



**MOD**

**CONTRACT FOR:**

Provision of Services and Facilities for Exercise RUCKSACK Events 2016-19

**Contract Number :**

HQLF4A/005



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# 1. DEFFORM 110 - SCHEDULE OF REQUIREMENTS

<b>Contractor:</b> Gemeinde Ruppolding	<b>MINISTRY OF DEFENCE</b>		<b>Contract Number:</b> <b>HQLF4A/005</b>
	<b>Schedule of Requirements for:</b> Provision of Services and Facilities for EXERCISE RUCKSACK Events 2016-19		
<b>Issued With:</b> <b>Contract</b>	<b>On:</b> <b>18 May 2015</b>	<b>Previous Contract No</b> <b>CS4D/1505</b>	

## Requirements

Item Number	Description	Notes to Supplier	Total Price (ex-VAT)
1	YEAR 1 – Provision of Services and Facilities for Exercise RUCKSACK Events 2016.	To include all responsibilities of the contractor within the Statement of Requirement at Annex A to the Contract.	196,175 €
2.	OPTION YEAR 1 - Provision of Services and Facilities for Exercise RUCKSACK Events 2017 in accordance with General Condition 2.5.2 of the Contract.	To include all responsibilities of the contractor within the Statement of Requirement at Annex A to the Contract.	Should the Authority exercise it's preference to Accept the Contractors Option Year 1 Binding offer detailed at Appendix 1 to DEFFORM 110 to the Contract, acceptance will be clearly affected in writing as an amendment to the contract by the Authority's Commercial Branch 30 days prior to the end of the previous contracted Year.
3.	OPTION YEAR 2 - Provision of Services and Facilities for Exercise RUCKSACK Events 2018 in accordance with General Condition 2.5.2 of the Contract.	To include all responsibilities of the contractor within the Statement of Requirement at Annex A to the Contract.	Should the Authority exercise it's preference to Accept the Contractors Option Year 2 Binding offer detailed at Appendix 1 to DEFFORM 110 to the Contract, acceptance will be clearly affected in writing as an amendment to the contract by the Authority's Commercial Branch 30 days prior to the end of the previous contracted Year.
4.	OPTION YEAR 3 - Provision of Services and Facilities for Exercise RUCKSACK Events 2019 in accordance with General Condition 2.5.2 of the Contract.	To include all responsibilities of the contractor within the Statement of Requirement at Annex A to the Contract.	Should the Authority exercise it's preference to Accept the Contractors Option Year 3 Binding offer detailed at Appendix 1 to DEFFORM 110 to the Contract, acceptance will be clearly affected in writing as an amendment to the contract by the Authority's Commercial Branch 30 days prior to the end of the previous contracted Year.

DEFORM 110 – APPENDIX 1 - PRICE BREAKDOWN

ITEM	DESCRIPTION	YEAR 1			OPTION YEAR 1 (YEAR 2)			OPTION YEAR 2 (YEAR 3)			OPTION YEAR 3 (YEAR 4)		
		PRICE (EACH) (VAT EX)	QTY	PRICE TOTAL (VAT EX)	PRICE (EACH) (VAT EX)	QTY	PRICE TOTAL (VAT EX)	PRICE (EACH) (VAT EX)	QTY	PRICE TOTAL (VAT EX)	PRICE (EACH) (VAT EX)	QTY	PRICE TOTAL (VAT EX)
1	Cost for the Stadium Hire to include all facilities detailed in the SOR and race preparation	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
2	Cost for results service	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
3	Cost for FIS Technical Delegate	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
4	Cost for IBU Technical Delegate	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
5	Cost for IBU Range Referee	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
6	Cost for Range Team	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
7	Cost by bed night of athlete self catering accommodation for up to 2800 bed nights	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
8	Cost by bed night of official B&B accommodation for up to 410 bed nights	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
9	Cost of biathlon race office to include all facilities detailed in the SOR.	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
10	Cost of Race Programme	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
11	Cost of Biathlon Leg Numbers	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
12	Cost of Safety drinks and cups	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
13	Contractor costs for travel and subsistence	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
TOTAL CONTRACT VALUE (VAT EX)		196,175.00 €			REDACTED			REDACTED			REDACTED		

## DEFFORM 110 - APPENDIX 2 – STAGE PAYMENT PLAN

Condition 8.1.4 of the Contract Terms and Conditions refer.

The following Stage Payment Plan shall apply to the Contract:

YEAR 1				
Serial	Agreed earliest date of claim	Details of deliverable that payment is linked to	Percentage of Total Contract Value	Payment Value
A	11 Dec 15	UK Based Work; deposits on accommodation.	REDACTED	REDACTED
B	11 Jan 16	Settlement Payment for accommodation and supplies.	REDACTED	REDACTED
C	11 Feb 16	Balance of all other costs due to Gemeinde Ruhpolding.	REDACTED	REDACTED
			<b>TOTAL</b>	196,175 €

If Option Years are taken up, the following shall apply to the Contract:

YEAR 2 – OPTION YEAR 1 (IF TAKEN UP)				
Serial	Agreed earliest date of claim	Details of deliverable that payment is linked to	Percentage of Total Contract Value	Payment Value
A	11 Dec 16	UK Based Work; deposits on accommodation.	REDACTED	REDACTED
B	11 Jan 17	Settlement Payment for accommodation and supplies.	REDACTED	REDACTED
C	11 Feb 17	Balance of all other costs due to Gemeinde Ruhpolding.	REDACTED	REDACTED
			<b>TOTAL</b>	REDACTED
YEAR 3– OPTION YEAR 2 (IF TAKEN UP)				
Serial	Agreed earliest date of claim	Details of deliverable that payment is linked to	Percentage of Total Contract Value	Payment Value
A	11 Dec 17	UK Based Work; deposits on accommodation.	REDACTED	REDACTED
B	11 Jan 18	Settlement Payment for accommodation and supplies.	REDACTED	REDACTED
C	11 Feb 18	Balance of all other costs due to Gemeinde Ruhpolding.	REDACTED	REDACTED
			<b>TOTAL</b>	REDACTED
YEAR 4– OPTION YEAR 3 (IF TAKEN UP)				
Serial	Agreed earliest date of claim	Details of deliverable that payment is linked to	Percentage of Total Contract Value	Payment Value
A	11 Dec 18	UK Based Work; deposits on accommodation.	REDACTED	REDACTED
B	11 Jan 19	Settlement Payment for accommodation and supplies.	REDACTED	REDACTED
C	11 Feb 19	Balance of all other costs due to Gemeinde Ruhpolding.	REDACTED	REDACTED
			<b>TOTAL</b>	REDACTED

## **2. GENERAL CONDITIONS**

DEFCON501 (Edn.12/14) - Definitions and Interpretations

DEFCON503 (Edn.12/14) - Formal Amendments To Contract

DEFCON515 (Edn.10/04) - Bankruptcy and Insolvency

DEFCON516 (Edn.04/12) - Equality

DEFCON518 (Edn.11/12) - Transfer

DEFCON520 (Edn.07/11) - Corrupt Gifts and Payments of Commission

DEFCON521 (Edn.04/12) - Sub-Contracting to Supported Businesses

DEFCON526 (Edn.08/02) - Notices

DEFCON527 (Edn.09/97) - Waiver

DEFCON528 (Edn.05/12) - Overseas Expenditure, Import and Export Licences

The Contractor's attention is drawn to clauses 1-3 of DEFCON 528 requiring notification of overseas expenditure. In this connection, the Contractor shall, within one month of acceptance of the Contract, notify the Contracts Branch of details of any overseas sub-contract or order he has placed, or intends to place, in aid of the contract. Details to be provided are: Contract No; Country in which sub-contract placed/to be placed; Name, Division and full postal address of sub-contractor; Value of sub-contract as applicable to main contract; Date placed/to be placed. If no overseas orders are to be placed, the Contractor shall advise the Contracts Branch to this effect in the same timescale

DEFCON528App - Appendix to DEFCON 528 - Overseas Expenditure, Import and Export Licences

DEFCON529 (Edn.09/97) - Law (English) - Where Applicable (See DEFCON 646)

DEFCON530 (Edn.12/14) - Dispute Resolution (English Law)

DEFCON531 (Edn.11/14) - Disclosure of Information

DEFCON532A (Edn.06/10) - Protection Of Personal Data (Where Personal Data is not being processed on behalf of the Authority)

DEFCON537 (Edn.06/02) - Rights of Third Parties

DEFCON538 (Edn.06/02) – Severability

DEFCON 539 (Edn 08/13) - Transparency

DEFCON 550 (Edn 02/14) - Child Labour and Employment Law

DEFCON566 (Edn.07/14) - Change of Control of Contractor

DEFCON620 (Edn.06/14) - Contract Change Control Procedure

DEFCON646 (Edn.10/98) - Law and Jurisdiction (Foreign Suppliers) - Where Applicable (See DEFCON 529)

DEFCON656 (Edn.03/06) - Break



## **2.1 Amendments to Contract - Army Winter Sports**

- 2.1.1 In addition to the requirements of DEFCON 503, the Contractor shall not accept any instructions which may have the effect of altering the terms of the Contract, without the prior written approval of the Commercial Branch. Only the Commercial Branch is authorised to vary the terms and conditions of the Contract. Such variations shall only have effect if agreed in writing. Amendments to the Contract shall be serially numbered and issued only by the Commercial Branch.
- 2.1.2 Any technical or other proposal from the Contractor requiring an amendment to the Contract is to be submitted in writing to the Authority for consideration, together with a cost and time-scale implications. Any such changes accepted by the Authority shall be notified to the Contractor by written amendment to the Contractor, and shall not be effective until accepted by the Authority.
- 2.1.3 Notwithstanding DEFCON 503, nothing said, done or written by any person nor anything omitted to be said, done or written by any person including, but without limitation, any servant or agent of the Authority shall in anyway affect the rights of the Authority, modify, affect, reduce, or extinguish the obligations and liabilities of the Contractor under the Contract, or be deemed to be a waiver of rights of the Authority, unless stated in writing and signed by the Commercial Branch, except as provided for under existing rights such as, but not exclusively, DEFCON 5J and DEFCON 502.
- 2.1.4 For the purposes of this contract, the representative of the Authority for the purpose of DEFCON 502 and DEFCON 503 shall be the Commercial Branch, whose address is detailed at Box 1 of DEFFORM 111 to this contract.

## **2.2 Conditions of Contract - Army Winter Sports**

- 2.2.1 A full set of the relevant Standard Contract Conditions and DEFCONs / DEFFORMs may be obtained from MOD, Forms and Publication Commodity Management, PO Box 2, Building C16, C Site, Lower Arcott, Bicester, OX25 1LP. These are available electronically via <https://www.gov.uk/acquisition-operating-framework>.

## **2.3 Contractor's Personnel - Army Winter Sports**

- 2.3.1 For the purpose of this Contract, the term "Contractor's personnel" shall include all employees of the Contractor and Sub-Contractors to the Contractor who are assigned to the Contract. The Contractor shall bear full responsibility for the actions of these personnel, in connection with the activities associated with the Contract, throughout the duration of the Contract.
- 2.3.2 The Contractor warrants that it will provide suitably qualified personnel and all other resources necessary to complete the Contract. The Contractor shall immediately notify the Project Manager of any loss of key personnel and the proposed remedial action.
- 2.3.3 The Contractor shall appoint a competent and qualified person (the Contract Manager) to manage and assure performance of the Contract. Such appointment shall be subject to the approval of the Authority (Project Manager).
- 2.3.4 The Contract Manager shall have full authority to act on behalf of the Contractor for all purposes of this Contract. The Authority shall be entitled to treat any act of the Contract Manager in connection with this Contract as being expressly authorised by the Contractor, and shall not be required to determine or enquire whether any express authority has in fact been given.
- 2.3.5 Immediately upon the Contract Manager ceasing to act for any reason and, where appropriate, prior to termination of the appointment, the Contractor shall by notice to the Authority appoint a substitute. Such appointment shall be subject to the prior approval of the Authority.
- 2.3.6 Where specific personnel have been proposed by the Contractor for the performance of the Contract, the Contractor shall take all reasonable steps to avoid changes to such personnel and any changes which are unavoidable shall be brought to the immediate attention of the Authority which reserves the right, acting reasonably, to reject such alternative personnel as the Contractor may then propose. The

agreement by the Authority, whether notified or otherwise, to any personnel proposed in any originating tender or subsequent proposal shall not prejudice the requirement upon the Contractor to perform the Contract.

- 2.3.7 If in the opinion of the Authority, acting reasonably, any of the Contractor's employees associated with the performance of the Contract shall misconduct himself or be incapable of efficiently performing his duties or it shall not be in the public or National interest for any such person to be employed or engaged by the Contractor in the performance of the Contract then the Contractor shall remove such person without delay on being required to do so by the Authority (Project Manager).

## **2.4 Data Protection - Army Winter Sports**

- 2.4.1 The Contractor shall take such steps as the Authority may require to enable the Authority to comply, and shall itself comply, with the Data Protection Act 1998 ("the Act") in performing its obligations under the Contract and shall provide the Authority with such information as the Authority may reasonably require to satisfy itself that the Contractor has taken such steps.

## **2.5 Duration - Army Winter Sports**

- 2.5.1 The duration of the Contract shall be from the date of Contract Award for 1 Calendar Year, not withstanding the Authority's rights of earlier termination under condition 2.17.
- 2.5.2 The Contractor agrees to hold open irrevocable offers for Option Years 1, 2 & 3 (which are each treated as separate Options) at the prices detailed in the DEFFORM 110 Schedule of Requirements agreed at contract award. The Authority has the sole right to exercise its preference to accept each binding offer. Such acceptance will be clearly affected in writing by the Commercial Branch, whose details are at Box 1 of DEFFORM 111 to this contract, 30 calendar days prior to the end of the contract. The acceptance in writing will constitute an amendment to the contract accepting the irrevocable offer that will vary the date of the contract end.

## **2.6 Emergencies, Periods of Tension, Transition to War and Hostilities - Army Winter Sports**

- 2.6.1 The Contractor shall continue to provide the Services required in peace, during periods of tension, in transition to war and during hostilities. The Contractor shall also provide any reasonable additional support required in the event that the Authority is directed to respond to any national or international emergency, disaster or other unforeseen task.
- 2.6.2 If the cost or time taken to complete the service is directly affected as a result of any such event described in Condition 2.6.1 above the Contractor shall be entitled to a compensating amendment to the order in respect of price and/or service delivery.

## **2.7 Entire Agreement - Army Winter Sports**

- 2.7.1 This document package and any documents expressly incorporated by reference into the Contract constitute the entire agreement and understanding between the Parties as to the subject matter of it and supersedes all previous representations, arrangement, understandings or agreements (whether oral or written) in respect of it. Neither Party has relied on any representation, arrangement, understanding or agreement (whether written or oral) not expressly detailed or specifically referred to in the Contract. Nothing in this Condition shall operate to limit or exclude any liability for fraudulent misrepresentation.

## **2.8 Liability and Insurance - Army Winter Sports**

- 2.8.1 Without prejudice to the Authority's rights under the Contract, the Contractor shall for the full term of the Contract maintain all necessary statutory insurance and other appropriate insurances in order to fulfil his requirements under the Contract.

- 2.8.2 The Contractor shall be responsible for and keep the Authority, including its servants, agents, representatives, employees and Sub-contractors fully indemnified against all damages, losses, costs, expenses, actions, demands, proceedings, claims and liability made against or suffered or incurred by the Authority in respect of personal injury, illness or disease (including injury, illness or disease resulting in death) or loss or damage to property and arising directly or indirectly out of any acts or omissions of the Contractor, his servants, agents or Sub-contractors in connection with the Contract, provided that its indemnity shall not apply to the extent that the Contractor is able to show that such injury, illness or disease, or loss or damage to property was caused or contributed to by the negligence or wilful default of the Authority or any government servant.

## **2.9 Notices - Army Winter Sports**

- 2.9.1 For the purposes of DEFCON 526 (Notices), the Authority's addresses for the Services of Notices are detailed at Box 1 (Commercial Branch) and Box 2 (Project Manager) of DEFFORM 111 to this contract. The Contractor's address is as follows:

Burgermeister - Claus Pichler  
Gemeinde Ruhpolding  
Rathausplatz 1  
D-83324 Ruhpolding  
Germany  
Telephone: +49(0)8663/5401-15  
Email: Claus.Pichler@ruhpolding-rathaus.de

The Contractor's Agent is as follows:

Mark Goodson  
Bryn Siriol  
Old Road  
Bwlch  
Brecon  
LD3 7NJ  
Telephone: +44(0) 1874 730562  
Email: Info@britishbiathlon.com

## **2.10 Order of Precedence - Army Winter Sports**

- 2.10.1 In the event of any conflict in the Contract, and with regard to Clause e. of DEFCON 501, the following order of precedence shall apply:

- a) Terms and Conditions of the Contract, including DEFCONs
- b) Schedule of Requirements of the Contract
- c) Annexes to the Contract in alphabetical order
- d) Any documents incorporated by reference

- 2.10.2 If there is any doubt over which document shall apply, the Contractor shall seek clarification from the Commercial Branch detailed at Box 1 to DEFFORM 111 Appendix to the Contract.

## **2.11 Public Relations - Army Winter Sports**

- 2.11.1 The responsibility for communicating with representatives of the popular and technical press, radio, television and other communication media on all matters concerning the Contract tasks is borne solely by the Defence Public Relations Staff.
- 2.11.2 The Contractor and his staff may not communicate on these matters with any communication media representative unless specifically granted permission to do so, in writing, by the Project Manager. As a rule, information deriving from, or relating to the Contract tasks or MOD as a whole may not be communicated to a third party without the specific permission to do so, in writing, from the Project Manager.

## **2.12 Relationships Between The Parties - Army Winter Sports**

- 2.12.1 The parties acknowledge and agree that the Contract shall not constitute, create or otherwise give effect to a joint venture, pooling arrangement or partnership. Nothing in the Contract is intended or shall be construed to create a relationship of agency between the Parties. Accordingly, except as expressly authorised herein, neither party shall have any authority to act or make representations on behalf of the other party and nothing herein shall impose any liability on either party in respect of any liability incurred by the other party to any third party.

## **2.13 Responsibility of the Contractor - Army Winter Sports**

- 2.13.1 The Contractor shall be entirely responsible for undertaking the work under the Contract as defined in the Contract Schedule of Requirements, Statement of Requirement at Annex A to this contract.
- 2.13.2 The Contractor shall be responsible for achieving proper completion of the Contract according to its terms and shall accordingly be responsible, inter alia for:-
- a) Planning, programming and progressing of the work, including Sub-Contracts and appropriate documentation, to a standard acceptable to the MOD Project Manager – See Box 2 to the DEFFORM 111 Appendix to Contract;
  - b) Financial management of the work, including financial control and monitoring of all Sub-Contracts;
  - c) Providing the Authority with the information it reasonably requires to satisfy itself on a continuing basis that the work is proceeding to time, cost and performance.

## **2.14 Scope of Contract - Army Winter Sports**

- 2.14.1 The Authority shall appoint a Project Manager whose contact details are held at Box 2 with the Commercial Branch contact details at Box 1 of DEFFORM 111 to this contract.
- 2.14.2 The Contractor shall appoint a representative with whom the Project Manager/Project Manager's Representative will deal in matters concerning the discharge of the Contractor's responsibilities under the Contract.
- 2.14.3 The Contractor shall provide the Services in accordance with the terms of the Contract in a manner which meets the Authority's requirement
- 2.14.4 The Contractor shall provide the Services in accordance with all extant statutory regulations.

## **2.15 Sub-Contractors - Army Winter Sports**

- 2.15.1 The Contractor shall provide the Authority with full details of any sub-contractors he proposes to employ in order to fulfil any aspect of the services required under the Contract.
- 2.15.2 The Contractor shall provide the Authority with full details of any proposed changes to his sub-contracting requirements prior to implementing any such changes.
- 2.15.3 If the Contractor places a sub-contract for any aspect of work required under this Contract, he shall indemnify and keep the Authority fully indemnified in respect of any claims, cost demands and liabilities of any kind whatsoever in connection with or arising out of the sub-contract that would not have arisen but for the sub-contract.
- 2.15.4 The Contractor shall ensure, to the extent that they are applicable, that the Conditions of this contract are reflected in any Sub-contracts placed by him for any part of the work or Services under the Contract and the Contractor shall not place Sub-contracts with any individual, company or firm unless

that individual, company or firm agrees to assume the same obligations corresponding to those imposed on the Contractor by these Conditions. The Contractor shall nevertheless remain liable for the due observance of these Conditions by his servants, agents and Sub-contractors/consultants.

## **2.16 Sustainable Procurement - Army Winter Sports**

- 2.16.1 The Contractor is encouraged to bring to the attention of the Authority any measures which might promote sustainable procurement from a social, economic and environmental point of view.
- 2.16.2 Where such steps do not cause increased cost, risk or delay, the Contractor shall take all reasonable steps to procure the observance of the economic, social and environmental legislation related to the subject matter or the execution of the contract by any servants, employees or agents of the Contractor and any subcontractors engaged in the performance of the Contract.
- 2.16.3 If the Contractor becomes aware of any prosecution or proceedings, for criminal breaches of the economic, social and environmental legislation related to the subject matter or the execution of the Contract, against the Contractor, any servants, employees or agents of the Contractor and any subcontractors engaged in performance of the Contract, the Contractor shall immediately notify the Commercial Officer specified in Box 1 of the DEFFORM 111.

## **2.17 Termination - Army Winter Sports**

- 2.17.1 In addition to the Authority's rights under DEFCON 656 the Authority shall have the right to terminate the Contract or any portion at any time subject to one months notice being given in writing. In the event of such notice being given and the Contractor having reasonably performed his obligations under the Contract, the Authority shall indemnify the Contractor against any expenses which in the opinion of the Authority have been reasonably and properly incurred by the Contractor before such termination and in respect of the period of three months after such termination but no allowances shall be made in respect of loss of potential profit.

## **2.18 Transfer of Responsibility - Army Winter Sports**

- 2.18.1 In the event of a transfer of responsibility for the services, in whole or in part, from the Contractor at the expiry, termination or amendment of the Contract the Contractor shall co-operate in the transfer under arrangements to be notified to him by the Authority.

## **2.19 Transparency - Army Winter Sport**

- 2.19.1 "Transparency Information" shall mean the content of this Contract in its entirety, including from time to time agreed changes to the Contract, and details of any payments made by the Authority to the Contractor under the Contract.
- 2.19.2 "Contractor Commercially Sensitive Information" shall mean the information listed in the Contractor Commercial Sensitive Information at Annex D to the Contract being information notified by the Contractor to the Authority which is acknowledged by the Authority as being commercially sensitive information.
- 2.19.3 Before publishing the Transparency Information to the general public in accordance with clause 1 above, 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 ("the Act") or the Environmental Information Regulations 2004 ("the Regulations").
- 2.19.4 The Authority shall consult with the Contractor before redacting any information from the Transparency Information in accordance with clause 2.4 above. 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 Act or the Regulations. For the avoidance of doubt, nothing in this Contract shall affect the Contractor's rights at law.

### **3. SPECIFICATIONS, PLANS, ETC**

DEFCON129J (Edn.07/08) - The Use Of The Electronic Business Delivery Form

DEFCON502 (Edn.06/14) - Specifications Changes

DEFCON602B (Edn.12/06) - Quality Assurance (Without Deliverable Quality Plan)

DEFCON608 (Edn.10/14) - Access and Facilities to be Provided by the Contractor

#### **3.1 Commercial Risk - Army Winter Sports**

3.1.1 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):

a) particular risks and their impact;

or

b) risk reduction measures, contingency plans and remedial actions

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.

#### **3.2 Quality Requirements - Army Winter Sports**

3.2.1 All work under this contract shall be performed in accordance with Federation International de Ski (FIS) Standards and International Biathlon Union (IBU) Standards.

3.2.2 FIS and IBU are the international governing bodies for cross country and biathlon skiing. They produce the rules/regulations and competition requirements for international level events. FIS documentation can be found online at the following website: <http://www.fis-ski.com/> and IBU documentation at <http://www3.biathlonworld.com/en/downloads-2.html>.

3.2.3 For all Quality Assurance requirements The Project Manager at Box 2 of the DEFFORM 111 is to be contacted in the first instance. The Project Manager will then liaise with an available Government Quality Assurance Representative at that time.

### **4. PRICE**

DEFCON127 (Edn.12/14) – Price Fixing Condition for Contracts of Lesser Value

#### **4.1 Price Variation - Army Winter Sports**

4.1.1 The prices detailed in the DEFFORM 110 Schedule of Requirements to the contract shall be firm (non-revisable) and not subject to variation. All prices shall be inclusive of all costs associated with the delivery of performance of the contract.

## **5. INTELLECTUAL PROPERTY RIGHTS**

Not Applicable

## **6. LOANS**

Not Applicable

## **7. DELIVERY**

DEFCON5J (Edn.07/08) - Unique Identifiers

Where used in conjunction with contracts for services, Clause 2 of the DEFCON shall not apply.

DEFCON614 (Edn.09/03) - Default

### **7.1 Default - Army Winter Sports**

- 7.1.1 During the term of the Contract, the Contractor shall, as soon as practicable notify the Authority when the Contractor becomes aware of any circumstances that may lead to a deterioration in the performance of the Services that would (if allowed to persist) amount to a Contractor Default.
- 7.1.2 The Authority may, by notice in writing determine the Contract made against the contract, in whole or in part (without prejudice to its rights and remedies in respect of a breach by the Contractor of any of the provisions of the Contract), without compensation if, in the opinion of the Authority, the Services provided by the Contractor are not in all respects satisfactory to the Authority in whole or in part and the Contractor shall not have provided satisfactory Services within 14 days after notice has been given to the Contractor specifying the matters in respect of which the Services are regarded as unsatisfactory.

### **7.2 Performance - Army Winter Sports**

- 7.2.1 The Contractor shall provide and maintain an organisation of a standard commensurate with the performance of all of his obligations under the Contract and have the necessary facilities (other than those provided by the Authority under the terms of the Contract) and employees of appropriate qualifications and experience (where not otherwise specified) to undertake the said obligations with all due care, skill and diligence.
- 7.2.2 The Contractor shall deliver the services as specified in DEFORM 110 Schedule of Requirements and Annex A Statement of Requirement to the reasonable satisfaction of the Authority's Project Manager.
- 7.2.3 The Contractor will be expected to show flexibility in order to meet any variations to this requirement and the Authority's Project Manager shall have full power to vary the terms of the Statement of Requirement by requiring that minor elements of the work shall not be done and alternative work conducted in lieu always provided that any instructions given under the provisions of this Condition shall be given in writing and shall be within the capacity of the Contractor's organisation.
- 7.2.4 No claim by the Contractor for additional payment will be allowed on the grounds of any misunderstanding or misinterpretation of the Statement of Requirement. The Contractor shall not be released from any risks or obligations imposed on or undertaken by him under the Contract on any such grounds or on the grounds that he did not or could not foresee any matter which might affect or have affected the execution of the Contract. The Contractor shall be deemed to have satisfied himself as regards the nature and extent of the services as specified in the Statement of Requirement, the means of communication, supply and conditions subject to all such matters being discoverable by the Contractor.

- 7.2.5 If at any time during the course of the Contract the Contractor considers that his ability to meet the requirements of the Contract in the most efficient and cost-effective manner could be improved upon by virtue of a change to the Contract he is to make an appropriate proposal or submission to the Authority's Project Manager in the first instance. Should the Authority decide to proceed with the Contractor's proposal or submission, whether in whole or in part, the parties shall enter into good faith negotiations to agree on an appropriate share of the benefits to be achieved.

## **8. PAYMENTS/RECEIPTS**

DEFCON509 (Edn.09/97) - Recovery of Sums Due

DEFCON513 (Edn.06/10) - Value Added Tax

DEFCON522 (Edn.07/99) - Payment

DEFCON522J (Edn.05/03) - Payment under P2P

DEFCON523 (Edn.03/99) - Payment of Bills Using the Bankers Automated Clearing Service (BACS) System

DEFCON534 (Edn.06/97) - Prompt Payment (Sub-Contracts)

### **8.1 Payment - Army Winter Sports**

- 8.1.1 Where a DEFFORM 30 has been agreed and signed by the Contractor the Purchase to Payment (P2P) electronic method shall be used for all items of the DEFFORM 110 Schedule of Requirements and the following conditions shall apply:
- a) The Authority shall make payments to the Contractor, to be claimed in accordance with DEFCON 522J.
  - b) The Authority shall issue a Purchase Order Message in order to establish Unique Order Identifiers for the Items on the Schedule of requirements for the purpose of subsequent P2P transactions. The Contractor shall respond with an Acknowledgement Message. In these circumstances, Purchase Order Messages serve only to convey to the Contractor the information necessary against which to supply an item, prepare a delivery label and to submit an Invoice Message; the Purchase Order Acknowledgement Message serves only to confirm receipt of a Purchase Order Message. No new contract is understood to be formed by this Purchase Order transaction.
  - c) The Authority shall hold the Contractor harmless for any delay or failure by the Authority to issue a Purchase Order. However, any delay or failure to issue a Purchase Order shall not relieve the Contractor of his obligations under the Contract.
  - d) The Authority and the Contractor shall comply with the Electronic Transactions Agreement comprised in the completed DEFFORM 30, reference **MOD/Gemeinde Ruhpolding/Corp.DEFFORM 30 Edn.02/14 dated 18 April 2015**. The sending by the Contractor of an "Acknowledgement of Receipt" Message is to be regarded as acceptance of the Purchase Order Message to which it refers, unless the Purchase Order Message itself constitutes acceptance in accordance with the terms and conditions of the Contract. Messages under DEFFORM 30 received by the Contractor shall be regarded as having been authorised by the Authority.
  - e) In order to facilitate P2P the Authority and the Contractor will need to comply with the arrangements set out in Electronic Transactions Agreement DEFFORM 30 to become P2P enabled. This requires the Contractor entering into an arrangement with a third party to interface with the Authority via the Defence Electronic Commerce System gateway.



- 8.1.3 Delivery/Acceptance of items detailed at DEFFORM 110 Schedule of Requirements, in accordance with the Statement of Requirements at Annex A to the contract is only deemed to have occurred by the Authority in the following instances:
- a) When the P2P Purchase Order pertaining to a contract item has been receipted by the Project Manager on P2P;
- OR,
- b) When a completed AG173 Form pertaining to a contract item has been signed by the Project Manager and returned to the Contractor for onward submission to the Bill Paying Branch for payment.
- 8.1.4 In accordance with DEFCON 522 and/or 522J where applicable, Payment shall be upon completion of the contract unless otherwise stated. If the Authority has agreed and accepted a Stage Payment Plan with the Contractor, the Authority shall, subject to the following provisions of this condition, make to the Contractor interim payments (advances) against the price(s) payable for all items within the DEFFORM 110 Schedule of Requirements in accordance with the Stage Payment Plan set out in Appendix B to DEFFORM 110 Schedule of Requirements:
- a) The Contractor shall be entitled to interim payments, to be claimed in accordance with condition 8.1.1 for each stage under the Stage Payment Plan, when:
    - i. The Contractor has completed all work comprised in the Stage for which interim payment is sought in accordance with Annex A Statement of Requirement;
    - ii. All previous stages have been completed, unless the parties expressly agree otherwise; and
    - iii. The Contractor shall have complied with all its 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.
  - b) 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 the items within the DEFFORM 110 Schedule of Requirements.
  - c) Where the Authority intends to rely on clause 8.1.4 (b) 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 reason for the rejection.
  - d) The Authority shall without prejudice to any other right/remedy of either party, be entitled to recover in full all interim payments under the Contract where:
    - i. The Contract, or part thereof under which all the items within the DEFFORM 110 Schedule of Requirements is terminated other than in accordance with DEFCON 656, or expires by reason of passing of time; and
    - ii. The Contractor has failed to complete performance of all the items within the DEFFORM 110 Schedule of Requirements.
  - e) Payment of an interim payment by the Authority under this clause 8.1.4 shall not, unless expressly stated to do so, constitute:
    - i. Acceptance by the Authority of any contractual deliverable;
    - ii. A representation by the Authority that the Contractor has complied with any contractual obligations; or
    - iii. A waiver of the Authority's right to subsequently claim that the conditions for payment of that interim payment were not satisfied.

- f) The Contractor shall be fully acquainted with all aspects of the requirement. Claims for want of knowledge in this respect will not be entertained in any way. Payments may be withheld or reduced by the Authority in the event of unsatisfactory performance, without prejudice to the other rights of the Authority under the Contract.

## **8.2 Value Added Tax - Army Winter Sports**

- 8.2.1 The Contract Price excludes any UK output Value Added Tax (VAT) and any similar EU (or non-EU) taxes chargeable on the supplies of Articles and/or Services by the Contractor to the Authority. However, where Articles and/or Services 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 Articles and/or Services. If applicable, The Contractor is to provide as part of the Contract Price details confirming this is the case, stating this sum and the percentage the sum equates to of the total Contract price as an additional item on the DEFFORM 110, and Appendix 1 to DEFFORM 110.
- 8.2.2 An Abwicklungsschein (German tax free exemption form under the Status of Forces Agreement) will be submitted by the Project Manager. It is not expected that the Status of Forces Agreement (SOFA) will change during the life of this contract, however, If it does and VAT does become payable, then this would be added at the correct rate to the Ex VAT prices quoted.

## **9. CONTRACT ADMINISTRATION**

DEFCON609 (Edn.06/14) - Contractor's Records

DEFCON642 (Edn.06/14) - Progress Meetings

### **9.1 Progress Review Meetings - Army Winter Sports**

- 9.1.1 The Authority must be kept informed of, and have the facilities for its representatives to visit the contractors site and assess the progress of the work under the Contract. Accordingly, and notwithstanding the requirements for particular information detailed elsewhere in the Contract, the Contractor shall keep the Project Manager informed and, whenever the need arises, inform him as appropriate and without delay of any matter which has or may have an effect on the planned execution of the Contract.
- 9.1.2 The Contractor shall host a visit by the Authority to the Venue prior to the Exercise at a date and time specified by and agreed by the Authority's Project Manager. During the visit the Contractor shall hold a Progress review meeting to review progress against all deliverables and discuss any issues arising as to delivery of the requirement. It is the Contractors responsibility to hold the Progress review meeting, provide a secretary, produce and circulate the minutes, no later than 15 working days after the date of the meeting, and provide the Authority's representatives with reasonable access to any relevant technical and commercial information. The authority will pay for all travel and subsistence costs for Authority officials and these costs will not be included in the contract.
- 9.1.3 The Contractor shall attend 2 UK based planning meetings at a date and time specified by and agreed by the Project Manager (Exercise Director).