



# Ministry of Defence

## Army Commercial Team

**Contract No: ARMYHQ2/00432**

**For:**

**The Provision of Military Training Vehicles at Defence School of  
Transport (DST) Leconfield and Associated Services**

**Between the Secretary of State for  
Defence of the United Kingdom of Great  
Britain and Northern Ireland**

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**And**

**Contractor Name and address:  
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The Contract consists of the following:

- Conditions of Contract
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- Schedule 2 – Schedule of Requirements
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  - Schedule 2- Annex B Supplier Service Delivery Plan
- Schedule 3 - Contract Data Sheet
  - Schedule 3 – Annex A DEFFORM 111 Appendix – Addresses and Other Information
- Schedule 4 – Contract Change Control Procedure
- Schedule 5- Contractors Commercially Sensitive Information Form
- Schedule 6 - Hazardous Contractor Deliverables, Materials or Substances Supplied under the Contract
- Schedule 7- Timber and Wood–Derived Products
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# Conditions of Contract

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## **General Conditions**

### **1. General**

- a. The defined terms in the Contract shall be as set out in Schedule 1.
- b. The Contractor shall comply with all applicable Legislation, whether specifically referenced in this Contract or not.
- c. The Contractor warrants and represents, that:
  - (1) it has the full capacity and authority to enter into, and to exercise its rights and perform its obligations under, the Contract;
  - (2) from the Effective Date of Contract and for so long as the Contract remains in force it shall give the Authority Notice of any litigation, arbitration (unless expressly prohibited from doing so in accordance with the terms of the arbitration), administrative or adjudication or mediation proceedings before any court, tribunal, arbitrator, administrator or adjudicator or mediator or relevant authority against itself or a Subcontractor which would adversely affect the Contractor's ability to perform its obligations under the Contract;
  - (3) as at the Effective Date of Contract no proceedings or other steps have been taken and not discharged (nor, to the best of the knowledge of the Contractor, threatened) for its winding-up or dissolution or for the appointment of a receiver, administrative receiver, administrator, liquidator, trustee or similar officer in relation to any of its assets or revenues;
  - (4) for so long as the Contract remains in force it shall give the Authority Notice of any proceedings or other steps that have been taken but not discharged (nor to the best of the knowledge of the Contractor, threatened) for its winding-up or dissolution or for the appointment of a receiver, administrator, liquidator, trustee or similar officer in relation to any of its assets or revenues.
- d. Unless the context otherwise requires:
  - (1) The singular includes the plural and vice versa, and the masculine includes the feminine and vice versa.
  - (2) The words "include", "includes", "including" and "included" are to be construed as if they were immediately followed by the words "without limitation", except where explicitly stated otherwise.
  - (3) The expression "person" means any individual, firm, body corporate, unincorporated association or partnership, government, state or agency of a state or joint venture.
  - (4) References to any statute, enactment, order, regulation, or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation, or instrument as amended, supplemented, replaced or consolidated by any subsequent statute, enactment, order, regulation, or instrument.
  - (5) The heading to any Contract provision shall not affect the interpretation of that provision.
  - (6) Any decision, act or thing which the Authority is required or authorised to take or do under the Contract may be taken or done only by the person (or their nominated deputy) authorised in Schedule 3 (Contract Data Sheet) to take or do that decision, act, or thing on behalf of the Authority.
  - (7) Unless excluded within the Conditions of the Contract or required by law, references to submission of documents in writing shall include electronic submission.

### **2. Duration of Contract**

This Contract comes into effect on the Effective Date of Contract and will expire automatically on the date identified

in Schedule 3 (Contract Data Sheet) unless it is otherwise terminated in accordance with the provisions of the Contract, or otherwise lawfully terminated.

### **3. Entire Agreement**

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

### **4. Governing Law**

- a. Subject to clause 4.d, the Contract shall be considered as a contract made in England and subject to English Law.
- b. Subject to clause 4.d and 40 (Dispute Resolution) and without prejudice to the dispute resolution process set out therein, each Party submits and agrees to the exclusive jurisdiction of the Courts of England to resolve, and the laws of England to govern, any actions proceedings, controversy or claim of whatever nature arising out of or relating to the Contract or breach thereof.
- c. Subject to clause 4.d any dispute arising out of or in connection with the Contract shall be determined within the English jurisdiction and to the exclusion of all other jurisdictions save that other jurisdictions may apply solely for the purpose of giving effect to this condition 4 and for the enforcement of any judgment, order or award given under English jurisdiction.
- d. If the Parties 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 4 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 4 shall survive any termination of the Contract for any reason whatsoever and shall remain fully enforceable as between the Parties notwithstanding such a termination.

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

#### **5. Precedence**

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

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

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

#### **6. Amendments to Contract**

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

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

#### **7. Variations to Specification**

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

b. Any variations that cause a change to:

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

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

#### **8. Authority Representatives**

a. Any reference to the Authority in respect of:

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

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

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

#### **9. Severability**

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

- (1) such provision shall (to the extent that it is invalid, illegal or unenforceable) be given no effect and shall be deemed not to be included in the Contract but without invalidating any of the remaining provisions of the Contract; and
- (2) the Parties shall use all reasonable endeavours to replace the invalid, illegal or unenforceable provision by a valid, legal and enforceable substitute provision the effect of which is as close as possible to the intended effect of the invalid, illegal or unenforceable provision.

#### **10. Waiver**

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

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

#### **11. Assignment of Contract**

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

#### **12. Third Party Rights**

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

#### **13. Transparency**

a. Subject to clause 13.b but notwithstanding condition

14 (Disclosure of Information), the Contractor understands that the Authority may publish the Transparency Information to the general public. The Contractor shall assist and cooperate with the Authority to enable the Authority to publish the Transparency Information.

b. Before publishing the Transparency Information to the general public in accordance with clause 13.a, the Authority shall redact any Information that would be exempt from disclosure if it was the subject of a request for Information under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004, and any Information which has been acknowledged by the Authority at Schedule 5 – Contractor's Commercially Sensitive Information.

c. The Authority may consult with the Contractor before redacting any Information from the Transparency Information in accordance with clause 13.b. The Contractor acknowledges and accepts that its representations on redactions during consultation may not be determinative and that the decision whether to redact Information is a matter in which the Authority shall exercise its own discretion, subject always to the provisions of the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.

d. For the avoidance of doubt, nothing in this condition 13 shall affect the Contractor's rights at law.

#### 14. Disclosure of Information

a. Subject to clauses 14.d, 14.e, 14.h and condition 13 each Party:

- (1) shall treat in confidence all Information it receives from the other;
- (2) shall not disclose any of that Information to any third party without the prior written consent of the other Party, which consent shall not unreasonably be withheld, except that the Contractor may disclose Information in confidence, without prior consent, to such persons and to such extent as may be necessary for the performance of the Contract;
- (3) shall not use any of that Information otherwise than for the purpose of the Contract; and
- (4) shall not copy any of that Information except to the extent necessary for the purpose of exercising its rights of use and disclosure under the Contract.

b. The Contractor shall take all reasonable precautions necessary to ensure that all Information disclosed to the Contractor by or on behalf of the Authority under or in connection with the Contract:

- (1) is disclosed to its employees and Subcontractors, only to the extent necessary for the performance of the Contract; and
- (2) is treated in confidence by them and not disclosed except with the prior written consent of the Authority or used otherwise than for the purpose of performing work or having work performed for the Authority under the Contract or any subcontract.

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

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

- (1) exercises rights of use or disclosure granted otherwise than in consequence of, or under, the Contract;
- (2) has the right to use or disclose the Information in accordance with other Conditions of the Contract; or
- (3) can show:
  - (a) that the Information was or has become published or publicly available for use otherwise than in breach of any provision of the Contract or any other agreement between

the Parties;

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

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

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

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

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

f. The Authority may disclose the Information:

- (1) on a confidential basis to any Central Government Body for any proper purpose of the Authority or of the relevant Central Government Body, which shall include: disclosure to the Cabinet Office and/or HM Treasury for the purpose of ensuring effective cross-Government procurement processes, including value for money and related purposes;
  - (2) to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;
  - (3) to the extent that the Authority (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;
  - (4) on a confidential basis to a professional adviser, consultant or other person engaged by any of the entities defined in Schedule 1 (including benchmarking organisations) for any purpose relating to or connected with this Contract;
  - (5) on a confidential basis for the purpose of the exercise of its rights under the Contract; or
  - (6) on a confidential basis to a proposed body in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under the Contract;
- and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Authority under this condition.

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

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

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

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

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

**16. Change of Control of Contractor**

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

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

Mergers & Acquisitions Section  
Strategic Supplier Management Team  
Spruce 3b # 1301  
MOD Abbey Wood,  
Bristol, BS34 8JH

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

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

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

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

**17. Environmental Requirements**

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

**18. Contractor's Records**

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

Authority when requested on reasonable notice.

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

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

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

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

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

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

whichever occurs latest.

**19. Notices**

a. A Notice served under the Contract shall be:

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

b. Notices shall be deemed to have been received:

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

**20. Progress Monitoring, Meetings and Reports**

a. The Contractor shall attend progress meetings at the frequency or times (if any) specified in Schedule 3 (Contract Data Sheet) and shall ensure that its Contractor's Representatives are suitably qualified to attend such meetings.

b. The Contractor shall submit progress reports to the Authority's Representatives at the times and in the format (if any) specified in Schedule 3 (Contract Data Sheet). The

reports shall detail as a minimum:

- (1) performance/Delivery of the Contractor Deliverables;
- (2) risks and opportunities;
- (3) any other information specified in Schedule 3 (Contract Data Sheet); and
- (4) any other information reasonably requested by the Authority.

## **Supply of Contractor Deliverables**

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

a. The Contractor shall provide the Contractor Deliverables to the Authority, in accordance with the Schedule of Requirements and the Specification, and shall allocate sufficient resource to the provision of the Contractor Deliverables to enable it to comply with this obligation.

b. The Contractor shall:

- (1) comply with any applicable quality assurance requirements specified in Schedule 3 (Contract Data Sheet) in providing the Contractor Deliverables; and
- (2) discharge its obligations under the Contract with all due skill, care, diligence and operating practice by appropriately experienced, qualified and trained personnel.

c. The provisions of clause 21.b. shall survive any performance, acceptance or payment pursuant to the Contract and shall extend to any remedial services provided by the Contractor.

d. The Contractor shall:

- (1) observe, and ensure that the Contractor's Team observe, all health and safety rules and regulations and any other security requirements that apply at any of the Authority's premises;
- (2) notify the Authority as soon as it becomes aware of any health and safety hazards or issues which arise in relation to the Contractor Deliverables; and
- (3) before the date on which the Contractor Deliverables are to start, obtain, and at all times maintain, all necessary licences and consents in relation to the Contractor Deliverables.

### **22. Marking of Contractor Deliverables**

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

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

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

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

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

a. Packaging responsibilities are as follows:

- (1) The Contractor shall be responsible for

providing Packaging which fully complies with the requirements of the Contract.

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

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

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

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

(1) The Contractor shall provide Packaging which:

- (a) will ensure that each Contractor Deliverable may be transported and delivered to the consignee named in the Contract in an undamaged and serviceable condition; and
- (b) is labelled to enable the contents to be identified without need to breach the package; and
- (c) is compliant with statutory requirements and this Condition.

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

- (a) reference in the Contract to a PPQ means the quantity of a Contractor Deliverable to be contained in an individual package, which has been selected as being the most suitable for issue(s) to the ultimate user;
- (b) Robust Contractor Deliverables, which by their nature require minimal or no packaging for commercial deliveries, shall be regarded as "PPQ packages" and shall be marked in accordance with Clauses 23.i to 23.l. References to "PPQ packages" in subsequent text shall be taken to include Robust Contractor Deliverables; and
- (c) for ease of handling, transportation and delivery, packages which contain identical Contractor Deliverables may be bulked and overpacked, in accordance with clauses 23.i to 23.k.

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

- (1) The Health and Safety At Work Act 1974 (as amended);
- (2) The Classification Hazard Information and Packaging for Supply Regulations (CHIP4) 2009 (as amended);
- (3) The REACH Regulations 2007 (as amended); and
- (4) The Classification, Labelling and Packaging Regulations (CLP) 2009 (as amended).

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

- (1) The Safety Of Lives At Sea Regulations (SOLAS) 1974 (as amended); and  
 (2) The Air Navigation Order.
- e. As soon as possible, and in any event no later than one month before delivery is due, the Contractor shall provide a Safety Data Sheet in respect of each Dangerous Good in accordance with the REACH Regulations 2007 (as amended) and the Health and Safety At Work Act 1974 (as amended) and in accordance with condition 24 (Supply of Hazardous Materials or Substances in Contractor Deliverables).
- f. The Contractor shall comply with the requirements for the design of MLP which include clauses 23.f and 23.g as follows:
- (1) Where there is a requirement to design UK or NATO MLP, the work shall be undertaken by an MPAS registered organisation, or one that although non-registered is able to demonstrate to the Authority that its quality systems and military package design expertise are of an equivalent standard.
- (a) The MPAS certification (for individual designers) and registration (for organisations) scheme details are available from:  
 DES SEOC SCP-SptEng-Pkg  
 MOD Abbey Wood  
 Bristol, BS34 8JH  
 Tel. +44(0)30679-35353  
[DESSEOCSCP-SptEng-PKq@mod.uk](mailto:DESSEOCSCP-SptEng-PKq@mod.uk)
- (b) The MPAS Documentation is also available on the DStan website.
- (2) MLP shall be designed to comply with the relevant requirements of Def Stan 81-041, and be capable of meeting the appropriate test requirements of Def Stan 81-041 (Part 3). Packaging designs shall be prepared on a SPIS, in accordance with Def Stan 81-041 (Part 4).
- (3) The Contractor shall ensure a search of the SPIS index (the 'SPIN') is carried out to establish the SPIS status of each requirement (using DEFFORM 129a 'Application for Packaging Designs or their Status').
- (4) New designs shall not be made where there is an existing usable SPIS, or one that may be easily modified.
- (5) Where there is a usable SFS, it shall be used in place of a SPIS design unless otherwise stated by the Contract. When an SFS is used or replaces a SPIS design, the Contractor shall upload this information on to SPIN in Adobe PDF.
- (6) All SPIS, new or modified (and associated documentation), shall, on completion, be uploaded by the Contractor on to SPIN. The format shall be Adobe PDF.
- (7) Where it is necessary to use an existing SPIS design, the Contractor shall ensure the Packaging manufacturer is a registered organisation in accordance with clause 23.f(1) above, or if un-registered, is compliant with MPAS ANNEX A Supplement (Code) M. The Contractor shall ensure, as far as possible, that the SPIS is up to date.
- (8) The documents supplied under clause 23.f(6) shall be considered as a contract data requirement and be subject to the terms of DEFCON 15 and DEFCON 21.
- g. Unless otherwise stated in the Contract, one of the following procedures for the production of new or modified SPIS designs shall be applied:
- (1) If the Contractor or their subcontractor is the PDA they shall:
- (a) On receipt of instructions received from the Authority's representative nominated in Box 2 of DEFFORM 111 at Annex A to Schedule 3 (Contract Data Sheet), prepare the required package design in accordance with clause 23.f.
- (b) Where the Contractor or their subcontractor is registered they shall, on completion of any design work, provide the Authority with the following documents electronically:
- i. a list of all SPIS which have been prepared or revised against the Contract; and  
 ii. a copy of all new / revised SPIS, complete with all continuation sheets and associated drawings, where applicable, to be uploaded onto SPIN.
- (c) Where the PDA is not a registered organisation, then they shall obtain approval for their design from a registered organisation before proceeding, then follow clause 23.g(1)(b).
- (2) Where the Contractor or their subcontractor is not the PDA and is un-registered, they shall not produce, modify, or update SPIS designs. They shall obtain current SPIS design(s) from the Authority or a registered organisation before proceeding with manufacture of Packaging. To allow designs to be provided in ample time, they should apply for SPIS designs as soon as practicable.
- (3) Where the Contractor or their subcontractor is un-registered and has been given authority to produce, modify, and update SPIS designs by the Contract, he shall obtain approval for their design from a registered organisation using DEFFORM 129a before proceeding, then follow clause 23.g(1)(b).
- (4) Where the Contractor or their subcontractor is not a PDA but is registered, he shall follow clauses 23.g(1)(a) and 23.g(1)(b).
- h. If special jigs, tooling etc., are required for the production of MLP, the Contractor shall obtain written approval from the Commercial Officer before providing them. Any approval given will be subject to the terms of DEFCON 23 (SC2) or equivalent condition, as appropriate.
- i. In addition to any marking required by international or national legislation or regulations, the following package labelling and marking requirements apply:
- (1) If the Contract specifies UK or NATO MPL, labelling and marking of the packages shall be in accordance with Def Stan 81-041 (Part 6) and this Condition as follows:
- (a) Labels giving the mass of the package, in kilograms, shall be placed such that they may be clearly seen when the items are stacked during storage.
- (b) Each consignment package shall be marked with details as follows:
- i. name and address of consignor;  
 ii. name and address of consignee (as stated in the Contract or order);  
 iii. destination where it differs from the consignee's address, normally either:  
 (i). delivery destination / address; or  
 (ii). transit destination, where delivery address is a point for aggregation / disaggregation and / or onward shipment elsewhere, e.g. railway station, where that mode of transport is used;
- iv. the unique order identifiers and the CP&F Delivery Label / Form which shall be prepared in accordance with DEFFORM 129J.
- (i). If aggregated packages are used, their consignment marking and identification requirements are stated at clause 23.l.

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

- (a) description of the Contractor Deliverable;
- (b) the full thirteen digit NATO Stock Number (NSN);
- (c) the PPQ;
- (d) maker's part / catalogue, serial and / or batch number, as appropriate;
- (e) the Contract and order number when applicable;
- (f) the words "Trade Package" in bold lettering, marked in BLUE in respect of trade packages, and BLACK in respect of export trade packages;
- (g) shelf life of item where applicable;
- (h) for rubber items or items containing rubber, the quarter and year of vulcanisation or manufacture of the rubber product or component (marked in accordance with Def Stan 81-041);
- (i) any statutory hazard markings and any handling markings, including the mass of any package which exceeds 3kg gross; and
- (j) any additional markings specified in the Contract.

j. Bar code marking shall be applied to the external surface of each consignment package and to each PPQ package contained therein. The default symbology shall be as specified in Def Stan 81-041 (Part 6). As a minimum the following information shall be marked on packages:

- (1) the full 13-digit NSN;
- (2) denomination of quantity (D of Q);
- (3) actual quantity (quantity in package);
- (4) manufacturer's serial number and / or batch number, if one has been allocated; and
- (5) the CP&F-generated unique order identifier.

k. Requirements for positioning bar codes in relation to related text, as well as positioning on package etc., are defined in Def Stan 81-041 (Part 6). If size of the bar code does not allow a label to be directly attached, then a tag may be used. Any difficulties over size or positioning of barcode markings shall initially be referred to the organisation nominated in Box 3 of DEFFORM 111 at Annex A to Schedule 3 (Contract Data Sheet).

l. The requirements for the consignment of aggregated packages are as follows:

(1) With the exception of packages containing Dangerous Goods, over-packing for delivery to the consignee shown in the Contract may be used by the consignor to aggregate a number of packages to different Packaging levels, provided that the package contains Contractor Deliverables of only one NSN or class group. Over-packing shall be in the cheapest commercial form consistent with ease of handling and protection of over-packed items.

(2) Two adjacent sides of the outer container shall be clearly marked to show the following:

- (a) class group number;
- (b) name and address of consignor;
- (c) name and address of consignee (as stated on the Contract or Order);
- (d) destination if it differs from the consignee's address, normally either:
  - i. delivery destination / address; or
  - ii. transit destination, if the delivery address is a point of aggregation / disaggregation and / or onward shipment e.g. railway station, where that mode of transport is used;

(e) where applicable, the reference number of the delivery note produced by CP&F relating to the contents. The consignee's copy of each delivery note shall be placed in the case / container. If the Contractor Deliverables listed in the delivery note are packed in several cases, the consignee's copy shall be placed in the first case and a separate list detailing the contents shall be prepared for each case after the first and placed in the case to which it relates. Each case is to be numbered to indicate both the number of the case and the total number of cases concerned e.g. 1/3, 2/3, 3/3;

(f) the CP&F-generated shipping label; and

(g) any statutory hazard markings and any handling markings.

m. Authorisation of the Contractor to undertake Packaging design, or to use a packaging design, that was not part of the original requirement under the Contract, shall be considered as an alteration to the specification in accordance with condition 7 (Variations to Specification).

n. The Contractor shall ensure that timber and wood-containing products supplied under the Contract comply with the provisions of condition 25 (Timber and Wood-Derived Products) and Annex I and Annex II of the International Standards for Phytosanitary Measures, "Guidelines for Regulating Wood Packaging Material in International Trade", Publication No 15 (ISPM 15).

o. All Packaging shall meet the requirements of the Packaging (Essential Requirements) Regulations 2003 (as amended) where applicable.

p. In any design work the Contractor shall comply with the Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (as amended) or equivalent legislation. Evidence of compliance shall be a contractor record in accordance with condition 18 (Contractor's Records).

q. This Condition is concerned with the supply of Packaging suitable to protect and ease handling, transport and storage of specified items. Where there is a failure of suitable Packaging (a design failure), or Packaging fails and this is attributed to the Packaging supplier, then the supplier shall be liable for the cost of replacing the Packaging.

r. Liability for other losses resulting from Packaging failure or resulting from damage to Packaging, (such as damage to the packaged item etc.), shall be specified elsewhere in the Contract.

s. General requirements for service Packaging, including details of UK and NATO MLP and Commercial Packaging descriptions, are contained in Def Stan 81-041 (Part 1) "Packaging of Defence Materiel". Def Stans, NATO Standardisation Agreements (STANAGs), and further information are available from the DStan internet site at: <https://www.dstan.mod.uk/>

t. Unless specifically stated otherwise in the invitation to tender or the Contract, reference to any standard including Def Stans or STANAGs in any invitation to tender or Contract document means the edition and all amendments extant at the date of such tender or Contract.

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

## **24. Supply of Hazardous Materials or Substances in Contractor Deliverables**

a. The Contractor shall provide to the Authority:

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

information as required by the Health and Safety at Work, etc Act 1974, at the time of supply.

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

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

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

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

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

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

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

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

- (1) activity;
- (2) the substance and form (including any isotope);

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

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

(3) Hard copies to be sent to:  
Hazardous Stores Information System (HSIS)  
Defence Safety Authority (DSA)  
Movement Transport Safety Regulator (MTSR)  
Hazel Building Level 1, #H019  
MOD Abbey Wood (North)  
Bristol, BS34 8QW

(4) Emails to be sent to:

[DSA-DLSR-MovTpt-DGHSIS@mod.uk](mailto:DSA-DLSR-MovTpt-DGHSIS@mod.uk)

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

## 25. Timber and Wood-Derived Products

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

- (1) shall comply with the Contract Specification; and
- (2) must originate either:
  - (a) from a Legal and Sustainable source; or
  - (b) from a FLEGT-licensed or equivalent source.

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

- (1) identification, documentation and respect of legal, customary and traditional tenure and use rights related to the forest;
- (2) mechanisms for resolving grievances and disputes including those relating to tenure and use rights, to forest management practices and to work conditions; and
- (3) safeguarding the basic labour rights and health and safety of forest workers.

c. If requested by the Authority, the Contractor shall provide to the Authority Evidence that the Timber and Wood-Derived Products supplied to the Authority under the Contract comply with the requirements of clause 25.a or 25.b or both.

d. The Authority reserves the right at any time during the execution of the Contract and for a period of five (5) years from final Delivery under the Contract to require the Contractor to produce the Evidence required for the Authority's inspection within fourteen (14) days of the Authority's request.

e. If the Contractor has already provided the Authority with the Evidence required under clause 25.c, the Contractor may satisfy these requirements by giving details of the previous notification and confirming the Evidence remains valid and satisfies the provisions of clauses 25.a or 25.b or both.

f. The Contractor shall maintain records of all Timber and Wood-Derived Products delivered to and accepted by the Authority, in accordance with condition 18 (Contractor's Records).

g. Notwithstanding clause 25.c, if exceptional circumstances render it strictly impractical for the Contractor to record Evidence of proof of timber origin for previously used Recycled Timber, the Contractor shall support the use of this Recycled Timber with:

- (1) a record tracing the Recycled Timber to its previous end use as a standalone object or as part of a structure; and
- (2) an explanation of the circumstances that rendered it impractical to record Evidence of proof of timber origin.

h. The Authority reserves the right to decide, except where in the Authority's opinion the timber supplied is incidental to the requirement and from a low risk source, whether the Evidence submitted to it demonstrates compliance with clause 25.a or 25.b, or both. In the event that the Authority is not satisfied, the Contractor shall commission and meet the costs of an Independent Verification and resulting report that will:

- (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 (Amendments to Contract).

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

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

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

- (1) companies that have a full registered status under the Forestry Commission and Timber Packaging and Pallet Confederation's UK Wood Packaging Material Marking Programme (more detailed information can be accessed at [www.forestry.gov.uk](http://www.forestry.gov.uk)) and all such wood shall be treated for the elimination of raw wood pests and marked in accordance with that Programme; or
- (2) sources supplying wood treated and marked so as to conform to Annex I and Annex II of the International Standard for Phytosanitary Measures, "Guidelines for Regulating Wood Packaging Material in International Trade", Publication No 15 published by the Food and Agricultural Organisation of the United Nations (ISPM15) (more detailed information can be accessed at [www.fao.org](http://www.fao.org)).

## 26. Certificate of Conformity

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

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

c. The Information provided on the CofC shall include:

- (1) Contractor's name and address;
- (2) Contractor unique CofC number;
- (3) Contract number and where applicable Contract amendment number;
- (4) details of any approved concessions;
- (5) acquirer name and organisation;
- (6) Delivery address;
- (7) Contract Item Number from Schedule 2 (Schedule of Requirements);
- (8) description of Contractor Deliverable, including part number, specification and configuration status;
- (9) identification marks, batch and serial numbers in accordance with the Specification;

- (10) quantities;
- (11) a signed and dated statement by the Contractor that the Contractor Deliverables comply with the requirements of the Contract and approved concessions.

Exceptions or additions to the above are to be documented.

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

## 27. Access to Contractor's Premises

a. The Contractor shall provide to the Authority's Representatives following reasonable Notice, relevant accommodation/facilities, at no direct cost to the Authority, and all reasonable access to its premises for the purpose of monitoring the Contractor's progress and quality standards in performing the Contract.

b. As far as reasonably practical, the Contractor shall ensure that the provisions of clause 1 are included in their subcontracts with those suppliers identified in the Contract. The Authority, through the Contractor, shall arrange access to such subcontractors.

## 28. Delivery / Collection

a. Schedule 3 (Contract Data Sheet) shall specify whether the Contractor Deliverables are to be Delivered to the Consignee by the Contractor or Collected from the Consignor by the Authority.

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

- (1) contact the Authority's Representative as detailed in Schedule 3 (Contract Data Sheet) in advance of the Delivery Date in order to agree administrative arrangements for Delivery and provide any Information pertinent to Delivery requested;
- (2) comply with any special instructions for arranging Delivery in Schedule 3 (Contract Data Sheet);
- (3) ensure that each consignment of the Contractor Deliverables is accompanied by, (as specified in Schedule 3 (Contract Data Sheet)), a DEFFORM 129J in accordance with the instructions;
- (4) be responsible for all costs of Delivery; and
- (5) Deliver the Contractor Deliverables to the Consignee at the address stated in Schedule 2 (Schedule of Requirements) by the Delivery Date between the hours agreed by the Parties.

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

- (1) contact the Authority's Representative (Transport) as detailed in box 10 of DEFFORM 111 at Annex A to Schedule 3 (Contract Data Sheet) in advance of the Delivery Date in order to agree specific arrangements for Collection and provide any Information pertinent to the Collection requested;
- (2) comply with any special instructions for arranging Collection in Schedule 3 (Contract Data Sheet);
- (3) ensure that each consignment of the Contractor Deliverables is accompanied by, (as specified in Schedule 3 (Contract Data Sheet)), a DEFFORM 129J in accordance with the instructions;
- (4) ensure that the Contractor Deliverables are available for Collection by the Authority from the

Consignor (as specified in Schedule 3 (Contract Data Sheet)) by the Delivery Date between the hours agreed by the Parties; and

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

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

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

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

### 29. Acceptance

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

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

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

### 30. Rejection

a. If any of the Contractor Deliverables Delivered to the Authority do not conform to the Specification or any other terms of this Contract, then (without limiting any other right or remedy that the Authority may have) the Authority may reject the Contractor Deliverables (in whole or in part). The Authority shall return these Contractor Deliverables to the Contractor at the Contractor's risk and cost.

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

### 31. Diversion Orders

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

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

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

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

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

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

### 32. Self-to-Self Delivery

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

## Licences and Intellectual Property

### 33. Import and Export Licences

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

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

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

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

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

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

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

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

e. During the term of the Contract and for a period of up to 2 years from completion of the Contract, the Authority may make a written request to the Contractor to seek a variation to the conditions to a foreign export licence or import licence or authorisation to enable the Authority to re-export or re-transfer a licensed or authorised item or licensed or authorised information from the UK to a non-licensed or unauthorised third party. If the Authority makes such a request it will consult with the Contractor before making a

determination of whether the Authority or the Contractor is best placed in all the circumstance to make the request. Where, subsequent to such consultation the Authority notifies the Contractor that the Contractor is best placed to make such request:

- (1) the Contractor shall, or procure that the Contractor's subcontractor shall, expeditiously consider whether or not there is any reason why it should object to making the request and, where it has no objection, file an application to seek a variation of the applicable export licence or import licence or authorisation in accordance with the procedures of the licensing authority. Where the contractor has an objection, the Parties shall meet within five (5) working days to resolve the issue and should they fail the matter shall be escalated to an appropriate level within both Parties' organisations, to include their respective export licensing subject matter experts; and
  - (2) the Authority shall provide sufficient information, certification, documentation and other reasonable assistance as may be necessary to support the application for the requested variation.
- f. Where the Authority determines that it is best placed to make such request the Contractor shall provide sufficient information, certification, documentation and other reasonable assistance as may be necessary to support the Authority to make the application for the requested variation.
- g. Where the Authority invokes clause 33.e or 33.f the Authority will pay the Contractor a fair and reasonable charge for this service based on the cost of providing it.
- h. Where the Contractor subcontracts work under the Contract, which is likely to be subject to foreign export control, import control or both the Contractor shall use reasonable endeavours to incorporate in each subcontract equivalent obligations to those set out in this Condition. Where it is not possible to include equivalent terms to those set out in this Condition, the Contractor shall report that fact and the circumstances to the Authority.
- i. Without prejudice to HM Government's position on the validity of any claim by a foreign government to extra-territoriality, the Authority shall provide the Contractor with sufficient information, certification, documentation and other reasonable assistance to facilitate the granting of export licences or import licences or authorisations by a foreign Government in respect of the performance of the Contract.
- j. The Authority shall provide such assistance as the Contractor may reasonably require in obtaining any UK export licences necessary for the performance of the Contract.
- k. The Contractor shall use reasonable endeavours to identify whether any Contractor Deliverable is subject to:
- (1) a non-UK export licence, authorisation or exemption; or
  - (2) any other related transfer or export control, that imposes or will impose end use, end user or re-transfer or re-export restrictions, or restrictions on disclosure to individuals based upon their nationality. This does not include the Intellectual Property-specific restrictions of the type referred to in condition 34 (Third Party Intellectual Property – Rights and Restrictions).
- l. If at any time during the term of the Contract the Contractor becomes aware that all or any part of the Contractor Deliverables are subject to Clause 33.k(1) or 33.k(2), it shall notify the Authority of this as soon as reasonably practicable by providing details in the DEFFORM 528 or other mutually agreed alternative format. Such notification shall be no later than thirty (30) days of knowledge of any affected Contractor Deliverable and in any event such notification shall be not less than thirty (30) days prior to delivery of the Contractor Deliverables.
- m. If the information to be provided under Clause 33.l has been provided previously to the Authority by the Contractor under the Contract, the Contractor may satisfy these

requirements by giving details of the previous notification and confirming they remain valid and satisfy the provisions of Clause 33.l.

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

be provided to the Contractor as Government Furnished Assets (GFA). Where the Authority is to provide material necessary to enable the Contractor to perform the Contract or in respect of which the Services are to be provided, and that material is subject to a non-UK export licence, authorisation, exemption or other related transfer or export control as described in the provisions of Clause 33.k, the Authority shall provide a completed DEFFORM 528 or will provide a new or updated DEFFORM 528 to the Contractor within thirty (30) days of the date of knowledge and in any case not later than thirty (30) days prior to the delivery of such material to the Contractor.

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

u. Where:

- (1) restrictions are advised by the Authority to the Contractor in a DEFFORM 528 provided pursuant to Clauses 33.s or 33.t or both; or
- (2) any of the information provided by the Authority in any DEFFORM 528 proves to be incorrect or inaccurate;

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

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

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

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

- (1) any invention or design the subject of patent or registered Design Rights (or application thereof) owned by a third party which appears to be relevant to the performance of the Contract or to use by the Authority of anything required to be done or delivered under the Contract;
- (2) any restriction as to disclosure or use, or obligation to make payments in respect of any other intellectual property (including technical information) required for the purposes of the Contract or subsequent use by the Authority of anything delivered

under the Contract and, where appropriate, the notification shall include such Information as is required by Section 2 of the Defence Contracts Act 1958;

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

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

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

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

- (1) the Authority has made or makes an admission of any sort relevant to such question;
- (2) the Authority has entered or enters into any discussions on such question with any third party without the prior written agreement of the Contractor;
- (3) the Authority has entered or enters into negotiations in respect of any relevant claim for compensation in respect of Crown Use under Section 55 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1977;
- (4) legal proceedings have been commenced against the Authority or the Contractor in respect of Crown Use, but only to the extent of such Crown Use that has been properly authorised.

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

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

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

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

- (1) if the owner (or its exclusive licensee) takes or threatens in writing to take any relevant

action against the Contractor, the Authority shall issue to the Contractor a written authorisation in accordance with the provisions of Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949, and

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

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

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

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

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

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

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

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

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

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

(1) infringement or alleged infringement by the Contractor or their suppliers of any copyright, database right, Design Right or the like protection in any part of the world in respect of any item to be supplied under the Contract or otherwise in the performance of the Contract;

(2) misuse of any confidential information, trade secret or the like by the Contractor in performing the Contract;

(3) provision to the Authority of any Information or material which the Contractor does not have the right to provide for the purpose of the Contract.

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

(1) infringement or alleged infringement by the Contractor or their suppliers of any copyright, database right, Design Right or the like protection in any part of the world in respect of any item provided by the Authority for the purpose of the Contract but only to the extent that the item is used for the purpose of the Contract;

(2) alleged misuse of any confidential Information, trade secret or the like by the Contractor as a result of use of Information provided by the Authority for the purposes of the Contract, but only to the extent that Contractor's use of that Information is for the purposes intended when it was disclosed by the Authority.

n. The general authorisation and indemnity is:

(1) clauses 34.a – 34.m represents the total liability of each Party to the other under the Contract in respect of any infringement or alleged infringement of patent or other Intellectual Property Right (IPR) owned by a third party;

(2) neither Party shall be liable, one to the other, for any consequential loss or damage arising as a result, directly or indirectly, of a claim for infringement or alleged infringement of any patent or other IPR owned by a third party;

(3) a Party against whom a claim is made or action brought, shall promptly notify the other Party in writing if such claim or action appears to relate to an infringement which is the subject of an indemnity or authorisation given under this Condition by such other Party. The notification shall include particulars of the demands, damages and liabilities claimed or made of which the notifying Party has notice;

(4) the party benefiting from the indemnity or authorisation shall allow the other Party, at its own expense, to conduct any negotiations for the settlement of the same, and any litigation that may arise therefrom and shall provide such information as the other Party may reasonably require;

(5) following a notification under clause 34.n(3), the Party notified shall advise the other Party in writing within thirty (30) Business Days whether or not it is assuming conduct of the negotiations or litigation. In that case the Party against whom a claim is made or action brought shall not make any statement which might be prejudicial to the settlement or defence of such a claim without the written consent of the other Party;

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

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

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

#### Pricing and Payment

### 35. Contract Price

- a. The Contractor shall provide the Contractor Deliverables to the Authority at the Contract Price. The Contract Price shall be a Firm Price unless otherwise stated in Schedule 3 (Contract Data Sheet).
- b. Subject to condition 35.a the Contract Price shall be inclusive of any UK custom and excise or other duty payable. The Contractor shall not make any claim for drawback of UK import duty on any part of the Contract Deliverables supplied which may be for shipment outside of the UK.

### 36. Payment and Recovery of Sums Due

- a. Payment for Contractor Deliverables will be made by electronic transfer and prior to submitting any claims for payment under clause 36b the Contractor will be required to register their details (Supplier on-boarding) on the Contracting, Purchasing and Finance (CP&F) electronic procurement tool.
- b. Where the Contractor submits an invoice to the Authority in accordance with clause 36a, the Authority will consider and verify that invoice in a timely fashion.
- c. The Authority shall pay the Contractor any sums due under such an invoice no later than a period of 30 days from the date on which the Authority has determined that the invoice is valid and undisputed.
- d. Where the Authority fails to comply with clause 36a and there is undue delay in considering and verifying the invoice, the invoice shall be regarded as valid and undisputed for the purpose of clause 36c after a reasonable time has passed.
- e. The approval for payment of a valid and undisputed invoice by the Authority shall not be construed as acceptance by the Authority of the performance of the Contractor's obligations nor as a waiver of its rights and remedies under this Contract.
- f. Without prejudice to any other right or remedy, the Authority reserves the right to set off any amount owing at any time from the Contractor to the Authority against any amount payable by the Authority to the Contractor under the Contract or under any other contract with the Authority, or with any other Government Department.

### 37. Value Added Tax

- a. The Contract Price excludes any UK output Value Added Tax (VAT) and any similar EU (or non-EU) taxes chargeable on the supply of Contractor Deliverables by the Contractor to the Authority.
- b. If the Contractor is required by UK VAT law to be registered for UK VAT (or has registered voluntarily) in respect of his business activities at the time of any supply, and the circumstances of any supply are such that the Contractor is liable to pay the tax due to HM Revenue and Customs (HMRC), the Authority shall pay to the Contractor in addition to the Contract Price (or any other sum due to the Contractor) a sum equal to the output VAT chargeable on the tax value of the supply of Contractor Deliverables, and all other payments under the Contract according to the law at the relevant tax point.
- c. The Contractor is responsible for the determination of VAT liability. The Contractor shall consult its Client Relationship Manager or the HMRC Enquiries Desk (and not the Authority's Representative (Commercial)) in cases of doubt. The Contractor shall notify the Authority's Representative (Commercial) of the Authority's VAT liability under the Contract, and any changes to it, within twenty (20) Business Days of becoming aware the liability is other than at the standard rate of VAT. In the event of any doubt about the applicability of the tax in such cases, the Authority may require the Contractor to obtain, and pass to the Authority, a formal ruling from HMRC. The Contractor shall comply promptly with any such requirement. Where the Contractor obtains a ruling from HMRC, it shall supply a copy to the Authority within three (3) Business Days of receiving that

ruling unless it proposes to challenge the ruling. Where the Contractor challenges the ruling it shall supply to the Authority a copy of any final decisions issued by HMRC on completion of the challenge within three (3) Business Days of receiving the decision.

- d. Where supply of Contractor Deliverables comes within the scope of UK VAT, but the Contractor is not required by UK VAT law to be registered for UK VAT (and has not registered voluntarily), the Authority shall be responsible for assessing and paying over directly to HMRC any UK output VAT due in respect of the Contractor Deliverables. The Contractor shall be responsible for ensuring it takes into account any changes in VAT law regarding registration.
- e. Where Contractor Deliverables are deemed to be supplied to the Authority outside the UK, the Contractor may be required by the laws of the country where the supply takes place to register there for EU (or non-EU) turnover or similar tax. In that event, the Authority shall pay to the Contractor in addition to the Contract Price (and any other sum due to the Contractor under the Contract) a sum equal to the tax the Contractor is liable to pay to the tax authorities of the country in question in relation to the Contractor Deliverables within thirty (30) calendar days of a written request for payment of any such sum by the Contractor.
- f. In relation to the Contractor Deliverables supplied under the Contract the Authority shall not be required to pay any sum in respect of the Contractor's input VAT (or similar EU or non-EU or both input taxes). However, these input taxes will be allowed where it is established that, despite the Contractor having taken all reasonable steps to recover them, it has not been possible to do so. Where there is any doubt that the Contractor has complied with this requirement the matter shall be resolved in accordance with condition 40 (Dispute Resolution).
- g. Should HMRC decide that the Contractor has incorrectly determined the VAT liability, in accordance with clause 37.b above, the Authority will pay the VAT assessed by HMRC. In the event that HMRC so determines, the Contractor shall pay any interest charged on any assessment or penalties or both directly to HMRC. Such interest or penalties or both shall not be recoverable from the Authority under this Contract or any other contract. The Contractor shall supply the Authority with a copy of all correspondence between HMRC and the Contractor's advisors regarding the VAT assessment within three (3) Business Days of a written request from the Authority for such correspondence.

### 38. Debt Factoring

- a. Subject to the Contractor obtaining the prior written consent of the Authority in accordance with condition 11 (Assignment of Contract), the Contractor may assign to a third Party ("the Assignee") the right to receive payment of the Contract Price or any part thereof due to the Contractor under the Contract (including interest which the Authority incurred through late payment under the Late Payment of Commercial Debts (Interest) Act 1998 ("the Act")). Any assignment of the right to receive payment of the Contract Price (or any part thereof) under this condition 38 shall be subject to:
- (1) reduction of any sums in respect of which the Authority exercises its right of recovery under clause 0;
  - (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 he shall cause a term to be included in such Subcontract:
- (1) providing that where the Subcontractor submits an invoice to the Contractor, the Contractor will consider and verify that invoice in a timely fashion;
  - (2) providing that the Contractor shall pay the Subcontractor any sums due under such an invoice no later than a period of thirty (30) days from the date on which the Contractor has determined that the invoice is valid and undisputed;
  - (3) providing that where the Contractor fails to comply with clause 39.b(1) above, and there is an undue delay in considering and verifying the invoice, that the invoice shall be regarded as valid and undisputed for the purposes of clause 39.b(2) after a reasonable time has passed; and
  - (4) requiring the counterparty to that Subcontract to include in any Subcontract which it awards, provisions having the same effect as clauses 39.b(1) to 39.b(4).

### Termination

#### 40. Dispute Resolution

- a. The Parties will attempt in good faith to resolve any dispute or claim arising out of or relating to the Contract through negotiations between the respective representatives of the Parties having authority to settle the matter, which attempts may include the use of any alternative dispute resolution procedure on which the Parties may agree.
- b. In the event that the dispute or claim is not resolved pursuant to clause 40.a the dispute shall be referred to arbitration. Unless otherwise agreed in writing by the Parties, the arbitration and this clause 40.b shall be governed by the Arbitration Act 1996. For the purposes of the arbitration, the arbitrator shall have the power to make provisional awards pursuant to Section 39 of the Arbitration Act 1996.
- c. For the avoidance of doubt, anything said, done or produced in or in relation to the arbitration process (including any awards) shall be confidential between the Parties, except as may be lawfully required in judicial proceedings relating to the arbitration or otherwise.

#### 41. Termination for Insolvency or Corrupt Gifts

##### Insolvency:

- a. The Authority may terminate the Contract, without paying compensation to the Contractor, by giving written Notice of such termination to the Contractor at any time after any of the following events:
- Where the Contractor is an individual or a firm:
- (1) the application by the individual or, in the case of a firm constituted under English law, any partner of the firm to the court for an interim order pursuant to Section 253 of the Insolvency Act 1986;

- or
- (2) the court making an interim order pursuant to Section 252 of the Insolvency Act 1986; or
  - (3) the individual, the firm or, in the case of a firm constituted under English law, any partner of the firm making a composition or a scheme of arrangement with his or its creditors; or
  - (4) the presentation of a petition for bankruptcy order against the individual or, in the case of a firm constituted under English law, any partner of the firm unless it is withdrawn within three (3) Business Days from the date on which the Contractor is notified of the presentation; or
  - (5) the court making a bankruptcy order in respect of the individual or, in the case of a firm constituted under English law, any partner of the firm; or
  - (6) where the Contractor is either unable to pay his debts as they fall due or has no reasonable prospect of being able to pay debts which are not immediately payable. The Authority shall regard the Contractor as being unable to pay his debts if:
    - (a) he has failed to comply with or to set aside a Statutory demand under Section 268 of the Insolvency Act 1986 within twenty-one (21) days of service of the Statutory Demand on him; or
    - (b) execution or other process to enforce a debt due under a judgement or order of the court has been returned unsatisfied in whole or in part.
  - (7) the presentation of a petition for sequestration in relation to the Contractor's estates unless it is withdrawn within three (3) Business Days from the date on which the Contractor is notified of the presentation; or
  - (8) the court making an award of sequestration in relation to the Contractor's estates.
- Where the Contractor is a company registered in England:
- (9) the presentation of a petition for the appointment of an administrator; unless it is withdrawn within three (3) Business Days from the date on which the Contractor is notified of the presentation; or
  - (10) the court making an administration order in relation to the company; or
  - (11) the presentation of a petition for the winding-up of the company unless it is withdrawn within three (3) Business Days from the date on which the Contractor is notified of the presentation; or
  - (12) the company passing a resolution that the company shall be wound-up; or
  - (13) the court making an order that the company shall be wound-up; or
  - (14) the appointment of a Receiver or manager or administrative Receiver.

- Where the Contractor is a company registered other than in England, events occur or are carried out which, within the jurisdiction to which it is subject, are similar in nature or effect to those specified in clauses 41.a(9) to 41.a(14) inclusive above.
- b. Such termination shall be without prejudice to and shall not affect any right of action or remedy which shall have accrued or shall accrue thereafter to the Authority and the Contractor.

##### Corrupt Gifts:

- c. The Contractor shall not do, and warrants that in entering the Contract it has not done any of the following (hereafter referred to as 'prohibited acts'):
- (1) offer, promise or give to any Crown servant any gift or financial or other advantage of any kind as an inducement or reward;
    - (a) for doing or not doing (or for having done

or not having done) any act in relation to the obtaining or execution of this or any other contract with the Crown; or  
(b) for showing or not showing favour or disfavour to any person in relation to this or any other Contract with the Crown.

(2) enter into this or any other Contract with the Crown in connection with which commission has been paid or has been agreed to be paid by it or on its behalf, or to its knowledge, unless before the Contract is made particulars of any such commission and of the terms and conditions of any such agreement for the payment thereof have been disclosed in writing to the Authority.

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

(1) to terminate the Contract and recover from the Contractor the amount of any loss resulting from the termination;  
(2) to recover from the Contractor the amount or value of any such gift, consideration or commission; and  
(3) to recover from the Contractor any other loss sustained in consequence of any breach of this condition, where the Contract has not been terminated.

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

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

(2) give all due consideration, where appropriate, to action other than termination of the Contract, including (without being limited to):

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

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

#### 42. Termination for Convenience

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 its obligations under the Contract.

b. Where the Authority has terminated the Contract under clause 43.a the Authority shall have the right to claim such damages as may have been sustained as a result of the Contractor's material breach of the Contract, including but not limited to any costs and expenses incurred by the Authority in:

- (1) carrying out any work that may be required to make the Contractor Deliverables comply with the Contract; or
- (2) obtaining the Contractor Deliverable in substitution from another supplier.

#### **44. Consequences of Termination**

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

#### **Additional Conditions**

##### **45. The project specific DEFCONS and DEFCON SC variants that apply to this Contract are:**

DEFCON 76 (SC2) Edn 11/17 Contractors Personnel at Government Establishments  
DEFCON 127 Edn 12/14 Price Fixing for Contracts of Lesser Value  
DEFCON 532B Edn 05/18 Protection of Personal Data  
DEFCON 625 Edn 10/98 Co-Operation on Expiry of Contract  
DEFCON 643 (SC2) Edn 11/17 Price Fixing (Non Qualifying Contracts)  
DEFCON 658 SC2 (Edn 11/17) - Cyber

##### **46. The special conditions that apply to this Contract are:**

###### **46A DEPRECIATION FOR WRITE OFF**

An annual depreciation and written down value for the purpose of write off of Vehicles listed in Schedule 2, shall be in accordance with Annex A to Contract.

###### **46B ACCIDENTAL DAMAGE LIABILITY PROCEDURE**

In the event that accidental damage occurs on a Contractor owned Vehicle, the procedure for liability verification, dispute resolution and approval of valid claims for payment, shall be in accordance with Annex B to Contract. Repairs carried out for accidental damage (variable) shall be agreed in accordance with DEFCON 127 (Edn 11/14) or DEFCON 643 SC2 (Edn 11/17) as applicable. The Firm Hourly rates listed in Schedule 2 and the spares prices at Annex C to Contract shall be applicable to all accident damage rectification work.

###### **46C DAMAGE TO VEHICLES – LIABILITY**

The Authority shall bear the cost of loss or damage sustained to a Vehicle whilst the Vehicle is in possession of the Authority under the Contract. This Condition shall not apply in respect of any damage arising from neglect or default by the Contractor. The total amount for which the Authority may become liable in such circumstances shall not exceed the depreciated value of the Vehicle at the time of loss or damage incident. If in the opinion of the Authority, the loss or damage was caused wholly by a third party, the

Contractor shall assign any rights he may have to recover compensation from the third party to the Authority.

The Authority's liability includes full responsibility for:

- . Accidents and damage to Contract Vehicles through the fault of an Authority driver.

- . Parking fees incurred by the Vehicles whilst they are under the control of the Authority's personnel.

- . The Authority's liability excludes responsibility for:

- . Speeding fines which remain the personal responsibility of the driver at the time of the offence.

Notwithstanding Indemnity Condition 46I the Authority shall, when in control of a Vehicle, be liable at law for damages and claimant's costs and expenses incurred with its written consent in respect of:

- . Death or bodily injury to any person.

- . Damage to property.

where such death or damage arises out of an accident caused by or through, or in connection with, any Vehicle described in the Schedule. The Authority shall not be liable however, should the death or damage occur as a direct result of the Vehicle being defective, in which case the Contractor shall be liable, unless the defect is caused by the Authority.

#### **46D FAIR WEAR AND TEAR**

All items replaced due to fair wear and tear shall be supplied by the Contractor. The definition of fair wear and tear is in accordance with the BVRLA CV Best Practice Guide (2016).

#### **46E POLICE GUARDS AND SECURITY**

The Contractor and his employees, agents and sub contractors shall co-operate with and obey instructions or directions given by MOD Police, Military Police and uniformed guards in pursuance of their duties.

The Contractor shall consent to the servants or officers of the Authority searching any equipment, containers, work bags and other chattels owned by the Contractor, his employees, agents or sub contractors whilst on, or as a condition of access to, the Unit. Routine checks may be carried out on those entering or leaving a Unit and persons must be prepared to accept as a condition of entry the requirement to be stopped and searched and to have their equipment examined. The Authority reserves the right to expel persons from the Unit or to deny access to the Unit to persons who do not consent to being searched.

The Contractor shall accept full responsibility for any loss or delay in performance of the Contract caused directly or indirectly by the expulsion or refusal to allow entry to a Contractor's employee, agent or sub contractor who does not consent to being searched.

The Contractor shall co-operate fully with the Authority's requirement to carry out initial security checks on all Contractor personnel who are required to work at MOD establishments.

#### **46F PROCEDURE FOR ACCIDENTS AND INCIDENTS OCCURRING ON GOVERNMENT PROPERTY**

Accidents occurring during work in connection with this Contract at a Government establishment shall be reported to the Contractor immediately by the Designated Officer.

Following an accident/incident, the Contractor shall make available to the Officer in Charge of any resulting investigation all relevant information and facilities, including access to his employees. If requested the Contractor shall undertake an investigation and submit a written report.

The Contractor shall facilitate the attendance of employees as may be invited by the Officer in Charge of an investigation to attend as witnesses at Boards of Enquiry or similar proceedings. Attendance at such proceedings may be required outside the Contract period.

#### **46G CONTRACT MANAGEMENT**

The Contractor shall provide and maintain an organisation having the necessary facilities and employees of appropriate qualifications and experience to ensure the satisfactory performance of the Contract. The Contractor shall appoint a Manager who shall be responsible for daily liaison with the Designated Officer. The Contractor is to provide a dedicated telephone number for the appointed Manager. This is to be manned 24 hours per day, 7 days per week, unless otherwise agreed by the Authority. This number can be the same as the dedicated Freephone number for breakdown reporting detailed in the Statement of User Requirement at Annex A to Schedule 2. The Contractor shall provide on site attendance prior to, and at the end of, each day's training for the purpose of providing first line support.

#### **46H QUALITY ASSURANCE**

The Contractor shall ensure that the Contract is carried out in accordance with his Quality qualifications/certification. The Contractor shall guarantee to maintain his qualification/certification status throughout the period of the Contract. Any sub-contractors must also be certified under the same conditions. The draft Quality Plan (at the time the contract is placed) is at Annex D to Contract, this shall be updated continually throughout the Contract and changes notified to the Designated Officer.

#### **46I INDEMNITY**

The Contractor shall indemnify the Authority against all claims made against the Authority or the Crown in respect of injury or damage to persons or property which in any way arises from any defect in the Vehicle existing at the beginning of its hiring or from a failure of the Contractor to comply with any of the Conditions of the Contract or from any neglect or default of the Contractor or his servant or Agents.

#### **46J TRANSFER OF UNDERTAKINGS (PROTECTION OF EMPLOYMENT) – TUPE**

##### **Applicability Of TUPE**

Your attention is drawn to the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE), as amended and /or the Service Provision Change (Protection of Employment) Regulations (Northern Ireland) 2006, as amended from time to time. The Authority would be neither transferor nor transferee of the employees in the circumstances of any contract awarded as a result of this invitation and it is your responsibility to consider whether or not TUPE applies to this re-let and to tender accordingly. Notwithstanding this, you will wish to note that it is the Authority's view that TUPE is unlikely to be applicable if this Invitation to Tender results in a Contract being placed as the contractor currently undertaking this task have informed the Authority that no employees are in scope to transfer.

The Authority shall not be liable for the opinion expressed above. It remains your responsibility to ensure that your tender takes full account of all the relevant circumstances of this contract re-let and tender accordingly. You are required to confirm when responding that you will not make any claim or demand or take any actions or proceedings against the Authority (nor seek to avoid any contract or seek any amendment to a contract placed with the contractor by the Authority) arising from or relating to the provision of the information, whether or not you are awarded a contract as a result of this Invitation to Tender. Failure to provide clear and unequivocal confirmation may result in your tender being deemed non-compliant.

The terms and conditions of contract relating to TUPE, which apply to any transfer of personnel at the end of this contract, are at Annex H to Contract.

#### **46K VARIATION**

The Authority shall have the right to return the entire fleet at the end of the Contract period (and any Option periods taken

up) at no cost except for those raised for damages agreed not to be caused through Fair Wear and Tear. The Authority shall have the right to vary the requirement at the end of the initial Contract period and at each Option period at no cost except for those raised for damages agreed not to be caused through Fair Wear. The Authority shall reserve the right to order additional vehicles at any point during the Contract period or Option period taken up.

#### **46L OPTION PERIOD**

The period of Contract will be for 5 (Five) years and 1 (one) month until 31 March 2025 with the option for the Authority to irrevocably extend the Contract for up to 2 (two) years (taken as 2 x 1 year options at the prices detailed in Schedule 2. The Authority's right to exercise the option to extend the Contract will be subject to a minimum of 6 (six) months' notice

#### **46M NOT USED**

#### **46N TRADE TARIFFS AND BORDER DELAYS**

Any cost risks related to Brexit are a sub-set of the totality of cost risk that a Supplier should consider. Risks should be clearly identified and costed supported with a completed Risk Plan (Annex I to Contract) detailing the Risk, Cost and Mitigation

**47. The processes that apply to this Contract are:**  
Service Levels, Service Credits and Performance Monitoring  
– Annex G to Contract.

**Schedule 1 – Definitions of Contract**

<b>Articles</b>	means the Contractor Deliverables (goods and/or the services), including Packaging (and Certificate(s) of Conformity and supplied in accordance with any QA requirements if specified) which the Contractor is required to provide under the Contract in accordance with Schedule 2 (Schedule of Requirements), but excluding incidentals outside Schedule 2 (Schedule of Requirements) such as progress reports. <b>(This definition only applies when DEFCONs are added to these Conditions);</b>
<b>Authority</b>	means the Secretary of State for Defence acting on behalf of the Crown;
<b>Authority's Representative(s)</b>	shall be those person(s) defined in Schedule 3 (Contract Data Sheet) who will act as the Authority's Representative(s) in connection with the Contract. Where the term "Authority's Representative(s)" in the Conditions is immediately followed by a functional description in brackets, the appropriate Authority's Representative(s) shall be the designated person(s) for the purposes of condition 8;
<b>Business Day</b>	means 09:00 to 17:00 Monday to Friday, excluding public and statutory holidays;
<b>Central Government Body</b>	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;
<b>Collect</b>	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;
<b>Commercial Packaging</b>	means commercial Packaging for military use as described in Def Stan 81-041 (Part 1)
<b>Conditions</b>	means the terms and conditions set out in this document;
<b>Consignee</b>	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;
<b>Consignor</b>	means the name and address specified in Schedule 3 (Contract Data Sheet) from whom the Contractor Deliverables will be dispatched or Collected;
<b>Contract</b>	means the Contract including its Schedules and any amendments agreed by the Parties in accordance with condition 6 (Amendments to Contract);
<b>Contract Price</b>	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.
<b>Contractor</b>	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;
<b>Contractor Commercially Sensitive Information</b>	means the Information listed in the completed Schedule 5 (Contractor's Commercially Sensitive Information Form), which is Information

notified by the Contractor to the Authority, which is acknowledged by the Authority as being commercially sensitive;

<b>Contractor Deliverables</b>	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;
<b>Control</b>	means the power of a person to secure that the affairs of the Contractor are conducted in accordance with the wishes of that person: a. by means of the holding of shares, or the possession of voting powers in, or in relation to, the Contractor; or b. by virtue of any powers conferred by the constitutional or corporate documents, or any other document, regulating the Contractor; and a change of Control occurs if a person who Controls the Contractor ceases to do so or if another person acquires Control of the Contractor;
<b>CPET</b>	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
<b>Crown Use</b>	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;
<b>Dangerous Goods</b>	means those substances, preparations and articles that are capable of posing a risk to health, safety, property or the environment which are prohibited by regulation, or classified and authorised only under the conditions prescribed by the: a. Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009 (CDG) (as amended 2011); b. European Agreement Concerning the International Carriage of Dangerous Goods by Road (ADR); c. Regulations Concerning the International Carriage of Dangerous Goods by Rail (RID); d. International Maritime Dangerous Goods (IMDG) Code; e. International Civil Aviation Organisation (ICAO) Technical Instructions for the Safe Transport of Dangerous Goods by Air; f. International Air Transport Association (IATA) Dangerous Goods Regulations.
<b>DBS Finance</b>	means Defence Business Services Finance, at the address stated in Schedule 3 (Contract Data Sheet);
<b>DEFFORM</b>	means the MOD DEFFORM series which can be found at <a href="https://www.aof.mod.uk">https://www.aof.mod.uk</a> ;
<b>DEF STAN</b>	means Defence Standards which can be accessed at <a href="https://www.dstan.mod.uk">https://www.dstan.mod.uk</a> ;
<b>Deliver</b>	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;
<b>Delivery Date</b>	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;
<b>Denomination of Quantity (D of Q)</b>	means the quantity or measure by which an item of material is managed;
<b>Design Right(s)</b>	has the meaning ascribed to it by Section 213 of the Copyright, Designs and Patents Act 1988;
<b>Diversion Order</b>	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);

<b>Effective Date of Contract</b>	means the date specified on the Authority's acceptance letter;
<b>Evidence</b>	means either: a. an invoice or delivery note from the timber supplier or Subcontractor to the Contractor specifying that the product supplied to the Authority is FSC or PEFC certified; or b. other robust Evidence of sustainability or FLEGT licensed origin, as advised by CPET;
<b>Firm Price</b>	means a price (excluding VAT) which is not subject to variation;
<b>FLEGT</b>	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;
<b>Government Furnished Assets (GFA)</b>	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;
<b>Hazardous Contractor Deliverable</b>	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;
<b>Independent Verification</b>	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";
<b>Information</b>	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;
<b>Issued Property</b>	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;
<b>Legal and Sustainable</b>	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;
<b>Legislation</b>	means in relation to the United Kingdom any Act of Parliament, any subordinate legislation within the meaning of section 21 of the Interpretation Act 1978, any exercise of Royal Prerogative or any enforceable community right within the meaning of Section 2 of the European Communities Act 1972;
<b>Military Level Packaging (MLP)</b>	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;
<b>Military Packager Approval Scheme (MPAS)</b>	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);
<b>Military Packaging Level (MPL)</b>	shall have the meaning described in Def Stan 81-041 (Part 1);
<b>MPAS Registered Organisation</b>	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;

<b>MPAS Certificated Designer</b>	shall mean an experienced Packaging designer trained and certified to MPAS requirements;
<b>NATO</b>	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;
<b>Notices</b>	shall mean all Notices, orders, or other forms of communication required to be given in writing under or in connection with the Contract;
<b>Overseas</b>	shall mean non UK or foreign;
<b>Packaging</b>	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;
<b>Packaging Design Authority (PDA)</b>	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;
<b>Parties</b>	means the Contractor and the Authority, and Party shall be construed accordingly;
<b>Primary Packaging Quantity (PPQ)</b>	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);
<b>Recycled Timber</b>	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: 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; it excludes sawmill co-products;
<b>Safety Data Sheet</b>	has the meaning as defined in the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) Regulations 2007 (as amended);
<b>Schedule of Requirements</b>	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;
<b>Short-Rotation Coppice</b>	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;
<b>Specification</b>	means the description of the Contractor Deliverables, including any specifications, drawings, samples and / or patterns, referred to in Schedule 2 (Schedule of Requirements);
<b>STANAG 4329</b>	means the publication NATO Standard Bar Code Symbologies which can be sourced at <a href="https://www.dstan.mod.uk/faqs.html">https://www.dstan.mod.uk/faqs.html</a> ;
<b>Subcontractor</b>	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;
<b>Timber and Wood-Derived Products</b>	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, and details of any payments made by the Authority to the Contractor under the Contract;

**Virgin Timber**

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

**SCHEDULE 2 – SCHEDULE OF REQUIREMENTS  
FIRM PRICE (MONTHLY HIRE CHARGE) PER VEHICLE PER MONTH**

Item No	Description	Lease Period 1*	Lease Period 2	Lease Period 3	Lease Period 4	Lease Period 5	Option Period 1	Option Period 2
1	Category C Large Goods Vehicles (LGV) with Draw Bar Couplings Quantity 54	01 Mar 20 - 28 Feb 21 Firm Monthly Price (Each)	01 Mar 21 - 28 Feb 22 Firm Monthly Price (Each)	01 Mar 22 - 28 Feb 23 Firm Monthly Price (Each)	01 Mar 23 - 29 Feb 24 Firm Monthly Price (Each)	01 Mar 24 - 31 Mar 25 Firm Monthly Price (Each)	01 Apr 25 - 31 Mar 26 Firm Monthly Price (Each)	01 Apr 26 - 31 Mar 27 Firm Monthly Price (Each)
1a	Weighted load (per vehicle)							
2	Category C/C+E Draw Bar Trailers Quantity 40							
2a	Weighted load (per vehicle)							
3	Category C+E (Artic) Vehicles & Trailer Combinations Quantity 2							
3a	Weighted load (per vehicle)							
4	Hourly Rate for Accidental Damage Repairs (Condition 46B refers)							
5	Hourly Rate for Weekend Support (Condition 12 of Annex A to Schedule 2 refers)							
6	Trade Tariffs and Border Delays (Condition 46N And Annex I refer)							

\* As delivery of vehicles will be staggered in Lease Period 1, the lease payment per vehicle shall only begin upon delivery (assuming Acceptance by the Authority of each vehicle in accordance with Condition 29 – Acceptance). Where delivery occurs during the course of a month (i.e. not on the first day of a month) the payment for that vehicle for that month shall be a pro rata amount of the Firm Monthly Price.

**Annex A to Schedule 2 - Statement of User Requirement for the  
Provision of Large Goods Vehicles and Trailers for the  
Defence School of Transport Leconfield**

**Requirement**

1. Provide daily on Contract Hire: 54 Category C Large Goods Vehicles (LGV) with draw-bar coupling, 40 Category C/C+E Draw-Bar Trailers and 2 Category C+E Articulated Vehicle and trailer combinations that are compliant to Minimum Test Vehicles (MTV) standard for driver training. These are mainly for use by Authority Instructors at the Defence School of Transport (DST), Leconfield, East Yorkshire, HU177LX; with 14 Category C+E (LGV) Draw-Bar trailers at other nominated locations in throughout the UK, Annex F refers.

**Vehicle Specification**

2. The Contractor shall ensure that:

- all vehicles are new at the start of the contract period
- all category C LGVs shall be right hand drive and of the same make and type, with the capability of pulling a Draw-Bar Trailer;
- all category C+E (Articulated) vehicles shall be right hand drive and of the same make and type, fitted with a 5<sup>th</sup> wheel coupling;
- all vehicles shall comply with the current United Kingdom Motor Vehicle (Driver Licensing Regulations) for LGV licence requirements. They shall, for the whole life of the contract, comply with the Driver & Vehicle Standards Agency (DVSA) requirements for Category C & C+E Minimum Test Vehicles (where applicable) and remain current with Construction and Use Regulations applicable to the vehicle type;
- all vehicles must be fitted with automated transmission;
- all vehicles must be fitted with air operated suspension;
- all vehicles shall be equipped with engines that meet European Emissions Standards, Euro 6 compliant and shall be of sufficient horsepower to meet all driver training requirements as well as offer optimum fuel efficiency.

**Cab Specification**

3. The contractor shall provide vehicles that are:

- fitted with cabs of equivalent size to the MAN 12:240BB
- fitted with seating and sun visors for two students and one instructor.
- the instructor is to be positioned in the left-hand passenger seat of the cab with the non-driving student positioned towards the rear of the cab with a clear view of the road ahead, other seating arrangements, which match the instructor/student relationship, will be considered.
- the instructor seat is to be a suspension seat with an integral 3-point seatbelt and headrest.
- the driver's seat and the instructor's seat shall be adjustable for height, rake and length.

- seats are to be forward facing and be positioned to allow the instructor sufficient space to be able to move freely without being in close bodily contact with, or be impeded by, the non-driving student. Bench seats will not be considered.
- fitted with warning lamps which are clearly visible to the instructor but shielded from the driver's view to show the left and right indicator and to warn when reverse gear has been selected.
- The indicators when on, should give an audible warning of operation from inside the cab with indicator alarm cut off switch and when reverse gear is selected an audible sound is to be heard from outside the vehicle.
- the cab layout in each vehicle is to be of such a design that it provides the instructor with clear visibility of the speedometer from the natural seating position, other solutions will be considered.
- the cab and vehicle are to be of such a design that it reduces (as low as is reasonably practical) the potential risk of injury through Whole Body Vibration (WBV) and complies with The European Physical Agents (Vibration) Directive, 2002/44/EC for the life of the contract.
- fitted with a separate instructor operated foot brake, which can be operated from the instructor's (left) seat.
- cabs are standard factory fit complete with FM radios, fitted with vehicle tracking and communication systems that can be programmed with contact numbers and an instructor SOS button. The system must be able to produce statistical information on driver and vehicle performance.
- fitted with forward facing cameras that record to SD/Hard Drive that is hard wired in to the vehicle cab, 360-degree solutions will be considered.
- fitted with a heated front windscreen or suitable alternative. Vehicles are fitted with Air Conditioning.

#### **Trailer Specifications**

4. The Contractor shall ensure that all trailers shall, for the whole life of the contract:
- be new at the start of the contract period.
  - are of the same make and type.
  - comply with United Kingdom Government requirements for Category C+E Minimum Test Vehicles in all aspects as it applies to Category C & C+E driving tests for LGV and draw-bar trailer and articulated combinations.
  - meet with all Construction and Use Regulations applicable to the trailer type.
  - The trailer body is of a design that limits the noise emitted from the vehicle during normal road use.
  - The body height of each trailer shall be compatible with that of the drawing vehicle.
  - be fitted with appropriate landing gear.
  - fitted with spray suppression that meets with Construction & Use Regulations.
  - be painted white and fitted with blue body/side curtains, other single colour will be considered.
  - be fitted with vehicle/trailer identification numbers that shall be consistent with the remainder of the vehicle fleet.

### **Vehicle Trailer Connections**

5. The Supplier shall ensure that:

- all Category C LGVs are fitted with extended manual release and dogmatic air couplings, with durability to sustain repeated removal under training conditions.
- the coupling connection is to be of such a design that it will enable a driver training student to uncouple and couple the vehicle and trailer with ease and unaided.
- the coupling housing is to be of such a design that it will allow the trailer and vehicle to be connected even at oblique angles of approach during the coupling procedure. A bell housing type coupling similar to the VBG 8500 fitted with a power actuator is deemed sufficient; however, other designs will be considered.
- the 5<sup>th</sup> Wheel coupling connection is to be of such a design that it will enable a driver training student to uncouple and couple the vehicle and trailer with ease and unaided.

### **Vehicle and Trailer Load Compartment Specification**

6. The Supplier shall ensure that:

- All Vehicles and trailers shall be fitted with a Load Compartment which shall comply with the DVSA MTV requirements.
- supply vehicles and trailers fitted with a load platform that enables the safe carriage of a weighted load as specified by the DVSA;
- provide a means of permanently securing the load to the platform. (Ratchet straps will not be considered);
- provide, and secure to the vehicles and trailers, containers for a weighted load required for driver testing as specified by the DVSA, that can be measurable upon visual inspection. It is the Contractor's responsibility to provide the initial fill of water for these containers and provide sufficient saline solution (or other environmentally friendly anti-freeze solution which is not caught by the ADR regulations) to ensure that the load does not freeze when filled with water and shall maintain future requirements of both saline solution and water.

### **Vehicle Specifications – General**

7. Smaller vehicles meeting the specification are preferable; however, vehicles of any make and size will be considered subject to meeting MTV requirements and fitted with a cab that meets the specification. The contractor shall ensure that:

- The vehicle is to be fitted with 2 sets of externally mounted nearside and offside mirrors, one for the driver and one for the examiner/instructor.
- The external vehicle mirrors provide clear sight of both sides of the cab and vehicle for the driver and examiner/instructor.
- The main mirrors are to be heated and fitted with mirror protectors. The instructor who will be positioned in the passenger seat has vision both to the rear and down both sides of the vehicle without moving from a natural forward-facing position.
- An additional kerbside mirror is to be fitted to the offside of the vehicle.
- Vehicles are to be free from contractor's livery.

- Each individual vehicle cab shall be painted white. The entire fleet of vehicles shall be fitted with blue body/curtain sides.
- Each vehicle shall allow secure stowage of overcoats and hand baggage for three persons. If the stowage area is external to the cab, then it is to be lockable and water tight. Dimensions of each item of hand baggage are: length of up to 75 cm, width of up to 30 cm, height of up to 40 cm;
- Vehicles are fitted with spray suppression that meets with construction and use regulations.
- Vehicles shall be allocated a unique three-digit equipment identification mark (EIM) by the contractor. The rear of each vehicle shall be fitted with speed limit signs that will indicate the maximum permitted speed of the vehicle on UK roads.
- The contractor shall ensure that L Plates that comply to DVSA standards are fitted to the front and rear of each vehicle and to the rear of each trailer, they are to be capable of being locked in place and removable.
- Each vehicle and trailer shall be fitted with speed limit signs that will indicate the maximum permitted speed of the vehicle on UK roads.

### **Initial Vehicle Delivery**

8. All vehicles delivered to DST Leconfield shall:

- be new;
- be delivered nominally empty of fuel;
- be fully topped up with engine oil, coolant and battery electrolyte;
- have tyres inflated to the correct pressure;
- be fully equipped with tools (as supplied by the manufacturer);
- be clean;
- be accompanied by a certificate of road worthiness stating that the vehicle complies with the Road Traffic Acts and Construction and Use Regulations.
- The Vehicle shall comply with the law in all aspects.
- The Contractor shall provide specific vehicle familiarisation to the Authority upon delivery, if requested.

### **Vehicle Registration Number Plates, Taxation and Insurance**

9. The Contractor is required to carry out initial registration of all Vehicles prior to delivery to DST Leconfield and shall from the commencement to the end of the contract:

- be responsible for ensuring that all vehicles comply with insurance and taxation legislation whilst the vehicles are being driven by his own employees.
- provide to the Contract Designated Officer a spare set of keys for each vehicle.

### **Fuels, Oils and Lubricants**

10. All Vehicles must be capable of running on MOD fuels as specified in DefStan 01-5. Subject to agreement with the Designated Officer, oils and lubricants may be stored at the Authority's premises at no cost to the Contractor.

### **Vehicle Spares**

11. The Contractor shall from the commencement of the Contract:

- supply a scale of ready-to-use spares for the Vehicle fleet, e.g. bulbs, fuses, lenses etc., details of which are listed as an annex to the contract.
- maintain stock levels contained in the annex to ensure 100% availability of vehicles.
- This Vehicle spares package shall be held by the Contractor and be made available, without delay, to the Designated Officer on request.
- items replaced due to fair wear and tear shall be supplied at no additional cost to the Authority.
- Vehicle spares, including those in the spares package, which are demanded because of neglect, misuse or theft by the Authority's personnel, shall be paid for at cost.
- The Contractor is to provide a Price List of spare parts not covered by 'fair wear and tear', details of which are listed at an annex to the contract.
- The request for payment must be supported by the Supplier's invoice to be sent to the Designated Officer.

### **Maintenance and Servicing**

12. The contractor shall ensure that 100% availability of the vehicle fleet is maintained and provide 1<sup>st</sup> line mobile daily maintenance support at the Defence School of Transport Leconfield (only) from 0730 to 1700 hrs, Monday to Friday. Occasional weekend support may be required as directed by the Designated Officer. The Authority agrees to give a minimum of 36 hours' notice of any requirement for weekend support. Weekend Support will be priced as part of the Tender. The Contractor shall provide servicing and maintenance for vehicles located at DST Leconfield and the locations listed

13. The Contractor shall provide the following services:

- all vehicle servicing in line with the manufacturer's recommended schedules. The Contractor shall be responsible for arranging a mutually acceptable time and place for servicing,
- the contractor agrees to inform the Authority dates and times for the collection and return of the Vehicles. Should the Contractor be permitted to service the Vehicles at the Authority's locations, the Contractor accepts that the Vehicles will be parked in the open;
- routine safety inspections on the load securing mechanism. This is to be recorded as part of the service and maintenance tasks;
- all handling of administrative costs;
- all additional maintenance and breakdown costs required to keep the Vehicle in good working order to meet the declared monthly mileages;
- all tyres, batteries, exhausts and other parts as required;

- supply all the oils, greases, coolants (including anti-freeze), brake fluids etc to meet this requirement.
- In the event a Vehicle is required to be removed for servicing/repair a replacement Vehicle shall be provided by the Contractor at the time of Vehicle withdrawal for the servicing/repair;
- be responsible for the return of Vehicles upon completion of servicing/repair in accordance with a previously agreed return date.
- All vehicles shall be washed by the Contractor (with cold water) as part of the service. These services shall be included in the contract price.

### **Repairs and Breakdowns**

14. The Contractor shall keep the Vehicles in an efficient and roadworthy state throughout the period of the Contract. The Contractor shall ensure:

- repairs, including the provision and replacement of tyres (due to normal wear and tear), shall be the responsibility of the Contractor. Any item replaced due to fair wear and tear shall be supplied at no cost to the Authority;
- the Contractor is responsible for the changing of any wheel(s) when punctures occur and normally within a time frame of 2 hours. The defective wheel(s) will be returned to the Contractor for repair;
- all punctures are repaired free of additional charge by the Contractor except where punctures are proven to have been caused through neglect or misuse by the Authority's personnel. Nail(s), or other such material likely to cause damage in a tyre, which cause the tyre to be irreparable, are defined as fair wear and tear and shall be the Contractor's responsibility.
- The cost of damage repairs to Vehicles whilst in the Authority's possession shall be the Authority's responsibility.
- The Contractor shall be responsible for carrying out all damage repairs to the Vehicle supplied under the Contract. The following procedures shall apply: The Designated Officer shall notify the Contractor of the Vehicle and extent of the damage. Whilst the vehicle is being repaired the Contractor shall provide a replacement Vehicle which is of identical specification to the remainder of the fleet.
- The Contractor shall repair minor damage to paintwork free of additional charge as and when instructed by the Designated Officer.
- If the Vehicle is returned for repair the fuel content shall be agreed between the Contractor and the Designated Officer. Any fuel charges for the difference between the agreed fuel levels and a full tank of fuel on the return to usage of a Vehicle shall be based on the Contractor's trade price for fuel. Invoices for payment shall be accompanied by certified evidence of price.
- The Contractor shall provide AA, RAC or equivalent breakdown and recovery service effective 24 hours daily and a FREEPHONE telephone number to be utilised by the Authority to report Vehicle breakdowns on the highway.

### **Vehicle Replacement**

15. In the event of a mechanical failure (except where the failure is due to proven driver abuse or misuse), breakdown or accident, a replacement Vehicle at no extra charge to the Authority shall be supplied within 2 hours in respect of Vehicles located at DST Leconfield, and within 24 hours for Vehicles located at other nominated locations.

16. Should the Contractor fail to produce the replacement Vehicle within the agreed time frames, the Authority shall have the right to hire another Vehicle or make such arrangements as is necessary for the performance of the service. Any costs so incurred by the Authority shall be charged to the Contractor.

17. When a Vehicle is called in for routine maintenance a replacement shall be provided. Vehicles recalled by the manufacturers or dealers shall be replaced at the Contractor's expense for the duration of the recall. Vehicles provided as replacements under the Contract in the event of a breakdown, accident etc, are in principle, to be registered under the Contractor's arrangements. Where the Contractor establishes a pool of Vehicles intended wholly to support the Contract, when any Vehicle is disposed of by the Contractor or is redeployed to another role within the Contractor's organisation, the Contractor shall ensure that number plates bearing any mark issued by the MOD are removed and returned to the Authority immediately.

### **Vehicle Literature**

18. The Contractor shall provide a Driver's Handbook for each Vehicle at no extra cost to the Authority. The Handbook shall contain the following:

- Vehicle Owner's Manual;
- Service booklet;
- Garage Nomination Letter;
- Breakdown recovery Information;
- Instructions for the replacement of exhausts, windscreens, tyres and batteries;
- the procedure for obtaining a replacement Vehicle;
- A copy of MOT Certificate (where relevant).

### **Vehicle Records**

19. The Contractor shall record monthly odometer readings, and report all usage incurred (including those incurred for servicing/repair) whilst the Vehicle is in the Contractor's possession. These records are to be made available to the Designated Officer for inspection as and when required. A registration document and record of Vehicle servicing, maintenance and repair shall be kept by the Contractor for inspection by the Designated Officer as and when required.

### **Reports and Returns**

20. The Contractor shall provide a consolidated monthly report to the Designated Officer outlining performance against the Key Performance Indicators (KPI). In the report the Contractor shall monitor the duration of all vehicle repairs and provide information on the number of days each vehicle has been unavailable for use by the Authority. Where a replacement vehicle of the same type and specification has been provided this is to be indicated in the report.

21. The contractor shall provide a breakdown of monthly charges per vehicle type, the report must identify lease costs and repair costs by vehicle registration/fleet number.

## **Supplier Service Delivery Plan**

**Supplier:** Dawsongroup Truck and Trailer Limited

**Contract:** Provision of Military Training Vehicles at DST Leconfield & Associated Services

The initial content of this draft Supplier Service Delivery Plan has been replicated from Sections 8 to 21 of Annex A to Schedule 2 – Statement of User Requirement, as advised in the Clarification response below:

*“The Tenderer is to include a detailed response on how they propose to deliver the service as requested in the Annex A to Schedule 2 of ArmyHQ2/00432, Paragraphs 8 – 21 detail the requirement.”*

By way of inclusion, we are confirming that Dawsongroup Truck and Trailer Limited will deliver these requirements as specified.

In our tender submission we have provided detail of how we will deliver the contract; in particular through the Technical Requirements of Response document (in accordance with Annex D to DEFFORM 47).

Therefore, if appointed, our proposed approach to this Supplier Service Delivery Plan, is to review this content alongside our Technical Requirements of Response document together with any subsequent dialogue, to ensure this Plan accurately reflects what has been agreed.

### **Initial Vehicle Delivery**

All vehicles delivered to DST Leconfield shall:

- be new;
- be delivered nominally empty of fuel;
- be fully topped up with engine oil, coolant and battery electrolyte;
- have tyres inflated to the correct pressure;
- be fully equipped with tools (as supplied by the manufacturer);
- be clean;
- be accompanied by a certificate of road worthiness stating that the vehicle complies with the Road Traffic Acts and Construction and Use Regulations.
- The Vehicle shall comply with the law in all aspects.
- The Contractor shall provide specific vehicle familiarisation to the Authority upon delivery, if requested.

### **Vehicle Registration Number Plates, Taxation and Insurance**

The Contractor is required to carry out initial registration of all Vehicles prior to delivery to DST Leconfield and shall from the commencement to the end of the contract:

- be responsible for ensuring that all vehicles comply with insurance and taxation legislation whilst the vehicles are being driven by his own employees.
- provide to the Contract Designated Officer a spare set of keys for each vehicle.

### **Fuels, Oils and Lubricants**

All Vehicles must be capable of running on MOD fuels as specified in DefStan 01-5. Subject to agreement with the Designated Officer, oils and lubricants may be stored at the Authority's premises at no cost to the Contractor.

### **Vehicle Spares**

The Contractor shall from the commencement of the Contract:

- supply a scale of ready-to-use spares for the Vehicle fleet, e.g. bulbs, fuses, lenses etc., details of which are listed as an annex to the contract.
- maintain stock levels contained in the annex to ensure 100% availability of vehicles.
- This Vehicle spares package shall be held by the Contractor and be made available, without delay, to the Designated Officer on request.
- items replaced due to fair wear and tear shall be supplied at no additional cost to the Authority.
- Vehicle spares, including those in the spares package, which are demanded because of neglect, misuse or theft by the Authority's personnel, shall be paid for at cost.
- The Contractor is to provide a Price List of spare parts not covered by 'fair wear and tear', details of which are listed at an annex to the contract.
- The request for payment must be supported by the Supplier's invoice to be sent to the Designated Officer.

### **Maintenance and Servicing**

The contractor shall ensure that 100% availability of the vehicle fleet is maintained and provide 1<sup>st</sup> line mobile daily maintenance support at the Defence School of Transport Leconfield (only) from 0730 to 1700 hrs, Monday to Friday. Occasional weekend support may be required as directed by the Designated Officer. The Authority agrees to give a minimum of 36 hours' notice of any requirement for weekend support. Weekend Support will be priced as part of the Tender. The Contractor shall provide servicing and maintenance for vehicles located at DST Leconfield and the locations listed

The Contractor shall provide the following services:

- all vehicle servicing in line with the manufacturer's recommended schedules. The Contractor shall be responsible for arranging a mutually acceptable time and place for servicing,
- the contractor agrees to inform the Authority dates and times for the collection and return of the Vehicles. Should the Contractor be permitted to service the Vehicles at the Authority's locations, the Contractor accepts that the Vehicles will be parked in the open;
- routine safety inspections on the load securing mechanism. This is to be recorded as part of the service and maintenance tasks;
- all handling of administrative costs;
- all additional maintenance and breakdown costs required to keep the Vehicle in good working order to meet the declared monthly mileages;
- all tyres, batteries, exhausts and other parts as required;

- supply all the oils, greases, coolants (including anti-freeze), brake fluids etc to meet this requirement.
- In the event a Vehicle is required to be removed for servicing/repair a replacement Vehicle shall be provided by the Contractor at the time of Vehicle withdrawal for the servicing/repair;
- be responsible for the return of Vehicles upon completion of servicing/repair in accordance with a previously agreed return date.
- All vehicles shall be washed by the Contractor (with cold water) as part of the service. These services shall be included in the contract price.

### **Repairs and Breakdowns**

The Contractor shall keep the Vehicles in an efficient and roadworthy state throughout the period of the Contract. The Contractor shall ensure:

- repairs, including the provision and replacement of tyres (due to normal wear and tear), shall be the responsibility of the Contractor. Any item replaced due to fair wear and tear shall be supplied at no cost to the Authority;
- the Contractor is responsible for the changing of any wheel(s) when punctures occur and normally within a time frame of 2 hours. The defective wheel(s) will be returned to the Contractor for repair;
- all punctures are repaired free of additional charge by the Contractor except where punctures are proven to have been caused through neglect or misuse by the Authority's personnel. Nail(s), or other such material likely to cause damage in a tyre, which cause the tyre to be irreparable, are defined as fair wear and tear and shall be the Contractor's responsibility.
- The cost of damage repairs to Vehicles whilst in the Authority's possession shall be the Authority's responsibility.
- The Contractor shall be responsible for carrying out all damage repairs to the Vehicle supplied under the Contract. The following procedures shall apply: The Designated Officer shall notify the Contractor of the Vehicle and extent of the damage. Whilst the vehicle is being repaired the Contractor shall provide a replacement Vehicle which is of identical specification to the remainder of the fleet.
- The Contractor shall repair minor damage to paintwork free of additional charge as and when instructed by the Designated Officer.
- If the Vehicle is returned for repair the fuel content shall be agreed between the Contractor and the Designated Officer. Any fuel charges for the difference between the agreed fuel levels and a full tank of fuel on the return to usage of a Vehicle shall be based on the Contractor's trade price for fuel. Invoices for payment shall be accompanied by certified evidence of price.
- The Contractor shall provide AA, RAC or equivalent breakdown and recovery service effective 24 hours daily and a FREEPHONE telephone number to be utilised by the Authority to report Vehicle breakdowns on the highway.

### **Vehicle Replacement**

In the event of a mechanical failure (except where the failure is due to proven driver abuse or misuse), breakdown or accident, a replacement Vehicle at no extra charge to the Authority shall be supplied within 2 hours in respect of Vehicles located at DST Leconfield, and within 24 hours for Vehicles located at other nominated locations.

Should the Contractor fail to produce the replacement Vehicle within the agreed time frames, the Authority shall have the right to hire another Vehicle or make such arrangements as is necessary for

the performance of the service. Any costs so incurred by the Authority shall be charged to the Contractor.

When a Vehicle is called in for routine maintenance a replacement shall be provided. Vehicles recalled by the manufacturers or dealers shall be replaced at the Contractor's expense for the duration of the recall. Vehicles provided as replacements under the Contract in the event of a breakdown, accident etc, are in principle, to be registered under the Contractor's arrangements. Where the Contractor establishes a pool of Vehicles intended wholly to support the Contract, when any Vehicle is disposed of by the Contractor or is redeployed to another role within the Contractor's organisation, the Contractor shall ensure that number plates bearing any mark issued by the MOD are removed and returned to the Authority immediately.

### **Vehicle Literature**

The Contractor shall provide a Driver's Handbook for each Vehicle at no extra cost to the Authority. The Handbook shall contain the following:

- Vehicle Owner's Manual;
- Service booklet;
- Garage Nomination Letter;
- Breakdown recovery Information;
- Instructions for the replacement of exhausts, windscreens, tyres and batteries;
- the procedure for obtaining a replacement Vehicle;
- A copy of MOT Certificate (where relevant).

### **Vehicle Records**

The Contractor shall record monthly odometer readings, and report all usage incurred (including those incurred for servicing/repair) whilst the Vehicle is in the Contractor's possession. These records are to be made available to the Designated Officer for inspection as and when required. A registration document and record of Vehicle servicing, maintenance and repair shall be kept by the Contractor for inspection by the Designated Officer as and when required.

### **Reports and Returns**

The Contractor shall provide a consolidated monthly report to the Designated Officer outlining performance against the Key Performance Indicators (KPI). In the report the Contractor shall monitor the duration of all vehicle repairs and provide information on the number of days each vehicle has been unavailable for use by the Authority. Where a replacement vehicle of the same type and specification has been provided this is to be indicated in the report.

The contractor shall provide a breakdown of monthly charges per vehicle type, the report must identify lease costs and repair costs by vehicle registration/fleet number.

**Schedule 3 – Contract Data Sheet**

<b>General Conditions</b>
<b>Condition 2 – Duration of Contract:</b>  The Contract shall start on the date of the Authority's signature of the Contract. The Contract shall expire on 31 Mar 2025 unless extended by the use of one or more option periods as per Condition 46L.
<b>Condition 4 – Governing Law:</b>  Contract to be governed and construed in accordance with:  English Law <input checked="" type="checkbox"/>  Scots Law <input type="checkbox"/> clause 4.d shall apply <i>(one must be chosen)</i>  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:  N/A
<b>Condition 8 – Authority's Representatives:</b>  The Authority's Representatives for the Contract are as follows:  Commercial: [REDACTED] <i>(as per DEFFORM 111)</i>  Project Manager: [REDACTED] <i>(as per DEFFORM 111)</i>
<b>Condition 19 – Notices:</b>  Notices served under the Contract shall be sent to the following address:  Authority: Army Commercial, Ramillies Building, Monxton Rd, Andover, Hants SP11 8HT <i>(as per DEFFORM 111)</i>  Contractor: Dawsongroup Truck and Trailer Ltd, Delaware Drive, Tongwell, Milton Keynes MK15 8JH  Notices can be sent by electronic mail? <input checked="" type="checkbox"/> <i>(tick as appropriate)</i>
<b>Condition 20.a – Progress Meetings:</b>  The Contractor shall be required to attend the following meetings:  Quarterly Contract reviews Monthly Meetings with PM and Supplier Site Representative

**Condition 20.b – Progress Reports:**

The Contractor is required to submit the following Reports: in accordance with Annex A to Schedule 2, para 20-21

Reports shall be Delivered to the following address:

Commercial Officer – as per the details in DEFFORM 111  
Project Officer – as per the details in DEFFORM111

**Supply of Contractor Deliverables**

**Condition 21 – Quality Assurance:**

Is a Deliverable Quality Plan required for this Contract?  (tick as appropriate)

If required, the Deliverable Quality Plan must be set out as defined in AQAP 2105 and delivered to the Authority (Quality) within 1 Month of Contract Award. Once agreed by the Authority the Quality Plan shall be incorporated into the Contract. The Contractor shall remain at all times solely responsible for the accuracy, suitability and applicability of the Deliverable Quality Plan.

**Other Quality Assurance Requirements:**

**Condition 22 – Marking of Contractor Deliverables:**

Special Marking requirements:

N/A

**Condition 24 - Supply of Data for Hazardous Contractor Deliverables, Materials and Substances:**

A completed Schedule 6 (Hazardous Contractor Deliverables, Materials or Substance Statement), and if applicable, Safety Data Sheet(s) are to be provided by e-mail with attachments in Adobe PDF or MS WORD format to:

- a) The Authority's Representative (Commercial)
- b) Defence Safety Authority – [DSA-DLSR-MovTpt-DGHSIS@mod.uk](mailto:DSA-DLSR-MovTpt-DGHSIS@mod.uk)

to be Delivered no later than one (1) month prior to the Delivery Date for the Contract Deliverable or by the following date: N/A

**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: N/A

**Condition 26 – Certificate of Conformity:**

Is a Certificate of Conformity required for this Contract?  (tick as appropriate)

Applicable to Line Items: 1 - 3

If required, does the Contractor Deliverables require traceability throughout the supply chain?   
(tick as appropriate)

Applicable to Line Items: 1 - 3

**Condition 28.b – Delivery by the Contractor:**

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

Line Items 1 – 3 (Schedule 2 refers)

Special Delivery Instructions:  
See Annex A to Schedule 2 paragraph 8

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

**Condition 28.c - Collection by the Authority: N/A**

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

N/A

Special Delivery Instructions:

N/A

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

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

Line Items: N/A

Line Items: N/A

Consignee details (in accordance with condition 23):

Line Items: N/A

Line Items: N/A

**Condition 30 – Rejection:**

The default time limit for rejection of the Contractor Deliverables is thirty (30) Business 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?  (tick as appropriate)

If required, Delivery address applicable:

N/A

**Pricing and Payment**

**Condition 35 – Contract Price:**

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

Line Items	Clause
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**Termination**

**Condition 42 – Termination for Convenience:**

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

**Other Addresses and Other Information** (forms and publications addresses and official use information)

See Annex A to Schedule 3 (DEFFORM 111)

**Schedule 3  
Annex A**

DEFFORM 111

(Edn 12/17)

Appendix - Addresses and Other Information

**1. Commercial Officer**

Name: [REDACTED]

Address: Army Commercial, Army HQ, Ramillies Bldg, Monxton Rd, Andover, Hants, SP11 8HT

Email: [REDACTED]

**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: [REDACTED]

Headquarters | Defence School of Transport | Normandy Barracks | Leconfield | East Yorkshire | HU17 7LX

Email: [REDACTED]

**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

[www.freightcollection.com](http://www.freightcollection.com)

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

Tel No:

(b) U.I.N.

**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#invoice-processing>

**5. Drawings/Specifications are available from**

**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 Arcott

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

**Applications via fax or email:** [DESLCCLS-](mailto:DESLCCLS-)

[OpsFormsandPubs@mod.uk](mailto:OpsFormsandPubs@mod.uk)

**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.uwh.diif.r.mil.uk/> [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.aof.mod.uk/aofcontent/tactical/toolkit/index.htm>

2. If the required forms or documentation are not available on the MOD Internet site requests should be submitted through the Commercial Officer named in Section 1.

**Schedule 4 - Contract Change Control Procedure (i.a.w. clause 6.b) for Contract No ARMYHQ2/00432**

**1. Authority Changes**

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

**2. Notice of Change**

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

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

**3. Contractor Change Proposal**

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

b. The Contractor Change Proposal shall include:

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

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

**4. Contractor Change Proposal – Process and Implementation**

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

- (1) evaluate the Contractor Change Proposal;
- (2) where necessary, discuss with the Contractor any issues arising and following such discussions the Authority may modify the Authority Notice of Change and the Contractor shall as soon as practicable, and in any event not more than ten (10) Business Days (or such other period as the Parties may agree) after receipt of such modification, submit an amended Contractor Change Proposal.

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

- (1) indicate its acceptance of the Change Proposal by issuing an amendment to the Contract in accordance with Condition 6 (Amendments to Contract); or
- (2) serve a Notice on the Contractor rejecting the Contractor Change Proposal and withdrawing (where issued) the Authority Notice of Change.

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

d. The Authority shall not be liable to the Contractor for any additional work undertaken or expense incurred unless a Contractor Change Proposal has been accepted in accordance with Clause 4b.(1) above.

**5. Contractor Changes**

If the Contractor wishes to propose a Change, it shall serve a Contractor Change Proposal on

the Authority, which shall include all of the information required by Clause 3b above, and the process at Clause 4 above shall apply.

**Schedule 5 - Contractor's Commercially Sensitive Information Form (i.a.w. condition 13) for  
Contract No: ARMYHQ2/00432**

<b>Contract No:</b> ARMYHQ2/00432
<b>Description of Contractor's Commercially Sensitive Information:</b>  All commercial and technical solutions
<b>Cross Reference(s) to location of sensitive information:</b> Commercial Submission Technical Submission
<b>Explanation of Sensitivity:</b>  Commercial offer
<b>Details of potential harm resulting from disclosure:</b>  Competitor information
<b>Period of Confidence (if applicable):</b>  Permanent
<b>Contact Details for Transparency / Freedom of Information matters:</b> Name: [REDACTED] Position: General National Manager and Key Accounts Address: Dawsongroup Truck and Trailer Limited, Delaware Drive, Tongwell, Milton Keynes, MK15 8JH  Telephone Number: [REDACTED] [REDACTED]

**Schedule 6 - Hazardous Contractor Deliverables, Materials or Substances Supplied under the  
Contract: Data Requirements for Contract No: ARMYHQ2/00432**

**Hazardous Contractor Deliverables, Materials or Substances  
Statement by the Contractor**

Contract No: ARMYHQ2/00432

Contract Title: The Provision of Military Training Vehicles at Defence School of Transport (DST)  
Leconfield and Associated Services

Contractor: Dawsongroup

Date of Contract: As per date of DEFFORM 159

\* To the best of our knowledge there are no hazardous Contractor Deliverables, materials or  
substances to be supplied.

\* To the best of our knowledge the hazards associated with materials or substances to be supplied  
under the Contract are identified in the Safety Data Sheets (Qty: ) attached in accordance with  
condition 24.

Contractor's Signature:

Name:

Job Title:

Date:

\* check box () as appropriate

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To be completed by the Authority

Domestic Management Code (DMC):

NATO Stock Number:

Contact Name:

Contact Address:

Copy to be forwarded to:

Hazardous Stores Information System (HSIS)  
Defence Safety Authority (DSA)  
Movement Transport Safety Regulator (MTSR)  
Hazel Building Level 1, #H019  
MOD Abbey Wood (North)  
Bristol BS34 8QW

**Schedule 7 - Timber and Wood-Derived Products Supplied under the Contract: Data Requirements for Contract No: ARMYHQ2/00432**

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) for Contract No: ARMYHQ2/00432**

Throughout the build programme the Customer may visit the Supplier Site to observe the production

The Customer will **accept** the first off build of Vehicles & Trailers. Within 30 calendar days of confirmation that the vehicle or Trailer fully meets all the requirements specified within the Tenderers bid.

Any technical deficiencies (not conforming to the specification) will be rectified at the Tenderers cost.

The Customer is available for consultation throughout the build programme. It is to be noted however, that no material changes, to that agreed as part of the On-Site Technical Evaluation will be permitted.

Subsequent acceptance of the remaining fleet will be in accordance with Condition 29.

### VEHICLE DEPRECIATION SCHEDULE

Vehicle Type: CAT C Large Goods Vehicle with Draw Bar Coupling

Original vehicle Value [REDACTED]

EXPENDED MONTHS	GROSS DEPRECIATION	WRITTEN DOWN VALUE
1	[REDACTED]	[REDACTED]
2	[REDACTED]	[REDACTED]
3	[REDACTED]	[REDACTED]
4	[REDACTED]	[REDACTED]
5	[REDACTED]	[REDACTED]
6	[REDACTED]	[REDACTED]
7	[REDACTED]	[REDACTED]
8	[REDACTED]	[REDACTED]
9	[REDACTED]	[REDACTED]
10	[REDACTED]	[REDACTED]
11	[REDACTED]	[REDACTED]
12	[REDACTED]	[REDACTED]
13	[REDACTED]	[REDACTED]
14	[REDACTED]	[REDACTED]
15	[REDACTED]	[REDACTED]
16	[REDACTED]	[REDACTED]
17	[REDACTED]	[REDACTED]
18	[REDACTED]	[REDACTED]
19	[REDACTED]	[REDACTED]
20	[REDACTED]	[REDACTED]
21	[REDACTED]	[REDACTED]
22	[REDACTED]	[REDACTED]
23	[REDACTED]	[REDACTED]
24	[REDACTED]	[REDACTED]
25	[REDACTED]	[REDACTED]
26	[REDACTED]	[REDACTED]
27	[REDACTED]	[REDACTED]
28	[REDACTED]	[REDACTED]
29	[REDACTED]	[REDACTED]
30	[REDACTED]	[REDACTED]
31	[REDACTED]	[REDACTED]
32	[REDACTED]	[REDACTED]
33	[REDACTED]	[REDACTED]
34	[REDACTED]	[REDACTED]
35	[REDACTED]	[REDACTED]
36	[REDACTED]	[REDACTED]
37	[REDACTED]	[REDACTED]
38	[REDACTED]	[REDACTED]
39	[REDACTED]	[REDACTED]
40	[REDACTED]	[REDACTED]
41	[REDACTED]	[REDACTED]
42	[REDACTED]	[REDACTED]

EXPENDED MONTHS	GROSS DEPRECIATION	WRITTEN DOWN VALUE
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**VEHICLE DEPRECIATION SCHEDULE**

Vehicle Type: Category C/C+E Draw-Bar Trailers

Original vehicle Value: ██████████

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EXPENDED MONTHS	GROSS DEPRECIATION	WRITTEN DOWN VALUE
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**VEHICLE DEPRECIATION SCHEDULE**

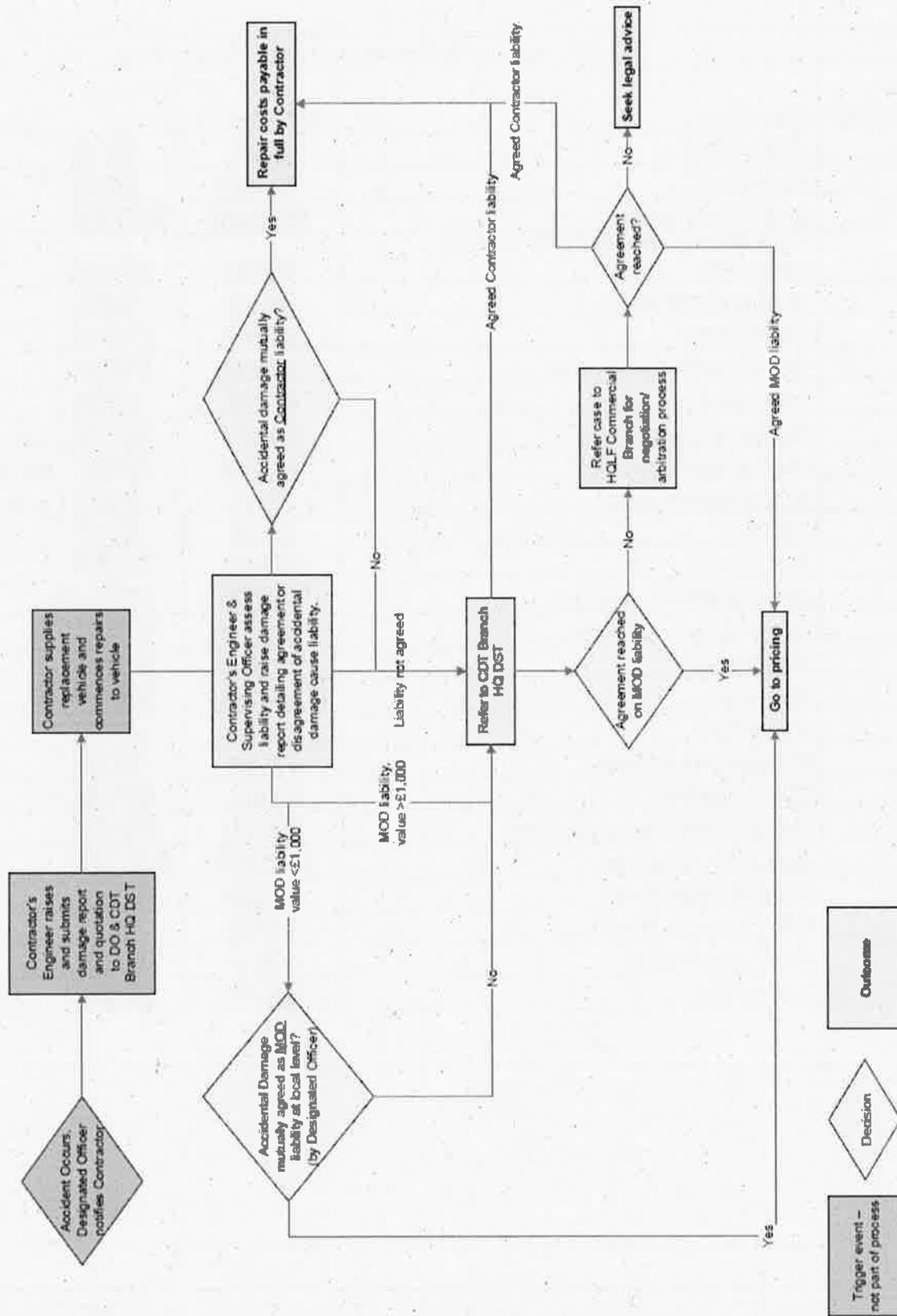
Vehicle Type: Category C+E Articulated Vehicle & Trailer Combinations

Original vehicle Value: ██████████

EXPENDED MONTHS	GROSS DEPRECIATION	WRITTEN DOWN VALUE
1	<span style="background-color: black; color: black;">██████████</span>	<span style="background-color: black; color: black;">██████████</span>
2	<span style="background-color: black; color: black;">██████████</span>	<span style="background-color: black; color: black;">██████████</span>
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EXPENDED MONTHS	GROSS DEPRECIATION	WRITTEN DOWN VALUE
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## ACCIDENTAL DAMAGE LIABILITY PROCEDURES



**SPARES PRICE LIST**

Contractor's Commercial Price List and details of discounts offered for all spare parts, for use in conjunction with Condition 46B

<b>CAT C: Large Goods Vehicle with Draw Bar Coupling</b>				
Part Number	Description	Retail Price £	Discount Price £	Comments
	Ad Blue Cap	██████	██████	
	Door Glass	██████	██████	
	Door Panel (shell)	██████	██████	
	Front Bumper middle section- entire - no sensors	██████	██████	
	Bracket identification	██████	██████	
	Foothold trim	██████	██████	
	Bumper bracket centre part	██████	██████	
	Tread plate	██████	██████	
	Bumper side section o/s	██████	██████	right upper section
	Bumper side section n/s	██████	██████	left upper section
	Front Indicator Unit	██████	██████	within headlamp
	Fuel Cap	██████	██████	
	Fuel Tank	██████	██████	
	Full wing Mirror – nearside	██████	██████	
	Full wing mirror – offside	██████	██████	
	Headlight Unit	██████	██████	
	Kerb Mirror	██████	██████	
	Marker Light	██████	██████	
	Mudguard (behind cab)	██████	██████	
	Rear Lamp Unit	██████	██████	
	Replacement Wing o/s step unit	██████	██████	
	Seat Replacement o/s	██████	██████	
	Seatbelt Replacement	██████	██████	
	Step - nearside upper	██████	██████	
	Step - offside upper	██████	██████	
	Windscreen	██████	██████	

Category C/C+E Draw-Bar Trailers				
Part Number	Description	Retail Price £	Discount Price £	Comments
	ABS Lead	██████	██████	
	Curtain Pelmet - offside or nearside	██████	██████	
	Curtain Pole	██████	██████	
	Curtain Ratchet	██████	██████	
	Electrical Lead BLACK	██████	██████	
	Electrical Lead GREEN	██████	██████	
	Electrical Lead EBS	██████	██████	
	Front Indicator Unit	██████	██████	within headlamp
	Marker Light	██████	██████	
	Mudguard (behind cab)	██████	██████	
	Outer Curtain Buckle	██████	██████	
	Outer Curtain Strap	██████	██████	
	Rear Lamp Unit	██████	██████	
	Red Airline	██████	██████	
	Red Airline	██████	██████	
	Yellow Airline	██████	██████	
	Yellow Airline	██████	██████	

Category C+E Articulated Vehicle & Trailer Combinations			
Description	Retail Price £	Discount Price £	Comments
ABS Lead	██████	██████	
Ad Blue Cap	██████	██████	
Catwalk	██████	██████	
Catwalk	██████	██████	
Door Glass	██████	██████	
Door Panel (shell)	██████	██████	
Electrical Lead BLACK	██████	██████	
Electrical Lead GREEN	██████	██████	
Electrical Lead EBS	██████	██████	
Front Bumper middle section- entire - no sensors	██████	██████	
Foothold trim	██████	██████	
Bumper side section o/s	██████	██████	right upper section
	██████	██████	right lower section
Bumper side section n/s	██████	██████	left upper section
	██████	██████	left lower section
Fuel Cap	██████	██████	
Fuel Tank	██████	██████	
Full wing Mirror – nearside	██████	██████	
Full wing mirror – offside	██████	██████	
Headlight Unit	██████	██████	
Kerb Mirror	██████	██████	
Marker Light	██████	██████	
Mudguard (behind cab)	██████	██████	
Rear Lamp Unit	██████	██████	
Red Airline	██████	██████	
Replacement Wing o/s step unit	██████	██████	
Seat Replacement o/s	██████	██████	
Seatbelt Replacement	██████	██████	
Stepwell n/s	██████	██████	
Step - nearside upper	██████	██████	
Step - nearside centre	██████	██████	
Step - nearside lower	██████	██████	
Stepwell o/s	██████	██████	
Step - offside upper	██████	██████	
Step - offside centre	██████	██████	
Step - offside lower	██████	██████	
Windscreen	██████	██████	
Yellow Airline	██████	██████	
Yellow Airline	██████	██████	

## DRAFT QUALITY PLAN

**Supplier:** Dawsongroup Truck and Trailer Limited

**Contract:** Provision of Military Training Vehicles at DST Leconfield & Associated Services

It is acknowledged that a draft quality plan is to be included, as advised in the Clarification response below:

*"A draft quality plan is to be included as detailed in Condition 21 of Schedule 3."*

Condition 21 of Schedule 3 states that:

If required, the Deliverable Quality Plan must be set out as defined in AQAP 2105 and delivered to the Authority (Quality) within 1 Month of Contract Award. Once agreed by the Authority the Quality Plan shall be incorporated into the Contract. The Contractor shall remain at all times solely responsible for the accuracy, suitability and applicability of the Deliverable Quality Plan.

Having reviewed AQAP 2105, we have identified that Chapter 4 Content of the Quality Plan will need to be considered for this contract and incorporated where applicable under the following headings:

### 1. Project Description

(As per 'Requirement' defined in Annex A to Schedule 2 – Statement of User Requirement)

Provide daily on Contract Hire: 54 Category C Large Goods Vehicles (LGV) with draw-bar coupling, 40 Category C/C+E Draw-Bar Trailers and 2 Category C+E Articulated Vehicle and trailer combinations that are compliant to Minimum Test Vehicles (MTV) standard for driver training. These are mainly for use by Authority Instructors at the Defence School of Transport (DST), Leconfield, East Yorkshire, HU177LX; with 14 Category C+E (LGV) Draw-Bar trailers at other nominated locations throughout the UK.

### 2. Acronyms, Abbreviations and Definitions

To be completed as applicable

### 3. Quality Management System Activities

Activities have been identified and detailed in the Technical Requirements of Response document (in accordance with Annex D to DEFFORM 47).

Therefore, if appointed, our proposed approach to this Quality Plan, is to review this requirement alongside our Technical Requirements of Response document together with any subsequent dialogue, to ensure this Plan appropriately reflects what has been agreed.

In addition, we will document any specific processes and control mechanisms that need to be incorporated.

**4. Referenced Documents**

To be completed as applicable.

**5. Access to Supplier and External Providers**

Access arrangements for Dawsongroup Truck and Trailer are detailed in the Technical Requirements of Response document (in accordance with Annex D to DEFFORM 47) and can be incorporated into this Plan as appropriate.

It is anticipated that all external provider liaison is to be managed by Dawsongroup Truck and Trailer. However, should DST require access to external providers in some instances this can be discussed, agreed and documented accordingly.

In this contract, external providers would relate to third party maintenance suppliers.

**6. Organisation Role, Responsibilities and Authorities**

Organisation charts have been provided as part of the tender submission.  
These can be expanded upon and incorporated as appropriate.

#### 7. Risk Management

The key requirement is for 100% availability of the vehicles.

Our approach to achieving this is detailed in the Technical Requirements of Response document (in accordance with Annex D to DEFFORM 47) and can be incorporated into this Plan as appropriate.

#### 8. Support

Resource for the contract is detailed in the Technical Requirements of Response document (in accordance with Annex D to DEFFORM 47) and can be incorporated into this Plan as appropriate.

#### 9. Operation

Planning and control is inherent in our approach around vehicle configuration, build schedule, delivery programme and in-life maintenance management.

These elements are detailed in our tender submission and will be incorporated as appropriate.

**10. Release of Products**

It is a requirement of the contract, that all vehicles delivered to DST Leconfield shall be accompanied by a certificate of road worthiness stating that the vehicle complies with the Road Traffic Acts and Construction and Use Regulations.

**11. Improvement**

Continual improvement and corrective actions will be identified through contract review meetings, which will include fully documented operational review/action logs, to complement our transparent, partnering approach.

**12. Performance Evaluation**

Dawsongroup Truck and Trailer have an Internal Audit function which can be utilised to determine conformity alongside customer feedback.

**READY TO USE SPARES (Consumables)**

PART NUMBER	QUANTITY TO BE HELD	PRICE £
Top up oil	205 litres	
Bulbs	500 assorted	
Fuses	250 assorted	
Screen wash	100 litres	
Antifreeze	50 litres	

**LOCATIONS FOR VEHICLES USED FOR DRIVER TRAINING & SUPPORTING GARAGES**

Vehicle Location	Contact Address	Contact Phone/Fax	Supporting Garage
Leconfield	Defence School of Transport Normandy Barracks Leconfield Beverley HU17 7LX	Driver Training Squadron Manager: [REDACTED]	MAN Agent North East Truck and Van Hull HU9 5LP  RIX Truck services Hull HU5 1RS  DGTT Leeds
HQ London District	DeLTA Headquarters London District Horse Guards Whitehall, LONDON SW1A 2AX	[REDACTED]	MAN Agent PCL EN8 7PG  Camden Council Depot London N1C 4BE  DGTT Brentwood
4 Infantry Bde and HQ Catterick Garrison	DeLTA Log Sp Branch DeLTA Office 23, Building 11, Piave Lines, Catterick Garrison, DL9 3LR	DeLTA Supervisor [REDACTED]  Fax: [REDACTED]	MAN Agent. N Yorks Commercials Thirsk YO7 3HE  Stanway Commericals Darlington DL2 1HR  DGTT Durham
51 Infantry Brigade & Headquarters Scotland	DeLTA HQ 51 Inf Bde & HQ Scot Building 71 Rm 32 Redford Bks Edinburgh EH13 0PP	DeLTA Supervisor: [REDACTED]  Fax: [REDACTED]	MAN Agent MAN Truck & Bus Broxburn EH52 5AU  Central Fleet Solutions EH52 5AU  DGTT Glasgow
HQ 11 Inf Brigade and HQ South East	DeLTA Headquarters 11 Infantry Brigade & HQ South East Wavell House Cavans Road Aldershot Hants GU11 2LQ	DeLTA Supervisor: [REDACTED]	MAN Agent Cordwallis Reading RG2 0QX  Just Commercials RG74PW  DGTT Heathrow
HQ NW Brigade	DeLTA Fulwood Barracks Preston Lancashire PR2 8AB	Master Driver [REDACTED]  Fax [REDACTED]	MAN Agent: MAN Truck & Bus Preston PR5 8AQ  RNB Commercials WN8 9SA  DGTT Skelmersdale

Vehicle Location	Contact Address	Contact Phone/Fax	Supporting Garage
HQ 160 Infantry Brigade & HQ Wales	DeLTA Log Sp HQ 160 Inf Bde and HQ Wales The Barracks Brecon Powys LD3 7EA	Master Driver: [REDACTED]  Fax [REDACTED]	MAN Agent: Commercial Motors Newport NP19 4RF  Glenside Commercials CF8 3DW  DGTT Cardiff
HQ 1 Arty and HQ SW Brigade	DeLTA HQSW Bldg 62 Jellalabad Barracks Tidworth [REDACTED]	DeLTA Supervisor [REDACTED]  Fax [REDACTED]	MAN Agent: Harwoods Southampton SO403NB  LRC Commercials Winchester SO21 3BG  DGTT Southampton
HQ 38 (Irish) Brigade	Thiepval Barracks, Lisburn, BFPO 801:	Master Driver [REDACTED]	MAN Agent: R K Truck Centre Belfast BT8 8NB WR Forsythe Commercials Belfast BT3 9EF  DGTT Skelmersdale
11 Signals Bde & HQ WM	Log Sp Branch HQ 11 Sig & WM Bde, Venning Barracks, Donnington, TELFORD, TF2 8LF	Master Driver: [REDACTED]  Fax [REDACTED]	MAN Agent: Aquila Telford TF2 7NA Truck & Trailer Services Telford TF1 7GR  DGTT Stoke
Colchester Garrison	HQ Colchester Garrison Gryphon House Colchester Essex CO2 7SW	Master Driver: [REDACTED]  Fax: [REDACTED]	MAN Agent: MAN Truck & Bus Felixstowe IP11 3HZ Bradmanns Ltd Ipswich IP3 9QR  DGTT Ipswich

The number of vehicles at each location may vary throughout the Contract period. As a guide, there are normally no more than two vehicles at each regional location, the remainder of vehicles are at DST Leconfield.

### **LOCAL INSTRUCTIONS FOR OTHER LOCATIONS**

DST and the other locations at which vehicles will be used (listed above) may have a set of local instructions and these will be provided to the Contractor by means of an Amendment to this Annex, if applicable.

If vehicles are moved to any other location subsequent to delivery, details will be provided to the contractor by the Designated Officer.

## SERVICE LEVELS, SERVICE CREDITS AND PERFORMANCE MONITORING

### PART A: SERVICE LEVELS AND SERVICE CREDITS

#### GENERAL PROVISIONS

The Supplier shall provide a proactive Call Off Contract manager to ensure that all Service Levels in this Contract are achieved to the highest standard throughout, the Contract Period

The Supplier shall provide a managed service through the provision of a dedicated Call Off Contract manager where required on matters relating to:

Availability

Maintenance

The Supplier accepts and acknowledges that failure to meet the Service Level Performance Measures set out in the table in Annex 1 to this Part A of this Annex G will result in Service Credits being issued to Customers.

#### PRINCIPAL POINTS

The objectives of the Service Levels and Service Credits are to:

ensure that the Services are of a consistently high quality and meet the requirements of the Customer;

provide a mechanism whereby the Customer can attain meaningful recognition of inconvenience and/or loss resulting from the Supplier's failure to deliver the level of service for which it has contracted to deliver; and

incentivise the Supplier to comply with and to expeditiously remedy any failure to comply with the Service Levels.

#### SERVICE LEVELS

Annex 1 to this Part A of this Annex G sets out the Service Levels the performance of which the Parties have agreed to measure.

The Supplier shall monitor its performance of this Contract by reference to the relevant performance criteria for achieving the Service Levels shown in Annex 1 to this Part A of this Annex G (the "**Service Level Performance Criteria**") and shall send the Customer a Performance Monitoring Report detailing the level of service which was achieved in accordance with the provisions of Part B (Performance Monitoring) of this Annex G

The Supplier shall, always, provide the Services in such a manner that the Service Levels Performance Measures are achieved.

If the level of performance of the Supplier of any element of the provision by it of the Services during the Contract Period:

is likely to or fails to meet any Service Level Performance Measure or

is likely to cause or causes a Critical Service Failure to occur,

the Supplier shall immediately notify the Customer in writing and the Customer, in its absolute discretion and without prejudice to any other of its rights howsoever arising, may:

- (a) require the Supplier to immediately take all remedial action that is reasonable to mitigate the impact on the Customer and to rectify or prevent a Service Level Failure or Critical Service Level Failure from taking place or recurring; and

- (b) if a Service Level Failure has occurred, deduct from the Contract Charges the applicable Service Level Credits payable by the Supplier to the Customer in accordance with the calculation formula set out in Annex 1 of this Part A of this Annex G; or
- (c) if a Critical Service Level Failure has occurred, exercise its right to Compensation for Critical Service Level Failure (including subject, for the avoidance of doubt, the proviso in Condition 43 of this Contract in relation to Material Breach).

### **SERVICE CREDITS**

Annex 1 to this Part A of this Annex G sets out the formula used to calculate a Service Credit payable to the Customer as a result of a Service Level Failure in a given service period which, for the purpose of this Schedule, shall be a recurrent period of one Month during the Call Off Contract Period (the "**Service Period**").

Annex 1 to this Part A of this Annex G includes details of each Service Credit available to each Service Level Performance Criterion if the applicable Service Level Performance Measure is not met by the Supplier

The Customer shall use the Performance Monitoring Reports supplied by the Supplier under Part B (Performance Monitoring) of this Annex G to verify the calculation and accuracy of the Service Credits, if any, applicable to each relevant Service Period.

Service Credits are a reduction of the amounts payable in respect of the Services and do not include VAT. The Supplier shall set-off the value of any Service Credits against the appropriate invoice in accordance with calculation formula in Annex 1 of Part A of this Annex G

### **NATURE OF SERVICE CREDITS**

The Supplier confirms that it has modelled the Service Credits and has taken them into account in setting the level of the Contract Charges. Both Parties agree that the Service Credits are a reasonable method of price adjustment to reflect poor performance.

### **SERVICE CREDIT CAP**

For the purposes of this Contract the **Service Credit Cap** means:

- (d) In the period from the Commencement Date to the end of the first Contract Year **8%** of the Estimated Year 1 Contract Charges; and
- (e) during the remainder of the Contract Period, **8%** of the Contract Charges payable to the Supplier under this Contract in the period of 12 Months immediately preceding the Month in respect of which Service Credits are accrued.

ANNEX 1 TO PART A: SERVICE LEVELS AND SERVICE CREDITS TABLE

Service Levels							Service Credit for each Service Period
Service Level Performance Criterion	Key Indicator	Measurement	Service Level Threshold	Statement of Requirement Reference	Measurement timescale		
<p><b>Maintenance and servicing</b></p> <p>The Contractor shall ensure weekly maintenance support is available daily from 7.30 - 17:00 with a staff member on site at DST Leconfield from 07:30-09:30 daily</p>	Availability	Number of lease vehicles & trailers required/ number of vehicles available when required	100%	Annex A to Schedule 2 Condition 12	Monthly	For each vehicle/trailer not available as required: 3% of the total monthly charge:	

Service Levels							Service Credit for each Service Period
Service Level Performance Criterion	Key Indicator	Measurement	Service Level Threshold	Statement of Requirement Reference	Measurement timescale		
<p><b>Replacement Vehicles</b> The Contractor shall ensure a replacement vehicle is provided within 2 hours of notification for vehicles located at DST Leconfield</p>	Availability	Number of replacement vehicles provided within 2 hours/ number of replacement vehicles provided.	100%	Annex A to Schedule 2 Condition 15	Monthly	For each vehicle/trailer not available as required: 1% of the total monthly charge:	
<p><b>Replacement Vehicles</b> The Contractor shall ensure a replacement vehicle is provided within 24 hours of</p>	Maintenance	Number of replacement vehicles provided within 24 hours/Total number of replacement vehicles provided	100%	Annex A to Schedule 2 Condition 15	Monthly		

Service Levels						Service Credit for each Service Period
Service Level Performance Criterion	Key Indicator	Measurement	Service Level Threshold	Statement of Requirement Reference	Measurement timescale	
notification for vehicles located anywhere in the UK other than DST Leconfield.						

**Service Credits Formula and Worked Example:**

**Formula:  $x$  (Service Level Performance Measure) –  $x$  (actual Service Level Performance) =  $x$  times relevant % (3% Maintenance and servicing, otherwise 1%) of the monthly Call Off Contract Charges payable to the Customer as Service Credits to be deducted from the next Valid Invoice payable by the Customer**

**Worked Example: 105 (Service Level Performance Measure) – 100 (actual Service Level Performance) = 5 times relevant % (3% Maintenance and servicing, otherwise 1%) of the monthly Call Off Contract Charges payable to the Customer as Service Credits to be deducted from the next Valid Invoice payable by the Customer**

**ANNEX 2 TO PART A: CRITICAL SERVICE LEVEL FAILURE**

Critical Service Level Failure: Performance levels so low that the Authority is required to take action (e.g. obtain other vehicles, cancel/re-arrange training) in three months within a rolling period of one year.

## PART B: PERFORMANCE MONITORING

### PRINCIPAL POINTS

Part B to this Annex G provides the methodology for monitoring the provision of the Services:

to ensure that the Supplier is complying with the Service Levels; and

for identifying any failures to achieve Service Levels in the performance of the Supplier and/or provision of the Services ("**Performance Monitoring System**").

Within twenty (20) Working Days of the Commencement Date the Supplier shall provide the Customer with details of how the process in respect of the monitoring and reporting of Service Levels will operate between the Parties and the Parties will endeavour to agree such process as soon as reasonably possible.

### REPORTING OF SERVICE FAILURES

The Supplier shall report all failures to achieve Service Levels and any Critical Service Level Failure to the Customer.

### PERFORMANCE MONITORING AND PERFORMANCE REVIEW

The Supplier shall provide the Customer with performance monitoring reports ("**Performance Monitoring Reports**") which shall contain, as a minimum, the following information in respect of the relevant Service Period just ended:

for each Service Level, the actual performance achieved over the Service Level for the relevant Service Period;

a summary of all failures to achieve Service Levels that occurred during that Service Period;

any Critical Service Level Failures and details in relation thereto;

for any repeat failures, actions taken to resolve the underlying cause and prevent recurrence;

the Service Credits to be applied in respect of the relevant period indicating the failures and Service Levels to which the Service Credits relate; and

such other details as the Customer may reasonably require from time to time.

The Parties shall attend meetings to discuss Performance Monitoring Reports ("**Performance Review Meetings**") on a monthly basis (unless otherwise agreed). The Performance Review Meetings will be the forum for the review by the Supplier and the Customer of the Performance Monitoring Reports. The Performance Review Meetings shall (unless otherwise agreed):

take place within one (1) week of the Performance Monitoring Reports being issued by the Supplier;

take place at such location and time (within normal business hours) as the Customer shall reasonably require unless otherwise agreed in advance;

be attended by the Supplier's Representative and the Customer's Representative; and

be fully minuted by the Supplier. The prepared minutes will be circulated by the Supplier to all attendees at the relevant meeting and also to the Customer's Representative and any other recipients agreed at the relevant meeting. The minutes of the preceding month's Performance Review Meeting will be agreed and signed by both the Supplier's Representative and the Customer's Representative at each meeting.

The Customer shall be entitled to raise any additional questions and/or request any further information regarding any failure to achieve Service Levels.

The Supplier shall provide to the Customer such supporting documentation as the Customer may reasonably require in order to verify the level of the performance by the Supplier and the calculations of the amount of Service Credits for any specified Service Period.

## TRANSFER REGULATIONS

### EMPLOYEE TRANSFER ARRANGEMENTS ON EXIT

#### DEFINITIONS

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

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

**"Data Protection Legislation"** means: (i) Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (the **"General Data Protection Regulation"**); (ii) the Data Protection Act 2018 to the extent that it relates to processing of personal data and privacy; and (iii) all applicable Law about the processing of personal data and privacy;

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

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

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

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

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

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

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

#### 2. EMPLOYMENT

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

2.1.1 No earlier than [two years] preceding the termination, partial termination or Expiry of this Contract or a potential Transfer Date or at any time after

the service of a notice to 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 [X] 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 [X] (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 [X] (Personnel Information) relating to the Transferring Employees. The Contractor shall inform the Authority and/or New Provider of any changes to this list or information up to the Transfer Date.

Within 14 days following the relevant Transfer Date the Contractor shall provide to the Authority and/or any New Provider the information set out in Part C of Appendix 2 of this Schedule [X] in respect of Transferring Employees.

2.1.4 Paragraphs 2.1.1 and 2.1.2 of this Appendix are subject to the Contractor's obligations in respect of the Data Protection Legislation and the Contractor shall use its best endeavours to obtain the consent of its employees (and shall procure that its Sub-Contractors use their best endeavours to obtain the consent of their employees) to the extent necessary under the Data Protection Legislation or provide the data in an anonymous form in order to enable disclosure of the information required under paragraphs 2.1.1 and 2.1.2. Notwithstanding this paragraph 2.1.4, the Contractor acknowledges (and shall procure that its Sub-Contractors acknowledge) that they are required to provide sufficient information to the Authority to enable the Authority to determine the nature of the activities being undertaken by employees engaged in providing the Services, to assess whether there is an organised grouping for the purposes of the Transfer Regulations and to assess who is assigned to such organised grouping. To the extent that anonymous data has been provided by the Contractor pursuant to its obligations under Paragraph 2.1.1 or 2.1.2 above, the Contractor shall provide full data to the Authority no later than 28 days prior to the Transfer Date.

2.1.5 On notification to the Contractor by the Authority of a New Provider or within the period of six months prior to the Termination Date or after service of a notice to terminate this Contract (whether in whole or in part), whichever is earlier and in any event on receipt of a written request by the Authority, the Contractor shall not and shall procure that an Employing Sub-Contractor shall not:

- (a) materially amend or promise to amend the rates of remuneration or other terms and conditions of employment of any person wholly or mainly employed or engaged in providing the Services under this Contract; or
- (b) replace or re-deploy from the Services any person wholly or mainly employed or engaged in providing the Services, or materially increase or decrease the number of persons performing the Services under this Contract or the working time spent on the Services (or any part thereof); or
- (c) reorganise any working methods or assign to any person wholly or mainly employed or engaged in providing the Services (or any part thereof) any duties unconnected with the Services (or any part thereof) under this Contract; or
- (d) terminate or give notice to terminate the employment of any person wholly or mainly employed or engaged in providing the Services (or any part thereof) under this Contract other than in the case of serious misconduct or for poor performance,

save in the ordinary course of business and with the prior written consent of the Authority (not to be unreasonably withheld or delayed) and the Contractor shall indemnify and keep indemnified the Authority in respect of any reasonable costs (including reasonable legal costs), losses and expenses and all damages, compensation, fines and liabilities arising out of or in connection with any breach of paragraphs 2.1.1, 2.1.2, 2.1.3, 2.1.4 or 2.1.5 of this Schedule [X].

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

## 2.2 **Obligations in Respect of Transferring Employees**

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

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

## 2.3 **Unexpected Transferring Employees**

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

- (a) the Contractor shall (or shall procure that the Employing Sub-Contractor shall), as soon as reasonably practicable, offer and/or confirm continued employment to the Unexpected Transferring Employee or take such other steps so as to effect a written withdrawal of the claim or allegation; and
- (b) if the Unexpected Transferring Employee's claim or allegation is not withdrawn or resolved the Contractor shall notify the Authority (who will notify any New Provider who is a party to such claim or allegation), and the Authority (insofar as it is permitted) and/or New Provider (as appropriate) shall employ the Unexpected Transferring Employee or as soon as reasonably practicable, (subject to compliance with its obligations at paragraph 2.3.1(c)(iii)), serve notice to terminate the Unexpected Transferring Employee's employment in accordance with his contract of employment; and
- (c) the Contractor shall indemnify the Authority against all reasonable costs (including reasonable legal costs) losses and expenses and all damages, compensation, fines and liabilities arising out of or in connection with any of the following liabilities incurred by the Authority or New Provider in dealing with or

disposing of the Unexpected Transferring Employee's claim or allegation:

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

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

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

2.4.1 If on the expiry, termination or partial termination of the Contract there is a Relevant Transfer, the Contractor shall indemnify the Authority and any New Provider against all reasonable costs (including reasonable legal costs) losses and expenses and all damages, compensation, fines and liabilities arising out of or in connection with any claim by any employee or trade union representative or employee representative arising whether before or after the Transfer Date out of any failure by the Contractor or

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

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

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

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

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

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

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

2.5.2 The consent of a New Provider (save where the New Provider is the Authority) is not required to rescind, vary or terminate this Contract.

2.5.3 Nothing in this paragraph 2.5 shall affect the accrued rights of the New Provider prior to the rescission, variation, expiry or termination of this Contract.

2.6 **General**

2.6.1 The Contractor shall not recover any Costs and/or other losses under this Schedule [X] 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.

**Appendix 1**

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

**Appendix 2**

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

**Part A**

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

**1.1 Personal, Employment and Career**

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

**1.2 Superannuation and Pay**

- a) Maternity leave or other long-term leave of absence (meaning more than 4 weeks) planned or taken during the last two years;
- b) Annual salary and rates of pay band/grade;
- c) Shifts, unsociable hours or other premium rates of pay;
- d) Overtime history for the preceding twelve-month period;
- e) Allowances and bonuses for the preceding twelve-month period;
- f) Details of outstanding loan, advances on salary or debts;
- g) Pension Scheme Membership;
- h) For pension purposes, the notional reckonable service date;

- i) Pensionable pay history for three years to date of transfer;
- j) Percentage of any pay currently contributed under additional voluntary contribution arrangements; and
- k) Percentage of pay currently contributed under any added years arrangements.

**1.3 Medical**

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

**1.4 Disciplinary**

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

**1.5 Further information**

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

**Part B**

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

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

**PART C**

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

**1.7.1 Performance Appraisal**

The current year's Performance Appraisal;

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

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

**Superannuation and Pay**

Cumulative pay for tax and pension purposes;

Cumulative tax paid;

National Insurance Number;

National Insurance contribution rate;

Other payments or deductions being made for statutory reasons;

Any other voluntary deductions from pay;

**TRADE TARIFFS AND BORDER DELAYS RISK MANAGEMENT PLAN**

To be completed in accordance with Condition 46N

**Brexit Risk Mitigation**

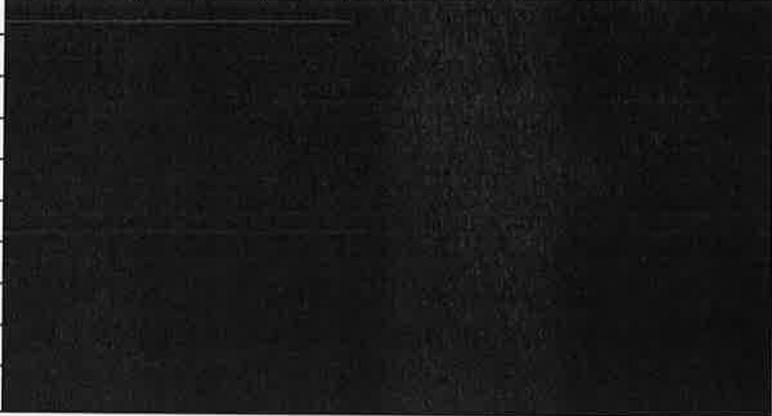
[Redacted]



**Tariff rates for automotive vehicles and tyres after no deal Brexit**

Commodity code	Commodity description	Tariff rate
87012010	Road tractors for semi-trailers, new	[REDACTED]
87042291	Motor vehicles for the transport of goods, with compression-ignition internal combustion piston engine 'diesel or semi-diesel engine' of a gross vehicle weight > 5 t but <= 20 t, new (excluding dumpers for off-highway use of subheading 8704.10, special purpose motor vehicles of heading 8705 and special motor vehicles for the transport of highly radioactive materials)	[REDACTED]
87042299	Motor vehicles for the transport of goods, with compression-ignition internal combustion piston engine 'diesel or semi-diesel engine' of a gross vehicle weight > 5 t but <= 20 t, used (excluding dumpers for off-highway use of subheading 8704.10, special purpose motor vehicles of heading 8705 and special motor vehicles for the transport of highly radioactive materials)	[REDACTED]
40112090	Pneumatic tyres, new, of rubber, of a kind used for buses or lorries, with a load index of > 121	[REDACTED]

**DELIVERY SCHEDULE**

	29 Feb	31-Mar	30-Apr	31-May	30-Jun	31-Jul
100%						
90%+						
80%+						
70%+						
60%+						
50%+						
40%+						
30%+						
20%+						
10%+						