



Contract: 713495454

**For:
Provision of
Military Instrument Flight Procedures
Maintenance and Safeguarding**

Between the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland	And
Team Name and address: United Kingdom Strategic Command Commercial Defence Intelligence	Contractor Name and address: Osprey Consulting Service Ltd Suite 10, The Hub, Fowler Avenue Hampshire GU14 7JP
E-mail Address: UKStratCom-ComrcI- DI@mod.gov.uk	E-mail Address: Redactions applied under Freedom Of Information (FOI) Section 40, personal data Telephone Number: Redactions applied under Freedom Of Information (FOI) Section 40, personal data

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Standardised Contracting Terms

SC2

SC2 (Edn 10/24)

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) they have the full capacity and authority to enter into, and to exercise their rights and perform their 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 themselves or a Subcontractor which would adversely affect the Contractor's ability to perform their 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 the winding-up of the company 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 they 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 the winding-up of the company 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 its 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 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 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 and for the enforcement of any judgment, order or award given under English jurisdiction.

d. If the Parties pursuant to the Contract agree 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 and for the enforcement of any judgment, order or award given under Scottish jurisdiction.”

(2) 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 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 the 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 their agents to accept on their 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 the 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 the 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. Formal Amendments to the Contract

- a. Except as provided in Condition 31 and subject to clause 6.c, the Contract may only be amended by the written agreement of the Parties (or their duly authorised representatives acting on their behalf). Such written agreement shall consist of:
- (1) the Authority Notice of Change under Schedule 4 (Contract Change Control Procedure) (where used) and;
 - (2) the Contractor's unqualified acceptance of the contractual amendments as evidenced by the DEFFORM 10B duly signed by the Contractor.
- b. Where required by the Authority in connection with any such amendment, the Contractor shall (as so required) confirm that any existing Parent Company Guarantee is sufficiently comprehensive so as to cover and support all of the Contractor's liabilities and obligations under and in connection with the Contract (as amended by such amendment) or provide a revised Parent Company Guarantee with such DEFFORM 10B to achieve the same purposes.
- c. Where the Authority wishes to amend the Contract to incorporate any work that is unpriced at the time of amendment:
- (1) if the Contract is not a Qualifying Defence Contract, the Authority shall have the right to settle with the Contractor a price for such work under the terms of DEFCON 643 (SC2) or DEFCON 127. Where DEFCON 643 (SC2) is used, the Contractor shall make all appropriate arrangements with all its Subcontractors affected by the Change or Changes in accordance with clause 5 of DEFCON 643 (SC2); or
 - (2) if the Contract is a Qualifying Defence Contract, the Contract Price shall be redetermined on amendment in accordance with the Defence Reform Act 2014 and Single Source Contract Regulations 2014 (each as amended from time to time).

Changes to the Specification

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

7. 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.

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 (Formal Amendments to the Contract).

8. 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.

9. 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.

10. 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.

11. 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.

12. Transparency

a. Notwithstanding any other term of this Contract, including Condition 13 (Disclosure of Information), the Contractor understands that the Authority may publish the Transparency Information and Publishable Performance Information to the general public.

b. Subject to clause 12.c the Authority shall publish and maintain an up-to-date version of the Transparency Information and Publishable Performance Information in a format readily accessible and reusable by the general public under an open licence where applicable.

c. If, in the Authority's reasonable opinion, publication of any element of the Transparency Information and Publishable Performance Information would be contrary to the public interest, the Authority shall be entitled to exclude such Information from publication. The Authority acknowledges that it would expect the public interest by default to be best served by publication of the Transparency Information and Publishable Performance Information in its entirety. Accordingly, the Authority acknowledges that it shall only exclude Transparency Information and Publishable Performance Information from publication in exceptional circumstances and agrees

that where it decides to exclude Information from publication on that basis, it will provide a clear statement to the general public explaining the categories of information that have been excluded from publication and reasons for withholding that information.

d. The Contractor shall assist and co-operate with the Authority as reasonably required to enable the Authority to publish the Transparency Information and Publishable Performance Information, in accordance with the principles set out above, including through compliance with the requirements relating to the preparation of Publishable Performance Information set out in clause 12.e to 12.i. Where the Authority publishes Transparency Information, it shall:

- (1) before publishing, redact any Information that would be exempt from disclosure if it was the subject of a request for information under the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004 (EIR), for the avoidance of doubt, including Sensitive information;
- (2) taking account the Sensitive Information set out in Schedule 5, consult with the Contractor where the Authority intends to publish Information which has been identified as Sensitive Information. For the avoidance of doubt the Authority, acting reasonably, shall have absolute discretion to decide what information shall be published or be exempt from disclosure in accordance with the FOIA and/or the EIR; and
- (3) present information in a format that assists the general public in understanding the relevance and completeness of the information being published to ensure the public obtain a fair view on how this Contract is being performed.

Publishable Performance Information

e. Within three (3) months of the effective date of Contract the Contractor shall provide to the Authority for its approval (such approval shall not be unreasonably withheld or delayed) a draft Publishable Performance Information KPI Data Report consistent with the content requirements of Schedule 9.

f. If the Authority rejects any draft Publishable Performance Information the Contractor shall submit a revised version of the relevant KPI Data Report for further approval by the Authority with five (5) business days of receipt of any notice or rejection, taking account of any recommendations for revision and improvement to the report provided by the Authority. This process shall be repeated until the parties have an agreed version of the Publishable Performance Information.

g. The Contractor shall provide an accurate and up-to-date version of the KPI Data Report to the Authority for each quarter at the frequency referred to in the agreed Schedule 9.

h. Any dispute in connection with the preparation and/or approval of Publishable Performance Information, other than under clause 12.f, shall be resolved in accordance with the dispute resolution procedure provided for in this Contract.

i. The requirements of this Condition are in addition to any other reporting requirements in this Contract.

13. Disclosure of Information

a. Subject to clauses 13.d to 13.i and Condition 12 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 their 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 their employees are aware of the Contractor's arrangements for discharging the obligations at clauses 13.a and 13.b before receiving Information and shall take such steps as may be reasonably practical to enforce such arrangements.

d. A Party shall not be in breach of Clauses 13.a, 13.b, 13.f, 13.g and 13.h 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) 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. Where such a disclosure is made the Authority shall ensure that the recipient is made aware of its confidentiality;

(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) subject to clause 13.g below, 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 the Contract;

(5) subject to clause 13.g below, 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. Where the Authority intends to disclose Information to a commercial entity which is not a Central Government Body in accordance with clauses 13.f.(4) or 13.f.(5) above, the Authority will endeavour to provide the Contractor with 3 Business Days' notice in advance of such

disclosure. In relation to a disclosure of Information made under clause 13.f.(3) above, if reasonably requested by the Contractor within 2 Business Days of such notice being given, where the Authority has not already done so, it will endeavour to procure from the intended recipient of the Information an agreement containing confidentiality terms the same as, or substantially similar to, those placed on the Authority under this Condition.

h. Before sharing any Information in accordance with clause 13.f, the Authority may redact the Information. Any decision to redact Information made by the Authority shall be final.

i. 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 their 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.

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

14. 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.

15. Change of Control of Contractor

a. The Contractor shall notify the Representative of the Authority in writing at the address given in clause 15.c

(1) as soon as practicable of any intended, planned or actual change in control of the Contractor and/or their First-Tier Sub-contractor; and

(2) Immediately on the Contractor being aware of any actual change of control of any Lower-Tier Sub-Contractor.

b. The Contractor shall include in any such notification any concerns the Contractor may have with the change of control. Such concerns may include but are not limited to potential threats to national security and security of supply. 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.

c. 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

and emailed to: DefComrcISSM-MergersandAcq@mod.gov.uk

d. 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 the Effective Date of Contract. The Contractor shall be required to submit a response to the concerns raised by the Authority, including any plans to mitigate those concerns, within 14 calendar days (or as agreed by the parties) of receipt of the Authority's written concerns, for the

Authority's consideration.

- e. To the extent that the Authority considers that it is reasonable to do so, the Authority shall work with the Contractor to seek to resolve the Authority's concerns. The Contractor agrees to answer the Authority's questions or requests for clarification promptly.
- f. Where the Authority considers, in its absolute discretion, that the risk may be appropriately mitigated, the Contractor shall implement any agreed mitigations promptly and, in any case, within the timescales required by the Authority. Where the Contractor fails to do so, clause 15.g. shall apply.
- g. The Authority may, acting reasonably, terminate the Contract by giving written notice to the Contractor (and/or request the Contractor to terminate any relevant First-Tier or Lower-Tier Sub-Contractor's contract) within six months of the Authority being notified in accordance with clause 15.a. The Authority shall act reasonably in exercising its right of termination, including, but not limited to, taking into account the Contractor's own assessment of the change of control.
- h. Where the Authority terminates the Contract in accordance with clause 15.g, subject to clause 15.i, the Contractor may request payment for any unavoidable commitments, liabilities or expenditure incurred by the Contractor in connection with the Contract up to the point of termination. The Authority shall act reasonably when assessing the Contractor's request for payment although the parties agree that the Authority shall retain the sole discretion, acting reasonably, to decide whether to make such requested payment in accordance with clause 15.i.
- i. Any requests for payment by the Contractor must be submitted promptly and the Contractor shall demonstrate to the reasonable satisfaction of the Authority that such request for payment:
 - (1) is reasonable and properly chargeable;
 - (2) would otherwise represent an unavoidable loss by the Contractor by reason of the termination of the Contract; and
 - (3) is fully supported by documentary evidence.
- j. In the event that the Contractor fails to demonstrate any of the conditions set out at 15.i.(1)-(3), the Authority may reject such request for payment.
- k. 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.
- l. The Contractor shall include provisions equivalent to those set out in this Condition in all relevant sub-contracts.

16. Environmental Requirements

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

17. Contractor's Records

- a. The Contractor and their Subcontractors 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 their Subcontractors 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.
- c. With regard to the records made available to the Authority under clause 17.a of this

Condition, and subject to the provisions of Condition 13 (Disclosure of Information), 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) the termination of the Contract; or
- (3) the final payment,

whichever occurs latest.

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

19. Progress Monitoring, Meetings and Reports

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 their 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

20. 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 their 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 20.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 they become 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.

21. Marking of Contractor Deliverables

- a. Each Contractor Deliverable shall be marked in accordance with the required particulars specified in Schedule 3 (Contract Data Sheet).
- b. Each ASSC shall be marked with a Ull, to be affixed by way of a 2D data matrix label, in accordance with DEF-STAN 05-132.
- c. Where the Contract requires a non-ASSC Contractor Deliverable to be marked with a Ull, to be affixed by way of a 2D data matrix label, this shall also be in accordance with DEF-STAN 05-132.
- d. Any marking method used shall not have a detrimental effect on the strength, serviceability or corrosion resistance of the Contractor Deliverables. Where a 2D data matrix label is affixed, it shall last for the life of a Contractor Deliverable.
- e. The marking shall include any serial numbers allocated to the Contractor Deliverable.
- f. Where because of its size or nature it is not possible to mark a Contractor Deliverable with the required particulars, they shall be included on the package or carton in which the Contractor Deliverable is packed, in accordance with Condition 22 (Packaging and Labelling (excluding Contractor Deliverables containing Munitions)).

22. 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:

- (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 22.i to 22.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 22.i to 22.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 (Amendment) Order 2019.
- 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 22.f and 22.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 their 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 LSOC SpSvcs--SptEng-Pkg1
 MOD Abbey Wood
 Bristol, BS34 8JH
 Tel. +44(0)30679-35353
DESLSOC-SpSvcs-SptEng-Pkg1@mod.gov.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 22.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 22.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 Annex A to Schedule 3 (Contract Data Sheet), prepare the required package design in accordance with clause 22.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 22.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, they shall obtain approval for their design from a registered organisation using DEFFORM 129a before proceeding, then follow clause 22.g.(1)(b).
 - (4) Where the Contractor or their Subcontractor is not a PDA but is registered, they shall follow clauses 22.g.(1)(a) and 22.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;
 - 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 22.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;
- (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 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
 - 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 6 (Formal Amendments to the Contract).
- 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 17 (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.

23. Plastic Packaging Tax

- a. The Contractor shall ensure that any PPT due in relation to this Contract is paid in accordance with the PPT Legislation.
- b. The Contract Price includes any PPT that may be payable by the Contractor in relation to the Contract.
- c. On reasonable notice being provided by the Authority, the Contractor shall provide and make available to the Authority details of any PPT they have paid that relates to the Contract.
- d. The Contractor shall notify the Authority, in writing, in the event that there is any adjustment required to the Contract Price in accordance with section 70 of the Finance Act 2021 and, on reasonable notice being provided by the Authority, the Contractor shall provide any such information that the Authority requires in relation to any such adjustment.
- e. In accordance with Condition 17 the Contractor (and their sub-contractors) shall maintain all records relating to PPT and make them available to the Authority when requested on reasonable notice for reasons related to the Contract.
- f. Where the Contractor manufactures, purchases or imports into the UK any Plastic Packaging Component in relation to the Contract the Contractor shall, on reasonable notice being given, provide the Authority with such information and documentation that it requires to enable the Authority to carry out due diligence checks and satisfy itself that the Contractor has complied with the requirements of the PPT Legislation. This shall include, but is not limited to the Contractor providing:
 - (1) confirmation of the tax status of any Plastic Packaging Component;
 - (2) documents to confirm that PPT has been properly accounted for;
 - (3) product specifications for the packaging components, including, but not limited to,

the weight and composition of the products and any other product specifications that may be required; and

(4) copies of any certifications or audits that have been obtained or conducted in relation to the provision of Plastic Packaging Components.

g. The Authority shall have the right, on providing reasonable notice, to physically inspect or conduct an audit on the Contractor, to ensure any information that has been provided in accordance with clause 23.f above is accurate.

h. In the event the Contractor is not required to register for PPT they (and to the extent applicable, their sub-contractors) shall provide the Authority with a statement to this effect and, to the extent reasonably required by the Authority on reasonable notice, supporting evidence for that statement.

i. The Contractor shall provide, on the Authority providing reasonable notice, any information that the Authority may require from the Contractor for the Authority to comply with any obligations it may have under the PPT Legislation.

24. Supply of Data for Hazardous Materials or Substances, Mixtures and Articles in Contractor Deliverables

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

b. The Contractor shall provide to the Authority:

(1) for each Substance, Mixture or Article supplied in meeting the criteria of classification as hazardous in accordance with the GB Classification, Labelling and Packaging (GB CLP) a UK REACH compliant Safety Data Sheet (SDS);

(2) where Mixtures supplied do not meet the criteria for classification as hazardous according to GB CLP but contain a hazardous Substance an SDS is to be made available on request; and

(3) for each Article whether supplied on its own or part of an assembly that contains a Substance on the UK REACH Authorisation List, Restriction List and/or the Candidate List of Substances of Very High Concern (SVHC) in a proportion greater than 0.1% w/w of the Article, sufficient information, available to the Contractor, to allow safe use of the Article including, as a minimum, the name of that Substance.

c. For Substances, Mixtures or Articles that meet the criteria list in clause 24.b above:

(1) 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/safety information and forward it to the Authority and to the address listed in clause 24.i below; and

(2) if the Authority becomes aware of new information that might call into question the appropriateness of the risk management measures identified in the safety information supplied, shall report this information in writing to the Contractor.

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

e. If the Substances, Mixtures or Articles in Contractor Deliverables are Ordnance, Munitions or Explosives (OME), in addition to the requirements of the GB CLP and UK REACH the Contractor shall comply with hazard reporting requirements of DEF STAN 07-085 Design Requirements for Weapons and Associated Systems.

f. If the Substances, Mixtures or Articles in Contractor Deliverables, are or contain or embody a radioactive substance as defined in the Ionising Radiation Regulations SI 2017/1075, the Contractor shall additionally provide details in Schedule 6 of:

(1) activity; and

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

g. If the Substances, Mixtures or Articles in Contractor Deliverables have magnetic properties which emit a magnetic field, the Contractor shall additionally provide details in Schedule 6 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.b.(1) and 24.c.(1), any information arising from the provisions of clauses 24.f and 24.g and the completed Schedule 6, shall be sent directly to the Authority's Point of Contact as specified in the Schedule 3 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).

i. So that the safety information can reach users without delay, the Authority shall send a copy 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)
Spruce 2C, #1260,
MOD Abbey Wood (South)
Bristol BS34 8JH

(2) Emails to be sent to:
DESEngSfty-QSEPSEP-HSISMulti@mod.gov.uk

j. SDS which are classified above OFFICIAL including Explosive Hazard Data Sheets (EHDS) for OME are not to be sent to HSIS and must be held by the respective Authority Delivery Team.

k. Failure by the Contractor to comply with the requirements of this Condition shall be grounds for rejecting the affected Substances, Mixtures and Articles in Contractor Deliverables. Any withholding of information concerning hazardous Substances, Mixtures or Articles in Contractor Deliverables 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.

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

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:

- (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 17 (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 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 24.a or 24.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:
- (1) verify the forest source of the timber or wood; and
 - (2) 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 (Formal Amendments to the 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 (Formal Amendments to the 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) 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).

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, the CofC shall be in English unless stated otherwise in the Contract. 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 and the CofC will clearly detail the Articles (quantities, part numbers, batch numbers, NSNs etc) that are contained in a specific delivery.
- b. Each CofC shall be clearly identified as a conformity document and should include the wording "Certificate of Conformity" (or similar) in the title of the document to allow for easy identification.
- c. The Contractor shall consider the CofC to be a record in accordance with Condition 17 (Contractor's Records).

- d. 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 and/or CP&F (Contracting, Purchasing and Finance) Purchase Order Number;
 - (4) Details of any approved concessions (clearly linked to the relevant item);
 - (5) Acquirer name and organisation;
 - (6) Delivery address;
 - (7) Contract Item Number from Schedule 2 (Schedule of Requirements);
 - (8) Line item numbers when there is more than one line item on the CofC;
 - (9) Description of Contractor Deliverable, including part number, specification and configuration status;
 - (10) NATO Stock Number (NSN) (where allocated);
 - (11) Identification marks, batch and serial numbers in accordance with the Specification;
 - (12) Quantities;
 - (13) A signed and dated statement by the Contractor's Authorised Personnel that the Contractor Deliverables comply with the requirements of the Contract and approved concessions. The signing of the CofC may be in the form of a signature or traceable stamp. The Contractor's Authorised Personnel shall mean a competent person appointed and authorised by the Contractor to sign a CofC.

Exceptions or additions to the above are to be documented.

- e. 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.d. The Contractor shall ensure that this Information is available to the Authority through the supply chain upon request in accordance with Condition 17 (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 their 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 27.a 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
 - (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 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 and Counterfeit Materiel

Rejection:

- a. If any of the Contractor Deliverables Delivered to the Authority do not conform to the Specification or any other terms of the 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, the Contractor Deliverables shall be deemed to be accepted within a reasonable period of time.

Counterfeit Materiel:

- c. Where the Authority suspects that any Contractor Deliverable or consignment of Contractor Deliverables contains Counterfeit Materiel, it shall:
- (1) notify the Contractor in writing of its suspicion and reasons therefore;
 - (2) where reasonably practicable, and if requested by the Contractor within 10 Business Days of such notification, (at the Contractor's own risk and expense and subject to any reasonable controls specified by the Authority) afford the Contractor the facility to (i) inspect the Contractor Deliverable or consignment and/or (ii) obtain a sample thereof for validation or testing purposes.
 - (3) at its discretion, provide the Contractor with a sample of the Contractor Deliverable or consignment for validation or testing purposes by the Contractor (at the Contractor's

- own risk and expense);
- (4) give the Contractor a further 20 Business Days or such other reasonable period agreed by the Authority, from the date of the inspection at 30.c.(2).(i) or the provision of a sample at 30.c.(2).(ii), to comment on whether the Contractor Deliverable or consignment meets the definition of Counterfeit Materiel; and
 - (5) determine, on the balance of probabilities and strictly on the evidence available to it at the time, whether the Contractor Deliverable or consignment meets the definition of Counterfeit Materiel.
- d. Where the Authority has determined that the Contractor Deliverable, part or consignment of Contractor Deliverables contain Counterfeit Material then it may reject the Contractor Deliverable, part or consignment under 30.a and 30.b (Rejection), and provide written notification to the Contractor of the rejection.
- e. In addition to its rights under 30.a and 30.b (Rejection), where the Authority has determined that any Contractor Deliverable or consignment of Contractor Deliverables contains Counterfeit Materiel, it shall be entitled to:
- (1) retain any Counterfeit Materiel; and/or
 - (2) retain the whole or any part of such Contractor Deliverable or consignment where it is not possible to separate the Counterfeit Materiel from the rest of the Contractor Deliverable, or consignment;
- and such retention shall not constitute acceptance under Condition 29 (Acceptance).
- f. Where the Authority intends to exercise its rights under clause 30.e, the Contractor may, subject to the agreement of the Authority (and at the Contractor's own risk and expense and subject to any reasonable controls and timeframe agreed), arrange for:
- (1) the separation of Counterfeit Materiel from any Contractor Deliverable or part of a Contractor Deliverable; and/or
 - (2) the removal of any Contractor Deliverable or part of a Contractor Deliverable that the Authority is reasonably satisfied does not contain Counterfeit Materiel.
- g. In respect of any Contractor Deliverable, consignment or part thereof that is retained in accordance with clause 30.e, including where the Authority permits the Contractor to remove non-Counterfeit Materiel under clause 30.f but the Contractor fails to do so within the period agreed and subject to clause 30.k, the Authority shall be entitled to exercise any, all, or any combination of, the following rights:
- (1) to dispose of it responsibly, and in a manner that does not permit its reintroduction into the supply chain or market;
 - (2) to pass it to a relevant investigatory or regulatory authority;
 - (3) to retain conduct or have conducted further testing including destructive testing, for further investigatory, regulatory or risk management purposes. Results from any such tests shall, at the discretion of the Authority, be shared with the Contractor; and/or
 - (4) to recover the appropriate, attributable, and reasonable costs incurred by the Authority in respect of testing, storage, access, and/or disposal of it from the Contractor;
- and exercise of the rights granted at clauses 30.g.(1) to 30.g.(3) shall not constitute acceptance under Condition 29 (Acceptance).
- h. Any scrap or other disposal payment received by the Authority shall be off set against any amount due to the Authority under clause 30.g.(4). If the value of the scrap or other disposal payment exceeds the amount due to the Authority under clause 30.g.(4) then the balance shall accrue to the Contractor.
- i. The Authority shall not use a retained Contractor Deliverable or consignment other than as permitted in clauses 30.c – 30.k.
- j. The Authority may report a discovery of Counterfeit Materiel and disclose information necessary for the identification of similar materiel and its possible sources.
- k. The Contractor shall not be entitled to any payment or compensation from the Authority as a result of the Authority exercising the rights set out in clauses 30.c – 30.k except:
- (1) in relation to the balance that may accrue to the Contractor in accordance with clause 30.h; or
 - (2) where it has been determined in accordance with Condition 40 (Dispute Resolution) that the Authority has made an incorrect determination in accordance with clause 30.c.(5).

In such circumstances the Authority shall reimburse the Contractors reasonable costs of complying with clause 30.c.

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 (Formal Amendments to the 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 their 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 is required to import into or export out of the UK anything not supplied by or on behalf of the Authority and for which a UK Licence is required, the Contractor is responsible for applying for and maintaining that Licence.
- b. Without prejudice to the 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 obtain Licences from the UK or a foreign government for the performance of the Contract.
- c. The Contractor shall consult the Authority as soon as reasonably practicable if a Licence is required from a foreign government. Where the Contractor is the applicant for obtaining Licences they shall ensure that when Restrictions apply to all or part of any Contractor Deliverables (which for the purposes of this Condition) shall also include information, technical data, software and services) unless otherwise agreed with the Authority, they shall identify in the application:
 - (1) the end user as: The Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland (hereinafter "UK MOD"); and
 - (2) the end use as: For the Purposes of UK MOD; and
 - (3) include in the submission for the Licence a statement that "information on the status of processing this application may be shared with the Ministry of Defence of the United Kingdom".
- d. The Contractor shall take expeditious action to arrange the application for the foreign Licences required to import or export any Materiel not supplied by or on behalf of the Authority or perform any services for which a Licence is required by a foreign government; this includes, but is not limited to, compliance with the ITAR, EAR, FMS and any applicable UK-US agreements. The Contractor shall include the dependencies for the Licence application, grant, and maintenance in the Contract risk register and in the risk management plan for the Contract,

with appropriate review points. Where a risk management plan is not required under the Contract the Contractor shall inform the Authority's representative accordingly.

e. During the term of the Contract and for up to two years after Contract completion, the Authority may make a written request to the Contractor to seek a variation to the conditions of a foreign Licence to enable the Authority to re-export or re-transfer a licenced or authorised Materiel from the UK and/or to a non-licenced third party. If the Authority makes such a request, it will consult the Contractor before making a determination on which party is best placed to seek a variation. Where the Contractor is best placed to seek a variation:

(1) the Contractor shall, expeditiously file an application to seek a variation of the applicable Licence in accordance with the procedures of the foreign government or raise their objection to the request. Where the Contractor has an objection to the variation request, the Parties shall meet within 5 Business Days to resolve the issue; should they fail to do so, the matter shall be escalated to an appropriate level within both Parties' organisations, to include their respective export or import control subject matter experts; and

(2) the Authority shall provide sufficient information, certification, documentation, and other reasonable assistance necessary to support the application to seek a variation.

f. Where the Authority determines that it is best placed to make such a request for variation, the Contractor shall provide sufficient information, certification, documentation, and other reasonable assistance 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 price for this service based on the cost of providing it.

h. The Contractor shall use all reasonable endeavours to incorporate in each relevant Subcontract equivalent terms regarding foreign export and/or import controls 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 promptly report that fact and the circumstances to the Authority.

i. The Authority shall use reasonable endeavours to identify any Restrictions that apply to Materiel to be provided to the Contractor as Government Furnished Assets.

j. 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 is subject to Restrictions the Authority shall provide a completed DEFFORM 528 (and a copy of any applicable Licence, where available) to the Contractor as soon as reasonably practicable and no later than 30 days prior to the delivery of such Materiel to the Contractor. If the DEFFORM 528 provided is found to be inaccurate or incomplete the Authority shall deliver a new DEFFORM 528 as soon as reasonably practicable.

k. Where Restrictions are advised by the Authority to the Contractor in a DEFFORM 528 provided pursuant to clause 33.j or any of the information provided by the Authority in any DEFFORM 528 is inaccurate or incomplete the Parties shall promptly agree on the best course of action and implement it to mitigate the impact of the incomplete or inaccurate disclosure under the terms of Condition 6 (Formal Amendments to the Contract), or as may otherwise be provided by the Contract. If there is no alternative or appropriate mitigation available, the Authority may terminate the Contract in accordance with Condition 42 (Termination for Convenience), as appropriate and as referenced in the Contract. Providing the Contractor has taken such steps as are reasonable to mitigate the impact the Contractor shall be relieved of their obligation to perform those elements of the Contract affected by the Restrictions or provision of incorrect or incomplete information.

l. The Contractor shall use reasonable endeavours to identify whether any Contractor Deliverable is subject to any foreign Licence including those that impose or will impose Restrictions. During the term of the Contract the Contractor shall inform the Authority of any foreign Licence and/or any Restrictions not already disclosed at the Effective Date of Contract or relevant amendment. This does not include the Intellectual Property-specific restrictions of the type referred to in Condition 34 (Third Party Intellectual Property – Rights and Restrictions).

m. The Contractor shall notify the Authority of all, or any part of the Contractor Deliverables identified within clause 33. l, by submitting a DEFFORM 528 or other mutually agreed alternative format as soon as reasonably practicable and no less than 30 days prior to delivery

of the Contractor Deliverables. Such notification shall include an update on the validity of all previous information submitted and shall include any Restrictions (not already disclosed to the Authority) notified to the Contractor by any of their Subcontractors, suppliers, or other third parties. The Contractor, within 10 Business Days (or such longer period as shall have been agreed in writing by the Parties) of such notification shall submit a proposal to the Authority outlining actions to mitigate the impact of such Restrictions. Such proposals may include, where appropriate, mutually supported attempts to obtain removal of or modification to the Restrictions, or to obtain appropriate authorisations from the relevant foreign government. The Authority shall inform the Contractor within 10 Business Days (or such longer period as shall have been agreed in writing by the Parties) of receipt of the proposal whether it is acceptable and where appropriate the Contract shall be modified in accordance with Condition 6 (Formal Amendments to the Contract) or as otherwise provided by the Contract to implement the proposal.

n. If the Contractor is unable to perform their obligations under the Contract due to the Restrictions notified in accordance with clauses 33.l and 33.m and the Restrictions are not capable of being removed, modified, or otherwise satisfactorily managed within a reasonable time, the Authority may at its absolute discretion amend the Contract in accordance with Condition 6 (Formal Amendments to the Contract) or as otherwise provided by the Contract or terminate the Contract. Except where clause 33.o applies, termination shall be on fair and reasonable terms having regard to all the circumstances including payments already made and those due under the Contract, costs incurred by the Contractor and benefits received by the Authority. The Parties, acting in good faith, shall 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 Condition 40 (Dispute Resolution). Providing the Contractor has taken such steps as are reasonable to mitigate the impact the Contractor shall be relieved of their obligation to perform those elements of the Contract directly affected by the Restrictions or provision of incorrect or incomplete information.

o. Where the Contractor knew or ought reasonably to have known that the Contract Deliverables were subjected to the Restrictions notified in accordance with clauses 33.l and 33.m, either at the Effective Date of Contract or at the date of submission of the most recent previous DEFFORM 528 to the Authority in accordance with clause 33.m, and failed to notify the Authority or the information disclosed was inaccurate or incomplete, the termination of the Contract will be in accordance with Condition 43 (Material Breach) and the provisions of clause 33.n with respect to termination will not apply.

p. For a period of up to 2 years from the completion of the Contract, and in response to a specific written request from the Authority, the Contractor shall notify the Authority as soon as reasonably practicable of any change to the Restrictions applicable to any Materiel provided under the Contract by issuing an updated DEFFORM 528 to the Authority.

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 their 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 1949;
- (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, their 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, their 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 their 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.

q. Notwithstanding any other provisions of the Contract and for the avoidance of doubt, award of the Contract by the Authority and placement of any contract task under it does not constitute an authorisation by the Crown under Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949. The Contractor acknowledges that any such authorisation by the Authority under its statutory powers must be expressly provided in writing, with reference to the acts authorised and the specific intellectual property involved.

Notification of Intellectual Property Rights (IPR) Restrictions

r. Where any of the conditions listed below (1 to 3) have been added to the Conditions of the Contract as project specific DEFCONs at Clause 45, or where required by Clauses 34.a. - 34.q., the Contractor warrants and confirms that all Intellectual Property Rights restrictions and associated export restrictions relating to the use or disclosure of the Contractor Deliverables that are notifiable under those Conditions, or of which the Contractor is or should reasonably be aware as at Effective Date of Contract, are disclosed in Schedule 10 (Notification of Intellectual Property Rights (IPR) Restrictions).

(1) DEFCON 15 - including notification of any self-standing background Intellectual Property;

(2) DEFCON 90 - including copyright material supplied under clause 5;

(3) DEFCON 91 - limitations of Deliverable Software under clause 3b.

s. The Contractor shall promptly notify the Authority in writing if they become aware during the performance of the Contract of any required additions, inaccuracies or omissions in Schedule 10.

t. Any amendment to Schedule 10 shall be made in accordance with Condition 6.

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 clause 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 36.b 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 36.a, 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 36.a 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 36.c 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 the 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 Taxand other Taxes

- a. The Contract Price excludes any UK output Value Added Tax (VAT) 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 their 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 their 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, they shall supply a copy to the Authority within three (3) Business Days of receiving that ruling unless they propose to challenge the ruling. Where the Contractor challenges the ruling they 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 they take 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 tax purposes. In that event, it is the Contractor's responsibility to ensure the Contract Price captures this tax.
- 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 non-UK input taxes). However, these input taxes will be allowed where they were included in the Contract Price and 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 the 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 10 (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.

b. Where the Contractor enters into a subcontract, they 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
- (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 them or their 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 their debts as they fall due or has no reasonable prospect of being able to pay debts which are not immediately payable. The Authority shall regard the Contractor as being unable to pay their debts if:
 - (a) they have failed to comply with or to set aside a Statutory demand under Section 268 of the Insolvency Act 1986 within twenty-one (21) days of service of the Statutory Demand on them; or
 - (b) execution or other process to enforce a debt due under a judgement or order of the court has been returned unsatisfied in whole or in part.
- (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 they are 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 they have 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 them or on their behalf, or to their knowledge, unless before the Contract is made particulars of any such commission and of the terms and conditions of any such agreement for the payment thereof have been disclosed in writing to the Authority.

d. If the Contractor, their employees, agents or any Subcontractor (or anyone acting on their behalf or any of their employees) does any of the prohibited acts or commits any offence under the Bribery Act 2010 with or without the knowledge or authority of the Contractor in relation to this Contract or any other contract with the Crown, the Authority shall be entitled:

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

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

42. Termination for Convenience

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:
 - (a) all such unused and undamaged materiel; and
 - (b) Contractor Deliverables in the course of manufacture,that are liable to be taken over by, or previously belonging to the Authority, and shall deliver such materiel and Contractor Deliverables in accordance with the directions of the Authority;
 - (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 their 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.

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

DEFCON 532A

DEFCON 532A (Edn. 05/22) -Protection Of Personal Data (Where Personal Data is not being processed on behalf of the Authority)

DEFCON 602A

DEFCON 602A - (Edn 04/23) - Quality Assurance (With Deliverable Quality Plan)

DEFCON 658 (SC2) - Cyber Risk Profile - Very Low

DEFCON 658 (SC2) (Edn. 10/22) - Cyber

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

DEFCON 660

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

Special Indemnity Conditions

DEFCON 684

DEFCON 684 (Edn 01/04) - Limitation Upon Claims In Respect Of Aviation Products

46. The special Conditions that apply to the Contract are:

46.1 Options

a. The option prices for years 4 and 5 detailed at Items 4, 5, 9 and 10 in Schedule 2 (Schedule of Requirements) are fixed prices relative to economic conditions at the contract award date and are subject to variation as provided for in Condition 46.5 (Variation of Price).

b. In addition to the quantity detailed for years 1 to 3 at Items 1, 2, 3, 6, 7 and 8 of the Schedule of Requirements, the Contractor hereby grants to the Authority the following irrevocable options to purchase year 4 and year 5 services in accordance with the terms and conditions set out in this contract or any such subsequent contract or contracts where such options are taken up, it being agreed that the Authority has no obligation to exercise such options.

- (1) Option 1: Year 4 services (at items 4 and 9 of the Schedule of Requirements), in addition to years 1 to 3 already ordered under Items 1, 2, 3, 6, 7 and 8 at the fixed prices for Items 4 and 9 in accordance with the delivery schedule in the Schedule of Requirements and Schedule 11 (Statement of Requirement), provided that the Authority

exercises such an option by no later than 2 months prior to the contract expiry date at Condition 20 of Schedule 3 (Contract Data Sheet).

(2) Option 2: Year 5 services (at items 5 and 10 of the Schedule of Requirements), in addition to the services already ordered under Items 4 and 9 and Condition 46.1 b.(1) above, may be ordered under Items 5 and 10, at the fixed prices for Items 5 and 10 in accordance with the delivery schedule in the Schedule of Requirements and Statement of Requirement, provided that the Authority exercises such an option by no later than 2 months prior to the revised expiry date at Condition 20 of Schedule 3 (Contract Data Sheet).

c. The Authority may exercise any of the options in Conditions 46.1 b. (1) and (2). above in the stated quantities varied within a range of + / - 10% (ten per cent), as well as in the stated quantities and the option prices shall apply equally to the quantities so varied.

d. The Authority shall have the right to exercise the options by the specified dates or within such further period as corresponds to the aggregate of any period(s):

(1) of delay in the delivery programme whether constituting any breach of the Contract or resulting from any force majeure event within Condition 43, or

(2) for the duration of which the Authority is prevented from exercising any such option due to any other breach of the Contract by the Contractor.

e. The Authority shall not be obliged to exercise the options.

46.2. Insurance

a. Without prejudice to its liability to indemnify or otherwise be liable to the Authority under this Contract, the Contractor shall for the periods specified in Annex A to Clause 46.2 (Required Insurance) take out and maintain or procure the taking out and maintenance of the insurances as set out under this Clause 46.2 (Insurance) and Annex A to Clause 46.2 (Required Insurance) and any other insurances as may be required by law (together the "Insurances"). The Contractor shall ensure that each of these Insurances are effective in each case not later than the date on which the relevant risk commences.

b. The Insurances shall be taken out and maintained with insurers who are of good financial standing and of good repute in the international insurance market.

c. The Contractor shall ensure that where required in Annex A to Clause 46.2 (Required Insurance) the policies of insurance shall contain an indemnity to principals clause under which the Authority shall be indemnified in respect of claims made against the Authority arising from death or bodily injury or third party property damage and for which the Contractor is legally liable under this Contract.

d. Where the minimum limit of indemnity required in relation to any of the Insurances is specified as or procured as being "in the aggregate" and a claim or claims are notified to the insurers which, given the nature of the allegations and/or the quantum claimed by the third party(ies), is likely to result in a claim or claims being paid by the insurers which could reduce the level of cover available below that minimum, the Contractor shall ensure that the insurance cover is reinstated to maintain at all times the minimum limit of indemnity specified for claims relating to this Contract.

e. The Contractor shall not take any action or fail to take any action or (insofar as is reasonably within its power) permit anything to occur in relation to it which would entitle any insurer to refuse to pay any claim under any of the Insurances.

- f. The Contractor shall notify the Authority at least ten (10) days prior to the cancellation, suspension, termination or non-renewal of any of the Insurances. This Clause (f) shall not apply where the termination of any Insurances occurs purely as a result of a change of insurer in respect of any of the Insurances required to be taken out and maintained in accordance with this Clause 46.2.
- g. The Authority may elect (but shall not be obliged) where notice has been provided to the Contractor to purchase any insurance which the Contractor is required to maintain pursuant to this Contract but has failed to maintain in full force and effect, and the Authority shall be entitled to recover the reasonable premium and other reasonable costs incurred in connection therewith as a debt due from the Contractor.
- h. The Contractor shall from the date of this Contract and within fifteen (15) Business Days after the renewal of each of the Insurances, provide evidence, in a form satisfactory to the Authority, that the Insurances are in full force and effect and meet in full the requirements of this Clause 46.2 (Insurance) and Annex A to Clause 46.2 (Required Insurance). Receipt of such evidence by the Authority shall not in itself constitute acceptance by the Authority or relieve the Contractor of its liabilities and obligations under this Contract.
- i. The Contractor shall promptly notify to insurers any matter arising from, or in relation to, this Contract for which it may be entitled to claim under any of the Insurances. In the event that the Authority receives a claim relating to this Contract, the Contractor shall co-operate with the Authority and assist it in dealing with such claims including without limitation providing information and documentation in a timely manner.
- j. Except where the Authority is the claimant party, the Contractor shall give the Authority notice within twenty (20) Business Days after any insurance claim in excess of one hundred thousand pounds (£100,000) relating to this Contract on any of the Insurances or which, but for the application of the applicable policy excess, would be made on any of the Insurances and (if required by the Authority) full details of the incident giving rise to the claim.
- k. Where any Insurance requires payment of a premium, the Contractor shall be liable for such premium.
- l. Where any Insurance referred to in this Clause 46.2 (Insurance) and Annex A to Clause 46.2 (Required Insurance) is subject to an excess or deductible below which the indemnity from insurers is excluded, the Contractor shall be liable for such excess or deductible and shall indemnify the Authority against any loss or claims which would otherwise be insured but for the excess or deductible. The Contractor shall not be entitled to recover from the Authority any sum paid by way of excess or deductible under the Insurances whether under the terms of this Contract or otherwise.

ANNEX A TO CLAUSE 46.2 - REQUIRED INSURANCE

A. Aviation Liability Insurance (including Products Liability)

(1) Insured

The Contractor

(2) Interest

Excluding any indemnity or limitation upon claims as set out in DEFCON 684 (Limitation Upon Claims In Respect of Aviation Products), to indemnify the Insured in respect of all sums that they may become legally liable to pay (including claimants costs and expenses) as damages in respect of

(2.1) death or bodily injury contracted by any person; and

(2.2) loss of or damage to property;

happening during the period of insurance and arising out of or in connection with the Contract.

(3) Limit of Indemnity

Not less than a combined single limit for bodily injury and property damage, five hundred million US Dollars (\$500,000,000) any one occurrence the number of occurrences being unlimited but in the annual aggregate in respect of aviation product liability. Where the limit of indemnity is provided in the annual aggregate, Clause (d) of 46.2 (Insurance) will apply.

(4) Period of Insurance

From the date of the Contract and for the duration of the Contract and renewable on an annual basis unless agreed otherwise by the parties.

(5) Territorial Limits

Worldwide.

(6) Maximum Deductible Threshold

Not to exceed the Maximum Deductible threshold values specified on the following page in Osprey Limited's Completed Insurance Response Table for each and every loss for property damage.

B. Third Party Public Liability Insurance

(1) Insured

Contractor

(2) Interest

To indemnify the Insured in respect of all sums which the Insured shall become legally liable to pay as damages, including claimant's costs and expenses, in respect of accidental:

(2.1) death or bodily injury to or sickness, illness or disease contracted by any person;

(2.2) loss of or damage to property;

happening during the Period of Insurance and arising out of or in connection with the Contract.

(3) **Limit of Indemnity**

Not less than ten million pounds (£10,000,000) in respect of any one occurrence, the number of occurrences being unlimited, but ten million pounds (£10,000,000) any one occurrence and in the aggregate per annum in respect of products and pollution liability (to the extent covered by the policy). Where the limit of indemnity is provided in the annual aggregate, Clause (d) of 46.2 (Insurance) will apply.

(4) **Period of Insurance**

From the date of this Contract for the duration of the Contract and renewable on an annual basis unless agreed otherwise.

(5) **Cover Features and Extensions**

(5.1) Indemnity to principals clause

(5.2) Legal defence costs

(5.3) Contingent motor liability

(6) **Maximum Deductible**

Not to Exceed the Maximum Deductible threshold values specified on the following page in Osprey Limited's Completed Insurance Response Table for each and every third party property damage claim (personal injury claims to be paid in full).

Osprey Limited's Completed Insurance Response Table

<u>Class of Required Insurance</u>	<u>Period of Policy / Renewal Frequency</u>	<u>Insurer(s) Identity (including all Excess Layer Insurers)</u>	<u>Maximum Deductible each and every occurrence</u> (NB. Confirm any aggregate deductible if applicable)	<u>Agreement to the requirements of Clause 46.2 (Insurance)</u>	<u>Agreement to the requirements of Annex A to Clause 46.2 (Required Insurance)</u>
Aviation Liability Insurance (including Products Liability)	<p>Redacted on the grounds of commercial sensitivity, as this forms part of the Schedule 15 Supplier Solution.</p> <p>All minimum standards met.</p>				
Third Party Public Liability Insurance					
Employers' Liability Insurance (Limit of Indemnity as required by law)					
Third Party Motor Insurance (Limit of Indemnity as required by law)					

46.3 Social Value

- a. In delivering the Contractor Deliverables, the Contractor shall have regard to the Government's Social Value (SV) Themes, Policy Outcomes and Delivery Objectives. The Contractor's SV deliverables from the timed project plans in themes 2,3 & 4 include how the Contractor will monitor, measure and report on the delivery of its proposals in order to measure SV throughout the Contract lifespan and determine whether the Contract is achieving its SV objectives.
- b. Delivery of Social Value (SV) will be assessed throughout the duration of the Contract in accordance with SR 1.5 (Social Value) set out in Annex A to Schedule 11 (Statement of Requirement), and KPI 4 in Schedule 12.
- c. The Contractor shall provide six-monthly reports on delivery of SV to the Authority for review in accordance with SR 1.5 Deliverables.
- d. The Authority shall be entitled to review delivery of SV objectives under the Contract annually and require amendments in accordance with changes in Government's SV Themes. Following agreement, a change will be implemented into this Contract.

46.4 Payment Terms

- a. Payment for the Contractor Deliverables in Schedule 2 (Schedule of Requirements) is payable in arrears, and is dependent on receiving the services set out in the Statement of Requirement at Schedule 11, and application of any Financial Deductions in accordance with Key Performance Indicators at Schedule 12.
- b. The pricing mechanism to calculate payment shall be in accordance with the following:
 - (1) Firm Price shall apply to Contract Years 1 to 3. Costs calculated by reference to Firm Pricing shall not be subject to variation by way of Indexation.
 - (2) Fixed Price shall apply to Contract Years 4, and 5 under Options 1 and 2 in accordance with Condition 46.1 (Options). Charges calculated by reference to a Fixed Price mechanism shall be subject to increase by way of Indexation under Variation of Price at Condition 46.5 of this Contract.
- c. The Contract Price will be comprised of the following;
 - (1) The Core Services Payment (CSP): the costs in relation to the provision of the Core Services shall comprise of the following SOR Service Requirement (SR) References, as set out under Annex A to Schedule 11 (Statement of Requirement) (together the Core Services):
 - (a) SR 1.1 - Annual maintenance of MOD IFPs including MilSMAC;
 - (b) SR 1.2 - Annual area radar safety altitude;
 - (c) SR 1.3 - SME advice and input on points related to IFP;
 - (d) SR 1.4 - Contract/Project Management Progress Meetings;
 - (e) SR 1.5 - Social Value;
 - (f) SR 1.6 - Exit (disengagement) Planning.
 - (2) Ad hoc Requirements: the costs in relation to SR 1.7 - Ad hoc Requirements shall be subject to individual tasking in accordance with Condition 47.1 (Call off Tasking Order Form Process) and calculated by reference to Schedule 2 (Schedule of Requirements) Items for hourly rates, and associated Authority limit of financial liability.

- d. The Core Services Payment will be paid monthly in arrears.
- e. Payment for optional Ad hoc Requirements tasking will be made following satisfactory completion and Authority certification of the Part 3 Tasking Order form at Schedule 14.
- f. Any Financial Deductions in relation to Schedule 12 KPIs will be applied to the Core Service Payment following the performance assessment process set out in Schedule 12.
- g. 5% of the last Core Service Payment will be retained to allow for assessment of Financial Deductions on expiry of the Contract. The balance due to the Contractor will be paid within 30 days of the end of the Contract.

46.5 Variation of Price

a. The prices for Items 4, 5, 9 and 10 stated in the Schedule of Requirements at Schedule 2 are **FIXED** at the Effective Date of Contract (*provisionally 1 Jul 2025*) price levels. The prices do not include provision beyond this date for increases or decreases in the market price of the Articles being purchased. Any such variation shall be calculated in accordance with the following formula:

$$V = P (a+b(O_i/O_0)) - P$$

Where:

V represents the variation of price

P represents the FIXED price as stated in the Schedule of Requirements

O represents the index **HQTI – Top Level Services Producer Price Index (SPPI)**

O₀ represents the 12-month average OUTPUT Price Index figure for the base period 1 Jul 2024 to 30 Jun 2025¹ (as above)

O_i represents the 12-month average OUTPUT Price Index figure for the period 1 Jul 2027 to 30 Jun 2028²

a represents the Non-Variable Element (NVE) of Zero (0)

b represents the Variable Element of 1

$$a+b=1$$

b. The Index referred to in Clause 46.5 a. above shall be taken from the following Tables:

OUTPUT Price Index - ONS Publication MM22 Table 2 'Price Indices of UK OUTPUT: All Manufacturing and Selected Industries', or, Table 4 'Price Indices of Products Manufactured in the UK'.

c. Indices published with a 'B' or 'F' marker, or a suppressed value, in the last 3 years are not valid for Variation of Price clauses and shall not be used. Where the price index has an 'F' marker or suppression applied to it during the term of the Contract, the Authority and the Contractor shall agree an appropriate replacement index or indices. The replacement index or indices shall cover, to the maximum extent possible, the same economic activities as the original index or indices.

¹ Date range represents the 12 months prior to the start of contract year 1.

² Date range represents the 12 months prior to the end of the year 3 Firm price period.

d. In the event that any material changes are made to the indices (e.g. a revised statistical base date) during the period of the contract and before final adjustment of the final contract price, then the re-basing methodology outlined by the Office for National Statistics (ONS, the series providers) to match the original index to the new series shall be applied.

e. In the event the agreed index or indices cease to be published (e.g. because of a change in the Standard Industrial Classification) the Authority and the Contractor shall agree an appropriate replacement index or indices, which shall cover to the maximum extent possible the same economic activities as the original index or indices. The methodology outlined by the Office for National Statistics used for rebasing indices (as in Clause 46.5 d. above) shall then be applied.

f. Notwithstanding the above, any extant index / indices agreed in the Contract shall continue to be used as long as it is / they are available and subject to ONS revisions policy. Payments calculated using the extant index / indices during its / their currency shall not be amended retrospectively as a result of any change to the index or indices.

g. The Contractor shall notify the Authority of any significant changes in the purchasing / manufacturing plan on the basis of which these provisions were drawn up and agreed, or of any other factor having a material bearing on the operation of these provisions such as to cause a significant divergence from their intended purpose, in order that both parties may consider whether any change in this provision would be appropriate.

h. Prices shall be adjusted taking into account the effect of the above formula as soon as possible after publication of the relevant indices or at a later date if so agreed between the Authority and the Contractor. Where an index value is subsequently amended, the Authority and the Contractor shall agree a fair and reasonable adjustment to the price, as necessary.

i. Claims under this Condition shall be submitted to the Bill Paying Branch, certified to the effect that the "requirements of this Clause 46.5" have been met.

46.6 IR35 Periodic Assessments

a. The Off-Payroll Rules (Intermediaries Legislation – IR35) for working in the Public Sector are in place to ensure that where a worker would have been an employee if they were providing their services directly, they are broadly paying the same Pay As You Earn (PAYE) tax and National Insurance Contributions (NICs) as an employee. The Authority's initial IR35 assessment utilising for this Contract identified that IR35 will not apply.

b. The Authority is required to review all contracts on a periodic basis in order to reassess the initial IR35 determination for the provision of services. Where it has been confirmed that PAYE taxes and NICs are being deducted from their earnings by the respective contractor, individual workers may be supplied with a HMRC CEST output, and/or a Status Determination Statement (SDS). For the purposes of ongoing IR35 compliance and obligation to issue a SDS on or before the date any payment is made, the Contractor must inform the Authority of any change in circumstances to the employment status of the individuals on this contract, including (but not limited to):

- (1) where a named worker is substituted with an individual working through an intermediary (where substitution is practical/permitted), or
- (2) where an existing worker commences working through an intermediary in which they have a material interest and from which they have the right to receive a chain payment.

c. Under the periodic review, it may be necessary for the MOD assessor to make direct contact with that worker, since the HMRC CEST tool includes an additional question set which may only be answerable by the worker.

46.7 Limitation of Contractors Liability

1.LIMITATIONS ON LIABILITY

Definitions

1.1 In this Condition 46.7 the following words and expressions shall have the meanings given to them, except where the context requires a different meaning:

“Charges” means any of the charges for the provision of the Services, Contractor Deliverables and the performance of any of the Contractor’s other obligations under this Contract, as determined in accordance with this Contract;

“Data Protection Legislation” means all applicable Law in force from time to time in the UK relating to the processing of personal data and privacy, including but not limited to:

(1) UK GDPR;

(2) DPA 2018; and

(3) the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426) as amended, each to the extent that it relates to the processing of personal data and privacy;

“Default” means any breach of the obligations of the relevant Party (including fundamental breach or breach of a fundamental term) or any other default, act, omission, negligence or statement of the relevant Party, its employees, servants, agents or sub-contractors in connection with or in relation to the subject matter of this Contract and in respect of which such Party is liable to the other. In no event shall a failure or delay in the delivery of an Authority responsibility or an activity to be carried out by the Authority or its representatives in accordance with the Contract be considered a Default;

‘DPA 2018’ means the Data Protection Act 2018;

“Law” means any applicable law, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, regulation, order, regulatory policy, mandatory guidance or code of practice judgment of a relevant court of law, or directives or requirements of any regulatory body, delegated or subordinate legislation or notice of any regulatory body.

“Service Credits” means the amount that the Contractor shall credit or pay to the Authority in the event of a failure by the Contractor to meet the agreed Service Levels as set out/referred to in [cross refer to service credit regime in the contract];

“Term” means the period commencing on the date on the Effective Date of Contract and ending on the expiry date set out in Schedule 3 at Condition 2 or on earlier termination of this Contract.

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

Unlimited liabilities

1.2 Neither Party limits its liability for:

- 1.2.1 death or personal injury caused by its negligence, or that of its employees, agents or sub-contractors (as applicable);
- 1.2.2 fraud or fraudulent misrepresentation by it or its employees;
- 1.2.3 breach of any obligation as to title implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
- 1.2.4 any liability to the extent it cannot be limited or excluded by law.

1.3 The financial caps on liability set out in Clauses 1.4 and 1.5 below shall not apply to the following:

- 1.3.1 for any indemnity given by the Contractor to the Authority under this Contract, including but not limited to:
 - 1.3.1.1 the Contractor's indemnity in relation to Condition 34 (Third Party IP – Rights and Restrictions);
 - 1.3.1.2 the Contractor's indemnity in relation to TUPE at Schedule 13;
- 1.3.2 for any indemnity given by the Authority to the Contractor under this Contract, including but not limited to:
 - 1.3.2.1 the Authority's indemnity in relation to TUPE under Schedule 13;
- 1.3.3 breach by the Contractor of DEFCON 532A (SC2) provisions and Data Protection Legislation; and
- 1.3.4 to the extent it arises as a result of a Default by either Party, any fine or penalty incurred by the other Party pursuant to Law and any costs incurred by such other Party in defending any proceedings which result in such fine or penalty.
- 1.3.5 For the avoidance of doubt any payments due from either of the Parties to the other in accordance with DEFCON 811 (SC2) or the Defence Reform Act 2014 and/or the Single Source Contract Regulations 2014, as amended from time to time, shall not be excluded or limited under the provisions of Clauses 1.4 and/or 1.5 below.

Financial limits

1.4 Subject to Clauses 1.2 and 1.3 and to the maximum extent permitted by Law:

- 1.4.1 Throughout the Term the Contractor's total liability in respect of losses that are caused by Defaults of the Contractor shall in no event exceed:
 - 1.4.1.1 in respect of DEFCON 76 (SC2) ten thousand pounds (£10,000) in aggregate;
 - 1.4.1.2 in respect of Condition 43b three hundred and thirty-five thousand pounds (£335,000) in aggregate.
- 1.4.2 Without limiting Clause 1.4.1 and subject always to Clauses 1.2, 1.3 and 1.4.3, the Contractor's total liability throughout the Term in respect of all other liabilities (but

excluding any Service Credits paid or payable in accordance with Schedule 12 (Key Performance Indicators) and Condition 46.4 (Payment Terms) whether in contract, in tort (including negligence), arising under warranty, under statute or otherwise under or in connection with this Contract shall be one hundred and ninety thousand pounds (£190,000) in aggregate.

1.4.3 On the exercise of any and, where more than one, each option period or agreed extension to the Term, the limitation of the Contractor's total liability (in aggregate) set out in Clauses 1.4.1 and 1.4.2 above shall be fully replenished such that on and from each such exercise or extension of the Term, the Authority shall be able to claim up to the full value of the limitation set out in Clauses 1.4.1 and 1.4.2 of this Contract.

1.5 Subject to Clauses 1.2, 1.3 and 1.6, and to the maximum extent permitted by Law the Authority's total liability (in aggregate) whether in contract, in tort (including negligence), under warranty, under statute or otherwise under or in connection with this Contract shall in respect of all liabilities (taken together) be limited to the Charges paid by the Authority in the relevant Contract Year in respect of any and all claims in that Contract Year.

1.6 Clause 1.5 shall not exclude or limit the Contractor's right under this Contract to claim for the Charges.

Consequential loss

1.7 Subject to Clauses 1.2, 1.3 and 1.8, neither Party shall be liable to the other Party or to any third party, whether in contract (including under any warranty), in tort (including negligence), under statute or otherwise for or in respect of:

- 1.7.1 indirect loss or damage;
- 1.7.2 special loss or damage;
- 1.7.3 consequential loss or damage;
- 1.7.4 loss of profits (whether direct or indirect);
- 1.7.5 loss of turnover (whether direct or indirect);
- 1.7.6 loss of business opportunities (whether direct or indirect); or
- 1.7.7 damage to goodwill (whether direct or indirect),

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

1.8 The provisions of Clause 1.7 shall not restrict the Authority's ability to recover any of the following losses incurred by the Authority to the extent that they arise as a result of a Default by the Contractor:

1.8.1 any additional operational and administrative costs and expenses arising from the Contractor's Default, including any costs paid or payable by the Authority:

- 1.8.1.1 to any third party;
- 1.8.1.2 for putting in place workarounds for the Contractor Deliverables and other deliverables that are reliant on the Contractor Deliverables; and
- 1.8.1.3 relating to time spent by or on behalf of the Authority in dealing with

the consequences of the Default;

1.8.2 any or all wasted expenditure and losses incurred by the Authority arising from the Contractor's Default, including wasted management time;

1.8.3 the additional cost of procuring and maintaining in place transitional assistance and replacement deliverables for the remainder of the Term and any option period or agreed extension to the Term (including legal and other consultants' fees, re-procurement project costs, other expenses associated with such exercise and any increase in the fees for the replacement services over and above the Contract Price that would have been payable for the relevant Contractor Deliverables);

1.8.4 any losses arising in connection with the loss, destruction, corruption, inaccuracy or degradation of Authority data, or other data or software, including, to the extent the Authority data, other data or software can be recovered or reconstituted, the fees, costs and expenses of reconstituting such Authority data, data or software;

1.8.5 damage to the Authority's physical property and tangible assets, including damage under DEFCON 76 (SC2);

1.8.6 costs, expenses and charges arising from, or any damages, account of profits or other award made for, infringement of any third-party Intellectual Property Rights or breach of any obligations of confidence;

1.8.7 any additional costs incurred by the Authority in relation to the Authority's contracts with a third party (including any compensation or interest paid to a third party by the Authority) as a result of the Default (including the extension or replacement of such contracts);

1.8.8 any fine or penalty incurred by the Authority pursuant to Law and any costs incurred by the Authority in defending any proceedings which result in such fine or penalty; or

1.8.9 any savings, discounts or price reductions during the Term and any option period or agreed extension to the Term committed to by the Contractor pursuant to this Contract.

Invalidity

1.9 If any limitation or provision contained or expressly referred to in this Condition [1] is held to be invalid under any Law, it will be deemed to be omitted to that extent, and if any Party becomes liable for loss or damage to which that limitation or provision applied, that liability will be subject to the remaining limitations and provisions set out in this Condition [1].

Third party claims or losses

1.10 Without prejudice to any other rights or remedies the Authority may have under this Contract (including but not limited to any indemnity claim under Condition 34 or at Law), the Authority shall be entitled to make a claim under this Contract against the Contractor in respect of any losses incurred by the Authority which arise out of a claim made against the Authority by a third party under any contract with that third party provided that such third party claim:

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

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

No double recovery

1.11 Neither Party shall be entitled to employ such rights and remedies available to it so as to seek to recover more than once in respect of the same loss, but the Authority shall be entitled to use (singly or together) such rights and remedies available to the Authority so as to recover the full extent of any recoverable losses suffered or incurred, including any remedies the Authority may have against any guarantor. The amounts contained with this Clause 46.7 do not apply and / or are not eroded or reduced where money can be recovered from the Required Insurances in Annex A to Clause 46.2 (Required Insurances).

46.8 Russian and Belarusian Exclusion Condition for Inclusion in Contracts

1. The Contractor shall, and shall procure that their Sub-contractors shall, notify the Authority in writing as soon as they become aware that:

- a. the Contract Deliverables and/or Services contain any Russian/Belarusian products and/or services; or
- b. that the Contractor or any part of the Contractor's supply chain is linked to entities who are constituted or organised under the law of Russia or Belarus, or under the control (full or partial) of a Russian/Belarusian person or entity. Please note that this does not include companies:
 - (1) registered in the UK or in a country with which the UK has a relevant international agreement providing reciprocal rights of access in the relevant field of public procurement; and/or
 - (2) which have significant business operations in the UK or in a country with which the UK has a relevant international agreement providing reciprocal rights of access in the relevant field of public procurement.

2. The Contractor shall, and shall procure that their Sub-contractors shall, include in such notification (or as soon as reasonably practicable following the notification) full details of the Russian products, services and/or entities and shall provide all reasonable assistance to the Authority to understand the nature, scope and impact of any such products, services and/or entities on the provision of the Contract Deliverables and/or Services.

3. The Authority shall consider the notification and information provided by the Contractor and advise the Contractor in writing of any concerns the Authority may have and/or any action which the Authority will require the Contractor to take. The Contractor shall be required to submit a response to the concerns raised by the Authority, including any plans to mitigate those concerns, within 14 business days of receipt of the Authority's written concerns, for the Authority's consideration.

4. The Contractor shall include provisions equivalent to those set out in this clause in all relevant Sub-contracts.

46.9 Intellectual Property Rights

DEFCON 703

DEFCON 703 (Edn. 06/21) - Intellectual Property Rights - Vesting in the Authority
Third Party IPR Authorisation

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

a. Notwithstanding any other provisions of the Contract and for the avoidance of doubt, award of the Contract by the Authority and placement of any contract task under it does not constitute an authorisation by the Crown under Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949. The Contractor acknowledges that any such authorisation by the Authority under its statutory powers must be expressly provided in writing, with reference to the acts authorised and the specific intellectual property involved.

47 The processes that apply to this Contract are:

47.1 Call off Tasking Order Form Process

- a. Following preliminary engagement with the Contractor (where applicable), No 1 AIDU will e-mail the Contractor with a serially numbered and electronically signed Schedule 14 PART 1 Call off Tasking Order Form for ad hoc tasking elements of the contract under SR 1.7 (Ad hoc Requirements) detailed in Annex A to Schedule 11 (Statement of Requirement). This will provide details of the ad hoc task request.
- b. On receipt of the PART 1 Order Form, the Contractor shall notify his acceptance of the order by completing PART 2 and providing an estimated not to exceed price iaw the respective Schedule 2 ad hoc hourly rate pricing and returning it to the Designated Officer at No 1 AIDU.
- c. Following completion of the Task, the Contractor shall provide an updated copy of the PART 2 detailing finalised costs.
- d. PART 3 of the form will be used by No 1 AIDU to confirm acceptance of the services/ output performed under the order. Following distribution of the PART 3 form, Purchase Order details shall be notified to the Contractor.
- e. In order to claim payment for completed tasks, actions are to be undertaken in accordance with Condition 35 (Pricing and Payment), and Condition 46.4 (Payment Terms).
- f. The Authority will undertake periodic amendments to the Contract in order to incorporate all approved tasks into the tasking register at Annex A to Schedule 14.
- g. No payment will be made for work carried outwith the terms of the contract or commenced outwith the period of the contract.

Schedule 1 - Definitions of Contract

Article	means, in relation to clause 24 and Schedule 6 only, an object which during production is given a special shape, surface or design which determines its function to a greater degree than does its chemical composition;
Articles	means (except in relation to Schedule 10) 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.
Assets Subject to Special Controls (ASSC)	means a Contractor Deliverable which is: a. subject to the United States International Traffic In Arms Regulations (ITAR); b. subject to the 600 series of the United States Export Administration Regulations (EAR); or c. classified as Attractive to Criminal and Terrorist Organisations (ACTO), meaning that it includes material which represents an immediate risk to Defence personnel or the public; or which is considered as attractive to criminal and terrorist organisations;
ASSC Indicator	means for Contractor Deliverables subject to ITAR, a United States Munitions List (USML) or for Contractor Deliverables subject to the 600 series of the EAR, an Export Control Classification Number (ECCN);
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 7;
Business Day	means 09:00 to 17:00 Monday to Friday, excluding public and statutory holidays;
Central Government Body	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: a. Government Department; b. Non-Departmental Public Body or Assembly Sponsored

Public Body (advisory, executive, or tribunal);

c. Non-Ministerial Department; or

d. Executive Agency;

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 (Formal Amendments to the 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 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:

	<p>a. by means of the holding of shares, or the possession of voting powers in, or in relation to, the Contractor; or</p> <p>b. by virtue of any powers conferred by the constitutional or corporate documents, or any other document, regulating the Contractor;</p> <p>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;</p>
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	<p>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:</p> <p>a. Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009 (CDG) (as amended 2011);</p> <p>b. European Agreement Concerning the International Carriage of Dangerous Goods by Road (ADR);</p> <p>c. Regulations Concerning the International Carriage of Dangerous Goods by Rail (RID);</p> <p>d. International Maritime Dangerous Goods (IMDG) Code;</p> <p>e. International Civil Aviation Organisation (ICAO) Technical Instructions for the Safe Transport of Dangerous Goods by Air;</p> <p>f. International Air Transport Association (IATA) Dangerous Goods Regulations.</p>
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.kid.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;
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 upon which both Parties have signed the Contract;
Evidence	means either: <ul style="list-style-type: none"> 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;
First-Tier Sub-Contractor	means a Sub-contractor directly engaged by the Contractor to provide Contractor Deliverables wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of the Contract;
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;
Licence	means, in relation to clause 33 only, import licence, export licence or other import or export related authorisation, agreement, exception or exemption, including (but not limited to) the export licences required by the United States under the International Traffic in Arms Regulations (ITAR), Export Administration Regulations (EAR) and Foreign Military Sales (FMS), or those required as a result of any applicable UK-US agreements;
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, or any exercise of Royal Prerogative;
Lower-Tier Sub-Contractor	means any Sub-contractor other than any First-Tier Sub-Contractor at any lower level of the supply chain engaged to provide Contractor Deliverables wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of the Contract;
Materiel	means, in relation to clause 33 only, information, technical data, and items, including all goods, components of goods and software;
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);
Mixture	means a mixture or solution composed of two or more substances;
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	Verb. The operations involved in the preparation of materiel for; transportation, handling, storage and Delivery to the user; Noun. The materials and components used for the preparation of the Contractor Deliverables for transportation and storage in accordance with the Contract;
Packaging Design Authority (PDA)	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;
Parties	means the Contractor and the Authority, and Party shall be construed accordingly;
Plastic Packaging Components	shall have the same meaning as set out in Part 2 of the Finance Act 2021 together with any associated secondary legislation;
PPT	means a tax called “plastic packaging tax” charged in accordance with Part 2 of the Finance Act 2021;
PPT Legislation	means the legislative provisions set out in Part 2 and Schedule 9-15 of the Finance Act 2021 together with any secondary legislation made under powers contained in Part 2 of the Finance Act 2021. This includes, but is not limited to, The Plastic Packaging Tax (Descriptions of Products) Regulations 2021 and The Plastic Packaging Tax (General) Regulations 2022;

**Primary Packaging
Quantity(PPQ)**

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);

**Publishable Performance
Information**

means any of the Information in Schedule 9 (KPI Data Report) as it relates to Key Performance Indicator where it is expressed as publishable in the table in Schedule 9 which shall not contain any Information which is exempt from disclosure which shall be determined by the Authority; and which shall not constitute Sensitive Information;

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"> a. pre-consumer reclaimed wood and wood fibre and industrial by-products; b. post-consumer reclaimed wood and wood fibre, and driftwood; c. reclaimed timber abandoned or confiscated at least ten years previously; <p>it excludes sawmill co-products;</p>
Restrictions	<p>means, in relation to clause 33 only, end use or end user restrictions including (but not limited to) restrictions on transfers to third parties or disclosure to individuals based on their nationality, residency status and/or employment status;</p>
Robust Contractor Deliverables	<p>shall mean Robust items as described in Def Stan 81-041 (Part 2)</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	<p>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;</p>
Sensitive Information	<p>means the Information listed in the completed Schedule 5 (Contractor's Sensitive Information), which is Information notified by the Contractor to the Authority, which is acknowledged by the</p>

	Authority as being sensitive, at the point at which the Contract is entered into or amended (as relevant) and remains sensitive information at the time of publication;
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, and shall include any document or item which, individually or collectively is referred to in Schedule 2 (Schedule of Requirements). The Specification forms part of the Contract and all Contractor Deliverables to be supplied by the Contractor under the Contract shall conform in all respects with the Specification;
ANAG4329	means the publication NATO Standard Bar Code Symbolologies which can be sourced at https://www.dstan.mod.uk/faqs.html ;
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;

Substance	means a chemical element and its compounds in the natural state or obtained by any manufacturing process, including any additive necessary to preserve its stability and any impurity deriving from the process used, but excluding any solvent which may be separated without affecting the stability of the substance or changing its composition;
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;
Transparency Information	means the content of this Contract in its entirety, including from time to time agreed changes to the Contract, except for (i) any Information which is exempt from disclosure in accordance with the provisions of the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004 (EIR), which shall be determined by the Authority, and (ii) any Sensitive Information;
Unique Item Identifier (UII)	means a unique and unambiguous identifier that distinguishes an item from all other like and unlike items, consisting of: <ul style="list-style-type: none"> a. NATO Stock Number (NSN); b. NATO Commercial and Government Entity (NCAGE) code; c. ASSC Indicator, where applicable; d. serial number; and e. part number;.

Virgin Timber

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

Annex to Schedule 1

Additional Definitions of Contract iaw. Conditions 45 - 47 (Additional Conditions) and Schedule 11 Statement of Requirement.

The following definitions and interpretations are provided in addition to those set out in Schedule 1 above (Definitions of Contract)

Acceptance Criteria	Means the criteria for determining if a Service Requirement has been met, as set out within Annex B to Schedule 11.
Aviation Data Quality (ADQ)	Defines specific requirements for Aeronautical Information Service (AIS) Providers including requirements for those parties that originate and provide data to the AIS Provider.
Aeronautical Information Publication (AIP)	Formalised state publication defining aviation procedures.
Air Cartographers	Air/aviation map maker.
ANSP	Air Navigation Service Providers
ASA	Area Safe Altitudes
AutoCAD	Automated Computer Aided Design.
Core Services	Means Service Requirements 1.1 to 1.6 as set out in the Statement of Requirements (Schedule 11)
Digital Terrain and Elevation (DTED)	Standard National Geospatial-Intelligence Agency (NGA) product that provides medium resolution, quantitative data in a digital format for military
Digital Vertical Obstruction File (DVOF)	Worldwide Database of Vertical Obstructions
DWG	Drawing – AutoCAD output File Format
IFP	Instrument Flight Procedures
Key Deliverables	Means the Contractor Deliverables highlighted as being of primary importance, as set out in Annex B to Schedule 11
Key Performance Indicators	Means the mechanism under the Contract for measuring specific measurable aspects of performance for Service Requirements 1.1, 1.2, 1.3, 1.5 and 1.7, as set out in Schedule 12 (Key Performance Indicators)
Local Planning Authority (LPA)	Means the local authorities who control planning approvals on new structures
MilSMAC	Military surveillance minimum altitude chart

MOD	Ministry of Defence
No 1 AIDU	Means Number 1 Aeronautical Information Documents Unit, the end user for the Contractor Deliverables
Nautical Mile (NM)	Standard aviation unit of measurement (distance)
Performance Indicators	Means the mechanism under the Contract for measuring overall effectiveness of performance for Service Requirements 1.4 and 1.6, as set out in Schedule 12 (Key Performance Indicators)
Performance Base Navigation (PBN)	Area navigation based on performance requirements for aircraft operating along an ATS route, on an instrument approach procedure or in a designated airspace.
Point in Space (PinS)	GPS derived helicopter approach to a defined point.
Service Requirements	Means the Contractor Deliverables identified by individual reference numbers, which are requested from the Contractor and set out in the Statement of Requirement at Schedule 11.
SME	Subject Matter Expert
Social Value	Social Value is linked to Public Services (Social Value) Act 2012, and Cabinet Office Social Value model, with the intent that contracting authorities who commission public services secure wider social, economic and environmental benefits relevant to the procurement.
Tasking Order Form	Means the form at Schedule 14

Schedule 2 - Schedule of Requirements

Item No	Description	Delivery Date	Payment Terms (iaw condition 46.4)	Price (£) Ex VAT	
				Firm/Fixed	Total per year
Core Services Payment					
1	Core Services Payment for Military Instrument Flight Procedures Maintenance and Safeguarding Year 1 (10 July 2025 – 9 July 2026)	Year 1	Payable monthly in arrears iaw condition 46.4 d.	Firm	Contractor Pricing redacted from Schedule 2 on commercial sensitivity grounds (pricing).
2	Core Services Payment for Military Instrument Flight Procedures Maintenance and Safeguarding Year 2 (10 July 2026 – 9 July 2027)	Year 2		Firm	Contractor Pricing redacted from Schedule 2 on commercial sensitivity grounds (pricing).
3	Core Services Payment for Military Instrument Flight Procedures Maintenance and Safeguarding Year 3 (10 July 2027 – 9 July 2028)	Year 3		Firm	Contractor Pricing redacted from Schedule 2 on commercial sensitivity grounds (pricing).
4	Core Services Payment for Military Instrument Flight Procedures Maintenance and Safeguarding Option Year 4 (iaw condition 46.1) (10 July 2028 – 9 July 2029)	Year 4		Fixed	Contractor Pricing redacted from Schedule 2 on commercial sensitivity grounds (pricing).
5	Core Services Payment for Military Instrument Flight Procedures Maintenance and Safeguarding Option Year 5 (iaw condition 46.1) (10 July 2029 – 9 July 2030)	Year 5		Fixed	Contractor Pricing redacted from Schedule 2 on commercial sensitivity grounds (pricing).
				Total Price	Contractor Pricing redacted from Schedule 2 on commercial sensitivity grounds (pricing).

Ad Hoc Hourly Rates for additional tasking iaw Condition 47.1 (Call off Tasking Order Form Process)					
6	Ad hoc hourly rate: Year 1 (10 July 2025 – 9 July 2026)	Year 1	Payable in arrears iaw condition 46.4 e.	Firm	Contractor Pricing redacted from Schedule 2 on commercial sensitivity grounds (pricing).

7	Ad hoc hourly rate: Year 2 (10 July 2026 – 9 July 2027)	Year 2
8	Ad hoc hourly rate: Year 3 (10 July 2025 – 9 July 2028)	Year 3
9	Ad hoc hourly rate: Option Year 4 (iaw condition 46.1) (10 July 2025 – 9 July 2029)	Year 4
10	Ad hoc hourly rate: Option Year 5 (iaw condition 46.1) (10 July 2025 – 9 July 2030)	Year 5

Firm	Contractor Pricing redacted from Schedule 2 on commercial sensitivity grounds (pricing).
Firm	Contractor Pricing redacted from Schedule 2 on commercial sensitivity grounds (pricing).
Fixed	Contractor Pricing redacted from Schedule 2 on commercial sensitivity grounds (pricing).
Fixed	Contractor Pricing redacted from Schedule 2 on commercial sensitivity grounds (pricing).

Schedule 3 - Contract Data Sheet

General Conditions
Condition 2 – Duration of Contract: The Contract start date shall be: 2025/07/10 00:00:00 The Contract expiry date shall be: 2028/07/09 00:00:00
Condition 4 – Governing Law: Contract to be governed and construed in accordance with: English Law 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: Solicitors Appointed: Not applicable
Condition 7 – Authority’s Representatives: The Authority’s Representatives for the Contract are as follows: Commercial Officer: Personal data as marked removed from table on Page i and DEFFORM 111 Appendix Addresses and Other Information Address: MoD Main Building Whitehall, London SW1A 2HB Project Manager: Personal data as marked removed from table on Page i and DEFFORM 111 Appendix Addresses and Other Information Address: RAF Northholt, West End Road, Ruislip, HA4 6NG
Condition 18 – Notices: Notices served under the Contract shall be sent to the following address: Authority: (as per boxes 1 and 2 in the Annex A to Schedule 3 (DEFFORM 111)) Contractor: (as per contract cover page) Notices can be sent by electronic mail? Yes
Condition 19.a – Progress Meetings: The Contractor shall be required to attend the following meetings:

Progress Meetings Details: As stated in the Statement of Requirement at Schedule 11

Condition 19.b – Progress Reports:

The Contractor is required to submit the following Reports:

Progress Reports: As stated in the Statement of Requirement at Schedule 11

Reports shall be Delivered to the following address:

Via email to the Authority's project manager (as per box 2 in Annex A to Schedule 3)
(DEFFORM 111))

Supply of Contractor Deliverables

Condition 20 – Quality Assurance:

Is a Deliverable Quality Plan required for this Contract?

Yes

If yes:

A Deliverable Quality Plan is required in accordance with DEFCON 602A (SC2)

If required, the Deliverable Quality Plan and/or Deliverable Quality Plan with Assurance Information must be delivered to the Authority (Quality) within 90 Business Days of Contract Award.

Other Quality Requirements:

AQAP 2110³ NATO Quality Assurance Requirements for Design, Development and Production.
(Edition D Version 1)

All other Quality Requirements are set out within the Statement of Requirement at Schedule 11.

Condition 21 – Marking of Contractor Deliverables:

Special Marking requirements:

Not applicable

³ See DEFFORM 111 Box 7 (Quality Assurance Representative) for links to AQAPS documentation.

Condition 24 - Supply of Data for Hazardous Substances, Mixtures and Articles in Contractor Deliverables:

A completed Schedule 6 (Hazardous and Non-Hazardous Substances, Mixture or Articles Statement), and if applicable, UK REACH compliant Safety Data Sheet(s) are to be provided by e-mail with attachments in Adobe PDF or MS WORD format to:

- a) The Authority's Representative (Commercial)
- b) Defence Safety Authority – DESTECH-QSEPEnv-HSISMulti@mod.gov.uk

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

Condition 25 – Timber and Wood-Derived Products:

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?

No

Applicable to Line Items: Not applicable

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

No

Applicable to Line Items: Not applicable

Condition 28.b – Delivery by the Contractor:

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

Not applicable

Special Delivery Instructions:

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:

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

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

Line Items: [] Address: []

Consignee details (in accordance with condition 22):

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 [] Business Days.

Condition 32 – Self-to-Self Delivery:

Self-to-Self Delivery required?

No

If required, Delivery address applicable:

Pricing and Payment**Condition 35 – Contract Price:**

All Schedule 2 line items shall be FIRM Price other than those stated below:

Line Items 4, 5, 9 and 10

Clause 46.5 (Variation of Price) refers

Termination**Condition 42 – Termination for Convenience:**

The Notice period for terminating the Contract shall be twenty (20) days unless otherwise specified here:

The Notice period for termination shall be [] Business Days
Other Addresses and Other Information (<i>forms and publications addresses and official use information</i>)
See Annex A to Schedule 3 (DEFFORM 111)

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

Contract Change Control Procedure (i.a.w. clause 6.d) for Contract No:713495454

Authority Changes

1. The Authority shall be entitled to propose any change to the Contract (a "Change") or (subject to Clause 2) Changes in accordance with this Schedule 4.
2. Nothing in this Schedule shall operate to prevent the Authority from specifying more than one Change in any single proposal, provided that such changes are related to the same or similar matter or matters.

Notice of Change

3. If the Authority wishes to propose a Change or Changes, it shall serve a written notice (an "Authority Notice of Change") on the Contractor.
4. The Authority Notice of Change shall set out the Change(s) proposed by the Authority in sufficient detail to enable the Contractor to provide a written proposal (a "Contractor Change Proposal") in accordance with clauses 7 to 9 (inclusive).
5. The Contractor may only refuse to implement a Change or Changes proposed by the Authority, if such change(s):
 - a. would, if implemented, require the Contractor to deliver any Contractor Deliverables under the Contract in a manner that infringes any applicable law relevant to such delivery; and/or
 - b. would, if implemented, cause any existing consent obtained by or on behalf of the Contractor in connection with their obligations under the Contract to be revoked (or would require a new necessary consent to be obtained to implement the Change(s) which, after using reasonable efforts, the Contractor has been unable to obtain or procure and reasonably believes it will be unable to obtain or procure using reasonable efforts); and/or
 - c. would, if implemented, materially change the nature and scope of the requirement (including its risk profile) under the Contract;

and:

- d. the Contractor notifies the Authority within 10 (ten) Business Days (or such longer period as shall have been agreed in writing by the parties) after the date of the Authority Notice of Change that the relevant proposed Change or Changes is/are a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c providing written evidence for the Contractor's reasoning on the matter; and
- e. further to such notification:
 - (1) either the Authority notifies the Contractor in writing that the Authority agrees, or (where the Authority (acting reasonably) notifies the Contractor that the Authority disputes the Contractor's notice under Clause 5.d) it is determined in accordance with Condition 40 (Dispute Resolution), that the relevant Change(s) is/are a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c; and
 - (2) (where the Authority either agrees or it is so determined that the relevant Change(s) is/are a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c) the Authority fails to make sufficient adjustments to the relevant Authority Notice of Change (and issue a revised Authority Notice of Change) to remove the Contractor's grounds for refusing to implement the relevant Change under Clauses 5.a, 5.b and/or

5.c within 10 (ten) Business Days (or such longer period as shall have been agreed in writing by the parties) after:

- i) the date on which the Authority notifies in writing the Contractor that the Authority agrees that the relevant Change(s) is/are a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c); or
- ii) the date of such determination.

6. The Contractor shall at all times act reasonably, and shall not seek to raise unreasonable objections, in respect of any such adjustment.

Contractor Change Proposal

7. As soon as practicable, and in any event within:

- a. (where the Contractor has not notified the Authority that the relevant Change or Changes is/are a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c in accordance with Clause 5) fifteen (15) Business Days (or such other period as the Parties agree (acting reasonably) having regard to the nature of the Change(s)) after the date on which the Contract shall have received the Authority Notice of Change; or
- b. (where the Contractor has notified the Authority that the relevant Change or Changes is/are a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c in accordance with Clause 5 and:

- (1) the Authority has agreed with the Contractor's conclusion so notified or it is determined under Condition 40 (Dispute Resolution) that the relevant Change(s) is/are a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c and the Authority has made sufficient adjustments to the relevant Authority Notice of Change (and issued a revised Authority Notice of Change(s)) to remove the Contractor's grounds for refusing to implement the relevant Change(s) under Clauses 5.a, 5.b and/or 5.c) fifteen (15) Business Days (or such other period as the parties shall have agreed (both parties acting reasonably) having regard to the nature of the Change(s)) after the date on which the Contractor shall have received such revised Authority Notice of Change; or
- (2) the Authority has disputed such conclusion and it has been determined in accordance with Condition 40 (Dispute Resolution) that the relevant Change(s) is/are not a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c) fifteen (15) Business Days (or such other period as the parties shall have agreed (both parties acting reasonably) having regard to the nature of the Change(s)) after the date of such determination,

the Contractor shall deliver to the Authority a Contractor Change Proposal. For the avoidance of doubt, the Contractor shall not be obliged to deliver to the Authority a Contractor Change Proposal where the Contractor notifies the Authority, and the Authority agrees or it is determined further to such notification in accordance with Clause 5, that the relevant Change or Changes is/are a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c.

8. The Contractor Change Proposal shall comprise in respect of each and all Change(s) proposed:

- a. the effect of the Change(s) on the Contractor's obligations under the Contract;
- b. a detailed breakdown of any costs which result from the Change(s);
- c. the programme for implementing the Change(s);
- d. any amendment required to this Contract as a result of the Change(s), including, where appropriate, to the Contract Price; and
- e. such other information as the Authority may reasonably require.

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

Contractor Change Proposal – Process and Implementation

10. As soon as practicable after the Authority receives a Contractor Change Proposal, the Authority shall:

- a. evaluate the Contractor Change Proposal; and
- b. where necessary, discuss with the Contractor any issues arising (and (in relation to a Change(s) proposed by the Authority) 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 shall have agreed in writing) after receipt of such modification, submit an amended Contractor Change Proposal.

11. As soon as practicable after the Authority has evaluated the Contractor Change Proposal (amended as necessary) the Authority shall:

- a. either indicate its acceptance of the Change Proposal by issuing a DEFFORM10B in accordance with Condition 6 (Formal Amendments to the Contract), whereupon the Contractor shall promptly sign and return to the Authority the Contractor's DEFFORM 10B indicating their unqualified acceptance of such amendment in accordance with, and otherwise discharge their obligations under, such Condition and implement the relevant Change(s) in accordance with such proposal; or
- b. serve Notice on the Contractor rejecting the Contractor Change Proposal and withdrawing (where issued in relation to a Change or Changes proposed by the Authority) the Authority Notice of Change (in which case such notice of change shall have no further effect)

12. If the Authority rejects the Contractor Change Proposal, it shall not be obliged to give its reasons for such rejection.

13. The Authority shall not be liable to the Contractor for any additional work undertaken or expense incurred in connection with the implementation of any Change(s), unless a Contractor Change Proposal has been accepted by the Authority in accordance with Clause 11a. and then subject only to the terms of the Contractor Change proposal so accepted.

Contractor Changes

14. If the Contractor wishes to propose a Change or Change(s), they shall serve a Contractor Change Proposal on the Authority. Such proposal shall be prepared and reviewed in accordance with and otherwise be subject to the provisions of Clauses 8 to 13 (inclusive).

Schedule 5 - Contractor's Commercial Sensitive Information Form (i.a.w. condition 12)

Contract No: 713495454

Contract No: 713495454
Description of Contractor's Sensitive Information: Osprey CSL's Technical Responses and Commercial Responses
Cross Reference(s) to location of Sensitive Information: Not Applicable Technical Response – Section 2 Commercial Response – Section 3 – including Section 3.3 and Defform 47
Explanation of Sensitivity: Osprey CSL's Technical and Commercial approach to public tenders are specific to our methodology, team and commercial attitude and could be used by our competitors to gain an unfair advantage in future tenders.
Details of potential harm resulting from disclosure: Should Technical and Commercial responses be revealed to other consultancies it would prejudice Osprey CSL's competitiveness in future tenders and could lead to financial losses.
Period of Confidence (if applicable): Indefinitely.
Contact Details for Transparency / Freedom of Information matters: Name: Redactions applied under Freedom Of Information (FOI) Section 40, personal data Position: Group Legal Counsel Address: Harston Mill, Harston, Cambridge, CB22 7GG Telephone Number: 01223 875200 Email Address: Redactions applied under Freedom Of Information (FOI) Section 40, personal data

Schedule 6 - Hazardous Contractor Deliverables, Materials or Substances Supplied under the Contract

Hazardous Substances, Mixtures and Articles in Contractor Deliverables Supplied under the Contract (i.a.w. Condition 24): Data Requirements for Contract No: []

Hazardous and Non-Hazardous Substances, Mixtures or Articles Statement by the Contractor

Contract No: []

Contract Title: []

Contractor: []

Date of Contract: []

* To the best of our knowledge there are no hazardous Substances, Mixtures or Articles in the Contractor Deliverables to be supplied.

* To the best of our knowledge the hazards associated with Substances, Mixtures or Articles in the Contractor Deliverables to be supplied under the Contract are identified in the Safety Data Sheets or UK REACH Communication attached in accordance with Condition 24.

Contractor's Signature: []

Name: []

Job Title: []

Date: []

* delete as appropriate

.....

To be completed by the Authority

Domestic Management Code (DMC): []

NATO Stock Number: []

Contact Name: []

Contact Phone Number: []

Contact Address: []

Copy to be forwarded to:

Hazardous Stores Information System (HSIS)
Spruce 2C, #1260
MOD Abbey Wood (South)

Bristol BS34 8JH

Email: DESEngSfty-QSEPSEP-HSISMulti@mod.gov.uk

Schedule 7 - Timber and Wood- Derived Products Supplied under the Contract

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)

Acceptance Procedure (i.a.w. Condition 29) for Contract No: 713495454

Acceptance procedures in relation to the Contractor Deliverables are set out in the Statement of Requirement at Schedule 11.

Schedule 9 - Publishable Performance Information - Key Performance Indicator Data Report (i.a.w. Condition 12) for Contract No.:

KPI Description *	Rating Thresholds	Frequency of Measurement	Quarter and Year*	Average for Reporting Period	Rating*	Comment*
[]	Good*: []	[]	[]	[]	[]	[]
	Approaching Target:[]					
	Requires Improvement: []					
	Inadequate:[]					
[]	Good*: []	[]	[]	[]	[]	[]
	Approaching Target: []					
	Requires Improvement: []					
	Inadequate: []					
[]	Good*: []	[]	[]	[]	[]	[]
	Approaching Target: []					
	Requires Improvement: []					
	Inadequate: []					
Social Value KPI (if applicable) []	Good*: []	[]	[]	[]	[]	[]
	Approaching Target: []					
	Requires Improvement: []					
	Inadequate: []					

*Publishable fields. Please note, of the four Rating Thresholds, only the 'Good' threshold is published.

Please see the [DEFFORM 539B Explanatory Notes](#) for guidance on completing the KPI Data Report,

Schedule 10 – Notification of Intellectual Property Rights (IPR) Restrictions for Contract No. 713495454

PART A – Notification of IPR Restrictions

1. <u>ITT / Contract Number</u>		713495454		
2. <u>ID #</u>	3. <u>Unique Technical Data Reference Number / Label</u>	4. <u>Unique Article(s)* Identification Number / Label</u>	5. <u>Statement Describing IPR Restriction</u>	6. <u>Ownership of the Intellectual Property Rights</u>
1	Not Applicable	Not Applicable	Not Applicable	Not Applicable
2				
3				
4				
5				
6				
7				
8				
9				
10				

Please continue on additional sheets where necessary.

* Article(s), for the purpose of this form only, means part or the whole of any item, component or process which the Contractor is required under the Contract to supply or in connection with which it is required under the Contract to carry out any service and any other article or part thereof to the same design as that article.

PART B – System / Product Breakdown Structure (PBS)

The Contractor should insert their PBS here. For Software, please provide a Modular Breakdown Structure.

Not Applicable. Osprey CSL (t/a Sagentia Aviation) believe that there are no IPR restrictions, and this is not applicable for this contract.

(Please see the [DEFFORM 711 Completion Notes](#) for guidance on completing the Notification of Intellectual Property Rights (IPR) Restrictions form)

Schedule 11 – STATEMENT OF REQUIREMENT FOR MILITARY INSTRUMENT FLIGHT PROCEDURES MAINTENANCE AND SAFEGUARDING CONTRACT

Summary

1. The MOD requires an Aviation Procedure Design capability, to ensure the safety and integrity of its published Instrument Flight Procedures (IFP). It also requires this capability to be able to design and introduce new IFP at existing aerodromes and sites not previously served by IFP. This capability is required to start on 10 Jul 25.

Background

2. State and National Air Navigation Service Providers (ANSP) must ensure that IFP are designed and maintained in accordance with national and international standards. MOD directs UK military sponsored IFP will, where practicable, mirror these standards. Variance may be permitted under NATO exemption or to meet specific military requirements.

3. No 1 AIDU is responsible for ensuring that Instrument Flight Procedures (IFPs) at MOD aerodromes are designed and maintained in accordance with regulation. IFP management and design requires a specialised skill set no longer provided by the Air Cartographers sub profession. This capability has been purchased commercially under contract since 2008.

Main Requirements

4. Standing work for Core Services shall consist of the following Service Requirements (SRs):

- a. SR 1.1: Annual maintenance of MOD IFPs for airfields listed at Annex A including military surveillance minimum altitude chart (MilSMAC);
- b. SR1.2: Annual check of Area Safe Altitudes (ASA);
- c. SR 1.3: SME advice and input on points related to IFP;
- d. SR 1.4: Contract/Project Management Progress Meetings; activities & engagement in support of contract & IFP project management;
- e. SR 1.5: Delivery of Social Value;
- f. SR 1.6: Exit and disengagement planning.

5. Ad-hoc Requirements (chargeable hourly), subject to the Call off Tasking Order Form Process at SC2 clause 47.1. The following are included as a minimum under SR 1.7 (Ad hoc Requirements):

- a. Safeguarding assessments, requests for impact assessments of temporary structures (cranes etc.) and any other obstacle identified as having a potential impact on the safe conduct of flight and IFPs;
- b. The creation of new IFPs to meet the needs of UK defence aerodromes;
- c. The creation of Point in Space and/or other tactical profiles to non-aerodrome landing points;
- d. Re-design or conversion of existing IFP for anything other than safety;
- e. The provision of specialist project advice and occasional training on IFP concepts.

6. Annex B to this schedule (Service Requirement Description) provides a summary of Service Requirements (SRs), Key Deliverables, Acceptance Criteria and related Key Performance indicators and Performance Indicators.

7. Annex C to this schedule (Report Acceptance) provides the process for acceptance of all reporting deliverables under the Contract.

Qualification, capacity and defining regulation.

8. The contractor will be a UK based and CAA approved procedure design organisation (APDO).

9. The contractor will have the capacity to meet surges in project and maintenance activity and must be able to handle up to 4 concurrent projects.

10. The Contractor will operate to, under and comply with the following standards:

a. CAP 785: Approval Requirements for Instrument Flight Procedures for Use in UK Airspace. States the qualification and standards required of a CAA Approved Procedure Designer/ Design Organisation (APD).

b. UK Reg (EU) 2017/373.

c. CAP 1054: Aeronautical Information Management.

e. CAP 777: Air traffic control surveillance minimum altitude chart

d. ICAO International Standards and Recommended Practices Annex 15 plus CAA filed differences.

e. Operate a functional industrial recognised Quality Management System (QMS), i.e. ISO 9001/9100.

f. ICAO Doc 8168, Vol I – Flight Procedures and Vol II Construction of Visual & Instrument Flight Procedures.

g. AATCP-1 NATO Supplement to ICAO 8168 - OPS/611 VOLUME II For the preparation of instrument approach and departure procedure.

g. AFPP-1 NATO Supplement to ICAO 8168 vol 1 Flight Procedures.

h. ICAO Doc 9613 Performance-Based Navigation Manual Vol I & II

i. AATMP-23 Content & Format of FLIP Terminal H/L IAP, IDP and Aerodrome layouts.

j. NATO Supplement to ICAO Doc 8168-OPS/611 Vol II – Preparation of instrument Approach and Dep Procedures.

k. ICAO Annex 4 Aeronautical Charts

l. EUROCAE ED76-A&B Standards for processing Aeronautical.

m. EUROCAE ED77 – User requirements for Navigational Data.

n. Military Aviation Authority (MAA) Regulatory Publications (MRPs), Regulatory Articles and Manuals.

DETAILED REQUIREMENTS - STANDING WORK.

11. **SR1.1 - Annual maintenance of Current MOD IFPs including MilSMAC:** On an annual basis, or as close to on an annual basis as MOD survey timing permits, the contractor is required to carry out maintenance checks of IFPs at airfields listed at Annex A. These checks must be carried out by the contractor against obstacle and terrain data derived primarily from Measured Height Surveys (MHS) provided by the MOD and DVOF and DTED, OS or equivalent source of contouring and ground obstruction. The contractor may utilise imagery and/or their own or commercially sourced tools to enhance accuracy. Magnetic variation is also to be considered and changes to headings should be suggested. Any safety related observations are to be highlighted as priority and corrective action suggested graphically on draft charts. The full maintenance report should be emailed in PDF format. Completed reports should include:

- a. The obstacle data used, design criteria employed, any recommended changes to be made to procedures, problems identified.
- b. Obstacle Clearance Surface figures, for Precision Approach Radar (PAR) procedures, at 0.5nm and 1nm ranges.
- c. Updated PDF draft charts for all procedures.
- d. Controlling obstruction for each segment and VSS & associated OCS penetrations.
- e. Assessment of associated Military Surveillance Minimum Altitude Charts (SMAC).
- f. Calculation spreadsheets for each procedure.
- g. Project database and other data files
- h. Project AutoCAD DWGs.
- i. Any additional reference data used for design work (e.g. AIP).
- j. PDF files will be transmitted by email but will be required to be backed up via a digital delivery method.

12. **SR 1.2 Annual Area Radar Safety Altitude Check.** The contractor will, once per year check the values of each Swanwick ASA against terrain and data (DVOF, DTED or OS or similar). Defined within the Mil AIP are 7 overland ASA with a defining altitude. Each area value is derived from the highest obstacle or terrain within the area including a 5nm buffer, rounded up to the nearest 100' plus 1000' (2000') in mountainous terrain. Errors or changes should be articulated to No 1 AIDU via email in report format.

13. **SR 1.3 SME advice and input on points related to IFP.** The contractor will be available and contactable to answer queries on IFP. A POC will be reachable within a reasonable window during standard working hours⁴. Contact may be via email or directly by telephone. It may be necessary for the contractor to deal directly with the CAA/MAA or Aerodrome Authorities on matters of design integrity or procedure safety. The contractor will provide occasional briefings remotely on IFP/safeguarding concepts to ATC & Aerodrome Management. This briefing commitment will not exceed 4hrs in any year.

14. **SR 1.4 Contract/Project Management Progress Meetings.** The contractor will support weekly (remote) meetings with No 1 AIDU staff to discuss day to day IFP management and new development progress. Broader 6 monthly contract management meetings will be conducted. One will be remote (digital) and one per year will be face to face, either at No 1 AIDU or a mutually convenient location. Travel and subsistence (TS) costs associated with this face-to-face meeting will be

⁴ Mon – Fri 0900 - 1700

borne by the contractor. Travel associated with ad hoc developments will fall within the overall project costs.⁵ Where No 1 AIDU requires a design presence and this engagement could be mutually beneficial, subject to contractor acceptance, T&S will be reimbursed at the MOD rate.

15. **SR 1.5 Delivery of Social Value:** Delivery of Social Value (SV) is to be undertaken in accordance with Special Condition of Contract 46.3 (Social Value).

16. **SR 1.6 Exit and Disengagement Planning:** To minimise disruption to UK defence and international partners, the contractor will provide a disengagement plan for the potential transfer of services to a new provider at contract end. The contractor will retain no IPR or copyright over designs commissioned & purchased by the MOD.

DETAILED REQUIREMENTS – CHARGABLE AD HOC WORK (i.a.w. clause 47.1 and Schedule 14)

17. **SR 1.7 Ad hoc Requirements:** work additional to that detailed above shall be chargeable as a project, with costs derived from an established hourly rate and including travel and subsistence (T&S) where necessary. Costs for ad hoc project work will be indicated by way of a quote, to be provided to No 1 AIDU and the Authority Commercial Officer as the customer interface.

18. **Safeguarding.** The contractor is required to:

- a. On engagement, carry out an OLS assessment and provide advice on the potential impact of obstructions on aerodrome operations.
- b. Carry out full Safeguarding Assessments, when requested, on in-scope IFPs in accordance with RA3500 to RA3599⁶ (CAP738/168). Provide a detailed report where appropriate and articulate safety concerns and non-compliance against defining regulation.
- c. Prioritise time critical requests to meet Local Planning Authority (LPA) timelines.
- d. Depending on the nature of the request and the detail of any findings, feedback should be provided by email containing a PDF file. Larger data exchanges may require FTP transfer, file share or a digital back up⁷.

19. **New or modified IFP:** The creation or modification of IFPs to meet the needs of UK defence. Both conventional and PBN developments to include PINs and support to associated validation and stakeholder activity. Designs are to be built in accordance with ICAO standards using obstacle data, including airfield survey information provided by the MOD and terrain data as appropriate. New design activity is to provide:

- a. Report in PDF identifying the obstacle data & design criteria used, any recommended changes made to procedures, problems identified and draft charts.
- b. Support to simulator & live flight validation, validation templates and validation summaries.
- c. Direct engagement with stakeholders and operators as the design evolves.
- b. Updated PDF draft charts for all procedures, to include coding tables for PBN.

⁵ Where required to travel, the Contractor is to have regard to utilising the most cost-effectiveness means of travel.

⁶ Link to all current regulatory articles: [MAA regulatory publications - GOV.UK](#)

⁷ Subject to agreement between the Contractor and the Authority.

- c. Calculation spreadsheets for each procedure.
- d. Project database and other data files.
- e. Project AutoCAD DWGs.
- f. Any additional reference data used for design work (eg. AIP).

20. **Delivery:** PDF files via email will be the normal method of delivery. Data sets, backed up, are to be made available if required. Larger data exchanges may require FTP transfer, file share or digital media delivery.

21. **Future proofing:** As No 1 AIDU's systems move towards full ADQ compliance, relevant information may additionally be required as AIXM data sets. The contractor is required to have an ability to adapt to this.

22. **Variation of Requirement:** The list of aerodromes and IFP in service may vary throughout the period of the contract. This could be in response to aerodrome closures, changes in airspace/regulations or substitutions of procedures. This could include the addition of PBN procedures and the withdrawal of some conventional equivalents. The overall portfolio of IFP remains relatively static and will not increase by more than 10% across the life of the contract. Notwithstanding, the contractor must provide a flexible service to meet varying IFP managerial requirements.

Annexes:

- A. Current IFP Figures
- B. Service Requirements Description
- C. Report Acceptance

ANNEX A TO SCHEDULE 11 - STATEMENT OF REQUIREMENT FOR MILITARY INSTRUMENT FLIGHT PROCEDURES MAINTENANCE AND SAFEGUARDING: CURRENT IFP FIGURES

Aerodrome	PAR	SRA	MID/ SID	STAR S	NDB or NDB/DME	VOR or VOR/DME	ILS/ DME	TAC/ COPTER TAC	SMAC	RNAV RNP MID/SID	RNP Other	No of Managed Profile
Akrotiri	2	2	6	6				2	1			19
Barkston Heath		3	9							2	4	18
Benson	3	2	4			1		3	1			14
Boscombe Down	2	2						7	1		2	14
Brize Norton	2	2	8	4	9			9	1			35
Coningsby	2	2	5		1		1	2	1	2	4	20
Cranwell	2	2	8		6			10	2		2	32
Culdrose	5	6	6		7		1	1				26
Gibraltar		4		4					1			9
Hereford											1	1
Leeming	2	2	4				1	6	1		3	19
Leuchars		2	8				1		1		2	14
Lossiemouth	3	4	7					4	1		4	23

Marham	2	4	5					6	1		2	20
Aerodrome	PAR	SRA	MID/ SID	STAR S	NDB or NDB/DME	VOR or VOR/DME	ILS/ DME	TAC/ COPTER TAC	SMAC	RNAV RNP MID/SID	RNP Other	No of Managed Profile
Middle Wallop		2							1	7	4	14
Mona										2	2	4
Mount Pleasant	3	3	4			3		6			2	21
Northolt	1	2					1		1	8	2	15
Odiham	2	2	4					3	1			12
Shawbury	3	4				9	1		1		6	24
Valley	3	4	8					8	1		4	28
Waddington	2	2	3				1	1	1		2	12
Warton		4			3		2	6	1			16
Wattisham	2					1	1	3	1		4	12
Wittering	2	2	2						1			7
Yeovilton	4	4	4				1	5	1			19
Total	47	66	95	14	26	14	11	82	22	21	50	448

ANNEX B TO SCHEDULE 11 - STATEMENT OF REQUIREMENT FOR MILITARY INSTRUMENT FLIGHT PROCEDURES MAINTENANCE AND SAFEGUARDING CONTRACT

Service Requirements

This annex sets out required contracted Service Requirements, associated key deliverables, the Authority acceptance criteria, and any associated Key Performance Indicators (KPIs) or Performance Indicators (PIs).

1. FOR MILITARY INSTRUMENT FLIGHT PROCEDURES MAINTENANCE AND SAFEGUARDING CONTRACT

Service Requirement (SR)	Key Deliverables	Authority Acceptance Criteria	Key Performance Indicator (KPI)/ Performance Indicator (PI)
SR 1.1 Annual maintenance of MOD IFPs including MiISMAC	<p>The Contractor is to provide:</p> <ul style="list-style-type: none"> - Annual maintenance of MOD IFPs listed at Annex A including MiISMAC. - Annual Check of Area Safe Altitudes - SME advice and input on point related to IFP. - Activities and engagement in support of contract and IFP project management <p>A PDF report to No 1 AIDU within 6 weeks of the 1 year anniversary of a previous maintenance report, identifying the following:</p> <ul style="list-style-type: none"> - Obstacle data used - Design Criteria used - Any changes made to the procedures - Calculation spreadsheet for each procedure. 	<p>Reporting outputs shall be subject to the Report Acceptance process at Annex C to Schedule 11 to confirm it meets the Deliverable, ensuring that:</p> <ul style="list-style-type: none"> • The Report references obstacle data and design criteria regulation used. • The Report highlights safety concerns, ICAO non-compliance or variations and changes required to IFP. • The Report includes revised charting where appropriate. <p>Where requested, the Contractor will provide, full details of the calculations used, and design criteria applied. As larger files, these may be supplied via email, FTP or other means.</p>	<p>Provision of the Key Deliverables in accordance with the Authority requirement and KPI 1 in Schedule 12.</p>

Service Requirement (SR)	Key Deliverables	Authority Acceptance Criteria	Key Performance Indicator (KPI)/ Performance Indicator (PI)
SR 1.2 Annual Check of Area Safety Altitude (ASA)	<p>The Contractor will, once per year check the values of each Swanwick ASA against terrain and data (DVOF, DTED or OS or similar). Defined within the Mil AIP are 7 overland ASA with a defining altitude. Each area value is derived from the highest obstacle or terrain within the area including a 5nm buffer, rounded up to the nearest 100' plus 1000' (2000') in mountainous terrain. Errors or changes should be articulated to No 1 AIDU.</p> <p>The contractor will present the SR 1.2 Deliverable data as a PDF report via e-mail to No 1 AIDU. The inaugural report shall be delivered to AIDU within 3 months of contract start.</p> <p>Subsequent reports shall be delivered within 6 weeks of the 1-year anniversary of the previous Deliverable report output.</p>	<p>Reporting outputs shall be subject to the Report Acceptance process at Annex C to Schedule 11 to confirm it meets the Deliverable, ensuring that:</p> <ul style="list-style-type: none"> • The report presents the controlling obstacle for each ASA. • The report references all applicable source data used to compile the report. • Changes to ASA are highlighted in the report. <p>Calculations used to develop ASA values to be presented in the report or should be made available separately on request.</p>	<p>Provision of the Key Deliverables in accordance with the Authority requirement and KPI 2 in Schedule 12.</p>
SR 1.3 SME advice and input on points related to IFP	<p>The Contractor shall be available and contactable via e-mail or telephone to answer queries on IFP within a reasonable window on business days (availability Mon – Thu between 0900 – 1700, Fri 0900 – 1500).</p> <p>The Contractor is to respond by telephone communication or acknowledgement within 4 hours.</p> <p>Where applicable, the Contractor shall act on behalf of the Authority and deal directly with the CAA/MAA or Aerodrome Authorities on matters of design integrity or procedure safety.</p> <p>The Contractor will provide occasional briefings on IFP/safeguarding concepts to ATC & Aerodrome Management. This briefing commitment will not exceed 4hrs in any year and</p>	<p>A telephone or email response within the required timescales, and appropriate attendance in person or remotely in support of an IFP brief.</p>	<p>Provision of the Key Deliverables in accordance with the Authority requirement; responses are provided within the 4 hour period following the Authority's request, under KPI 3 in Schedule 12.</p>

Service Requirement (SR)	Key Deliverables	Authority Acceptance Criteria	Key Performance Indicator (KPI)/ Performance Indicator (PI)
	will be subject to Authority provision of a minimum 4 week notice period.		
SR 1.4 Contract/Project Management Progress Meetings	<p>Weekly Progress Meeting: The Contractor will support weekly remote meeting with No 1 AIDU staff to discuss the IFP management and new development. A single Procedure Designer as a minimum is to be attend the remote weekly meeting for discussion of IFP management.</p> <p>Six-Monthly Contract Review Meetings: One may be held remotely (digital) and one per year will be face to face, either at No 1 AIDU or a mutually convenient location. Lead Designer/Contractor attendance at each 6 monthly Contract Review Meeting. Travel and subsistence (TS) costs associated with this face-to-face meeting will be borne by the contractor.</p> <p>Meetings details will be notified with a least 7 business days' notice.</p>	The Contractor is to ensure that appropriate resource is made available to attend the respective meetings.	Performance Indicator (PI) 1: suitably skilled and empowered representatives are in attendance, and respective actions are progressed such that the aims and objectives of the meetings can be fully realised.
SR 1.5 Delivery of Social Value	<p>The Contractor is to deliver its Social Value (SV) commitments in accordance with Special Condition 46.3 of the SC2 terms and conditions, providing six-monthly Social Value (SV) Reports to the Authority.</p> <p>The SV report shall be provided 10 business days prior to</p>	<p>Reporting outputs shall be subject to the Report Acceptance process at Annex C to Schedule 11 to confirm it meets the Key Deliverable.</p> <p>The Authority will assess the</p>	Provision of the Key Deliverables in accordance with the Authority requirement and agreed delivery dates under KPI 4 in Schedule 12.

Service Requirement (SR)	Key Deliverables	Authority Acceptance Criteria	Key Performance Indicator (KPI)/ Performance Indicator (PI)
	<p>each Contract Review Meeting, and is to demonstrate how the Contractor is proactively implementing, monitoring, and measuring their commitments (as detailed in their original Method Statement response to the Invitation to Tender) in relation to the IFP contract, and also identifying the impact of their SV actions, including, but not limited to:</p> <ul style="list-style-type: none"> i. progress against the timed action plan ii. progress against metrics iii. tools/processes used to gather data. iv. feedback and improvement 	<p>Contractor's progress against the timed action plan to determine if the KPI has been met, and will provide feedback at the Contract Review Meeting.</p>	
SR 1.6 Exit and Disengagement Planning	<p>The Contractor will provide a full Exit (disengagement) plan for the potential transfer of the service to a new provider (or the Authority) at the end of the Contract. The Exit plan is to be provided to the Authority Project Manager 6 weeks following contract commencement, and is to be reviewed on an annual basis at the Contract Review Meeting.</p> <p>The Contractor shall undertake their respective Exit obligations during the final 6 months of the Contract to enable orderly transfer on expiry including compliance with Schedule 13 Transfer Regulations – Employee Transfer Arrangements on Exit.</p>	<p>Reporting outputs shall be subject to the Report Acceptance process at Annex C to Schedule 11 to confirm it meets the Deliverable, ensuring that the Exit Plan is sufficiently detailed to facilitate orderly exit from the Contract.</p> <p>The annual review of the Exit Plan shall be discussed and agreed at the 6 monthly Contract Review Meeting.</p>	<p>Performance Indicator (PI) 2: a satisfactory exit plan is delivered and agreed between Contractor and Authority, and exit actions undertaken during the agreed disengagement period.</p>
SR 1.7 Ad hoc Requirements	<p>Safeguarding assessments, requests for impact assessments of temporary structures (cranes etc.) and any other obstacle identified as having a potential impact on the safe conduct of flight and IFPs.</p> <p>The creation of new IFPs to meet the needs of UK defence aerodromes.</p> <p>The creation of Point in Space and/or other tactical profiles to non-aerodrome landing points.</p>	<p>The Authority will review the Contractor's response to ad hoc requirements in accordance with the principles for response below:</p> <ul style="list-style-type: none"> • A brief immediate considered opinion via e-mail within 5 business days of the Authority notification of funding approval. A follow up report as PDF within 2 weeks. 	<p>Provision of the Deliverable in accordance with the Authority requirement and agreed delivery dates under KPI 5 in Schedule 12.</p>

Service Requirement (SR)	Key Deliverables	Authority Acceptance Criteria	Key Performance Indicator (KPI)/ Performance Indicator (PI)
	<p>Re-design or conversion of existing IFP for anything other than safety.</p> <p>The provision of specialist project advice and occasional training on IFP concepts.</p> <p>All ad hoc tasking is to be undertaken in accordance with Special Conditions 47.1 Call off Tasking Order Form Process and Schedule 14 Task Order Form.</p>	<ul style="list-style-type: none"> A completed set of procedures with coding tables where appropriate, supported by validation templates and ultimately PIR assessment. Outputs are to be delivered via email as PDF with supporting construction data available on request. <p>A SQEP IFP designer is available in person or remotely as the situation dictates.</p>	

ANNEX C TO SCHEDULE 11 - STATEMENT OF REQUIREMENT FOR MILITARY INSTRUMENT FLIGHT PROCEDURES MAINTENANCE AND SAFEGUARDING CONTRACT

Report Acceptance

- 1 All contract report outputs shall be subject to report delivery dates specified in the Contract, following which the Authority shall review and comment on the respective report within 10 business days (the 'Authority Review Period'), and notify the Contractor in writing that it approves or rejects the report.
- 2 Reports relating to IFP SR 1.1 and SR 1.2 shall be factually correct as far as supporting data can establish. No 1 AIDU accept that the UK obstacle environment is ever changing and not all obstacles can be captured.
- 3 In the event that the Authority does not respond within the Authority Review Period, then the report shall be considered approved.
- 4 If the Authority rejects the report, the Contractor shall then revise the report, taking reasonable account of the Authority's comments and shall re-submit a revised report to the Authority for the Authority's approval within three (3) business days of the date of the Authority's notice of report discrepancy or rejection.
- 5 The provisions of Paragraph 4 above shall apply again to any resubmitted report. Any re-work of drafts of the report shall be at the Contractor's expense.

Schedule 12 to Contract 713495454 Military Instrument Flight Procedures Maintenance and Safeguarding Contract – Key Performance Indicators

1. Introduction

1.1. This Schedule details the Key Performance Indicators (KPIs) that will be used to monitor and measure performance of the Contractor in meeting the key requirements of the Contract. The KPIs link directly to the Service Requirements (SRs) detailed at Annex B to the Statement of Requirement at Schedule 11. Schedule 11 includes Performance Indicators (PIs) against specified SRs, for Contractor Deliverables that are not subject to Financial Deductions (FDs). KPIs and PIs are set out in the table below:

Service Requirement (SR)	Key Performance Indicator (KPI)/ Performance Indicator (PI) Reference
SR 1.1 Standing work - Annual maintenance of MOD IFPs including MiISMAC	KPI 1
SR 1.2 Annual area radar safety altitude	KPI 2
SR 1.3 SME advice and input on points related to IFP	KPI 3
SR 1.4 Contract/Project Management Progress Meetings	PI 1
SR 1.5 Social Value	KPI 4
SR 1.6 Exit (disengagement) Planning	PI 2
SR 1.7 Ad hoc Requirements	KPI 5

1.2. Annex A to this Schedule 12 details the KPI mechanism that will be utilised to determine performance and any applicable FDs which are to be applied to the sum payable. The SRs detailed below are designated as PIs and will not be subject to FDs.

1.2.1. SR 1.4 Contract/Project Management Progress Meetings (PI1);

1.2.2. SR 1.6 Exit and Disengagement Planning (PI2).

2. Performance Scoring

2.1. Depending on the Contractors assessed level of performance in relation to each KPI, the Contractor shall achieve the following Performance Measure ratings;

2.1.1. Good – Contractual Target;

- 2.1.2.Approaching Target;
- 2.1.3.Requires Improvement; or
- 2.1.4.Inadequate.

3. KPI Measurement Periods

- 3.1. The intervals of assessment (Measurement Period) for KPIs are as follows:
- 3.1.1. KPI 1 shall be assessed annually from the contract start date;
 - 3.1.2.KPI 2 shall initially be assessed three (3) months following the contract start date, thereafter KPI 2 shall be assessed at annual intervals;
 - 3.1.3.KPIs 3, 4 and 5 shall be assessed twice per contract year, at six-monthly intervals;
 - 3.1.4. In all cases, the final assessment for each KPI on the final year of the contract shall be aligned to the contract year end for ease of calculation of payments and deductions. This shall apply for either years 3, 4 or 5, depending on whether the Contract is extended in accordance with condition 46.1 (Options).

4. Financial Deductions

- 4.1. The Contractor is to meet the Performance Measure of Good – Contractual Target in delivering the Services. FDs are a reduction of the amounts payable in respect of the Services where the required Performance Measure is not met, and do not include VAT. FDs will be calculated in accordance with the Financial Deduction column at Annex A to this Schedule for the respective KPI.
- 4.2. FDs shall accrue for KPI failure on a single failure or cumulative deduction basis as set out in Annex A. Each instance of failure to achieve Good – Contractual Target under KPIs 3 and 5 shall attract an individual rating as part of the FD calculation. The Contractor shall set-off the value of any FDs against the appropriate invoice in accordance with the calculation formula. Worked examples are provided at Condition 9 of this Schedule 12.

5. Conditions to KPIs

- 5.1. The Conditions to KPIs column at Annex A to this Schedule 12 detail potential performance failure mitigations. Where these are applicable, the Contractor is to notify the Authority in writing (via e-mail) of the potential mitigation within a reasonable period to ensure this can be considered. Where the Contractor's performance is negatively impacted by external factors, sufficiently to cause a KPI to attract a FD, the Authority may agree (at its own election, and following a fair review of quality evidence), that the FD directly attributable to those external factors may not be applied, where the Contractor demonstrates they have managed any antecedents to the external factor arising and/or used reasonable endeavours to mitigate the impact of any external factor. It shall be clearly identified that the external factors are or were beyond the reasonable control of either the Contractor or the Authority. Any decision shall not set a precedent for any later months.

6. Performance Reports

- 6.1. KPIs, as defined at Annex A to this Schedule 12 will be recorded and monitored by the Contractor and presented to the Authority in a Performance Report (PR), with supporting evidence setting out the levels of performance achieved against each of the KPIs. The PR

shall provide sufficient detail to enable the Authority to use the PR to verify the calculation and accuracy of the FDs, if any, applicable to each relevant Measurement Period. The PRs shall contain as a minimum:

- 6.1.1. for each KPI, the actual performance achieved over the Measurement Period, and that achieved over the previous Measurement Periods;
- 6.1.2. a summary of all performance failures to meet the Good – Contractual Target Performance Measure that occurred during the Measurement Period, including which performance failures remain outstanding and progress in resolving them;
- 6.1.3. a summary of any mitigation agreed in accordance with Conditions to KPIs at Annex A; and
- 6.1.4. the status of any outstanding Recovery Plan actions (in accordance with Condition 7 below), including a summary of the Contractors progress in implementing the Recovery Plan.

6.2. The PRs are to be presented on a six-monthly basis to the Authority for assessment ten (10) business days prior to the Contract Review Meeting for review and agreement at the respective meeting.

7. Recovery Plan

7.1. If the Contractor becomes aware that its performance against any individual or multiple KPI(s) will be, or is likely to be, assessed as Inadequate, they shall notify the Authority's Project Manager in writing of the matter, and provide a Recovery Plan (RP) no later than the 5 business days following identification of the likely Inadequate assessment. The RP shall include as a minimum the information as follows:

- 7.1.1. The Contractors actual or anticipated performance against that KPI;
- 7.1.2. The events or circumstances which caused or are likely to cause the Contractors non-performance during the month;
- 7.1.3. The Contractors plan to rectify and meet the KPI in future, including time-scales and actions already taken to prevent further delays or continued under-performance.

7.2. If one or more Inadequate scores are identified, or two Requires Improvement scores are identified, then the Contractor is required to produce a RP, in accordance with 7.1.1 to 7.1.3 above, detailing how they intend to improve performance to the satisfaction of the Authority, and mitigate against a potential Critical Performance Failure (as detailed in Condition 8 below).

7.3. Overachievement against an individual KPI cannot be used as an offset against other KPIs.

7.4. The Authority shall approve the RP or request additional information or revisions to the RP within 5 business days of receipt. The Contractor shall provide the requested information and/or resubmit a revised RP as applicable, taking reasonable account of the Authority's comments within 5 business days of the Authority notification. The provisions of this paragraph shall apply again to any resubmitted report. Any re-work of drafts of the RP shall be at the Contractors expense.

7.5. Following Authority approval of the RP, the Contractor is to deploy all additional resources and take all remedial action that is necessary to rectify or to prevent the respective failure(s) from recurring, and carry out the actions identified in RP. Approval by the Authority of any RP shall not relieve the Contractor of any continuing responsibility to achieve the contractual targets, or remedy any failure to do so, and no waiver shall arise from any such approval by the Authority.

8. Critical Performance Failure

8.1. In respect of KPI 1 and KPI 2, in the event that either KPI is assessed as Inadequate twice in three Measurement Periods, a Critical Performance Failure will be deemed to have occurred, and the Contractor may be considered to be in material breach of its obligations.

8.2. On the occurrence of a Critical Performance Failure, the Authority shall have the right to terminate the Contract (in whole or in part) in accordance with Condition 43 (Material Breach) of the SC2 Terms and Conditions.

9. Worked Examples of KPI Calculations

9.1. In the event that the contractor achieves a Performance Measure below Good – Contractual Target, the respective FDs relating to the actual Performance Measure set out in Annex A to this Schedule shall be applied to the next monthly core payment, as demonstrated in the Worked Examples below. The following illustrative examples utilise an assumed monthly core service payment of £20,000.

Worked Example 1: Single KPI Failure (Approaching Target)

At the end of the Measurement Period, KPI 1 is assessed as being Approaching Target, resulting in the Authority making a KPI Financial Deduction. Approaching Target performance is subject to deductions of 0.5% for the respective core payment following the KPI assessment. The KPI Financial Deduction against the next core service payment shall be £100 ex VAT (£20,000 * 0.5%).

Worked Example 2: Multiple KPI Failures (varying Performance Measure ratings)

At the end of the Measurement Period, KPI 1 is assessed as being Approaching Target, KPI 2 is assessed as Inadequate and KPI 3 is assessed as Requires Improvement for 2 separate failures⁸ and Approaching Target for 1 failure, resulting in the Authority making a KPI Financial Deduction in accordance with the calculations in the table below.

KPI Number	Performance Measure rating	Financial Deduction %	Financial Deduction £ ex VAT
1	Approaching Target	0.5%	£100
2	Inadequate	1%	£200

⁸ Each instance of failure for KPI 3 and KPI 5 is subject to assessment and shall accrue a Financial Deduction for application on a cumulative basis against the next monthly core payment following KPI review.

3	Requires Improvement (2 instances of failure)	1.5% (x 2)	£600
3	Approaching Target (3 rd instance of failure)	0.5% (x 1)	£100
Total FD to be applied against the next monthly core payment following assessment:			£1000

10. Change of Key Performance Indicators

10.1. The Parties shall review the KPIs annually at the Contract Review Meeting to ensure they remain relevant to the aims and objectives of the Contract. Amendments to the KPIs that the Parties have agreed to adopt following any review shall be undertaken in accordance with Condition 6 (Formal Amendments to the Contract) of the SC2 Terms and Conditions.

Annex A to Schedule 12: Key Performance Indicators to Contract 713495454 Military Instrument Flight Procedures Maintenance and Safeguarding Contract

No.	Key Performance Indicator Title	Description	Measurement Period	Performance Measure	Financial Deduction	Conditions to KPI
KPI 1	Annual maintenance of MOD IFPs including MilSMAC (SR1.1)	Provision of SR1.1 Key Deliverables detailed in Annex B to Schedule 11 (Statement of Requirement) and the associated PDF Report, which shall be delivered via email to No 1 AIDU within 6 weeks of the 1-year anniversary of the previous maintenance report.	Annually	Good – Contractual Target: Report received on time.	None	The Financial Deductions shall be applied against the next monthly core payment following the KPI review.
				Approaching Target: Report received 1-2 Business Days after the agreed timeline.	0.5% of monthly core payment invoice	The Contractor is to notify delays to report submission where this is a result from dependencies relating to MOD provision of source data.
				Requires Improvement: Report received 3-4 Business Days after the agreed timeline	1% of monthly core payment invoice	Where agreed at weekly progress meetings, delay in report submissions (requested by the Contractor) may be supported to enable contractor focus on other Priority MOD Ad Hoc works.
				Inadequate: Report received 5 or more Business Days after the agreed timeline	1.5% of monthly core payment invoice	Where No 1 AIDU have re-allocated priorities and elected to defer annual maintenance to develop ad hoc output, changes to the schedule may be supported. Authority change to the schedule may be agreed at weekly progress meetings for specific operational reasons. All agreed changes to the schedule are to be confirmed in writing by the Contractor.
KPI 2	Annual area radar safety altitude (SR 1.2)	Provision of SR 1.1 Key Deliverables detailed in Annex B to Schedule 11 (Statement of Requirement) and the associated PDF Report iaw the specified timescales; <ul style="list-style-type: none"> the inaugural report is to be delivered within 3 months of contract start; and subsequent reports are to be delivered within 6 weeks of the 1-year anniversary of the initial report. 	Initial measurement at 3 months, thereafter Annually	Good – Contractual Target: Report received on time.	None	The Financial Deductions shall be applied against the next monthly core payment following the KPI review.
				Approaching Target: Report received 1-2 Business Days after the agreed timeline	0.5% of monthly core payment invoice	
				Requires Improvement: Report received 3-4 Business Days after the agreed timeline	1% of monthly core payment invoice	
				Inadequate: Report received 5 or more Business Days after the agreed timeline	1.5% of monthly core payment invoice	
KPI 3	SME advice and input on points related to IFP. (SR 1.3)	Provision of SR 1.3 Key Deliverables detailed in Annex B to Schedule 11 within the specified response timescales.	Six-monthly	Good – Contractual Target: Response to query received on time.	None	Each instance of failure shall accrue a Financial Deduction, and shall be applied cumulatively against the next monthly core payment following KPI review.
				Approaching Target: Response received 1-2 Business Days after the agreed timeline	0.5% of monthly core payment invoice	Where the contractor is travelling and /or engaged on MOD project work, a later response outside of the KPI timescale will be accepted. Delays to

No.	Key Performance Indicator Title	Description	Measurement Period	Performance Measure	Financial Deduction	Conditions to KPI
		Authority requests for advice are logged by the Contractor, and an initial response is provided within the 4-hour period following the Authority's request.		Requires Improvement: Response received 3-4 Business Days after the agreed timeline	1% of monthly core payment invoice	meeting the response time as a result of travel are to be notified to the Authority Project Manager in as soon as the contractor has concluded travel.
				Inadequate: Response received 5 or more Business Days after the agreed timeline	1.5% of monthly core payment invoice	Remote briefing support shall be delivered during contractor availability hours provided at least four (4) weeks' notice is given by the Authority.
KPI 4	Social Value (SR 1.5)	Provision of SR 1.5 Key Deliverables in relation to the Contract detailed in Annex B to Schedule 11 (Statement of Requirement) and the associated twice-annual SV reports in accordance with the specified timescales.	Six-monthly	Good – Contractual Target: SV is delivered in accordance with the timelines and SV commitment.	None	The Financial Deduction shall be applied against the next monthly core payment following the KPI review.
				Approaching Target: SV is delivered in accordance with the commitment, however timelines for SV deliverables are 1-2 months behind schedule	0.5% of monthly core payment invoice	
				Requires Improvement: SV is not being delivered in accordance with the commitment, and timelines for SV deliverables are 3-4 months behind schedule	1% of monthly core payment invoice	
				Inadequate: SV is not being delivered in accordance with the commitment, and timelines for SV deliverables are 6 or more months behind schedule	1.5% of monthly core payment invoice	
KPI 5	Ad hoc tasking (SR 1.7)	Provision of SR 1.7 Key Deliverables relating to ad hoc task support in accordance with the specified timescales and outputs. Actual completion date compared to agreed completion date for each task.	Six-monthly	Good – Contractual Target: Ad hoc task support deliverable received on time	None	Each instance of failure shall accrue a Financial Deduction, and shall be applied cumulatively against the next monthly core payment following KPI review.
				Approaching Target: Ad hoc task support deliverable received 2-5 Business Days after the agreed timeline	0.5% of monthly core payment invoice	
				Requires Improvement: Ad hoc task support deliverable received 6-10 Business Days after the agreed timeline	1% of monthly core payment invoice	
				Inadequate: Ad hoc task support deliverable received 11 or more Business Days after the agreed timeline	1.5% of monthly core payment invoice	

Schedule 13 Transfer Regulations – Employee Transfer Arrangements on Exit (TUPE)

1. DEFINITIONS

1.1 In this Schedule 13, save where otherwise provided, words and terms defined in Schedule 1 (Definitions) of the Contract shall have the meaning ascribed to them in Schedule 1 (Definitions) of the Contract.

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

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

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

(ii) the Data Protection Act 2018;

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

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

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

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

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

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

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

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

"Transfer Regulations" means the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended from time to time and/or the Service Provision

Change (Protection of Employment) Regulations (Northern Ireland) 2006 (as amended from time to time), as appropriate.

2. EMPLOYMENT

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

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

- (a) supply to the Authority such information as the Authority may reasonably require in order to consider the application of the Transfer Regulations on the termination, partial termination or expiry of this Contract;
- (b) supply to the Authority such full and accurate and up-to-date information as may be requested by the Authority including the information listed in Appendix 1 to this Schedule 13 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 13 (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 13 (Personnel Information) relating to the Transferring Employees. The Contractor shall inform the Authority and/or New Provider of any changes to this list or information up to the Transfer Date.

- 2.1.4 Within 14 days following the relevant Transfer Date the Contractor shall provide to the Authority and/or any New Provider the information set out in Part C of Appendix 2 of this Schedule 13 in respect of Transferring Employees.
- 2.1.5 Paragraphs 2.1.1 and 2.1.2 of this Schedule are subject to the Contractor's obligations in respect of the Data Protection Legislation and the Contractor shall use its best endeavours to obtain the consent of its employees (and shall procure that its Sub-Contractors use their best endeavours to obtain the consent of their employees) to the extent necessary under the Data Protection Legislation or provide the data in an anonymous form in order to enable disclosure of the information required under paragraphs 2.1.1 and 2.1.2. Notwithstanding this paragraph 2.1.5, the Contractor acknowledges (and shall procure that its Sub-Contractors acknowledge) that they are required to provide sufficient information to the Authority to enable the Authority to determine the nature of the activities being undertaken by employees engaged in providing the Services, to assess whether there is an organised grouping for the purposes of the Transfer Regulations and to assess who is assigned to such organised grouping. To the extent that anonymous data has been provided by the Contractor pursuant to its obligations under Paragraph 2.1.1 or 2.1.2 above, the Contractor shall provide full data to the Authority no later than 28 days prior to the Transfer Date.
- 2.1.6 On notification to the Contractor by the Authority of a New Provider or within the period of six months prior to the Termination Date or after service of a notice to terminate this Contract (whether in whole or in part), whichever is earlier and in any event on receipt of a written request by the Authority, the Contractor shall not and shall procure that an Employing Sub-Contractor shall not:
- (a) materially amend or promise to amend the rates of remuneration or other terms and conditions of employment of any person wholly or mainly employed or engaged in providing the Services under this Contract; or
 - (b) replace or re-deploy from the Services any person wholly or mainly employed or engaged in providing the Services, or materially increase or decrease the number of persons performing the Services under this Contract or the working time spent on the Services (or any part thereof); or
 - (c) reorganise any working methods or assign to any person wholly or mainly employed or engaged in providing the Services (or any part thereof) any duties unconnected with the Services (or any part thereof) under this Contract; or
 - (d) terminate or give notice to terminate the employment of any person wholly or mainly employed or engaged in providing the Services (or any part thereof) under this Contract other than in the case of serious misconduct or for poor performance,

save in the ordinary course of business and with the prior written consent of the Authority (not to be unreasonably withheld or delayed) and the Contractor shall indemnify and keep indemnified the Authority in respect of any

reasonable costs (including reasonable legal costs), losses and expenses and all damages, compensation, fines and liabilities arising out of or in connection with any breach of paragraphs 2.1.1, 2.1.2, 2.1.3, 2.1.4 or 2.1.6 of this Schedule 13.

- 2.1.7 The Authority may at any time prior to the period set out in paragraph 2.1.5 of this Schedule 13 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 time-scales 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 13 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 13, the following information will be provided:
 - a) The total number of individual employees (including any employees of Sub-Contractors) that are currently engaged, assigned or employed in providing the Services and who may therefore be transferred. Alternatively the Contractor should provide information why any of their employees or those of their Sub-Contractors will not transfer;
 - b) The total number of posts or proportion of posts expressed as a full-time equivalent value that currently undertakes the work that is to transfer;
 - c) The preceding 12 months total pay costs – (Pay, benefits employee/employer national insurance contributions and overtime);
 - d) Total redundancy liability including any enhanced contractual payments;

2. In respect of those employees included in the total at 1(a), the following information:
 - a) Age (not date of Birth);
 - b) Employment Status (i.e. Fixed Term, Casual, Permanent);
 - c) Length of current period of continuous employment (in years, months) and notice entitlement;
 - d) Weekly conditioned hours of attendance (gross);
 - e) Standard Annual Holiday Entitlement (not "in year" holiday entitlement that may contain carry over or deficit from previous leave years);
 - f) Pension Scheme Membership;
 - g) Pension and redundancy liability information;
 - h) Annual Salary;
 - i) Details of any regular overtime commitments (these may be weekly, monthly or annual commitments for which staff may receive an overtime payment);
 - j) Details of attendance patterns that attract enhanced rates of pay or allowances;
 - k) Regular/recurring allowances;
 - l) Outstanding financial claims arising from employment (i.e. season ticket loans, transfer grants);

3. The information to be provided under this Appendix 1 should not identify an individual employee by name or other unique personal identifier unless such information is being provided 28 days prior to the Transfer Date.

4. The Contractor will provide (and will procure that the Sub-Contractors provide) the Authority/tenderers with access to the Contractor's and Sub-Contractor's general employment terms and conditions applicable to those employees identified at paragraph 1(a) of this Appendix 1.

PERSONNEL INFORMATION TO BE RELEASED PURSUANT TO THIS CONTRACT

Part A

1. Pursuant to paragraph 2.1.2 of this Schedule 13, 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 for public duties such as a School Governor; and;
- d) Information about any current or expected maternity or other statutory leave or other absence from work.

Part B

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 14 – Tasking Order Form (i.a.w. clause 47.1)

PART 1 – AD HOC TASKING ORDER FORM CONTRACT 713495454	
TO:	Osprey Limited
UNIQUE SERIAL ORDER NO:	
REQUIRED COMMENCEMENT DATE	
REQUIRED COMPLETION DATE	
OUTPUT (<i>The Authority is to provide full details of the output required</i>)	
Part 1 Authority Signatory name	
Part 1 Authority Signatory Appointment	
Part 1 Date submitted to Contractor	
Part 1 Distribution 1. one copy to the Contractor; 2. a control copy is retained by No 1 AIDU; 3. one copy to Commercial Branch; 4. one copy to Designated Officer responsible for Payments on CP&F.	
Within 3 business days of receipt of PART 1, the Contractor is to acknowledge the task and agree response times as indicated at PART 2.	
PART 2 AD HOC TASKING ORDER FORM: CONTRACTOR ACCEPTANCE	
The Contractor is to provide an estimated not to exceed cost in accordance with the applicable line items detailed at Schedule 2 (Schedule of Requirements):	Estimated Cost: £ <i>Contractor is to provide supporting details where applicable</i>
The Contractor is to indicate his acceptance of the tasking order as specified at PART 1 through electronic signature below and e-mailing the completed form to the Designated Officer within 3 business days of receipt	
Part 2 Full Name of Contractor Signatory	
Part 2 Contractor Signatory Appointment	
Part 2 Date returned to the Authority	
Part 2 Distribution 1. one copy to the Authority signatory at Part 1; 2. one copy to Commercial Branch; 3. one copy to Designated Officer responsible for Payments on CP&F.	
On completion of the Task, the Contractor is to provide an updated version of this Part 2 detailing the final cost in accordance with the Schedule 2	Final Cost: £

<p>(Schedule of Requirements) to enable generation of the Purchase Order.</p> <p>Further detail is to be provided where costs differ to the original Estimated Cost provided.</p>	
<p>Within 3 business days of receipt of the updated PART 2 providing Final Costs, the Authority shall respond by returning PART 3, or shall request further details.</p>	
<p>PART 3 AD HOC TASKING: CERTIFICATE OF AUTHORITY ACCEPTANCE</p>	
<p>It is certified that the Authority accepts the services provided in performance of the unique Order Number under the terms and conditions of Contract Number: 713495454</p>	
<p>Part 3 Authority Signatory name:</p>	
<p>Part 3 Authority Signatory Appointment</p>	
<p>Part 3 Date submitted to Contractor</p>	
<p>Distribution of PART 3 as follows:</p> <ol style="list-style-type: none"> 1. one copy to the Contractor; 2. a control copy is retained by No 1 AIDU; 3. one copy to Commercial Branch; 4. one copy to Designated Officer responsible for Payments on CP&F. 	

Annex A to Schedule 14 – Tasking Order Form Register (i.a.w. clause 47.1)

Unique Task Number	Task Description	Part 3 Authority Acceptance Date	Contract Amendment Number	Firm Price (Ex VAT)
001	<i>Example – IFP for location/TLB x</i>	01/07/2026	1	£30,000.00

Schedule 15 – Osprey Limited Tender Proposal (Supplier Solution)

Schedule 15 redacted in entirety on Information redacted on commercial sensitivity grounds (Intellectual Property)

DEFFORM 111 (Annex A to Schedule 3)

DEFFORM 111 (Edn 10/22) Appendix - Addresses and Other Information

1. Commercial Officer

Name: Redactions applied under Freedom Of Information (FOI) Section 40, personal data

Address: MoD Main Building Whitehall, London SW1A 2HB

Email: Redactions applied under Freedom Of Information (FOI) Section 40, personal data

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

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

Name: Redactions applied under Freedom Of Information (FOI) Section 40, personal data

Address: RAF Northholt, West End Road, Ruislip, HA4 6NG

Email: Redactions applied under Freedom Of Information (FOI) Section 40, personal data

☐

9. Consignment Instructions

The items are to be consigned as follows:

3. Packaging Design Authority

Organisation & point of contact:

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

☐

10. Transport. The appropriate Ministry of Defence Transport Offices are:

A. DSCOM. DE&S, DSCOM, MoD Abbey Wood, Cedar 3c, Mail Point 3351, BRISTOL BS34 8JH

Air Freight Centre

IMPORTS ☐ 030 679 81113 / 81114 Fax 0117 913 8943

EXPORTS ☐ 030 679 81113 / 81114 Fax 0117 913 8943

Surface Freight Centre

IMPORTS ☐ 030 679 81129 / 81133 / 81138 Fax 0117 913 8946

EXPORTS ☐ 030 679 81129 / 81133 / 81138 Fax 0117 913 8946

B. JSCS

JSCS Helpdesk No. 01869 256052 (select option 2, then option 3)

JSCS Fax No. 01869 256837

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

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

Branch/Name:

☐

(b) U.I.N.

5. Drawings/Specifications are available from

11. The Invoice Paying Authority

Ministry of Defence

☐ 0151-242-2000

DBS Finance

Walker House, Exchange Flags

Fax: 0151-242-2809

Liverpool, L2 3YL

Website is:

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

6. Intentionally Blank

12. Forms and Documentation are available through *:

Ministry of Defence, Forms and Pubs Commodity Management

PO Box 2, Building C16, C Site

Lower Arnclott

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

Applications via fax or email:

7. Quality Assurance Representative:

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

*** NOTE**

1. Many **DEFCONs** and **DEFFORMs** can be obtained from the MOD Internet Site:
<https://www.kid.mod.uk/maincontent/business/commercial/index.htm>
2. If the required forms or documentation are not available on the MOD Internet site requests should be submitted through the Commercial Officer named in Section 1.

Offer and Acceptance

Contract 713495454 for the Provision of Military Instrument Flight Procedures Maintenance and Safeguarding

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

For and on behalf of the Contractor:

Name and Title	Redactions applied under Freedom Of Information (FOI) Section 40, personal data
Signature	Redactions applied under Freedom Of Information (FOI) Section 40, personal data
Date	

For and on behalf of the Secretary of State for Defence:

Name and Title	Redactions applied under Freedom Of Information (FOI) Section 40, personal data
Signature	Redactions applied under Freedom Of Information (FOI) Section 40, personal data
Date	