provided, is terminated otherwise than in accordance with Condition 42, or expires by reason of passing of time; and

45.3.1.5.b. the Contractor has failed to complete performance of any of Items 1, 2 and 4.

45.3.1.6. In the event of repayment to the Authority under the provisions of clause 45.3.1.5 above then all that which vested in the Authority under the provisions of DEFCON 649 SC2 and which related to Items 1, 2 and 4 shall re-vest in and become the absolute property of the Contractor.

45.3.1.7. Payment of an interim payment by the Authority under this clause 45.3.1 shall not, unless expressly stated to do so, constitute:

45.3.1.7.a. acceptance by the Authority of any contractual deliverable;

45.3.1.7.b. a representation by the Authority that the Contractor has complied with any contractual obligations; or

45.3.1.7.c. a waiver of the Authority’s right to subsequently claim that the conditions for payment of that interim payment were not satisfied.

45.3.1.8 The provisions of this clause 45.3.1 shall apply to any Milestone Payments to be agreed in respect of any Task raised under the Contract in accordance with the Tasking Procedure at Condition 47.2 where such Tasks meet the Authority's criteria for such interim payments and the Authority has agreed such interim payments.

#### 45.3.2 Payment for Item 3 of the Contract Schedule of Requirements

45.3.2.1 The Firm Price for Item 3 of the Contract Schedule of Requirements shall be payable in equal instalments, quarterly in arrears, for the duration of Item 4 Configuration Phase. The Contractor shall make quarterly claims for payment in accordance with Condition 36.

#### 45.3.3 Payment for Items 5 – 11 of the Contract Schedule of Requirements

45.3.3.1 The Contractor shall be entitled to claim payment on completion of each Task raised and properly authorised in accordance with the Contract, to the satisfaction of the Authority's Project Manager and in accordance with the Acceptance Procedure set out in Schedule 8.

45.3.3.2 Where any Task raised and properly authorised under the Contract has included agreed Milestone Payments, these shall be claimed in accordance with Condition 45.3 and the final Milestone Payment shall only be claimed following Acceptance of the Task deliverables in accordance with the Acceptance Procedure set out in Schedule 8.

#### **45.4 Special Indemnity Conditions**

##### 45.4.1. Limitation of Contractor's Liability

45.4.1.a. Subject to Clause 45.4.1.b the Contractor's liability to the Authority in connection with this Contract under Condition 43(b) shall not exceed 125% of the Contract Value ([Value in words] GBP ) in aggregate.

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

(i) for:

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

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

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

(4) any interest payable by the Contractor to the Authority in relation to TUPE or pensions to the extent expressly provided for under this Contract;

(ii) for any liability that would not have been incurred but for the Contractor failing to carry out one or more relevant risk mitigation activities relating to this Contract;

(iii) in relation to any matter governed by Clause 45.4.1.a where any applicable limitation of liability forming part of that provision has been agreed by the Authority in reliance on information (including in relation to insurance) submitted by or on behalf of the Contractor prior to contract award, such information being inaccurate or untrue;

(iv) under Condition 34 and 45.2;

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

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

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

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

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

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

45.4.1.d. Any limitation of Contractor's liability will have no bearing on any future agreements between the Authority and the Contractor that utilise the goods and services provisioned for under this Contractor.

## **46 Special conditions that apply to this Contract**

### **46.1. Key Personnel**

46.1.1. The Key Personnel are those personnel filling roles which have been identified as key roles at Contract placement and listed at Annex D Schedule 2 and for whom the Authority requires to be notified as detailed in the following sub-clauses where any change to the Key Personnel is to occur. The Contractor shall ensure that each of the Key Personnel (each a Key Person) contributes substantially to the provision of the Services and performance of the Contractor's whole obligations under the Contract. The Contractor shall maintain the fulfilment of the key roles with Suitably Qualified and Experienced Personnel (SQEP) and where the Key Person is an employee of the Contractor or Sub-Contractor, shall not remove or change such Key Person unless: that Key Person is on long term leave or ceases to be employed by the Contractor or Sub-Contractor;

46.1.1.1. the Services or other obligations for which the person is designated as a Key Person are completed or the role profile has changed; and

46.1.1.2. with the Authority's prior written consent, which will not be unreasonably withheld.

46.1.2. The Contractor shall endeavour to ensure that the role of any Key Personnel vacated as in 46.1.1.1 and 46.1.1.2 above is promptly filled and that any replacement shall be of equivalent or greater SQEP and shall be fully competent to carry out the responsibilities of the Key Person he or she is replacing. In the event it becomes necessary to engage a temporary replacement for a Key Personnel role, the Contractor shall ensure that the role is temporarily filled by a SQEP replacement during the period of vacancy and that continuity of Service provision is maintained.

46.1.3. In the event that the Contractor chooses to create or remove any key role which has been previously agreed by the Authority and has been designated a Key Personnel role under the Contract in accordance with Condition 46.1.1, such role creation or removal shall be subject to the Authority's prior written approval and the Contract will be amended in accordance with SC2 Condition 6 to reflect any such change.

46.1.4 Prior to assigning replacement Key Personnel in accordance with Condition 46.1.1.2., the Contractor shall:

46.1.4.1 vet the applicant in accordance with good industry practice and applicable security policy and standards;

46.1.4.2 provide the Authority with a curriculum vitae and any other information about the candidate replacement personnel as reasonably requested by the Authority;

46.1.5 The Contractor shall maintain continuity of Service provision throughout the selection process.

46.1.6 The above process shall not apply to personnel roles not designated as Key Personnel roles.

### **46.2 Not Used**

### **46.3 Commercial Risk**

46.3.1. The Contractor acknowledges that any risk assessment which has been, or may be, undertaken in connection with this Contract has been, or will be, a project management

function only. Such risk assessment does not affect the legal relationship between the parties. The issuing of any risk assessment questionnaire and the process of risk assessment generally, including without limitation, the identification of (or failure to identify):

- particular risks and their impact; or
- risk reduction measures, contingency plans and remedial actions

46.3.2. shall not in any way limit or exclude the Contractor's obligations under this Contract and shall be entirely without prejudice to the Authority's rights, privileges and powers under this Contract. The risks identified as a result of any risk assessment questionnaire and risk assessment process generally remain the risks of the Contractor and are not assumed by the Authority except to the extent that the Authority expressly and unequivocally accepts those risks under the Contract. Any risk assessment questionnaire released was or will be issued by the Authority solely on this basis.

#### 46.4. Government Furnished Assets (GFA)

46.4.1 Government Furnished Assets (GFA) shall refer to any equipment, information, facilities, services, personnel or any other resource issued to the Contractor for use under the Contract.

46.4.2. The provisions of DEFCON 611 and DEFCON 694 shall apply to any items issued to the Contractor. The details of the required GFA including Government Furnished Information (GFI) are included at Annex E Schedule 2.

46.4.3. The Authority will endeavour to meet reasonable requests for GFA. Where such requests are considered unreasonable by the Authority, the Contractor agrees to work with the Authority to find a suitable solution.

46.4.4. If additional GFA is required in excess of the items referenced in Annex E to Schedule 2, the Contractor shall request such additional GFA in writing to the Authority's Commercial Manager stated in Box 1 of DEFFORM 111. The request shall include the GFA required, the date(s) by which it is required (the request shall provide as much notice as is practicable in the circumstances), the location and the loan period (when, if applicable, it will be returned to the Authority). The Authority will endeavour to meet such requests but there is no obligation to do so. Failure of the Authority to meet any additional GFA request shall not permit any failure of the Contractor to perform the Contract. Where additional GFA is critical to performance of the Contract, the Contractor shall state this in writing to the Authority's Commercial Manager (stated in Box 1 of DEFFORM 111) upon request of the GFA.

46.4.5. The Contractor may only request Government property through the terms of this Condition and only in relation to provision of the agreed requirement (performance of the Contract.)

46.4.6. The Authority does not give any warranty or undertaking as to the completeness, accuracy or fitness for any purpose of any of the Authority provided information (nor as to the quality or suitability of any other GFA provided) and neither the Authority nor its agents or employees shall be liable to the Contractor in contract (save as expressly provided elsewhere in the Contract), tort, statute or otherwise as a result of any inaccuracy, omission, unfitness for any purpose, or inadequacy of any kind in the Authority-provided information.

## **47 The processes that apply to this Contract are**

### 47.1 TUPE

47.1.1 The Contractor's attention is drawn to the requirements of Schedule 19.

### 47.2 Tasking Procedure

47.2.1 OPTIONAL ITEMS 5 - 11: Where the Authority decides to take up the requirement for an OPTIONAL Item (from Contract Items 5 -11) as a Task under Contract Schedule 2 - Schedule of Requirement, and this Item has Indicative Solutions in Schedule 20, the Authority's Project Manager will raise a new Task Authorisation Form (TAF) as at Schedule 18 of the Contract and issue the TAF to the Contractor for a Firm Price Quotation, which shall be based on the existing Indicative Solution for that OPTIONAL Item but may include a revision to the description of the task content. In accordance with Condition 47.3, the Contractor shall either:

- a. confirm that the existing Indicative Solution remains unchanged for the new task requirement, and this shall form the basis for the Firm Price Quotation by application of the Rate Card; or
- b. provide a revised Solution in response to the Authority's required changes to the Indicative Solution and provide a Firm Price Quotation based on the revised Solution, by application of the Rate Card, for the Authority's consideration.

47.2.2 The Authority will either accept or reject the Contractor's Firm Price Quotation in accordance with this Condition and Condition 47.3.

47.2.3 In the event that any Task raised under the Contract, whether for an Optional Item with an Indicative Solution or for an Optional Item with no pre-existing Indicative Solution, if the duration of that Task or the value of that Task exceeds 6 months in duration and if Firm Priced at or in excess of £100,000 (one hundred thousand pounds) the Contractor may request Milestone Payments for that Task, which shall be paid in accordance with the Milestone Payment Condition 45.3. The Contractor's Firm Price Quotation for such Tasks shall indicate suitable Milestones for payment which shall be linked to suitable deliverables to the Authority, for the Authority's consideration. The Authority reserves the right to reject such requests for Milestone Payments where there are no suitable interim Deliverables for which the Authority would be prepared to make an interim payment. The Authority will not unreasonably reject the Contractor's requests. Should Milestone Payments be agreed for any Tasks, the TAF shall reflect this agreement and the Schedule of Requirements shall be amended to include the full Firm Price for the TAF and the agreed sums, with dates due, for each Milestone Payment.

47.2.4 For any ad hoc Tasks raised under Contract Item 11 the TAF raised by the Authority will include an outline description of the Task as a minimum, but the Authority undertakes to provide as much detail of the requirement as possible at this stage. The Contractor shall provide the Authority with a Firm Price Quotation using firm agreed rates from the Rate Card as at Schedule 2 Annex B.

47.2.5 Should the Contractor's Firm Price Quotation be acceptable to the Authority, authority to proceed for any TAF will be given by Contract amendment to include the new or revised task with the agreed Firm Price in Contract Schedule of Requirements, issued by the

Authority's Commercial Manager named in the DEFFORM 111. The Contractor shall not commence work under any Task prior to its authorisation by amendment of the Contract to include the Task.

47.2.6 If, after authorisation and commencement of work, Tasks require amendment, the relevant TAF will be cancelled by the Authority and a new TAF issued, following receipt and acceptance of a revised Firm Price from the Contractor and the Contract will be amended in accordance with Condition 6.

47.2.7 The Acceptance Criteria shall be as stated within Condition 29 or Schedule 8 of the Contract.

### 47.3 OPTIONAL PHASES

47.3.1 Contract Items 2, 3 and 4 on the Schedule of Requirements are Firm Priced Options. The Contractor shall not proceed to perform Items 2, and/or 3 and/or 4 of the Contract without first obtaining authority to proceed in accordance with the following procedure:

47.3.1.1 Item 1 (Discovery Phase):- Item 1 of the Contract Schedule of Requirements (Discovery Phase) is authorised to proceed on Contract Placement in accordance with the agreed Schedule 11 Annex A.

47.3.1.2 OPTIONAL Item 2 (Rapid Prototyping Phase):- The Authority's decision to take up the Option to proceed to Item 2 (Rapid Prototyping Phase) is subject to the progress and/or completion and results of Item 1 (Discovery Phase) of the Contract to the satisfaction of the Authority's Project Manager.

47.3.1.3. OPTIONAL Items 3 and 4 (Item 3 is Project Management of Main Configuration Phase and Item 4 is KUR 1 and 2 Configuration Phase):- The Authority's decision to proceed to take up the Option for Items 3 and 4 is subject to the progress and/or completion and results of Item 2 (Rapid Prototyping Phase, which shall not be performed unless prior authority to proceed has been given in accordance with Clause 47.3.1.2). Subject to the satisfaction of the Authority's Project Manager, and the Authority's continuing requirement, the Authority will inform the Contractor of its decision to take up the Option for Items 3 and 4 in accordance with Clauses 47.3.1.2 and 47.3.1.3. The Authority will confirm at quarterly intervals, the requirement to continue with Item 3 in parallel with development related to KUR's 1-5.

47.3.2. If agreeable to the Authority, and pursuant to any decision made by the Authority to proceed to Item 2 and/or Items 3 and 4, the Contract will be amended to include the authority to proceed to perform Item 2 and/or Items 3 and 4 and the Contractor shall not proceed to perform Items 2 and/or 3 and 4 without such an amendment being made to the Contract in accordance with Condition 6. Notwithstanding the requirement for a formal Contract amendment, to be issued by the Authority's Commercial Manager in accordance with Condition 6, the Authority's Project Manager will endeavour to notify the Contractor of the Authority's decision to proceed in principle, within 10 working days of completion of Items 1 and/or 2, unless otherwise notified earlier.

47.3.3. Without prejudice to the other rights and remedies of the Authority under the Contract, the Authority reserves the right not to take up the Options for Items 2, 3 and 4, in whole and in part. In the event of the Authority's decision (which will be final) not to proceed to any of Items 2 and/or 3 and 4, in whole or in part, the Authority's Commercial Manager will endeavour to notify the Contractor within the same 10 day period as in Clause 47.3.2. The

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Contract will be deemed to have been terminated at the point of such notification by the Authority and the Contractor shall not make any claim for payment for any work associated with Optional Items 2 and/or 3 and 4, or any other work not yet authorised to proceed in accordance with this Condition, as described in the Statement of Requirement at Annex A to Schedule 2.

OPTIONAL ITEMS 5, 6, 7, 8, 9, 10 and 11

47.3.4. Items 5, 6, 7, 8, 9 and 10 are OPTIONAL but shall be subject to a Tasking Procedure in which the Contractor shall agree a Firm Price with the Authority based on the Rate Card at Annex B to Schedule 2. The Authority shall retain the right to require the Contractor to provide a Firm Price Quotation in accordance with the Tasking Procedure at Condition 47.2 for these Items 5 -11. The Contractor shall proceed to perform the Task following agreement of the Firm Price and the Firm Requirement and issue of a formal Contract Amendment to include the Task, whereupon the Option for the relevant Item shall be deemed to have been taken up by the Authority.

47.3.5 Without prejudice to any other right or remedy of the Authority under the Contract, the Authority reserves the right under every OPTION, not to take up the OPTION at any time, including, but not limited to, the period following receipt of the Contractor's Firm Price Quotation for a Firm Requirement submitted in response to an Authority Tasking request in accordance with Condition 47.2.

**SC2 Schedules**

Schedule 1 - Definitions of Contract

Articles	means the Contractor Deliverables (goods and/or the services), including Packaging (and Certificate(s) of Conformity and supplied in accordance with any QA requirements if specified) which the Contractor is required to provide under the Contract in accordance with Schedule 2 (Schedule of Requirements), but excluding incidentals outside Schedule 2 (Schedule of Requirements) such as progress reports. (This definition only applies when DEFCONs are added to these Conditions);
Authority	means the Secretary of State for Defence acting on behalf of the Crown;
Authority's Representative(s)	shall be those person(s) defined in Schedule 3 (Contract Data Sheet) who will act as the Authority's Representative(s) in connection with the Contract. Where the term "Authority's Representative(s)" in the Conditions is immediately followed by a functional description in brackets, the appropriate Authority's Representative(s) shall be the designated person(s) for the purposes of condition 8;
Business Day	means 09:00 to 17:00 Monday to Friday, excluding public and statutory holidays;
Central Government Body	<p>a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics:</p> <ul style="list-style-type: none"> <li>a. Government Department;</li> <li>b. Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);</li> <li>c. Non-Ministerial Department; or Executive Agency;</li> </ul>

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Collect	means pick up the Contractor Deliverables from the Consignor. This shall include loading, and any other specific arrangements, agreed in accordance with clause 28.c and Collected and Collection shall be construed accordingly;
Commercial Packaging	means commercial Packaging for military use as described in Def Stan 81-041 (Part 1)
Conditions	means the terms and conditions set out in this document;
Consignee	means that part of the Authority identified in Schedule 3 (Contract Data Sheet) to whom the Contractor Deliverables are to be Delivered or on whose behalf they are to be Collected at the address specified in Schedule 3 (Contract Data Sheet) or such other part of the Authority as may be instructed by the Authority by means of a Diversion Order;
Consignor	means the name and address specified in Schedule 3 (Contract Data Sheet) from whom the Contractor Deliverables will be dispatched or Collected;
Contract	means the Contract including its Schedules and any amendments agreed by the Parties in accordance with condition 6 (Amendments to Contract);
Contract Price	means the amount set out in Schedule 2 (Schedule of Requirements) to be paid (inclusive of Packaging and exclusive of any applicable VAT) by the Authority to the Contractor, for the full and proper performance by the Contractor of its obligations under the Contract.
Contractor	means the person who, by the Contract, undertakes to supply the Contractor Deliverables, for the Authority as is provided by the Contract. Where the Contractor is an individual or a partnership, the expression shall include the personal representatives of the individual or of the

partners, as the case may be, and the expression shall also include any person to whom the benefit of the Contract may be assigned by the Contractor with the consent of the Authority;

Contractor Commercially Sensitive Information

means the Information listed in the completed Schedule 5 (Contractor's Commercially Sensitive Information Form), which is Information notified by the Contractor to the Authority, which is acknowledged by the Authority as being commercially sensitive;

Contractor Deliverables

means the goods and/or the services, including Packaging (and Certificate(s) of Conformity and supplied in accordance with any QA requirements if specified) which the Contractor is required to provide under the Contract;

Control

means the power of a person to secure that the affairs of the Contractor are conducted in accordance with the wishes of that person:

a. by means of the holding of shares, or the possession of voting powers in, or in relation to, the Contractor; or

b. by virtue of any powers conferred by the constitutional or corporate documents, or any other document, regulating the Contractor;

and a change of Control occurs if a person who Controls the Contractor ceases to do so or if another person acquires Control of the Contractor;

CPET

means the UK Government's Central Point of Expertise on Timber, which provides a free telephone helpline and website to support implementation of the UK Government timber procurement policy;

Crown Use

in relation to a patent means the doing of anything by virtue of Sections 55 to 57 of the Patents Act 1977 which otherwise would be an infringement of the patent and in relation to a Registered Design

has the meaning given in paragraph 2A(6) of the First Schedule to the Registered Designs Act 1949;

Dangerous Goods

means those substances, preparations and articles that are capable of posing a risk to health, safety, property or the environment which are prohibited by regulation, or classified and authorised only under the conditions prescribed by the:

- a. Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009 (CDG) (as amended 2011);
- b. European Agreement Concerning the International Carriage of Dangerous Goods by Road (ADR);
- c. Regulations Concerning the International Carriage of Dangerous Goods by Rail (RID);
- d. International Maritime Dangerous Goods (IMDG) Code;
- e. International Civil Aviation Organisation (ICAO) Technical Instructions for the Safe Transport of Dangerous Goods by Air;
- f. International Air Transport Association (IATA) Dangerous Goods Regulations.

DBS Finance

means Defence Business Services Finance, at the address stated in Schedule 3 (Contract Data Sheet);

DEFFORM

means the MOD DEFFORM series which can be found at <https://www.aof.mod.uk>;

DEF STAN

means Defence Standards which can be accessed at <https://www.dstan.mod.uk>;

Deliver

means hand over the Contractor Deliverables to the Consignee. This shall include unloading, and any other specific arrangements, agreed in accordance with condition 28 and Delivered and Delivery shall be construed accordingly;

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Delivery Date	means the date as specified in Schedule 2 (Schedule of Requirements) on which the Contractor Deliverables or the relevant portion of them are to be Delivered or made available for Collection;
Denomination of Quantity (D of Q)	means the quantity or measure by which an item of material is managed;
Design Right(s)	has the meaning ascribed to it by Section 213 of the Copyright, Designs and Patents Act 1988;
Diversion Order	means the Authority's written instruction (typically given by MOD Form 199) for urgent Delivery of specified quantities of Contractor Deliverables to a Consignee other than the Consignee stated in Schedule 3 (Contract Data Sheet);
Effective Date of Contract	means the date specified on the Authority's acceptance letter;
Evidence	means either:  a. an invoice or delivery note from the timber supplier or Subcontractor to the Contractor specifying that the product supplied to the Authority is FSC or PEFC certified; or  b. other robust Evidence of sustainability or FLEGT licensed origin, as advised by CPET;
Firm Price	means a price (excluding VAT) which is not subject to variation;
FLEGT	means the Forest Law Enforcement, Governance and Trade initiative by the European Union to use the power of timber-consuming countries to reduce the extent of illegal logging;

Government Furnished Assets (GFA)	is a generic term for any MOD asset such as equipment, information or resources issued or made available to the Contractor in connection with the Contract by or on behalf of the Authority;
Hazardous Contractor Deliverable	means a Contractor Deliverable or a component of a Contractor Deliverable that is itself a hazardous material or substance or that may in the course of its use, maintenance, disposal, or in the event of an accident, release one or more hazardous materials or substances and each material or substance that may be so released;
Independent Verification	means that an evaluation is undertaken and reported by an individual or body whose organisation, systems and procedures conform to "ISO Guide 65:1996 (EN 45011:1998) General requirements for bodies operating product certification systems or equivalent", and who is accredited to audit against forest management standards by a body whose organisation, systems and procedures conform to "ISO 17011: 2004 General Requirements for Providing Assessment and Accreditation of Conformity Assessment Bodies or equivalent";
Information	means any Information in any written or other tangible form disclosed to one Party by or on behalf of the other Party under or in connection with the Contract;
Issued Property	means any item of Government Furnished Assets (GFA), including any materiel issued or otherwise furnished to the Contractor in connection with the Contract by or on behalf of the Authority;
Legal and Sustainable	means production and process methods, also referred to as timber production standards, as defined by the document titled "UK Government Timber Production Policy: Definition of legal and sustainable for timber procurement". The edition current on the day the Contract documents are issued by the Authority shall apply;

Legislation	means in relation to the United Kingdom any Act of Parliament, any subordinate legislation within the meaning of section 21 of the Interpretation Act 1978, any exercise of Royal Prerogative or any enforceable community right within the meaning of Section 2 of the European Communities Act 1972;
Military Level Packaging (MLP)	means Packaging that provides enhanced protection in accordance with Def Stan 81-041 (Part 1), beyond that which Commercial Packaging normally provides for the military supply chain;
Military Packager Approval Scheme (MPAS)	is a MOD sponsored scheme to certify military Packaging designers and register organisations, as capable of producing acceptable Services Packaging Instruction Sheet (SPIS) designs in accordance with Defence Standard (Def Stan) 81-041 (Part 4);
Military Packaging Level (MPL)	shall have the meaning described in Def Stan 81-041 (Part 1);
MPAS Registered Organisation	is a packaging organisation having one or more MPAS Certificated Designers capable of Military Level designs. A company capable of both Military Level and commercial Packaging designs including MOD labelling requirements;
MPAS Certificated Designer	shall mean an experienced Packaging designer trained and certified to MPAS requirements;
NATO	means the North Atlantic Treaty Organisation which is an inter-governmental military alliance based on the North Atlantic Treaty which was signed on 4 April 1949;
Notices	shall mean all Notices, orders, or other forms of communication required to be given in writing under or in connection with the Contract;
Overseas	shall mean non UK or foreign;

Packaging	<p>Verb. The operations involved in the preparation of material for; transportation, handling, storage and Delivery to the user;</p> <p>Noun. The materials and components used for the preparation of the Contractor Deliverables for transportation and storage in accordance with the Contract;</p>
Packaging Design Authority (PDA)	<p>shall mean the organisation that is responsible for the original design of the Packaging except where transferred by agreement. The PDA shall be identified in the Contract, see Annex A to Schedule 3 (Appendix – Addresses and Other Information), Box 3;</p>
Parties	<p>means the Contractor and the Authority, and Party shall be construed accordingly;</p>
Primary Packaging Quantity (PPQ)	<p>means the quantity of an item of material to be contained in an individual package, which has been selected as being the most suitable for issue(s) to the ultimate user, as described in Def Stan 81-041 (Part 1);</p>
Recycled Timber	<p>means recovered wood that prior to being supplied to the Authority had an end use as a standalone object or as part of a structure. Recycled Timber covers:</p> <ul style="list-style-type: none"><li>a. pre-consumer reclaimed wood and wood fibre and industrial by-products;</li><li>b. post-consumer reclaimed wood and wood fibre, and driftwood;</li><li>c. reclaimed timber abandoned or confiscated at least ten years previously;</li></ul> <p>it excludes sawmill co-products;</p>
Safety Data Sheet	<p>has the meaning as defined in the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) Regulations 2007 (as amended);</p>

Schedule of Requirements	means Schedule 2 (Schedule of Requirements), which identifies, either directly or by reference, Contractor Deliverables to be provided, the quantities and dates involved and the price or pricing terms in relation to each Contractor Deliverable;
Short-Rotation Coppice	means a specific management regime whereby the poles of trees are cut every one to two years and which is aimed at producing biomass for energy. It is exempt from the UK Government timber procurement policy. For avoidance of doubt, Short-Rotation Coppice is not conventional coppice, which is subject to the timber policy;
Specification	means the description of the Contractor Deliverables, including any specifications, drawings, samples and / or patterns, referred to in Schedule 2 (Schedule of Requirements);
STANAG4329	means the publication NATO Standard Bar Code Symbolologies which can be sourced at <a href="https://www.dstan.mod.uk/faqs.html">https://www.dstan.mod.uk/faqs.html</a> ;
Subcontractor	means any subcontractor engaged by the Contractor or by any other subcontractor of the Contractor at any level of subcontracting to provide Contractor Deliverables wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Contract and 'Subcontract' shall be interpreted accordingly;
Timber and Wood-Derived Products	means timber (including Recycled Timber and Virgin Timber but excluding Short-Rotation Coppice) and any products that contain wood or wood fibre derived from those timbers. Such products range from solid wood to those where the manufacturing processes obscure the wood element;

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Transparency Information

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

Virgin Timber

means Timber and Wood-Derived Products that do not include Recycled Timber.

**Annex A to Schedule 1 Additional Definitions of Contract**

The following additional definitions shall apply.

Acceptance Criteria	means pre-established standards or requirements that a product, project or service must meet as per Schedule 2, or as subsequently agreed between the Parties, to be accepted by the Authority in accordance with Schedule 8.
Application Support Contractor	means the contractor responsible for providing DES P3M Application Support Services to the Authority.
Application Support Service	means the Contractor's application support service as per Schedule 14, which has been provided by the Contractor in accordance with Schedule 2.
Authority Nominated Officer	The Authority Nominated Officer is responsible for the acceptance of the Schedule of Requirements Items once the Contractor has demonstrated to his/her satisfaction the achievement of each of the specified requirements.
Authority Notice of Change	The Authority Notice of Change shall set out the change required to the Contractor Deliverables in sufficient detail to enable the Contractor to provide a written proposal.
Authorised User(s)	means any person having been given access to the DES P3M system by the Authority. This will include, but is not limited to, people within DE&S, Front Line Commands, Design Organisations and industry partners.
Authority Assets	means the Authority's infrastructure, data, software, materials, assets, equipment or other property owned by and/or licensed or leased to the Customer and which is or may be used in connection with the provision of the Goods and/or Services.
Authority Data	means: the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any Authority's Confidential Information, and which: are supplied to the Contractor by or on behalf of the Authority; or the Contractor is required to generate, process, store or transmit pursuant to this Call Off Contract; or any Personal Data for which the Authority is the Data Controller.
AWARD	A collaborative web-based evaluation solution provided by Commerce Decisions. Access to the solution is provided for the ITT process.
BPSS	Baseline Personnel Security Standard is the minimum required level of screening for any individuals working with or on behalf of government department.

Corporate Management Information System (CMIS)	DE&S database that contains project approval in year project performance data.
Collaboration	means the Infrastructure and Platform Support Contractor, the Application Support Contractor and the R4 Configuration Contractor working collaboratively to deliver their contractor deliverables to the Authority in an optimum fashion as per Schedule 9.
Contract Year	In accordance to Annex A to Schedule 2
Data Controller	has the meaning given to it in the Data Protection Act 1998, as amended from time to time
Data Room	means the electronic depository hosted on the AWARD tool and designated as the 'electronic data room' by the Authority in which information will be stored.
DE&S (DES)	means Defence Equipment and Support.
DEF STAN 05-138	References the Defence Standard that covers Cyber Security standards for Defence Contractors
Delay	means a delay in the Achievement of a Milestone by its Milestone Date.
DES P3M Application Support Service	means the contractor deliverables provided by the Application Support Contractor that together form the DE&S P3M Application Support Service.
DES P3M environments	The DES P3M environments are designed to support the various activities in the project lifecycle leading to the implementation and support of the P3M solution. Any environment for the P3M project will host the various applications to provide complete end to end functionality.
DES P3M Service	means the combination of the Contractor Deliverables placed with the Infrastructure and Platform Support Contractor and Application Support Contractor to enable the provision of the DES P3M System to the Authority.
DES P3M System	means the Oracle Primavera applications procured by the Authority and provided to the Contractor as GFA to meet the DES P3M infrastructure and platform support requirement for P3M management within DE&S.
DTT	stands for the Development, Test and Training hosted environment
ETL	Extract, Transformation and Load and refers to the Oracle supplied processes that transfer and transform the data from the Primavera production application databases to the Primavera BI Analytics platform and as provided by the Authority as GFA.
Infrastructure and Platform	means the Contractor responsible for providing Infrastructure and Platform Support Service to the Authority.

Support Contractor	
Infrastructure and Platform Support Service	means the requirements and Contractor Deliverables provided by the Infrastructure and Platform Support Contractor that together form the DE&S P3M Platform and Infrastructure Support Service.
Infrastructure as a Service	means the Contractor's infrastructure as a service as per Schedule 14, which has been provided by the Contractor in accordance with Schedule 2.
ISS/DD	means the Defence Digital organisation within the UK MoD whose responsibility is information and communications technology support for MoD operations and business. Formerly known as Information Systems and Services.
Key Personnel	means the individuals (if any) identified are those personnel filling roles which have been identified as key roles at Contract placement and listed at Schedule 2 and for whom the Authority requires to be notified when there is any change to the Key Personnel.
Key User Requirement	DE&S customer requirements that will form a reference point for acceptance.
Master Service Desk	The Master Service Desk provides the overarching service desk capability across the Application Support Contractor and Infrastructure and Platform Support Contractors. The Master Service Desk acts as a single point of contact for the Authority internal service team but will not be directly user facing. The Master Service Desk will facilitate the lifecycle of all Service Incidents and Requests, and associated communications to the Authority. The Master Service Desk will be the central point of truth for incident, request and change ticketing information.
Milestone	means an event or task described in Schedule 2 which, if applicable must be completed by the relevant Milestone Date to meet the agreed Acceptance Criteria.
Milestone Date	means the target date set out in Schedule 2 by which the Milestone must be achieved.
Milestone Payment	means a payment identified in Schedule 2 to be made following the signature of the milestone / service delivery acceptance form as per Schedule 8 Annex A in respect of achievement of the relevant milestone in respect of achievement of the milestone to meet the acceptance criteria.
Oracle Business Intelligence	Oracle Business Intelligence (Enterprise Edition) is Oracle Corporation's set of business intelligence tools, producing enterprise reports, scorecards, dashboards, ad-hoc analysis, based on a central Business Intelligence Server and is provided by the Authority as GFA.

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P3M Change Process	means the P3M change process between the Authority, the Infrastructure and Platform Support Contractor, the Application Support Contractor and the R4 Configuration Contractor as provided in Schedule 10
Party	means the Authority or the Contractor and Application Support Contractor and R4 Configuration Contractor and Parties shall mean all of them.
Platform and Infrastructure Support Contractor	means the Contractor responsible for providing Infrastructure and Platform Support Services to the Authority.
Platform and Infrastructure Support Service	means the Contractor Deliverables provided by the Platform and Infrastructure Support Contractor that together form the DE&S P3M Platform and Infrastructure Support Service.
Platform as a Service	means the Contractor's Platform as a Service as per Schedule 14, which has been provided by the Contractor in accordance with Schedule 2.
PPE	PPE stands for Pre-Production hosted environment.
Primavera Gateway facility	Oracle's Primavera Gateway provides a standard data integration solution for connecting Primavera Applications internally and with other enterprise applications and is provided by the Authority as GFA.
R4 Configuration Contractor	means the Contractor responsible for configuration and testing of Release 4.
Release 4	means item(s) produced primarily to extend, alter or improve the DES P3M System and / or any R4 configuration partner deliverable providing additional functionality or performance enhancement.
Request for Change	means the formal request for technical changes to be made on the DES P3M Service. Also typically used in reference to change ticketing as presented to the Change Advisory Board (CAB)
RMAN	Recovery Manager is a backup and recovery manager supplied by Oracle Corporation for Oracle databases. It provides database backup, restore, and recovery capabilities addressing high availability and disaster recovery concerns.
User	means Authorised User.

**Schedule 2 Schedule of Requirements**

Schedule of Requirements			
Item	Description	Critical Acceptance Criteria (to be approved by the Authority)	Price
1	The Contractor shall complete the Discovery Phase in accordance with the Statement of Requirement at Annex A to Schedule 2	<ul style="list-style-type: none"> <li>- Completion of activities in the Discovery Phase</li> <li>- Acceptance of the revised Solution Design Document</li> <li>- Acceptance of the scope, schedule and configuration for the Rapid Prototype Phase (Item 2)</li> </ul>	Firm Price £.....  Milestone Payments (if applicable) £.....
NB: The following Items are FIRM PRICED OPTIONS and will only be authorised to proceed in accordance with Condition 47.3			
2	OPTION: The Contractor shall complete the Rapid Prototype Phase – in accordance with the Statement of Requirement at Annex A to Schedule 2	<ul style="list-style-type: none"> <li>- Acceptance of the Final Solution Design Document</li> <li>- Acceptance of the jointly developed Software Release and Deployment Schedule</li> </ul>	Firm Price £.....  Milestone Payments (if applicable) £.....
3	OPTION: The Contractor shall carry out Project Management of the Main Configuration Phase1 (Item 4) in accordance with the Statement of Requirement at Annex A to Schedule 2	<ul style="list-style-type: none"> <li>- Delivery of software releases</li> </ul>	Total Firm Price £.....  Firm Price per quarterly instalment to be paid in arrears  £.....

<sup>1</sup> For pricing purposes you should assume an 18 month contiguous period to configure the R4 KUR 1-5.

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4	OPTION: The Contractor shall carry out Configuration of KUR 1 EVM Module implementation and 2 Cost Management in accordance with the Statement of Requirement at at Annex A to Schedule 2	- Delivery of software capability	Firm Price £..... Milestone Payments (if applicable) £.....
Total			Total Price for Items 1-4 £.....]

**OPTIONAL ITEMS (see Conditions 47.2 and 47.3)**

The following Items are OPTIONAL, and will be subject to the Tasking Procedure set out in Condition 47.2 depending on the Authority's specific requirements and the agreement of a FIRM PRICE.

Where the Item is included in Schedule 20 with an Indicative Solution, the procedure set out in Condition 47.2 for such Tasks shall apply.

Rates shown in the Rate Card at Annex B to Schedule 2 shall apply to all Tasks raised under the Contract.

Item	Description	Critical Acceptance Criteria (to be approved by the Authority)	Firm Price To Be Determined (TBD) on a Task by Task basis
5	OPTION: KUR 3 Indicative Solution	- On request from the Authority, firm price quotation to be provided with template populated with rate/hours, by named individual, their role by month	Firm Price £...TBD.....]
6	OPTION: KUR 4 Indicative Solution	- On request from the Authority, firm price quotation to be provided with template populated with rate/hours, by named individual, their role by month	Firm Price £.....TBD.....]
7	OPTION: KUR 5 Indicative Solution (any	- On request from the Authority, firm price quotation to be provided with	Firm Price £...TBD.....]

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	other elements not included in KUR1-4)	template populated with rate/hours, by named individual, their role by month	
8	OPTION: Production of OBIEE reports Indicative Solution	- On request from the Authority, firm price quotation to be provided with rate /hours by role	Firm Price £...TBD.....]
9	Production of Unifier Change Business Process Phase Indicative Solution	- On request from the Authority, firm price quotation to be provided with rate/with hours by role	Firm Price £.....TBD.....]
10	Configuration of an Integration to a finance system Indicative Solution	- On request from the Authority, firm price quotation to be provided with rate/hours by role	Firm Price £.....TBD.....]
11	Ad-hoc requirements not covered by Items 5 -10	- On request from the Authority, firm price quotation to be provided with rate/hours by role.	Firm Prices £....TBD .....
			<i>NB: A firm price for each ad hoc Task raised under this Item 11 shall be agreed in accordance with Condition 47.2 and any authorised Tasks shall be listed in this Schedule by Contract Amendment.</i>

**Annex A to Schedule 2: Statement of Requirement for P3M Release 4 (R4)**

Background	
1	<p>DE&amp;S (for the purpose of the Contract, DE&amp;S is The Authority) is a part of the UK Ministry of Defence (MoD) and is responsible for the acquisition and support of Defence Equipment on behalf of the UK Armed Forces. The annual spend is in the order of £13Bn.</p> <p>DE&amp;S has acquired and deployed a Primavera based tool suite to enhance its delivery performance. Project, Programme and Portfolio Management (P3M) system consists of an Oracle product suite that contains schedule and cost management capability at its core. The core capability elements of the P3M toolset are:</p> <ol style="list-style-type: none"> <li>a. Scheduling and resourcing - P6.</li> <li>b. Cost management, funding forecasting, change management - Unifier.</li> <li>c. Time recording - Team Member.</li> <li>d. Earned Value Management (EVM), Milestone and other reporting – Oracle Business Intelligence Enterprise Edition (OBIEE).</li> </ol> <p>P6, OBIEE and Team Member are successfully deployed and several hundred EVM cost performance reports are currently produced each month against the DE&amp;S Order Book. The P3M tool suite Release 3 went live in March 2018 and is currently providing a planning and scheduling capability for ~800 projects using P6, Team Member time recording across the enterprise (~12,000 personnel) and a series of dashboards in OBIEE (EVM, milestones, etc). EVM OBIEE reports are currently being produced from P6 and OBIEE.</p> <p>Release 3 also delivered a set of business processes in Unifier, but these were not adopted beyond the piloting stage for a variety of reasons. This was primarily driven by limited native integration between P6 and Unifier and DE&amp;S process immaturity at the time. The P6 and Unifier integration has been significantly improved in subsequent software releases and DE&amp;S process maturity has improved.</p> <p>Cost forecasting, EVM, approval management and project management business requirements will be further developed in P3M Release 4 (R4) using the enhanced capabilities of the updated Oracle Primavera tool suite.</p> <p>The Configuration Contractor (the Contractor) is to provide an integrated P6 and Unifier solution, appropriate business process integrations to achieve ‘enter data once, use many’ and integrations/interfaces to other DE&amp;S/MoD systems. This will permit DE&amp;S to fully realise the planned benefits of an integrated project/portfolio management and control system.</p> <p>The Configuration Contractor may use the existing configuration and business processes in Unifier or replace with alternative configurations during the discovery phase to satisfy the R4 requirements defined herein. DE&amp;S has licenses for the full Primavera product suite including applications such as PPM that are not currently utilised. These are available for use to meet the requirements if appropriate.</p> <p>The R4 Configuration Contractor will be part of a wider team for the future configuration and support of the P3M system within DE&amp;S. The primary roles are:</p>

	<ul style="list-style-type: none"> <li>• R4 Configuration Contractor – the Contractor responsible for configuration and testing of Release 4 (under this Contract)</li> <li>• Application Support Contractor – the contractor responsible for providing Application Support to the P3M system (under separate contract).</li> <li>• Infrastructure and Platform Support Contractor – the contractor responsible for providing infrastructure and platform support to the P3M system (under separate contract).</li> </ul> <p>More detailed roles and responsibilities are defined in Schedule 10, P3M Change and Software Release Management.</p>
	<p>Requirement</p>
<p>2</p>	<p>The Contractor shall configure the R4 solution and support The Authority in finalising its detailed requirements, processes and interfaces during the Discovery and Rapid Prototype phases. It is anticipated that the bulk of the configuration effort will be in Unifier and OBIEE, but the Contractor shall provide the capability to be able to configure all areas of the Primavera product set as determined by the Contractor, including the provision of associated Management Information reports in OBIEE or other areas of the tool suite.</p> <p><b>TECHNICAL REQUIREMENTS</b></p> <p>The Key User Requirements (KUR) of Release 4 are to:</p> <ul style="list-style-type: none"> <li>• Introduce enhanced Earned Value Management (EVM) taking advantage of Primavera tool set enhancements</li> <li>• Improve cost and forecasting functionality</li> <li>• Introduce the capability to manage forecast against Project approvals data</li> <li>• Introduce additional project management improvements to include:             <ol style="list-style-type: none"> <li>a. change management</li> <li>b. Provision of a Work Breakdown Structure dictionary,</li> <li>c. Basis of Estimate,</li> <li>d. Project KPIs</li> <li>e. the capture of future project pipeline demand.</li> </ol> </li> <li>• The solution for KUR 1-4 must be integrated, removing the need for duplicate manual entry of data within P3M. The toolset must be configured for the specific scope types in Paragraph 8.</li> <li>• There is also the requirement to expose data for other MoD systems to consume, consume data exposed by other MoD systems and develop CRUD2-based integrations as defined in Paragraph 13. This requirement will be finalised during the rapid prototyping phase described below.</li> </ul> <p><b>PROJECT MANAGEMENT REQUIREMENTS</b></p> <p>Discovery Phase - The Contractor shall conduct a short Discovery Phase to undertake due diligence and validate requirements to refine the Solution Design</p>

<sup>2</sup> Create, Read, Update and Delete.

	<p>document configuration prior to the Rapid Prototype phase. An updated Solution Design document and final design document for the Rapid Prototype Phase are the required outputs.</p> <p>Rapid Prototype (RP) Phase – The Contractor shall conduct a RP Phase configuring a minimum viable product working system for KUR 1-3 (as a minimum). This will configure the core KUR elements of EVM, cost/forecasting management and project approval management. The Authority requires to test the functionality and usability of the system during this phase. The Contractor will also be required to work with the Authority to finalise the project and portfolio structures required in the tool set to support the successful R4 configuration. The output from the phase will be a costed proposal for the main configuration phase, an updated Solution Design document with a schedule detailing capability configuration phases, testing, and software release/adoption. These documents will require agreement with the Authority.</p> <p>Project Management – The Contractor shall manage the development and configuration phase to meet the release schedule agreed during the rapid prototype phase. The Contractor shall state the methodology they propose to use for the main configuration phase of the Contract.</p> <p>Configuration management - The Contractor shall maintain a documented R4 functional configuration. The Contractor shall state the methodology they propose to use for the main configuration phase of the Contract.</p> <p>Test Management –The Contractor shall be responsible for testing in the development environment and the management of User Acceptance testing in the Pre-production environment. A R4 Test strategy is required that proposes how R4 testing will be conducted.</p> <p>OPTION: An optional requirement is to provide Deployment support as the R4 capabilities are rolled out across DE&amp;S. This would consist of preparing briefing material, delivering briefings, running workshops and drop-in centres. (See also Paragraph 20).</p>
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Release 4 Requirement Overview

3	Release 4 is the delivery of a solution to satisfy the KURs for the scope types defined in paragraph 8 and paragraph 11 with the prospective interfaces defined in Paragraph 13. These KUR are supported by Use Cases in Appendix A.
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Key User Requirements

4	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr style="background-color: #4F81BD; color: white;"> <th style="width: 20%;">KUR</th> <th style="width: 30%;">Description</th> <th style="width: 30%;">Task</th> <th style="width: 20%;">Outcome</th> </tr> </thead> <tbody> <tr style="background-color: #A0C4E8;"> <td>(1) Enhanced EVM</td> <td>To measure cost and schedule, performance on a project</td> <td>Configure the system and respective reports to implement the Unifier EVM Module</td> <td>The EVM data is generated accurately.  EVM reports can be generated in Unifier 'real time'</td> </tr> </tbody> </table>	KUR	Description	Task	Outcome	(1) Enhanced EVM	To measure cost and schedule, performance on a project	Configure the system and respective reports to implement the Unifier EVM Module	The EVM data is generated accurately.  EVM reports can be generated in Unifier 'real time'
KUR	Description	Task	Outcome						
(1) Enhanced EVM	To measure cost and schedule, performance on a project	Configure the system and respective reports to implement the Unifier EVM Module	The EVM data is generated accurately.  EVM reports can be generated in Unifier 'real time'						

	<p><b>(2) Cost and forecasting</b></p>	<p>Provide cost management and forecasting capability</p>	<p>Configure the system and respective reports to deliver cost and forecasting capability</p>	<p>Actual costs and accruals can be appropriately assigned to both the WBS and CBS.</p> <p>A forecast based on schedule progress (if scope is schedule based) is extracted to PB&amp;F system</p> <p>The Project Manager has the means to adjust a system generated Estimate to Complete.</p> <p>Ease of Use: data fields displayed are limited to those required and calculations as a result of input changes are visible in 'real time' on the system once entered.</p>
	<p><b>(3) Project History and In Year Performance Management (Corporate Management Information System [CMIS] replacement)</b></p>	<p>Project Approval management- Provide a project Approval history to provide a forecast against latest approval.</p> <p>Identify the in year performance for a defined project population and track performance.</p>	<p>Configure the system and respective reports to deliver the Project Approval management and in year project performance management capability</p>	<p>Project Approvals are managed and using underpinning data that support the forecast for cost and time</p> <p>The DE&amp;S In-year project population and the time, cost and performance (KUR) KPIs are produced from the P3M system</p>

				<p>informed by underpinning data for cost and time</p> <p>Use data that pre-exists in the system to inform the time and cost parts of the forecast</p>
	<p><b>(4) Project Management Capability Enhancements</b></p>	<p>Provide the capability to perform change management, a WBS dictionary, the basis of estimate assumptions, project KPIs and future pipeline</p>	<p>Configure the system and respective reports to provide the required capability enhancements</p>	<p>Control of baseline changes are managed in the system with an audit trail</p> <p>The WBS dictionary, BOE, project KPIs and future pipeline are all satisfactorily captured in the system</p>
	<p><b>(5) Solution Integration Tailoring for Specific Scope Types</b></p>	<p>The solution for KUR 1-4 is integrated and removes the need for duplicate entry of data. The Configuration is tailored for specific scope types in Paragraph 7 of DE&amp;S Project Organisation and Categorisation</p>	<p>Configure KUR 1-4 to provide an integrated solution</p>	<p>The solution provided integrates the data elements in the different areas of the system/business process with no need for repeating manual entry of the same data</p> <p>The system configuration is tailored for project scope types</p> <p>The system is intuitive to use, logically presented and displays related data elements on the same screen/view.</p>

DE&S Project Organisation and Categorisation	
5	DE&S manages a range of projects/portfolios of differing scale and type
6	<p>DE&amp;S is developing an Enterprise Work Breakdown Structure (EWBS) that captures its scope. This will consist of projects and portfolios. It will have a separate Enterprise Organisation Breakdown Structure (EOBS). It is anticipated that these will reside in Unifier.</p> <p>A Cost Breakdown Structure (CBS) will use Resource Account Codes (RAC), which define the MoD cost type, and Local Project Codes (LPC), which identifies the funding line. This structure is the basis of cost management and cost forecasting. E.g. RAC code EVA007 covers Equipment Support Other. This cost type is then allocated to a funding line e.g. S900606100. The CBS links cost type to the funding line.</p>
7	<p>Project Types</p> <p>The following 'project' types exist within the DE&amp;S P3M system:</p> <ol style="list-style-type: none"> <li>Order Book projects - projects to deliver equipment or support to DE&amp;S customers.</li> <li>Indirect projects – 'projects' used to manage the order book projects</li> <li>Time recording 'projects' – those that exist for time recording only in areas such as Finance and Corporate Services</li> </ol>
8	<p>Within category 7a, the Order Book contains Equipment Programme (Capital expenditure - Capex) project scope of the following types (examples) :</p> <ol style="list-style-type: none"> <li>Complex Acquisition – the DE&amp;S equipment supplier is performing EVM under their contract and DE&amp;S produce a 'roll up' of the supplier's <a href="#">performance</a> measurement baseline (PMB) in P6 for the EP (Capex) scope</li> <li>Basic acquisition – a schedule based on the DE&amp;S equipment supplier's scope is produced for the Equipment Programme (EP-Capex) and EVM is performed based on internal DE&amp;S rules of credit. The supplier is not performing EVM under its contract.</li> <li>Service based scope with key performance indicators in the DE&amp;S service supplier contract but no discrete deliverables</li> </ol> <p>The scope may be covered by individual contract/projects or a project may consist of two types of scope e.g. a submarine project may consist of an element of complex acquisition with some service-based elements as well.</p>
9	<p>DE&amp;S Structural Definitions</p> <ol style="list-style-type: none"> <li>Project – formally approved scope with defined time, cost and performance parameters. This is the lowest element of the Enterprise WBS.</li> <li>Project Approval – the sanction given to a project with associated time, cost and performance parameters.</li> <li>Portfolios – these are aggregations of projects clustered into related groups or to collect lower risk projects into a portfolio for ease of management. E.g. A grouping of low value basic <a href="#">acquisition</a> projects into a portfolio, a platform portfolio which contains projects as a platform moves through its lifecycle</li> </ol>

	<ul style="list-style-type: none"> <li>d. Enterprise Work Breakdown Structure (EWBS) – the deliverable-based structure within which portfolios and projects are structured. The WBS for individual projects is not defined and governed centrally.</li> <li>e. Enterprise Organisation Breakdown Structure (EOBS). The organisational structure for delivering the projects and portfolios</li> <li>f. Cost Breakdown Structure (CBS) – the structure used to capture cost types</li> </ul>																																																								
10	Paragraph 11 defines the current view on functionality required from Release 4 for the specific EP scope types. Support is required from the Contractor to finalise this as an output from the Rapid Prototyping Phase.																																																								
11	<table border="1"> <thead> <tr> <th>Scope Type</th> <th>Complex Acquisition</th> <th>Basic Acquisition</th> <th>Service based</th> </tr> </thead> <tbody> <tr> <td><b>Functionality</b></td> <td></td> <td></td> <td></td> </tr> <tr> <td>P6 scheduling</td> <td>Y</td> <td>Y</td> <td>Sometimes</td> </tr> <tr> <td>P6 Opex time recording</td> <td></td> <td>Y</td> <td></td> </tr> <tr> <td>Capex EVM</td> <td>Y</td> <td>Y</td> <td>N</td> </tr> <tr> <td>Opex EVM</td> <td></td> <td>Y</td> <td></td> </tr> <tr> <td>Key Performance Indicators</td> <td>N</td> <td>N</td> <td>Y</td> </tr> <tr> <td>WBS Dictionary</td> <td></td> <td>Y</td> <td></td> </tr> <tr> <td>Basis Of Estimate (BOE)</td> <td></td> <td>Y</td> <td></td> </tr> <tr> <td>Cost management and forecasting</td> <td></td> <td>Y</td> <td></td> </tr> <tr> <td>Management reserve-Cost</td> <td></td> <td>Y</td> <td></td> </tr> <tr> <td>Project Approval</td> <td></td> <td>Y</td> <td></td> </tr> <tr> <td>Change management</td> <td colspan="3">Yes-tailored appropriately for type of scope</td> </tr> <tr> <td>Future Pipeline<sup>3</sup> identification</td> <td></td> <td>Y</td> <td></td> </tr> </tbody> </table>	Scope Type	Complex Acquisition	Basic Acquisition	Service based	<b>Functionality</b>				P6 scheduling	Y	Y	Sometimes	P6 Opex time recording		Y		Capex EVM	Y	Y	N	Opex EVM		Y		Key Performance Indicators	N	N	Y	WBS Dictionary		Y		Basis Of Estimate (BOE)		Y		Cost management and forecasting		Y		Management reserve-Cost		Y		Project Approval		Y		Change management	Yes-tailored appropriately for type of scope			Future Pipeline <sup>3</sup> identification		Y	
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12	The existing or planned system interfaces are depicted in Paragraph 13. The specific requirements and delivery timescales for the interfaces will be agreed with the Contractor during the Rapid Prototyping Phase.																																																								

<sup>3</sup> Future pipeline are the future phases of a project where funding is identified but it is not yet formally approved.

13	Integration	System	Requirement-config partner prospective role required	When
	Export of the funding forecast by RAC/LPC/CDEL/RDEL to the PB&F system	PB&F – the MoD planning and forecasting system	Provides CSV Extract report. The format will be provided by DE&S during the Discovery Phase	As part of cost management/funding forecast configuration
	List of contract and core contract data	CP&F- the MoD contract management and payment system	Import CP&F standing data to allow projects to select associated contract, contract numbers and supplier details- Config partner to define the data fields required. DE&S will routinely upload the data set	As part of the contract cost management capability
	Project sub ledger	Project sub-ledger <sup>4</sup>	Import capex actual by project/LPC/RAC Export funding forecast by LPC or UIN/RAC	A <a href="#">manual</a> input solution (as is used currently) for capex actuals is acceptable until then
	Delivery of the R4 requirement should not require any changes to CP&F and PB&F native systems.			
<b>Configuration Contractor Responsibilities</b>				
14	The Configuration Contractor shall be required to design, configure, build, test and package for delivery to the test and live production environments suitable configurations to satisfy the KURs in paragraph 4. The Configuration Contractor shall be required to propose and develop a configuration with supporting release plan to satisfy the KUR defined in Paragraph 4 for the types of project/scope defined in Paragraph 11. Any integrations required shall be agreed between the Authority and the Contractor during the Rapid Prototyping Phase.			
15	To support the development of the final configuration there will be two stages prior to production configuration and deployment: a. A short Discovery Phase b. A Rapid Prototype Phase			
16	The R4 Configuration Contractor shall be responsible for conducting System test/functional testing in the development environment and packaging the configuration for transfer to the PPE environment. Once successfully tested, the Application Support contractor will be responsible for moving the packaged configuration into the PPE environment for User Acceptance Testing (UAT). The Configuration Contractor shall be responsible for managing this UAT and shall be responsible for UAT test plans and scripts, with the testing being conducted and			

<sup>4</sup> This is a MoD project that will use the Oracle EBus product suite that is in the early planning stages.

	accepted by Authority users. The Application Support contractor shall be responsible for regression testing prior to release to the live system. The Configuration Contractor shall provide a 12-month defect rectification period from go live date in the production environment. During this period, the Configuration Contractor shall be responsible for fixing any emerging defects arising within one month of agreeing with DE&S that is their responsibility at no cost to the Authority.
17	The Authority has a P3M development environment and access to this environment shall be made available to the R4 Configuration Contractor to perform configuration/development activities. This shall also be made available for the Discovery Phase. This can be accessed remotely from the Contractor's site.
Collaboration	
18	The Configuration Contractor will be required to collaborate with the Authority and the Application/Infrastructure Support contractor(s) to ensure the smooth deployment of new capability onto the live system and to provide advice and guidance when required. The Configuration Contractor will be expected to sign an agreed P3M Project Charter to support collaborative behaviours between all parties engaged in the P3M project.
The Authority Role and Responsibilities / Government Furnished Assets (GFA)	
19	<p>The Authority will provide suitably qualified personnel to support the Discovery and Rapid Prototyping Phases as well the specific capability configuration phases.</p> <p>The Authority will provide the following resources to manage and direct the work under the Contract (not GFA unless stated):</p> <ul style="list-style-type: none"> <li>• A Delivery Manager to manage the contract deliverables and be responsible for acceptance</li> <li>• A Requirements Manager to manage the provision of requirements and act as the project control SME</li> <li>• A Deployment lead who will be responsible for managing the roll out of new capability across the Authority and will agree the roll out schedules for capability releases</li> <li>• A Commercial Officer to administer the contractual elements</li> <li>• Two Unifier configuration personnel</li> </ul> <p>The Authority will lead the business change aspects of deploying new capability including communication, briefing, and associated process documentation.</p> <p>The Authority will provide Primavera licenses (GFA).</p> <p>The Authority will provide a secure development environment (GFA) and representative project Data set for the Rapid Prototyping phase and beyond (GFA).</p> <p>The R4 Configuration Contractor shall attend the Monthly P3M Steering Committee Meeting at Abbey Wood.</p>
Optional Requirements – Deployment Support	
20	The Authority may require support as new R4 capability is deployed across DE&S. This would consist of suitably qualified personnel to provide briefings on the new capability, the underlying business processes and tool functionality. The Configuration Contractor shall provide a firm price when requested by the Authority in accordance with the Tasking Process set out in the SC2 Terms and Conditions using the agreed rate card table for on-site support at Abbey Wood. If this is taken

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	up, this will be contracted through the Ad-Hoc Tasking Process under Item 11 of the Schedule of Requirement, and in accordance with Condition 47.2
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**Appendix to Statement of Requirement**

High Level Use Cases to Support KUR

These are provided to support the understanding of the KUR. There are many more detailed Use Cases will be shared with the Contractor but these are the key ones to support the SOR.

"I want ....."	"So that I can....."	Measure of Success
<b>EVM Use Cases</b>		
Prepare my EVM reports in Unifier	Produce my monthly EVM reports associated with work breakdown structure, organisational breakdown structure, PMB change, manpower and the variance analysis report	The EVM data is available 'real time' in Unifier
<b>Cost Management &amp; Forecasting Use Cases</b>		
Allocate my actual equipment programmes costs (Capex) to the CBS initially and then to the WBS	Produce a CBS and be able to allocate actual cost to my CBS and then to the relevant WBS	Actual costs are accurately represented in both the WBC and CBS
the ability to produce a forecast by CBS profiled by month/year using the P6 schedule (if one is used) remaining units as the basis	I can produce a forecast based on schedule progress	The forecast is schedule derived to present a more accurate forecast
adjust the P6 remaining units in the cost management capability area	generate an Estimate at Completion (EAC) in the appropriate CPR EVM cost performance reports (CPR) report	To reflect the Project Manager (PM) view of the EAC if it differs from the system generated view
to add an in year control total (i.e.. in year funding ceiling) to the CBS against my LPC	So I am able to forecast EP (EP) Capex cost in year as well as at project completion	To be able to see any variance of my forecast to the control total
Ability to forecast both in year (month by month) for current FY and annually for up to 30 years	So that the forecast aligns with the MoD forecasting window	My forecast can be exported in the correct format to the PB&F system
the ability to hold DE&S management reserve (MR) at either project or portfolio level or both.	I can monitor draw down via the change process	MR consumption can be tracked and reported
For Opex (DE&S manpower), assign a control total to nominated budget owners	be able to produce a forecast in year against the control total and an EAC for Order Book projects	I am able to manage my resources against my funding allocation
the ability to assign/link contracts to projects	so that the actual cost(sunk) and forecast against a project/contract(s) is visible	Costs and forecasts can be attributed to contracts as well as the WBS and the CBS

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the ability to view the last period forecast on same screen/view to this period forecast when I am producing the current forecast	So that I can see previous period variance by period	To help me save time producing my forecast and to produce a more accurate forecast
<b>Project History and In Year Performance Management</b>		
the ability to enter project approval (sanction) cost, time and performance parameters for the project 5	I can forecast and track progress against the approval parameters	Approvals are managed and there are underpinning data elements that support the forecast for cost and time
To be able to amend project approval time, cost and performance 'baseline'	Using a formal change control process in the system with previous approvals history retained in the system	Approvals are under formal configuration control
to be able to identify the projects that will form part of the annual reporting population and set a performance (KUR), cost, time baseline for the year in the system	I can track forecast monthly against the cost, time and performance KUR for this population	The data can be used to inform DE&S Corporate performance KPI
Produce an extract report for project in year performance	to an internal DE&S system that generates.	To produce the complete corporate performance KPI6 report
<b>Project Management Enhancements</b>		
use a baseline change management process in the P3M system	to track/authorise changes to the P6 Performance Measurement Baseline (PMB), management reserve, WBS dictionary, Approval data, basis of estimate and control totals	There is an audit trail and record of approved changes
Document my scope in the P3M system	Against a WBS structured by Control Account/Work Package	Scope is formally defined and under formal configuration control
Capture my Basis Of Estimate in the P3M system	capability to record assumptions that that underpin the PMB	The BOE that underpins the PMB is under configuration control
To identify the pipeline of future scope by project basic information such as project name, project description, timescales,	So that I have visibility of the pipeline beyond the currently Approved project phase being executed	The project currently being executed and future phases can be associated/reported jointly if required

<sup>5</sup> Further detail will be provided during the discovery phase. For the purposes of the tender exercise assume that this is P50 date, P50 cost and a number of Key User Requirements

<sup>6</sup> The complete D&S Corporate KPI consist of other measures not intended to be held in the P3M system

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resources of any associated 'live' projects in the P3M tool suite in the P3M system		
Capture basic KPI data <sup>7</sup> for certain project such as in service support where EVM is not being performed	Report performance monthly against them via a RAG assessment and produce a short monthly narrative	KPI can be captured , reported and history retained in the tool suite.

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<sup>7</sup> These simple project KPIs data elements eg schedule performance, availability performance, contract deliverable performance

**Annex B to Schedule 2 - Rate Cards**

Level / Scope	Firm Rate per Hour and Day*
1. Follow	Hour £ Day £
2. Assist	Hour £ Day £
3. Apply	Hour £ Day £
4. Enable	Hour £ Day £
5. Ensure/Advise	Hour £ Day £
6. Initiate/Influence	Hour £ Day £
7. Set Strategy/Inspire	Hour £ Day £
8. Maximum Travel and Subsistence per day **	

\*\*Travel and Subsistence (T&S) – The day rates should not include T&S. T&S expenses will be based on a maximum day rate against a Limit of Liability. All T&S costs shall be on a reimbursement basis upon the Contractor providing valid receipts up to the limits specified in the Authority’s policy document “Ministry of Defence – Statement of Civilian Personnel Policy – Business Travel Guide V2.0-2019” (to be made available on request).

\*Personnel’s Working Day – expected to be 8 hours exclusive of travel and lunch. Working Week – Monday to Friday excluding national holidays

Definitions of Level / Scope (for information purposes):

Level	Autonomy	Influence	Complexity	Business Skills
1 Follow	Works under close supervision. Uses little discretion. Is expected to seek guidance in expected situations.	Interacts with immediate colleagues.	Performs routine activities in a structured environment. Requires assistance in resolving unexpected problems.	Uses basic information systems and technology functions, applications, and processes. Demonstrates an organised approach to work. Learns new skills and applies newly acquired knowledge. Has basic oral and written

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				<p>communication skills.</p> <p>Contributes to identifying own development opportunities.</p>
2 Assist	<p>Works under routine supervision.</p> <p>Uses minor discretion in resolving problems or enquiries.</p> <p>Works without frequent reference to others.</p>	<p>Interacts with and may influence immediate colleagues. May have some external contact with Authority's and Contractors. May have more influence in own domain.</p>	<p>Performs a range of varied work activities in a variety of structured environments.</p>	<p>Understands and uses appropriate methods, tools and applications.</p> <p>Demonstrates a rational and organised approach to work. Is aware of health and safety issues. Identifies and negotiates own development opportunities. Has sufficient communication skills for effective dialogue with colleagues. Is able to work in a team. Is able to plan, schedule and monitor own work within short time horizons. Absorbs technical information when it is presented systematically and applies it effectively.</p>
3 Apply	<p>Works under general supervision. Uses discretion in identifying and resolving complex problems and assignments. Usually receives specific</p>	<p>Interacts with and influences department/project team members.</p> <p>May have working level contact with Authority's and Contractors. In predictable and structured areas may</p>	<p>Performs a broad range of work, sometimes complex and non-routine, in a variety of environments.</p>	<p>Understands and uses appropriate methods, tools and applications.</p> <p>Demonstrates an analytical and systematic approach to problem solving. Takes the</p>

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	<p>instructions and has work reviewed at frequent milestones. Determines when issues should be escalated to a higher level.</p>	<p>supervise others. Makes decisions which may impact on the work assigned to individuals or phases of projects.</p>		<p>initiative in identifying and negotiating appropriate development opportunities. Demonstrates effective communication skills. Contributes fully to the work of teams. Plans, schedules and monitors own work (and that of others where applicable) competently within limited deadlines and according to relevant legislation and procedures. Absorbs and applies technical information. Works to required standards. Understands and uses appropriate methods, tools and applications. Appreciates the wider field of information systems, and how own role relates to other roles and to the business of the employer or client.</p>
4 Enable	<p>Works under general direction within a clear framework of accountability.</p>	<p>Influences team and specialist peers internally. Influences Authority's at account level and Contractors. Has some responsibility</p>	<p>Performs a broad range of complex technical or professional work activities,</p>	<p>Selects appropriately from applicable standards, methods, tools and applications. Demonstrates an</p>

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	<p>Exercises substantial personal responsibility and autonomy. Plans own work to meet given objectives and processes.</p>	<p>for the work of others and for the allocation of resources. Participates in external activities related to own specialism.</p> <p>Makes decisions which influence the success of projects and team objectives.</p>	<p>in a variety of contexts.</p>	<p>analytical and systematic approach to problem solving. Communicates fluently orally and in writing, and can present complex technical information to both technical and non-technical audiences. Facilitates collaboration between stakeholders who share common objectives.</p> <p>Plans, schedules and monitors work to meet time and quality targets and in accordance with relevant legislation and procedures. Rapidly absorbs new technical information and applies it effectively. Has a good appreciation of the wider field of information systems, their use in relevant employment areas and how they relate to the business activities of the employer or client. Maintains an awareness of developing technologies and their application and takes some responsibility for</p>
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				personal development.
5 Ensure /Advise	<p>Works under broad direction. Is fully accountable for own technical work and/or project/ supervisory responsibilities. Receives assignments in the form of objectives.</p> <p>Establishes own milestones and team objectives, and delegates responsibilities. Work is often self-initiated.</p>	<p>Influences organisation, customers, contractors and peers within industry on the contribution of own specialism. Has significant responsibility for the work of others and for the allocation of resources. Makes decisions which impact on the success of assigned projects i.e. results, deadlines and budget. Develops business relationships with the Authority.</p>	<p>Performs a challenging range and variety of complex technical or professional work activities.</p> <p>Undertakes work which requires the application of fundamental principles in a wide and often unpredictable range of contexts. Understands the relationship between own specialism and wider customer/ organisational requirements.</p>	<p>Advises on the available standards, methods, tools and applications relevant to own specialism and can make correct choices from alternatives. Analyses, diagnoses, designs, plans, execute and evaluates work to time, cost and quality targets. Communicates effectively, formally and informally, with colleagues, subordinates and customers. Demonstrates leadership.</p> <p>Facilitates collaboration between stakeholders who have diverse objectives. Understands the relevance of own area of responsibility/ specialism to the employing organisation. Takes customer requirements into account when making proposals. Takes initiative to keep skills up to date. Mentors more junior</p>

				<p>colleagues. Maintains an awareness of developments in the industry. Analyses requirements and advises on scope and options for operational improvement. Demonstrates creativity and innovation in applying solutions for the benefit of the Authority.</p>
6 Initiate/ Influence	<p>Has defined authority and responsibility for a significant area of work, including technical, financial and quality aspects. Establishes organisational objectives and delegates responsibilities. Is accountable for actions and decisions taken by self and subordinates.</p>	<p>Influences policy formation on the contribution of own specialism to business objectives. Influences a significant part of own organisation and influences the Authority/contractors and industry at senior management level. Makes decisions which impact the work of employing organisations, achievement of organisational objectives and financial performance.</p> <p>Develops high-level relationships with the Authority, contractors and industry leaders.</p>	<p>Performs highly complex work activities covering technical, financial and quality aspects. Contributes to the formulation of IT strategy. Creatively applies a wide range of technical and/or management principles.</p>	<p>Absorbs complex technical information and communicates effectively at all levels to both technical and non-technical audiences. Assesses and evaluates risk. Understands the implications of new technologies. Demonstrates clear leadership and the ability to influence and persuade. Has a broad understanding of all aspects of IT and deep understanding of own specialism(s). Understands and communicates the role and impact of IT in the employing organisation and promotes</p>

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				compliance with relevant legislation. Takes the initiative to keep both own and subordinates' skills up to date and to maintain an awareness of developments in the IT industry.
7 Set Strategy/ Inspire	Has authority and responsibility for all aspects of a significant area of work, including policy formation and application. Is fully accountable for actions taken and decisions made, both by self and subordinates	Makes decisions critical to organisational success. Influences developments within the IT industry at the highest levels. Advances the knowledge and/or exploitation of IT within one or more organisations. Develops long-term strategic relationships with customers and industry leaders.	Leads on the formulation and application of strategy. Applies the highest level of management and leadership skills. Has a deep understanding of the IT industry and the implications of emerging technologies for the wider business environment	Has a full range of strategic management and leadership skills.  Understands, explains and presents complex technical ideas to both technical and non-technical audiences at all levels up to the highest in a persuasive and convincing manner. Has a broad and deep IT knowledge coupled with equivalent knowledge of the activities of those businesses and other organisations that use and exploit IT.  Communicates the potential impact of emerging technologies on organisations and individuals and analyses the risks of using or not using such technologies.

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				Assesses the impact of legislation, and actively promotes compliance. Takes the initiative to keep both own and subordinates' skills up to date and to maintain an awareness of developments in IT in own area(s) of expertise.
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**Annex C to Schedule 2: Not Used**

**Annex D to Schedule 2 - Key Personnel**

Placeholder for Key Personnel, to be inserted from ITT documentation.

Key Personnel	Level/Scope <sup>8</sup>	Role	Key Responsibilities

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<sup>8</sup> Use the Level / Scope defined in Schedule 2 Annex B

**Annex E to Schedule 2 – Government Furnished Assets**

ID	Oracle Applications including Oracle Software Update License and Support – Premier Support	License Number	Authority Owner
1	EPPM Full	ULA	Vaughan Andrews
2	Timesheets	ULA	Vaughan Andrews
3	Unifier Project Controls	ULA	Vaughan Andrews
4	AutoVue 2D Professional	ULA	Vaughan Andrews
5	Primavera Risk Analysis	ULA	Vaughan Andrews
6	Primavera Gateway	ULA	Vaughan Andrews
7	Crystal Ball EPM	500	Vaughan Andrews
8	Primavera Analytics	ULA	Vaughan Andrews
9	Primavera Portfolio Management	ULA	Vaughan Andrews
10	BI Developer License	10	Vaughan Andrews
11	UPKs each For P6, P6 Reporting, Team Member, Portfolio Management and Unifier	1	Vaughan Andrews
12	OBIEE Extended Edition- for Oracle applications only	1650	Vaughan Andrews
13	Weblogic Server SE* 125 CPUs for Oracle applications only	125	Vaughan Andrews
14	Oracle Database	Unlimited	Vaughan Andrews

ID	Certificates and Licenses	Authority Owner
15	Security certificates, internet and intranet urls	Vaughan Andrews
16	Microsoft Licenses pertinent to delivery of Software (e.g. Excel) via Citrix	Vaughan Andrews

ID	Development Environment	Authority Owner
17	DE&S P3M development environment	Vaughan Andrews
18	Representative 3 month project data set of performance including schedule, evm, cost and approval data for a 3 month period	Vaughan Andrews

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**Appendix to Annex E- DEFFORM 316**

(Edn 5/98)

Ministry of Defence

GOVERNMENT FURNISHED INFORMATION

<p>1. ITT/Contract Number 700210314 - CCDT/583</p>	<p>2. GFI Number 001</p>	<p>3. Contract Delivery Date  TBC</p>
<p>4. Equipment/Equipment Subsystem Description  P3M Support Requirement</p>		<p>5. Description of Deliverable Information  Information provided via incumbent third-party supplier on behalf of MOD DE&amp;S  Infrastructure (from Exit Artefacts provided by incumbent supplier)</p> <ul style="list-style-type: none"> <li>• Release 18 PPE and PRD –P3M Primavera – System Documentation</li> <li>• Release 18 DCT – P3M Primavera – System Documentation</li> <li>• MOD P3M Infrastructure Topology Diagram v7</li> <li>• Application (from Exit Artefacts provided by incumbent <a href="#">MOD-DES-P3M-Unifier Configuration Document R3 v2.0</a>)</li> <li>• P3M Report Catalog (MC.090) as at Release3_FINAL v1.0</li> <li>• <a href="#">Database schema tables 18.8.4</a></li> <li>• Star_schema.zip</li> </ul> <p>Other Documents (not provided as exit artefacts)</p> <ul style="list-style-type: none"> <li>• DE&amp;S Corporate plan</li> <li>• CMIS User Guide</li> <li>• MoD Finance Background Information</li> </ul>

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	<ul style="list-style-type: none"> <li>• R4 Target Architecture, Data Flows and Interfaces</li> <li>• Enterprise WBS structure Overview</li> <li>• Incident Engagement Flow Diagram R4</li> <li>• JSP440 Annex N</li> </ul> <p>Please note that Incumbent supplier documents have been handed to DE&amp;S as part of project milestone-related deliverables</p> <ul style="list-style-type: none"> <li>• Data Modeller zip file for viewing star schema -Oracle utility</li> </ul>
<p>6. Purpose for which information is required</p> <p>Technical information to support Exit Plan of incumbent Supplier and transition of new service provider(s)</p>	<p>7. Special Requirements/Comments</p> <p>Some of the documents are marked as Official Sensitive and should be managed according to handling measures specified for this classification.</p>
<p>8. Update/Further Submission Requirements</p>	
<p>9. Medium of Delivery</p> <p>Electronic transmission to secure repository</p>	<p>10. Number of Copies</p> <p>1 per document</p>

**Schedule 3 - Contract Data Sheet**

General Conditions
<p>Condition 2 – Duration of Contract:</p> <p>The Contract expiry date shall be: 30/06/2022 (unless the Authority decides to exercise an option to extend the Contract by a further 1 or 2 years)</p>
<p>Condition 4 – Governing Law:</p> <p>Contract to be governed and construed in accordance with:</p> <p>English Law</p> <p>Solicitors or other persons based in England and Wales (or Scotland if Scots Law applies) irrevocably appointed for Contractors without a place of business in England (or Scotland, if Scots Law applies) in accordance with clause 4.g (if applicable) are as follows:</p> <p>N/A</p>
<p>Condition 8 – Authority’s Representatives:</p> <p>The Authority’s Representatives for the Contract are as follows:</p> <p>Commercial: CCDT Ops 33 (as per DEFFORM 111)</p> <p>Project Manager: P3M Project Manager (as per DEFFORM 111)</p>
<p>Condition 19 – Notices:</p> <p>Notices served under the Contract shall be sent to the following address:</p> <p>Authority: MOD Abbey Wood #1261 Spruce 2B Bristol BS34 8JH (as per DEFFORM 111)</p> <p>Contractor: TBC</p>

Notices can be sent by electronic mail? No

Condition 20.a – Progress Meetings:

The Contractor shall be required to attend the following meetings:

As Stated in the Schedule 9

Condition 20.b – Progress Reports:

The Contractor is required to submit the following Reports:

As Stated in Schedule 9

Reports shall be Delivered to the Authority Project Manager as per DEFFORM 111

Supply of Contractor Deliverables
<p>Condition 21 – Quality Assurance:</p> <p>Is a Deliverable Quality Plan required for this Contract? No</p> <p>If required, the Deliverable Quality Plan must be set out as defined in AQAP 2105 and delivered to the Authority (Quality) within Business Days of Contract Award. Once agreed by the Authority the Quality Plan shall be incorporated into the Contract. The Contractor shall remain at all times solely responsible for the accuracy, suitability and applicability of the Deliverable Quality Plan.</p> <p>Other Quality Assurance Requirements: Not Applicable</p>
<p>Condition 22 – Marking of Contractor Deliverables:</p> <p>Special Marking requirements:</p> <p>Not Applicable</p>
<p>Condition 24 - Supply of Data for Hazardous Contractor Deliverables, Materials and Substances:</p> <p>A completed Schedule 6 (Hazardous Contractor Deliverables, Materials or Substance Statement), and if applicable, Safety Data Sheet(s) are to be provided by e-mail with attachments in Adobe PDF or MS WORD format to:</p> <p>a) The Authority's Representative (Commercial)</p> <p>b) Defence Safety Authority – DSA-DLSR-MovTpt-DGHSIS@mod.uk</p> <p>to be Delivered no later than one (1) month prior to the Delivery Date for the Contract Deliverable or by the following date: Not Applicable</p>
<p>Condition 25 – Timber and Wood-Derived Products:</p>

A completed Schedule 7 (Timber and Wood-Derived Products Supplied under the Contract: Data Requirements) is to be provided by e-mail with attachments in Adobe PDF or MS WORD format to the Authority's Representative (Commercial)

to be Delivered by the following date: Not Applicable

Condition 26 – Certificate of Conformity:

Is a Certificate of Conformity required for this Contract?

CoC shall be provided in accordance with DEFCON 627

Applicable to Line Items: All

If required, does the Contractor Deliverables require traceability throughout the supply chain?

No

Applicable to Line Items:

Condition 28.b – Delivery by the Contractor:

The following Line Items are to be Delivered by the Contractor: All

Special Delivery Instructions:

N/A

Each consignment is to be accompanied by a DEFFORM 129J.

Condition 28.c - Collection by the Authority:

The following Line Items are to be Collected by the Authority:

Not Applicable

Special Delivery Instructions:

N/A

Each consignment is to be accompanied by a DEFFORM 129J.

Consignor details (in accordance with 28.c.(4)):

Line Items: Address: Authority Project Manager

Line Items: Address:

Consignee details (in accordance with condition 23):

Line Items: Address: Authority Project Manager

Line Items: Address:

Condition 30 – Rejection:

The default time limit for rejection of the Contractor Deliverables is thirty (30) days unless otherwise specified here:

The time limit for rejection shall be thirty (30) days.

Condition 32 – Self-to-Self Delivery:

Self-to-Self Delivery required? No

If required, Delivery address applicable:

N/A

Pricing and Payment
Condition 35 – Contract Price:  All Schedule 2 line items shall be FIRM Price other than those stated below:  Line Items 5 - 11 will be FIRM Price if taken up as Options

Termination
Condition 42 – Termination for Convenience:  The Notice period for terminating the Contract shall be twenty (20) Business Days

Other Addresses and Other Information (forms and publications addresses and official use information)
See DEFFORM 111

**Schedule 4 - Contract Change Control Procedure (i.a.w. Clause 6b)**

Contract No:

1. Authority Changes

Subject always to Condition 6 (Amendments to Contract), the Authority shall be entitled, acting reasonably, to require changes to the Contractor Deliverables (a "Change") in accordance with this Schedule 4.

2. Notice of Change

a. If the Authority requires a Change, it shall serve a Notice (an "Authority Notice of Change") on the Contractor.

b. The Authority Notice of Change shall set out the change required to the Contractor Deliverables in sufficient detail to enable the Contractor to provide a written proposal (a "Contractor Change Proposal") in accordance with clause 3 below.

3. Contractor Change Proposal

a. As soon as practicable, and in any event within fifteen (15) Business Days (or such other period as the Parties may agree) after having received the Authority Notice of Change, the Contractor shall deliver to the Authority a Contractor Change Proposal.

b. The Contractor Change Proposal shall include:

1. the effect of the Change on the Contractor's obligations under the Contract;
2. a detailed breakdown of any costs which result from the Change;
3. the programme for implementing the Change;
4. any amendment required to this Contract as a result of the Change, including, where appropriate, to the Contract Price; and
5. such other information as the Authority may reasonably require.

c. The price for any Change shall be based on the prices (including all rates) already agreed for the Contract and shall include, without double recovery, only such charges that are fairly and properly attributable to the Change.

4. Contractor Change Proposal – Process and Implementation

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- a. As soon as practicable after the Authority receives a Contractor Change Proposal, the Authority shall:
  1. evaluate the Contractor Change Proposal;
  2. where necessary, discuss with the Contractor any issues arising and following such discussions the Authority may modify the Authority Notice of Change and the Contractor shall as soon as practicable, and in any event not more than ten (10) Business Days (or such other period as the Parties may agree) after receipt of such modification, submit an amended Contractor Change Proposal.
- b. As soon as practicable after the Authority has evaluated the Contractor Change Proposal (amended as necessary) the Authority shall:
  1. indicate its acceptance of the Change Proposal by issuing an amendment to the Contract in accordance with Condition 6 (Amendments to Contract); or
  2. serve a Notice on the Contractor rejecting the Contractor Change Proposal and withdrawing (where issued) the Authority Notice of Change.
- c. If the Authority rejects the Change Proposal it shall not be obliged to give its reasons for such rejection.
- d. The Authority shall not be liable to the Contractor for any additional work undertaken or expense incurred unless a Contractor Change Proposal has been accepted in accordance with Clause 4b.(1) above.

5. Contractor Changes

If the Contractor wishes to propose a Change, it shall serve a Contractor Change Proposal on the Authority, which shall include all of the information required by Clause 3b above, and the process at Clause 4 above shall apply.

**Schedule 5 - Contractor's Commercial Sensitive Information Form (i.a.w. condition 13)**

Contract No:

Contract No:
Description of Contractor's Commercially Sensitive Information:
Cross Reference(s) to location of sensitive information:
Explanation of Sensitivity:
Details of potential harm resulting from disclosure:
Period of Confidence (if applicable):
Contact Details for Transparency / Freedom of Information matters: Name: Position: Address: Telephone Number: Email Address:

**Schedule 6 - Hazardous Contractor Deliverables, Materials or Substances Supplied under the Contract**

Data Requirements for Contract No:

Hazardous Contractor Deliverables, Materials or Substances  
Statement by the Contractor

Contract No:

Contract Title:

Contractor:

Date of Contract:

\* To the best of our knowledge there are no hazardous Contractor Deliverables, materials or substances to be supplied.

\* To the best of our knowledge the hazards associated with materials or substances to be supplied under the Contract are identified in the Safety Data Sheets (Qty: ) attached in accordance with condition 24.

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Contractor's Signature:

Name:

Job Title:

Date:

\* check box () as appropriate

To be completed by the Authority

Domestic Management Code (DMC):

NATO Stock Number:

Contact Name:

Contact Address:

Copy to be forwarded to:

Hazardous Stores Information System (HSIS)

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Department of Safety & Environment, Quality and Technology (D S & EQT)

Spruce 2C, #1260

MOD Abbey Wood (South)

Bristol BS34 8JH

Emails to be sent to:

DESTECH-QSEPEnv-HSISMulti@mod.gov.uk

**Schedule 7 - Timber and Wood- Derived Products Supplied under the Contract**

Data Requirements for Contract No:

The following information is provided in respect of condition 25 (Timber and Wood-Derived Products):

Schedule of Requirements item and timber product type	Volume of timber Delivered to the Authority with FSC, PEFC or equivalent evidence	Volume of timber Delivered to the Authority with other evidence	Volume (as Delivered to the Authority) of timber without evidence of compliance with Government Timber Procurement Policy	Total volume of timber Delivered to the Authority under the Contract

**Schedule 8 - Acceptance Procedure (i.a.w. condition 29)**

Contract No: 700210314 - CCDT/583

Acceptance

a. For the purposes of Acceptance of the Schedule of Requirements Items the Contractor shall demonstrate to the satisfaction of the Authority's Nominated Officer, the achievement of each of the specified requirements at Schedule 2 Annex A Statement of Requirements.

b. Contract Deliverables (Documents): The procedure for Acceptance of the Contract Deliverables (documentation) shall be as follows:

i. The Contractor shall demonstrate evidence that all critical acceptance criteria against the Statement of Requirement have been met.

ii. The Authority's Nominated Officer will review the document and endeavour to provide to the Contractor a consolidated list of all comments within 10 working days. The Authority reserves the right to not accept the delivered document should all the acceptance criteria not have been met. No response from the Authority with reference to the acceptance of the document shall not be deemed as acceptance by the Authority.

iii. Both Parties shall endeavour to ensure that the above timescales are achieved but acknowledge that unforeseen circumstances may prevent them from being achieved. If a delay does occur that cannot be contained within the programme timescales both Parties will assess the situation and agree a way forward. No response from the Authority within this period shall not indicate Acceptance.

c. Contract Deliverables (Software): The procedure for Acceptance of the Contract Deliverables (Software) shall be as follows:

i. The Contractor shall demonstrate evidence that all critical acceptance criteria against the Statement of Requirement have been met, once the agreed software testing has been satisfactorily completed in accordance with Schedules 10 and 22.

ii. The Authority's Nominated Officer will review the delivered software and endeavour to provide to the Contractor a consolidated list of all comments within 10 working days. The Authority reserves the right to not accept the delivered software should all the acceptance criteria not have been met. No response from the Authority with reference to the acceptance form shall not be deemed as acceptance by the Authority.

iii. Both Parties shall endeavour to ensure that the above timescales are achieved but acknowledge that unforeseen circumstances may prevent them from being achieved. If a delay does occur that cannot be contained within the programme timescales both Parties will assess the situation and agree a way forward. No response from the Authority within this period shall not indicate Acceptance.

iv. Should defects emerge within 12 months of the deployment date of the software, the Contractor shall rectify them at no cost within one month after agreement with the Authority that the Contractor is responsible.

## Schedule 9 - Collaboration

### 1. Collaboration

1.1. As per Schedule 2, the R4 Configuration Contractor will be required to collaborate with the Authority and the DES P3M Service contractors (Infrastructure and Platform Support Contractor and/or the Application Support Contractor), to deploy new capability onto the live P3M system and to provide advice and guidance when required.

1.2 All P3M Contractors and the Authority shall work together to agree a P3M Project Charter (the Charter) which will support collaborative behaviours between all parties to deliver the P3M Service. A draft P3M Collaboration Charter is at Annex A. The parties will review the contents of the draft Charter at the first Monthly P3M Steering Committee and to agree the contents in advance of the 2nd Monthly P3M Steering Committee, unless otherwise agreed between the parties.

1.3 The Charter shall not be contractually binding on the P3M Contractors or the Authority but may be used as a measure of the behaviours to be taken into account in any monthly performance review under the Contract.

### 2. Meetings

2.1 The contractors shall be expected to support meetings as laid out below and to be flexible to ensure collective attendance where necessary (meetings marked with \* are those where we would expect multiple suppliers at same meeting):

Meeting Name	Summary	Frequency	Location	Chair	Attendees
Commercial Management Meeting	Means the monthly review of contractual deliverables within the Contract	Monthly	Filton Abbey Wood, Bristol	Authority	Relevant Contractor and to provide secretariat
Service Review	Means the monthly review between the Contractors and the Authority to review monthly performance of the P3M service and supporting teams, as defined by the content within the Monthly Service Report. Outputs are signed off monthly	Monthly	Filton Abbey Wood, Bristol	Application Support provider (and to provide secretariat)	Authority  Infrastructure and Platform Support Contractor

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	performance with agreed actions.				
P3M Steering Committee*	means the committee that will direct and steer the P3M project, holding the respective Project Manager to account for project delivery including the DE&S P3M Software Solution;	Monthly	Filton Abbey Wood, Bristol	Authority (and to provide secretariat)	Infrastructure and Platform Support Contractor  Application Support Contractor  R4 Configuration Contractor
Capacity Management Review	Means a quarterly meeting to discuss the capacity management for the P3M service. Infrastructure and Platform Support contractor will provide monitoring output and recommendations, allowing DE&S to take informed decisions on capacity of the service.	Quarterly	Filton Abbey Wood, Bristol	Authority (and to provide secretariat)	Infrastructure and Platform Support contractor  Application Support contractor
Change Control Board (CCB)	Means a monthly meeting to review the pipeline of changes (upstream of CAB) being proposed, developed and scheduled for the P3M production service.	Monthly	Skype	Authority (and to provide secretariat)	Infrastructure and Platform Support contractor  Application Support Contractor

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Change Advisory Board (CAB)	Means the weekly meeting to review proposed changes to production as per the change management process, outputs are the approved or rejected changes to P3M production environment.	Weekly	Skype	Application Support contractor (and to provide secretariat)	Authority  Infrastructure and Platform Support Contractor  R4 Configuration Contractor
Problem Management Board	Means to the monthly review of open problem records and known errors against the P3M service.	Monthly	Skype	Authority (and to provide secretariat)	Infrastructure and Platform Support Contractor  Application Support Contractor

2.2 Above provides the initial expected responsibilities with respect to recurring meetings. Through the life of the Contract there may be changes to this agreed between Authority and Contractors.

2.3 The party providing the secretariat shall collaborate with all other parties to organise the dates and responsibilities of each of the meetings set out in paragraph 2 above, in consultation with the Authority’s nominated representative, whose decision shall be final.

2.4 The dates of all monthly meetings shall be organised to occur on the same date across all of the P3M Contracts/Requirements (R4 Configuration, Application Support and Infrastructure and Platform Support).

2.5 The Contractor’s representative at all meetings shall be the Contractor’s Project Manager or other Key Person as listed in Annex D Schedule 2. In the event of non-availability of either the Contractor’s Project Manager or other Key Personnel, the Contractor shall nominate another representative to the Authority’s nominated representative, confirming the suitability and qualification of the replacement personnel for attendance at the meeting. The Authority reserves the right to postpone any of the monthly meetings in the event of Key Personnel non-availability including Authority personnel and the Key Personnel of other P3M Contractors.

2.6 An agenda for each meeting shall be drafted, agreed by the chair for the meeting and issued by the party providing the secretariat for that meeting to all attendees of the next meeting, a minimum of 5 working days in advance of each scheduled meeting. The minutes of each meeting shall be taken, agreed by the chair and distributed to all attendees within 5 working days following each meeting, by the party providing the secretariat for the meeting under which the minutes were taken. The party responsible for the secretariat and recording the minutes of each meeting shall ensure that the chairperson for the next scheduled meeting receives an electronic copy of the minutes to ensure continuity and provide an update against outstanding actions.

### 3. Reporting

3.1 The Contractor shall provide the following reporting (within 10 working days following the end of each monthly reporting period) in support of the above meetings and in a format to be agreed with the Authority's nominated representative:

3.1.1 A Monthly progress report detailing activities achieved, planned activities partially achieved or not started, look ahead to activities planned for the next month, issues and risks.

3.2. The content of the above reports shall be agreed with the Authority within 2 months of contract award.

## **Annex A to Schedule 9 – Draft P3M Project Charter**

### 1. P3M Project Charter

1.1 The P3M Contractors agree to the following behaviours to contribute the best value for money outcomes for DE&S:

#### 1.1.1 Co-operation and Agility

1.1.1.1. Work together in a unified, inclusive and customer-focussed culture in the interest of P3M as a whole

1.1.1.2 Value the collective experience and knowledge of the P3M Contractors

1.1.1.3 Look for ways to continuously improve the service provision

1.1.1.4 Respect the position of each other's organisations

1.1.1.5 Be flexible and responsive to customer needs

1.1.1.6 Embrace change

#### 1.1.2. Trust and Transparency

1.1.2.1 Share a common set of information to achieve open and honest collaborative working

1.1.2.2. Act professionally and be sensitive to the needs of all stakeholders

1.1.2.3. Respect all information given and received

1.1.2.4. Ensure processes and behaviours are open and visible

1.1.2.5 Raise issues early to avoid surprises and challenge where its appropriate to do so

## Schedule 10 – P3M Change and Software Release Management

### 1. Introduction

A software change and release management process will be implemented to manage configuration changes to the P3M Tool Suite. This process will be adopted by all Contractors who provide Support or Configuration services for the P3M system.

All parties will be expected to work collaboratively, and in a timely manner, to ensure well planned, communicated, and executed changes.

The process and roles and responsibilities are defined in this document.

This is a draft version and will be agreed and finalised between all parties when the R4 Configuration Contractor and Support Contractor(s) have been selected.

### 2. Categories of Change

The following types and sources of functional changes are planned:

- a) Catalogue Changes e.g. DE&S Catalogue changes requests – e.g. P6 EPS/OBS changes or Infrastructure Support Contractor system routine patching.
- b) Minor change e.g. Development of new OBIEE report by either DE&S, R4 Configuration Contractor or Application Support Contractor.
- c) Major: R4 configuration releases– The planned R4 enhancements are detailed in the statement of requirements for Release 4 which has been provided to all the bidders. Software upgrades will be provided with a 12-month defect warranty period post go live by the R4 configuration contractor. A joint test plan shall be agreed between the R4 Configuration Contractor and Application Support Contractor for these major releases.

### 3. Change Process & Responsibilities

The change process flow diagram is depicted at Annex A. Changes of all categories will follow this process.

The responsibilities of the parties in the change process are defined in Table 1.

Table 1

	Responsible	Accountable	Consulted	Informed
Change Request Log	DE&S P3M Programme Team	DE&S P3M		
Manage Internal Catalogue Standard Changes	DE&S CIO	DE&S CIO	Infra Support Provider App Support Contractor R4 Configuration Contractor (as required)	Infra Support Contractor App Support Contractor R4 Configuration Contractor
Manages Industry Impact/options assessments and industry development of changes	App Support Contractor-provide change ticketing system	App Support Contractor	Infra Support Contractor R4 Configuration Contractor (as required)	Infra Support Contractor R4 Configuration Contractor
Develop/Config Change	Infra Support Contractor App Support Contractor R4 Configuration Contractor (as appropriate)	Infra Support Contractor App Support Contractor R4 Configuration Contractor (as appropriate)	Infra Support Contractor App Support Contractor R4 Configuration Contractor (as appropriate) DE&S	Infra Support Contractor App Support Contractor R4 Configuration Contractor (as appropriate)
Implement Change on the system	Infra Support Contractor App Support Contractor (as appropriate) CIO (standard Change)	Infra Support Contractor App Support Contractor (as appropriate) CIO (standard Change)	DE&S CIO Config Infra Support Contractor App Support Contractor (as appropriate)	DE&S CIO Service Management

Status/Progress Reporting of RFCs and Change Records through their lifecycle	DE&S App Support Contractor	DE&S App Support Contractor	Infra Support Contractor R4 Configuration Contractor	Infra Support Contractor R4 Configuration Contractor
CAB Management	App Support Contractor	App Support Contractor	DE&S Infra Support Contractor App Support Contractor (as appropriate)	
Change Management reporting	App Support Contractor	App Support Contractor		DE&S Infra Support Contractor App Support Contractor (as appropriate)
CCB Management	DE&S P3M Programme	DE&S P3M	Infra Support Contractor App Support Contractor R4 Configuration Contractor (all attend for part of meeting)	

#### 4. Release Testing Responsibilities

The R4 Configuration Contractor<sup>9</sup> will be responsible for:

- conducting appropriate System test/functional testing in the development environment and packaging the configuration for transfer to the PPE environment

<sup>9</sup> The R4 Configuration Contractor will perform the major functional changes but DE&S, the Application Support Contractor and infrastructure Support Contractor will also lead on minor or standard catalogue changes. The responsibility for ensuring the appropriate level of testing will therefore change according to the ownership of the change.

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- managing UAT – they will create the UAT test plans and run and manage defect rectification
- providing a 12-month defect rectification period post production go live date to fix any emerging defects

The Application Support Contractor will be responsible for:

- moving the packaged configuration into the PPE environment for UAT testing.
- regression testing prior to release to the live system.
- Operational acceptance testing
- Supporting and maintaining configuration changes on the live system<sup>10</sup>

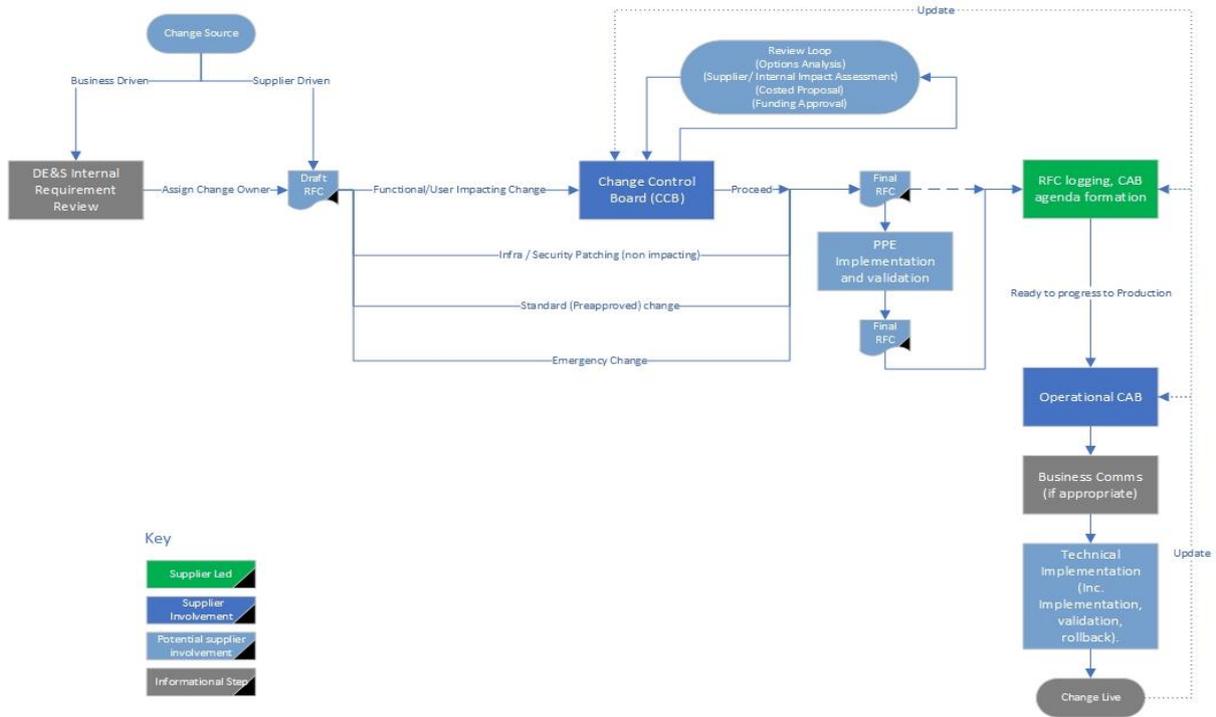
DE&S will be responsible for:

- Acceptance of the software release and agreement of release timescales

Glossary

See Table below

Annex A to Schedule 10 – Process Flow Diagram



Terminology	Definition
Change	The addition, modification or removal of anything that could have an effect on system or functionality or services
Application Support Contractor	The Contractor responsible for providing Application Support to the P3M system
Infrastructure Support Contractor	The Contractor responsible for providing infrastructure support to the P3M system
R4 Configuration Contractor	The Contractor responsible for proving configuration support for Release 4 of the P3M system
DE&S CIO Service Operations	The CIO team responsible for managing service requests and incidents
DE&S CIO Service Management	The CIO team responsible for managing Standard changes onto the system
Change Sponsor	person responsible for confirming the need for the change and ensuring that all the requisite support elements are in place prior to go live
RFC	Request for Change – Process to formally request change to system.
Change Advisory Board (CAB)	Technical body that provides governance prior to implementing change in PPE or Live system
Change Control Board (CCB)	Business governance board responsible for initiating, sponsoring, prioritising and progressing business changes
Change Implementor	Person or organisation approved to make approved change
UAT	User Acceptance Testing – Testing of change by end users for real world scenarios
Regression test	Regression testing is defined as software testing to confirm that a recent program or configuration change has not

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	<p>adversely affected other parts of the software. Regression testing will be required when:</p> <ul style="list-style-type: none"> <li>• There is a change in requirements and a program or configuration is modified according to the requirement</li> <li>• New feature is added to the software</li> <li>• Defect fixing</li> <li>• Performance issue fix</li> </ul> <p>The level of regression testing will have to be commensurate to the size and complexity of the change or software release. The frequency of regression tests and the coverage of such tests will be determined between App Support Contractor, Development Contractor and DES. It is expected by DES that a major Upgrade (e.g. 16.2 to 18.x) or the implementation of a new release (R4) will have to factor in significant regression test activity.</p>
Pre-Production Environment	An environment that replicates the production environment configuration that is used for testing

## **Schedule 11 – Onboarding/Mobilisation Plan**

### Introduction

1. This Schedule provides the Contractors Onboarding Plan for conducting the Discovery and Rapid Prototype Phase in accordance with Schedule 2. The Onboarding Plan is set out below:
2. [The document that details the Discovery Phase provided in response to Technical Tender evaluation Question 5 will be inserted at Annex A.]
3. [The document that details the Rapid Prototype Phase provided in response to Technical Tender evaluation Question 6 will be inserted at Annex B.]

**Schedule 11 Annex A: Onboarding/Mobilisation Plan for Discovery Phase**

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**Schedule 11 Annex B: Onboarding/Mobilisation Plan for Rapid Prototype Phase**

**Schedule 12 Not Used**

**Schedule 13 Not Used**

**Schedule 14 Not Used**

**Schedule 15 Not Used**

**Schedule 16 Security Aspects Letter**  
(Redacted for Contracts Finder)

**Appendix 1 to Schedule 16: OFFICIAL and OFFICIAL- SENSITIVE Security Condition for UK Contracts (JSP440 Annex N)**

Definitions

1. The term "Authority" for the purposes of the Annex means a Ministry of Defence (MOD) official acting on behalf of the Secretary of State for Defence.

Security Grading

2. All aspects associated with this Contract are classified OFFICIAL. Some aspects are more sensitive and are classified as OFFICIAL-SENSITIVE. The Security Aspects Letter, issued by the Authority defines the OFFICIAL- SENSITIVE information that is furnished to the Contractor, or which is to be developed by it, under this Contract. The Contractor shall mark all OFFICIAL-SENSITIVE documents which it originates or copies during the Contract clearly with the OFFICIAL-SENSITIVE classification. However, the Contractor is not required to mark information/material related to the contract which is only OFFICIAL.

Official Secrets Acts

3. The Contractor's attention is drawn to the provisions of the Official Secrets Acts 1911-1989 in general, and to the provisions of Section 2 of the Official Secrets Act 1911 (as amended by the Act of 1989) in particular. The Contractor shall take all reasonable steps to make sure that all individuals employed on any work in connection with the Contract (including sub-contractors) have notice that these statutory provisions, or any others provided by the Authority, apply to them and shall continue so to apply after the completion or earlier termination of the Contract.

Protection of OFFICIAL and OFFICIAL-SENSITIVE Information

4. The Contractor shall protect OFFICIAL and OFFICIAL-SENSITIVE information provided to it or generated by it in accordance with the requirements detailed in this Security Condition and any other conditions that may be specified by the Authority. The Contractor shall take all reasonable steps to prevent the loss or compromise of the information or from deliberate or opportunist attack.

5. The contractor shall apply Industry Security Notice (ISN) 2017/01 requirements to every industry owned IT and communication system used to store, process or generate MOD information including those systems containing OFFICIAL and/or OFFICIAL-SENSITIVE information. ISN 2017/01 details Defence Assurance and Risk Tool (DART) registration, IT security accreditation processes, risk assessment and risk management requirements. The ISN is available at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/594320/DART\\_ISN - V2 3.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/594320/DART_ISN_-_V2_3.pdf)

6. OFFICIAL and OFFICIAL-SENSITIVE information shall be protected in a manner to avoid unauthorised access. The Contractor shall take all reasonable steps to prevent the loss, compromise or inappropriate access of the information or from deliberate or opportunist attack.

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7. All OFFICIAL and OFFICIAL-SENSITIVE material including documents, media and other material shall be physically secured to prevent unauthorised access. When not in use OFFICIAL and OFFICIAL- SENSITIVE documents/material shall be handled with care. As a minimum, when not in use, OFFICIAL-SENSITIVE material shall be stored under lock and key and in a lockable room, cabinets, drawers or safe and the keys/combinations are themselves to be subject to a level of physical security and control.

8. Disclosure of OFFICIAL and OFFICIAL-SENSITIVE information shall be strictly in accordance with the "need to know" principle. Except with the written consent of the Authority, the Contractor shall not disclose any of the classified aspects of the Contract detailed in the Security Aspects Letter other than to a person directly employed by the Contractor or sub-Contractor, or Service Provider.

9. Any samples, patterns, specifications, plans, drawings or any other documents issued by or on behalf of the Authority for the purposes of the Contract remain the property of the Authority and shall be returned on completion of the Contract or, if directed by the Authority, destroyed in accordance with paragraph 32.

### Access

10. Access to OFFICIAL and OFFICIAL-SENSITIVE information shall be confined to those individuals who have a "need-to-know", have been made aware of the requirement to protect the information and whose access is essential for the purpose of his or her duties.

11. The Contractor shall ensure that all individuals having access to OFFICIALSENSITIVE information have undergone basic recruitment checks. Contractors shall apply the requirements of HMG Baseline Personnel Security Standard (BPSS) for all individuals having access to OFFICIAL-SENSITIVE information. Further details and the full requirements of the BPSS can be found at the Gov.UK website at:

<https://www.gov.uk/government/publications/government-baseline-personnelsecurity-standard>.

### Hard Copy Distribution

12. OFFICIAL and OFFICIAL-SENSITIVE documents shall be distributed, both within and outside company premises in such a way as to make sure that no unauthorised person has access. It may be sent by ordinary post or Commercial Couriers in a single envelope. The words OFFICIAL or OFFICIAL-SENSITIVE shall not appear on the envelope. The envelope should bear a stamp or details that clearly indicates the full address of the office from which it was sent.

13. Advice on the distribution of OFFICIAL-SENSITIVE documents abroad or any other general advice including the distribution of OFFICIAL-SENSITIVE hardware shall be sought from the Authority.

## Electronic Communication, Telephony and Facsimile Services

14. OFFICIAL information may be emailed unencrypted over the internet. OFFICIAL-SENSITIVE information shall normally only be transmitted over the internet encrypted using either a CESG Commercial Product Assurance (CPA) cryptographic product or a MOD approved cryptographic technique such as Transmission Layer Security (TLS). In the case of TLS both the sender and recipient organisations must have TLS enabled. Details of the required TLS implementation are available at:

<https://www.ncsc.gov.uk/guidance/tls-external-facing-services>

Details of the CPA scheme are available at:

<https://www.ncsc.gov.uk/scheme/commercial-product-assurance-cpa>

Exceptionally, in urgent cases, OFFICIAL-SENSITIVE information may be emailed unencrypted over the internet where there is a strong business need to do so and only with the prior approval of the Authority.

15. OFFICIAL-SENSITIVE information shall only be sent when it is known that the recipient has been made aware of and can comply with the requirements of these Security Conditions and subject to any explicit limitations that the authority shall require. Such limitations, including any regarding publication, further circulation or other handling instructions shall be clearly identified in the email sent with the material.

16. OFFICIAL information may be discussed on fixed and mobile telephones with persons located both within the UK and overseas. OFFICIAL-SENSITIVE information may be discussed on fixed and mobile types of telephone within the UK, but not within earshot of unauthorised persons.

17. OFFICIAL information may be faxed to recipients located both within the UK and overseas, however OFFICIAL-SENSITIVE information may be faxed only to UK recipients.

## Use of Information Systems

18. The detailed functions that must be provided by an IT system to satisfy the minimum requirements cannot all be described here; it is for the implementers to identify possible means of attack and ensure proportionate security mitigations are applied to prevent a successful attack.

19. The contractor shall ensure 10 Steps to Cyber Security is applied in a proportionate manner for each IT and communications system storing, processing or generating MOD UK OFFICIAL or OFFICIAL-SENSITIVE information. 10 Steps to Cyber Security is available at: <https://www.ncsc.gov.uk/guidance/10-steps-cyber-security>

The contractor shall ensure competent personnel apply 10 Steps to Cyber Security.

20. As a general rule, any communication path between an unauthorised user and the data can be used to carry out an attack on the system or be used to compromise or ex-filtrate data.

21. Within the framework of the 10 Steps to Cyber Security, the following describes the minimum security requirements for processing and accessing OFFICIAL-SENSITIVE information on IT systems.

- a. Access Physical access to all hardware elements of the IT system is to be strictly controlled. The principle of “least privilege” will be applied to System Administrators. Users of the IT System -Administrators should not conduct ‘standard’ User functions using their privileged accounts.
- b. Identification and Authentication (ID&A). All systems shall have the following functionality:
  - (1) Up-to-date lists of authorised users.
  - (2) Positive identification of all users at the start of each processing session.
- c. Passwords. Passwords are part of most ID&A, Security Measures. Passwords shall be ‘strong’ using an appropriate method to achieve this, for example including numeric and “special” characters (if permitted by the system) as well as alphabetic characters.
- d. Internal Access Control. All systems shall have internal Access Controls to prevent unauthorised users from accessing or modifying the data.
- e. Data Transmission. Unless the Authority authorises otherwise, OFFICIAL-SENSITIVE information shall be transmitted or accessed electronically (e.g. point to point computer links) via a public network like the Internet, using a CPA product or equivalent as described in paragraph 13 above.
- f. Security Accounting and Audit. Security relevant events fall into two categories, namely legitimate events and violations. (1). The following events shall always be recorded:
  - a) All log on attempts whether successful or failed,
  - b) Log off (including time out where applicable),
  - c) The creation, deletion or alteration of access rights and privileges,

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d) The creation, deletion or alteration of passwords,

(2) For each of the events listed above, the following information is to be recorded: (e) Type of event,

(f) User ID,

(g) Date & Time,

Device ID, The accounting records shall have a facility to provide the System Manager with a hard copy of all or selected activity. There shall also be a facility for the records to be printed in an easily readable form. All security records are to be inaccessible to users without a need to know. If the operating system is unable to provide this then the equipment shall be protected by physical means when not in use i.e. locked away or the hard drive removed and locked away.

h. Integrity & Availability. The following supporting measures shall be implemented:

(1). Provide general protection against normally foreseeable accidents/mishaps and known recurrent problems (e.g. viruse power supply variations),

(2). Defined Business Contingency Plan,

(3). Data backup with local storage,

(4). Anti-Virus Software (Implementation, with updates, of an acceptable industry standard Anti-virus software),

(5). Operating systems, applications and firmware should be supported,

(6). Patching of Operating Systems and Applications used shall be in line with the manufacturers recommended schedule. If patches cannot be applied an understanding of the resulting risk will be documented,

i. Logon Banners Wherever possible, a "Logon Banner" shall be provided to summarise the requirements for access to a system which may be needed to institute legal action in case of any breach occurring. A suggested format for the text (depending on national legal requirements) could be:

"Unauthorised access to this computer system may constitute a criminal offence"

j. Unattended Terminals. Users are to be automatically logged off the system if their terminals have been inactive for some predetermined period of time, or systems must activate a password protected screen saver after 15 minutes of inactivity, to prevent an attacker making use of an unattended terminal.

k. Internet Connections. Computer systems shall not be connected direct to the Internet or 'untrusted' systems unless protected by a firewall (a software based personal firewall is the minimum but risk assessment and management must be used to identify whether this is sufficient).

l. Disposal Before IT storage media (e.g. disks) are disposed of, an erasure product shall be used to overwrite the data. This is a more thorough process than deletion of files, which does not remove the data.

Laptops

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22. Laptops holding any MOD supplied or contractor generated OFFICIAL-SENSITIVE information are to be encrypted using a CPA product or equivalent as described in paragraph 14 above.

23. Unencrypted laptops not on a secure site<sup>11</sup> are to be recalled and only used or stored in an appropriately secure location until further notice or until approved full encryption is installed. Where the encryption policy cannot be met, a Risk Balance Case that fully explains why the policy cannot be complied with and the mitigation plan, which should explain any limitations on the use of the system, is to be submitted to the Authority for consideration. Unencrypted laptops and drives containing personal data are not to be taken outside of secure sites. For the avoidance of doubt the term “drives” includes all removable, recordable media (e.g. memory sticks, compact flash, recordable optical media e.g. CDs and DVDs), floppy discs and external hard drives.

24. Any token, touch memory device or password(s) associated with the encryption package is to be kept separate from the machine whenever the machine is not in use, left unattended or in transit.

25. Portable CIS devices are not to be left unattended in any public location. They are not to be left unattended in any motor vehicles either in view or in the boot or luggage compartment at any time. When the vehicle is being driven the CIS is to be secured out of sight in the glove compartment, boot or luggage compartment as appropriate to deter opportunist theft.

#### Loss and Incident Reporting

26. The contractor shall immediately report any loss or otherwise compromise of any OFFICIAL or OFFICIAL-SENSITIVE information to the Authority.

27. Accordingly, in accordance with Industry Security Notice 2014/02 as may be subsequently updated at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/293480/ISN\\_2014\\_02\\_Incident\\_Reporting.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/293480/ISN_2014_02_Incident_Reporting.pdf)

any security incident involving any MOD owned, processed, or Contractor generated OFFICIAL or OFFICIAL-SENSITIVE information defined in the contract Security Aspects Letter shall be immediately reported to the MOD Defence Industry Warning, Advice and Reporting Point (WARP), within the Joint Security Co-ordination Centre (JSyCC). This will assist the JSyCC in formulating a formal information security reporting process and the management of any associated risks, impact analysis and upward reporting to the MOD's

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<sup>11</sup> Secure Sites are defined as either Government premises or a secured office on the contractor premises

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Chief Information Officer (CIO) and, as appropriate, the company concerned. The MOD WARP will also advise the contractor what further action is required to be undertaken.

### JSyCC WARP Contact Details

Email: For those with access to the RLI: CIO-DSAS-JSyCCOperations

Email: For those without access to the RLI: CIO-DSAS-JSyCCOperations@mod.gov.uk

Telephone: Working Hours: 0306 770 2187

Out of Hours/Duty Officer Phone: 07768 558863

Fax: 01480 446328

Mail: Joint Security Co-ordination Centre (JSyCC), X007 Bazalgette Pavilion, RAF Wyton, Huntingdon, Cambs, PE28 2EA.

### Sub-Contracts

28. The Contractor may Sub-contract any elements of this Contract to Subcontractors within the United Kingdom notifying the Authority. When subcontracting to a Sub-contractor located in the UK the Contractor shall ensure that these Security Conditions shall be incorporated within the Sub-contract document. The prior approval of the Authority shall be obtained should the Contractor wish to Sub-contract any OFFICIAL-SENSITIVE elements of the Contract to a Sub-contractor located in another country. The first page of Appendix 5 (MOD Form 1686 (F1686)) of the Security Policy Framework Contractual Process chapter is to be used for seeking such approval. The MOD Form 1686 can be found at Appendix 5 at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/367494/Contractual\\_Process\\_-\\_Appendix\\_5\\_form.doc](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/367494/Contractual_Process_-_Appendix_5_form.doc).

If the Sub-contract is approved, the Contractor shall incorporate these security conditions within the Sub-contract document.

### Publicity Material

29. Contractors wishing to release any publicity material or display hardware that arises from this contract shall seek the prior approval of the Authority. Publicity material includes open publication in the contractor's publicity literature or website or through the media; displays at exhibitions in any country; lectures or symposia; scientific or technical papers, or any other occasion where members of the general public may have access to the information even if organised or sponsored by the MOD, Services or any other government department.

### Private Venture

30. Any defence related Private Venture derived from the activities of this Contract are to be formally assessed by the Authority for determination of its appropriate classification. Contractors are to submit a definitive product specification for PV Security Grading in accordance with the requirement detailed at:

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[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/414857/20150310\\_PV\\_Ex\\_Guidance\\_Document.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/414857/20150310_PV_Ex_Guidance_Document.pdf)

Promotions and Potential Export Sales

31. Contractors wishing to promote, demonstrate, sell or export any material that may lead to the release of information or equipment classified OFFICIAL-SENSITIVE (including classified tactics, training or doctrine related to an OFFICIAL-SENSITIVE equipment) are to obtain the prior approval of the Authority utilising the MOD Form 680 process, as identified at:

<https://www.gov.uk/mod-f680-applications>.

Destruction

32. As soon as no longer required, OFFICIAL and OFFICIAL-SENSITIVE information/material shall be destroyed in such a way as to make reconstitution unlikely, for example, by burning, shredding or tearing into small pieces. Advice shall be sought from the Authority when information/material cannot be destroyed or, unless already authorised by the Authority, when its retention is considered by the Contractor to be necessary or desirable. Unwanted OFFICIAL-SENSITIVE information/material which cannot be destroyed in such a way shall be returned to the Authority.

Interpretation/Guidance

33. Advice regarding the interpretation of the above requirements should be sought from the Authority.

34. Further requirements, advice and guidance for the protection of MOD information at the level of OFFICIAL-SENSITIVE may be found in Industry Security Notices at:

<https://www.gov.uk/government/publications/industry-security-notices-isns>.

Audit

35. Where considered necessary by the Authority, the Contractor shall provide evidence of compliance with this Security Condition and/or permit the inspection of the Contractors processes and facilities by representatives of the Authority to ensure compliance with these requirements.

**Schedule 17 - Not Used**

**Schedule 18 - Additional Services / Tasking Form**

TASK AUTHORISATION FORM - TAF Part 1	TAF NO:
CONTRACT No: 700231493 / CCDT/583	
PART 1 – TASK SPECIFICATION	
TASK TITLE	
TASK DESCRIPTION (including activities, acceptance criteria and deliverables where appropriate):	
Acceptance Criteria	
REQUIRED DELIVERY/COMPLETION DATE .....	
Authority Project Manager (PM):	
Name:.....Position.....Signed:.....Date:.....20	

TASK AUTHORISATION FORM - TAF Part 2	TAF NO:
CONTRACT No: 700231493 / CCDT/583	
PART 2 – CONTRACTORS OFFER	
TASK TITLE:	
FIRM PRICE QUOTATION	
<p>The Contractor's Firm Price quotation for the above Task is £.....(Ex VAT).</p>	
<p>In accordance with DEFCON 127, the price breakdown including; Direct Labour (Man hours and Rate card rates); Materials; Sub-contracted work;</p>	
<p>1. * Sub-Contract quotes are attached (* Delete as appropriate)</p>	
<p>2. Include brief details of any significant items required to be purchased to complete the task.</p>	
<p>DELIVERY/ COMPLETION DATE: .....20</p>	
<p>THIS QUOTATION IS VALID UNTIL (DATE): .....20</p>	
<p>CONTRACTORS AUTHORISING OFFICER</p>	
<p>Name:.....Position.....Signed:.....Date:.....20</p>	

PARTS 3 & 4 FOR AUTHORITY USE ONLY

TASK AUTHORISATION FORM - TAF Part 3		TAF NO:
CONTRACT No: 700231493 / CCDT/583		
APPROVAL TO PROCEED WITH TASK		
TASK TITLE:		
<p>A. AUTHORITY NOMINATED REPRESENTATIVE</p> <p>I confirm that the direct labour hours and the material elements of the Firm Price quotation are commensurate with the work involved.</p> <p>Name:.....Position.....Signed:.....Date:.....20</p>		
<p>B . AUTHORITY FINANCE PROJECT APPROVAL FOR ALL TASKS</p> <p>I confirm that Sufficient Funds exist under the UIN/RAC/LPC and a Requirement Scrutiny has been undertaken.</p> <p>Name:.....Position.....Signed:.....Date:.....20</p>		
<p>C. AUTHORITY COMMERCIAL APPROVAL FOR ALL TASKS</p> <p>Required for all Tasks before commencement of work</p> <p>Name:.....Position.....Signed:.....Date:.....20</p>		
AGREED FIRM PRICE	£.....	(Ex VAT)
AGREED DELIVERY/COMPLETION DATE: ..... 20		

Completion Certificate

TASK AUTHORISATION FORM – TAF Part 4	TAF NO:
CONTRACT No: 700231493 / CCDT/583	
CERTIFICATION OF COMPLETION OF TASK	
TASK TITLE:	
CONTRACTOR'S DECLARATION	
DATE TASK COMPLETED on:	
Name:.....Position.....Signed:.....Date:.....20	
AUTHORITY NOMINATED REPRESENTATIVE ACCEPTANCE OF COMPLETION	
I confirm that the task has been satisfactorily completed.	
Name:.....Position.....Signed:.....Date:.....20	

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Estimate to be provided in using the template below as directed by the Authority

Level / Scope	Project management Rate	Hours	Project management Price	Configuration & Testing Rate	Hours	Config & Testing Price	P6 Integration & testing Rate	Hours	P6 Integration & testing Price	Consultancy Support	Hours	Consultancy Support Price	OBIEE Report Development & Testing	Hours	OBIEE Report Development & Testing Price
1. Follow	£.....		£.....	£.....		£.....	£.....		£.....	£.....		£.....	£.....		£.....
2. Assist	£.....		£.....	£.....		£.....	£.....		£.....	£.....		£.....	£.....		£.....
3. Apply	£.....		£.....	£.....		£.....	£.....		£.....	£.....		£.....	£.....		£.....
4. Enable	£.....		£.....	£.....		£.....	£.....		£.....	£.....		£.....	£.....		£.....
5. Ensure/Advise	£.....		£.....	£.....		£.....	£.....		£.....	£.....		£.....	£.....		£.....
6. Initiate/Influence	£.....		£.....	£.....		£.....	£.....		£.....	£.....		£.....	£.....		£.....
7. Set Strategy/Inspire	£.....		£.....	£.....		£.....	£.....		£.....	£.....		£.....	£.....		£.....
8. Maximum Travel and Subsistence per day	£.....		£.....	£.....		£.....	£.....		£.....	£.....		£.....	£.....		£.....

## Schedule 19 - TUPE

### TRANSFER REGULATIONS

#### EMPLOYEE TRANSFER ARRANGEMENTS ON EXIT

#### 1. DEFINITIONS

1.1 In this Schedule 19, 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: (i) Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (the **"General Data Protection Regulation"**); (ii) the Data Protection Act 2018 to the extent that it relates to processing of personal data and privacy; and (iii) all applicable Law about the processing of personal data and privacy;

**"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;

**"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

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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 19 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 19 (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.

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 19 (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.

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 19 in respect of Transferring Employees.

2.1.4 Paragraphs 2.1.1 and 2.1.2 of this Appendix 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 2.1.4, 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.

2.1.5 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 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 2.1.5 of this Schedule 19.

2.1.6 The Authority may at any time prior to the period set out in paragraph 2.1.5 of this Schedule 19 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 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 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.

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 19 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 19, 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 ERNIC 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.

**Appendix 2: PERSONNEL INFORMATION TO BE RELEASED PURSUANT TO THIS CONTRACT**

**Part A**

1. Pursuant to paragraph 2.1.2 of this Schedule 19, 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:

**1.1 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.

**1.2 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;
- 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.

**1.3 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.

**1.4 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.

**1.5 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 as a School Governor; and
- d) Information about any current or expected maternity or other statutory leave or other absence from work.

**Part B**

**1.6 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**

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

**1.7.1 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;

**Schedule 20: Solution Design (to be completed on contract award)**

**Schedule 21: Project Management (to be completed on contract award)**

**Schedule 22: Configuration and Test Management (to be completed on contract award)**

**DEFFORM 111**

DEFFORM 111

Appendix - Addresses and Other Information

1. Commercial Officer

Name: CCDT Ops 33

Address: MOD Abbey Wood #1261 Spruce 2B Bristol BS34 8JH

Email

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

Name: P3M Project Manager

Address MOD Abbey Wood Poplar 1A Bristol BS34 8JH

Email:

3. Packaging Design Authority Organisation & point of contact:

N/A

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

N/A

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

Branch/Name: N/A

Authority Project Manager

(b) U.I.N. D4989C

5. Drawings/Specifications are available from N/A

6. Intentionally Blank

7. Quality Assurance Representative: Authority Project Manager

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

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

8. Public Accounting Authority

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

☐☐ 44 (0) 161 233 5397

2. For all other enquiries contact DES Fin FA-AMET Policy, Level 4 Piccadilly Gate, Store Street, Manchester, M1 2WD

☐☐ 44 (0) 161 233 5394

9. Consignment Instructions The items are to be consigned as follows: N/A

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

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

Air Freight Centre

IMPORTS ☐☐ 030 679 81113 / 81114 Fax 0117 913 8943

EXPORTS ☐☐ 030 679 81113 / 81114 Fax 0117 913 8943

Surface Freight Centre

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

EXPORTS ☐☐ 030 679 81129 / 81133 / 81138 Fax 0117 913 8946

B.JSCS

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

JSCS Fax No. 01869 256837

[www.freightcollection.com](http://www.freightcollection.com)

11. The Invoice Paying Authority

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

☐☐ 0151-242-2000 Fax: 0151-242-2809

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

12. Forms and Documentation are available through \*:

Ministry of Defence, Forms and Pubs Commodity Management PO Box 2, Building C16, C Site, Lower Arcott, 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: <https://www.aof.mod.uk/aofcontent/tactical/toolkit/index.htm>

2. If the required forms or documentation are not available on the MOD Internet site requests should be submitted through the Commercial Officer named in Section 1.