



DE&S

Contract Number:
JSENS/00131

Description:
Giraffe Agile-Multi Beam Radar (G-AMB) CLS Support Contract

TABLE OF CONTENTS

1. SCHEDULE OF REQUIREMENTS

- 1.1 Schedule of Requirements
- 1.2 Options

2. GENERAL CONDITIONS

- DEFCON 501 (Edn.11/17) – Definitions and Interpretations
- DEFCON 503 (Edn.12/14) – Formal Amendments to Contract
- DEFCON 515 (Edn.02/17) – Bankruptcy and Insolvency
- DEFCON 516 (Edn.04/12) – Equality
- DEFCON 518 (Edn.02.17) – Transfer
- DEFCON 520 (Edn.02/17) – Corrupt Gifts and Payments of Commission
- DEFCON 526 (Edn.08/02) – Notices
- DEFCON 527 (Edn.09/97) – Waiver
- DEFCON 528 (Edn.07/17) – Import and Export Licences
- DEFCON 529 (Edn.09/97) – Law (English)
- DEFCON 530 (Edn.12/14) – Dispute Resolution (English Law)
- DEFCON 531 (Edn.11/14) – Disclosure of Information
- DEFCON 532B (Edn.05/18) – Protection of Personal Data
- DEFCON 537 (Edn.06/02) – Rights of Third Parties
- DEFCON 538 (Edn.06/02) – Severability
- DEFCON 539 (Edn.08/13) – Transparency
- DEFCON 550 (Edn.02/14) – Child Labour and Employment Law
- DEFCON 566 (Edn.10/16) – Change of Control of Contractor
- DEFCON 606 (Edn.06/14) – Change and Configuration Control Procedure
- DEFCON 620 (Edn.05/17) – Contract Change Control Procedure
- DEFCON 646 (Edn.10/98) – Law and Jurisdiction (Foreign Suppliers)
- DEFCON 656B (Edn.08/16) – Termination for Convenience - £5M and Over
- DEFCON 658 (Edn.10/17) – Cyber
- DEFCON 659A (Edn.02/17) – Security Measures
- DEFCON 660 (Edn.12/15) – Official-Sensitive Security Requirements
- 2.1 Definitions
- 2.2 Period of Contract
- 2.3 Entire Agreement
- 2.4 Responsibility of the Contractor
- 2.5 Precedence
- 2.6 Sub-Contracts
- 2.7 Contractor's Personnel
- 2.8 Security Measures (with SAL)
- 2.9 Security Vetting of Contractor's Personnel and Places of Work
- 2.10 Publicity
- 2.11 Future Work
- 2.12 Continuing Obligations
- 2.13 Safety
- 2.14 Export Control
- 2.15 Disclosure of Information
- 2.16 Controlled Information

3. SPECIFICATIONS, PLANS, ETC

- DEFCON 68 (Edn.02/17) – Supply of Hazard Data for Articles, Materials and Substances
- DEFCON 117 (Edn.10/13) – Supply of Information for NATO Codification Purposes
- DEFCON 129 (Edn.04/18) – Packaging (For Articles Other Than Munitions)
- DEFCON 129J (Edn.18/11/16) – The Use of the Electronic Business Delivery Form
- DEFCON 502 (Edn.05/17) – Specification Changes
- DEFCON 602B (Edn.12/17) – Quality Assurance (without Quality Plan)
- DEFCON 608 (Edn.10/14) – Access and Facilities to be Provided by the Contractor
- DEFCON 624 (Edn.11/13) – Use of Asbestos
- DEFCON 627 (Edn.12/10) – Requirement for a Certificate of Conformity
- DEFCON 637 (Edn.05/17) – Defect Investigation and Liability
- DEFCON 644 (Edn.07/18) – Marking of Articles

- 3.1 Commercial Risk
- 3.2 Quality Assurance
- 3.3 Obsolescence Management
- 3.4 Configuration Control
- 3.5 Independent Safety Advisor
- 3.6 Tasking
- 3.7 Disposal

4. PRICE

- DEFCON 619A (Edn.09/97) – Customs Duty Drawback
- DEFCON 649 (Edn.12/16) – Vesting
- DEFCON 800 (Edn.12/14) – Qualifying Defence Contract (QDC)
- DEFCON 801 (Edn.12/14) – Amendments to Qualifying Defence Contracts (Consolidated Versions)
- DEFCON 802 (Edn.12/14) – QDC: Open Book on sub-contracts that are not Qualifying sub Contracts
- DEFCON 804 (Edn.03/15) – QDC: Confidentiality of Single Source Contract Regulations Information
- 4.1 Price
- 4.2 Travel and Subsistence
- 4.3 Options
- 4.4 Contract Profit Rate
- 4.5 Import Duty

5. INTELLECTUAL PROPERTY RIGHTS

- DEFCON 16 (Edn.10/04) – Repair and Maintenance Information
- DEFCON 21 (Edn.10/04) – Retention of Records
- DEFCON 90 (Edn.11/06) – Copyright
- DEFCON 126 (Edn.11/06) – International Collaboration
- DEFCON 632 (Edn.08/12) – Third Party Intellectual Property – Rights and Restrictions
- 5.1 Software Licencing

6. LOANS

- DEFCON 23 (Edn.08/09) – Special Jigs, Tooling and Test Equipment
- DEFCON 76 (Edn.12/06) – Contractor's Personnel at Government Establishments
- DEFCON 611 (Edn.02/16) – Issued Property
- DEFCON 612 (Edn.02/16) – Loss Of or Damage to the Articles
- DEFCON 694 (Edn.03/16) – Accounting for Property of the Authority
- 6.1 Government Furnished Assets (GFA)

7. DELIVERY

- DEFCON 5J (Edn.18/11/16) – Unique Identifiers
- DEFCON 113 (Edn.02/17) – Diversion Orders
- DEFCON 507 (Edn.10/98) – Delivery
- DEFCON 514 (Edn.08/15) – Material Breach
- DEFCON 524 (Edn.10/98) – Rejection
- DEFCON 525 (Edn.10/98) – Acceptance
- DEFCON 621A (Edn.06/97) – Transport (If the Authority is Responsible for Transport)
- DEFCON 621B (Edn.10/04) – Transport (If Contractor Is Responsible For Transport)

- 7.1 Document Deliverables
- 7.2 Delivery

8. PAYMENTS/RECEIPTS

- DEFCON 513 (Edn.11/16) – Value Added Tax
- DEFCON 522 (Edn.11/17) – Payment and Recovery of Sums Due
- DEFCON 534 (Edn.06/17) – Subcontracting and Prompt Payment
- DEFCON 649 (Edn.12/16) – Vesting
- DEFCON 670 (Edn.02/17) – Tax Compliance
- 8.1 Payment
- 8.2 Key Performance Indicators
- 8.3 Milestone Payments

9. CONTRACT ADMINISTRATION

DEFCON 604 (Edn.06/14)	–	Progress Reports
DEFCON 605 (Edn.06/14)	–	Financial Reports
DEFCON 609 (Edn.06/14)	–	Contractor's Records
DEFCON 642 (Edn.06/14)	–	Progress Meetings
DEFCON 647 (Edn.09/13)	–	Financial Management Information

9.1 Contractor's Personnel

9.2 Contract Reporting

9.3 Earned Value Management

List of Annexes / Appendices to JSENS/00131

Appendix to Ts&Cs	–	DEFFORM 111 – Addresses and other Information
Annex A	–	CLS Statement of Work (SoW)
Annex B	–	GBAD Support Statement of Work (SoW)
Appendix 1 to Annex B	–	Data Item Descriptions (DIDs)
Annex C	–	Security Aspects Letter (SAL)
Appendix 1 to Annex C	–	Annex N to the SAL
Annex D	–	Milestone Payment Plan for SOR Line Item 2
Annex E	–	Government Furnished Assets
Annex F	–	Tasking Procedure
Appendix 1 to Annex F	–	Task Authorisation Form
Appendix 2 to Annex F	–	Firm Rates for Ad Hoc Tasking
Appendix 3 to Annex F	–	List of Approved Tasks for SOR Line Item 10
Annex G	–	Travel and Subsistence Rates for Tasks and Ad-hoc Meetings
Annex H	–	Key Performance Indicators (KPIs)
Annex I	–	DEFFORM 539A Tenderer's Commercially Sensitive Information Form
Annex J	–	Contract Reports, Plans and Meetings
Annex K	–	Spares Annex
Annex L	–	Test Equipment List
Annex M	–	Contract Data Requirements
Annex N	–	Head Agreement for Licence Terms for Commercial Software Purchased by the Secretary of State (DEFFORM 701)
Appendix 1 to Annex N	–	Annex to the Head Agreement for Licence Terms for Commercial Software
Appendix 2 to Annex N	–	Attachment to Annex to Head Agreement for Licence Terms for Commercial Software

1. SCHEDULE OF REQUIREMENTS

Name and Address of Contractor SAAB AB (Publ)	MINISTRY OF DEFENCE	Contract No JSENS/00131
	Schedule of Requirements for Provision of G-AMB Contract Logistic Support (CLS)	
Issued With DEFFORM 47	On xx December 2018	Previous Contract No JSENS/00114 JSENS/00125

1.1 Schedule of Requirements

Item Number	Description	Notes to Supplier	Price All £ (ex-VAT)
1	Provision of Contractor Logistic Support (CLS) to support the GIRAFFE Multi Beam (G-AMB) systems (quantity ten) in accordance with Annex A – Statement of Work with effect from the 1 st January 2019 to 31 December 2023 for 300 hours per radar per year.	Firm Price	
2	Provision of Basic CLS support to the GIRAFFE Training System GTS	Firm Price	
3	Provision of CLS support for ten (10) G-AMB Maintainer Laptops	Firm Price	
4	Provision of three (3) sets of Special Tools and Test Equipment (STTE)	Firm Price	
5	Provision of updates to all G-AMB Interactive Electronic Technical Publications in accordance with Annex A – Statement of Work	Firm Price	
6	Provision of Helpdesk Support for one-year 01/01/19 until 31/12/19	Firm Price	
7	<u>Training Courses</u> <ul style="list-style-type: none"> a) Provision of a G-AMB Maintainer Training (Technicians) Course b) Provision of a G-AMB Maintainer Training (Mechanical) Course 	Firm Price	
8	<u>Documentation and Management Plans</u> <ul style="list-style-type: none"> a) Risk Management Plan b) Security Management Plan c) Configuration and Data Management Plan d) Change Management Plan e) Government Furnished Assets (GFA) Register f) Obsolescence Management Plan g) Safety and Environmental Management Plan (SEMP) h) Quarterly Progress Report 		
9	<u>Meetings</u> <ul style="list-style-type: none"> a) Quarterly Progress Meeting (QPM) b) MOU Joint Governance Board c) Advisory Team Visit d) Configuration Change Board e) Project Safety and Environmental Panel (PSEP) f) Security Working Group g) Security Vulnerability Assessments 		

10	Post Design Services and Adhoc Taskings on a task by task basis in accordance with Annex F	Tasks to be priced in accordance with Tasking Procedure at Annex F	
11	Provision of GBAD Integration Activities – awaiting SOW	Firm Price	

1.2 Options

Item Number	Description	Notes to Supplier	Price All £ (ex-VAT)
1	Provision of Operator Train the Trainer Refresher Course in accordance with Annex A – Statement of Work Section 7.1	Firm Price Option valid until 31/12/2023 in accordance with Condition 4.3	
2	Provision of a G-AMB Maintainer Training (Technical) in accordance with Annex A – Statement of Work Section 7.2	Firm Price Option valid until 31/12/2023 in accordance with Condition 4.3	
3	Provision of G-AMB REME (Mechanical) Training Course in accordance with Annex A – Statement of Work Section 7.3	Firm Price Option valid until 31/12/2023 in accordance with Condition 4.3	
4	Provision of ERES Software Tool including Training and Data Analysis in accordance with Annex A – Statement of Work Section 7.4	Firm Price Option valid until 31/12/2023 in accordance with Condition 4.3	
5	Provision of a Subject Matter Expert (SME) in accordance with Annex A – Statement of Work Section 7.5	Firm Price Option valid until 31/12/2023 in accordance with Condition 4.3	
6	One-way G-AMB Transportation between UK and Sweden in accordance with Annex A – Statement of Work Section 7.6	Firm Price Option valid until 31/12/2023 in accordance with Condition 4.3	
7	European Training/Exercise Support – Enhanced CLS support for Training Exercises within Europe in accordance with Annex A – Statement of Work Section 7.7	Firm Price Option valid until 31/12/2023 in accordance with Condition 4.3	
8	Deployable Spares Pack in accordance with Annex A – Statement of Work Section 7.8	Firm Price Option valid until 31/12/2023 in accordance with Condition 4.3	

9	G-AMB Refurbishment in accordance with Annex A – Statement of Work Section 7.9	Firm Price Option valid until 31/12/2023 in accordance with Condition 4.3	
10	Deployed ■■■ CLS Support in accordance with Annex A – Statement of Work Section 7.10	Firm Price Option valid until 31/12/2023 in accordance with Condition 4.3	
11	Special to Type Test Equipment in accordance with Annex A – Statement of Work Section 7.11	Firm Price Option valid until 31/12/2023 in accordance with Condition 4.3	
12	Enhanced CLS (Low Profile) in accordance with Annex A – Statement of Work Section 7.12	Firm Price Option valid until 31/12/2023 in accordance with Condition 4.3	
13	Enhanced CLS (Low Profile) in accordance with Annex A – Statement of Work Section 7.13	Firm Price Option valid until 31/12/2023 in accordance with Condition 4.3	
14	Enhanced CLS (Low Profile) in accordance with Annex A – Statement of Work Section 7.14	Firm Price Option valid until 31/12/2023 in accordance with Condition 4.3	
15	Provision of Helpdesk Support from 01/01/20 until 31/12/20	Firm Price Option valid until 31/12/2020 in accordance with Condition 4.3	
16	Provision of Helpdesk Support from 01/01/21 until 31/12/21	Firm Price Option valid until 31/12/2021 in accordance with Condition 4.3	
17	Provision of Helpdesk Support from 01/01/22 until 31/12/22	Firm Price Option valid until 31/12/2022 in accordance with Condition 4.3	

18	Provision of Helpdesk Support from 01/01/23 until 31/12/23	Firm Price Option valid until 31/12/2023 in accordance with Condition 4.3	
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2. GENERAL CONDITIONS

DEFCON 501 (Edn.11/17) – Definitions and Interpretations

DEFCON 503 (Edn.12/14) – Formal Amendments to Contracts

DEFCON 515 (Edn.02/17) – Bankruptcy and Insolvency

DEFCON 516 (Edn.04/12) – Equality

DEFCON 518 (Edn.02/17) – Transfer

DEFCON 520 (Edn.02/17) – Corrupt Gifts and Payments of Commission

DEFCON 526 (Edn.08/02) – Notices

DEFCON 527 (Edn.09/97) – Waiver

DEFCON 528 (Edn.07/17) – Import and Export Licences

NOTE 1: for the purposes of this Contract, 'overseas' shall mean outside the Country in which the Contractor is registered.

NOTE 2: The Contractor's attention is drawn to Clause 16 of DEFCON 528. The period of notice for both Parties shall be 20 business days.

DEFCON 529 (Edn.09/97) – Law (English)

DEFCON 530 (Edn.12/14) – Dispute Resolution (English Law)

DEFCON 531 (Edn.11/14) – Disclosure of Information

DEFCON 532B (Edn.05/18) – Protection of Personal Data

DEFCON 537 (Edn.06/02) – Rights of Third Parties

DEFCON 538 (Edn.06/02) – Severability

DEFCON 539 (Edn.08/13) – Transparency

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

DEFCON 566 (Edn.10/16) – Change of Control of Contractor

DEFCON 606 (Edn.06/14) – Change and Configuration Control Procedure

DEFCON 620 (Edn.05/17) – Contract Change Control Procedure

DEFCON 646 (Edn.10/98) – Law and Jurisdiction (Foreign Suppliers)

DEFCON 656B (Edn.08/16) – Termination for Convenience - £5M and Over

NOTE: For the purposes of this DEFCON, the period of notice shall be at least 20 business days

DEFCON 658 (Edn.10/17) – Cyber

DEFCON 659A (Edn.02/17) – Security Measures

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

2.1 Definitions

- 2.1.1 In addition to those definitions detailed in DEFCON 501 (Edn.11/17) and other DEFCONs as applicable, for the purposes of this Contract:

“Authority’s Commercial Branch” means the organisation in which the point of contact detailed in box 1 of DEFFORM 111 is managed.

“Authority’s Personnel” means any officer, agent, contractor or employee of the Authority or member of the armed forces acting in the course of his office, contract or employment (as applicable) but excluding in each case the Contractor and any Contractor Personnel.

“Clause” means any individual term within this Contract.

“Condition” means any individual / group of clauses within this Contract.

“Contract” means this document JSENS/00131 and the associated Annexes.

“Contract Amendment” means a formal change to the Contract, in accordance with DEFCON 503 (Edn.12/14).

“Contractor’s Personnel” shall include all employees of the Contractor and Sub-Contractors to the Contractor who are directly or indirectly involved in the delivery of the Contract, or support thereof.

“Government Furnished Assets” or “GFA” means any item in the GFA list at Annex E provided by the Authority to the Contractor in support of this Contract, including Government Furnished Equipment/Resources/Facilities/Information (GFE/GFR/GFF/GFI).

“Option” means anything outside of the initial scope, but detailed within this Contract at Condition 1.2, which may or may not be added to the Contract scope.

“Parties” means both the Authority and the Contractor in relation to this Contract.

“Party” means either the Authority or the Contractor.

“Quality Assurance Representative” refers to the Authority specified in Box 7 of DEFFORM 111.

“Sub-Contract” means a contract or arrangement between the Contractor and any other organisation or person for the provision of goods and/or services to the Contractor solely for the purposes of fulfilling the Contractor’s obligations under this Contract.

“Sub-Contractor” means any organisation or person party to a Sub-Contract, as defined above, with the Contractor.

“Third Party” means any individual or group of individuals who is/are not a party to the Contract.

2.2 Period of Contract

- 2.2.1 All work under this Contract shall commence **xx** December 2018 and, unless otherwise terminated in accordance with the provision of this Contract or otherwise lawfully terminated, be completed by 31 December 2023.
- 2.2.2 Where a task is authorised in accordance with Condition 4.2 and Annex F during the period of Contract but completion of the task will be outside this period, then the task will be fulfilled in accordance with the terms and conditions and procedures of this Contract and by the date specified in the tasking form.

2.3 Entire Agreement

- 2.3.1 This Contract constitutes the entire agreement between the Parties relating to the subject matter of this Contract. This Contract supersedes all prior negotiations, representations and undertakings, whether written or oral, except that this Condition shall not exclude liability in respect of any

fraudulent misrepresentation. This Contract is without prejudice to any other agreement between the Contractor and the Authority.

2.4 Responsibility of the Contractor

2.4.1 The Contractor's responsibilities under this Contract shall in respect of Clause 2.4.1 include, but not be limited to:

- 2.4.1.1 carrying out all activities and producing the deliverables, as described in the SoR at Annex A to this Contract, and/or as defined by an approved task, to meet the Authority's requirement, in accordance with the Conditions of this Contract;
- 2.4.1.2 the placing, administration, control and management of all Sub-Contracts, required to meet the requirements of this Contract;
- 2.4.1.3 planning, programming and progressing of the work, including preparation and delivery of appropriate documentation;
- 2.4.1.4 financial management of the work, including financial control and monitoring of all Sub-Contracts;
- 2.4.1.5 providing the Authority with the information reasonably required to satisfy the Representative on a continuing basis that the work is proceeding to time, cost and performance. This is without prejudice to the specific Contract reporting requirements outlined in this Contract.

2.5 Precedence

2.5.1 If there is any inconsistency between the provisions of the main body of this Contract and the Annexes, or between any of the Annexes, the conflict shall be resolved according to the following descending order of priority:

- 2.5.1.1 Contract Schedule of Requirements (SOR) – Contract Condition 1;
- 2.5.1.2 Contract Narrative Conditions;
- 2.5.2.3 Contract DEFCONs;
- 2.5.2.4 Annex A – Statement of Requirement (SoR);
- 2.5.2.5 Annex D – Milestone Payment Plan;
- 2.5.2.6 All other Contract Annexes.

2.5.2 If either Party becomes aware of inconsistency between the provisions of the main body of this Contract and the Annexes, or between any of the Annexes such Party shall notify the other Party forthwith and the Parties shall resolve the conflict caused by that inconsistency on the basis of the order of precedence set out in Clause 2.5.1. 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 shall be referred to dispute resolution in accordance with DEFCON530.

2.6 Sub-Contracts

2.6.1 The Contractor shall ensure that the Authority's Commercial Branch is notified at the earliest opportunity of all potential Sub-Contracts to be placed by the Contractor in the execution of this Contract.

2.6.2 The Contractor shall include in any Sub-Contract the same conditions as are included in the Contract, modified if necessary so as to apply to the Sub-Contractor.

2.6.3 The Contractor shall provide the Authority's Commercial Branch with a copy of any Sub-Contract, if so requested.

- 2.6.4 The Contractor shall be responsible for the award, administration and performance of all Sub-Contracts in such a manner to ensure that the delivery and performance requirements of the Contract are met. The Authority shall not be responsible for any inconsistencies, incompatibilities or omissions in the Contractor's agreements with its Sub-Contractors.

2.7 Contractor's Personnel

- 2.7.1 The Contractor shall procure that:

- 2.7.1.1 sufficient staff (including all relevant grades of supervisory staff) with the requisite level of skill and experience to this Contract. This obligation shall include ensuring that there are sufficient staff to cover periods of holiday, sickness, other absences and anticipated and actual peaks in demand throughout the duration of this Contract; and
- 2.7.1.2 all Contractor Personnel receive such training and supervision as is necessary to ensure the proper performance of this Contract in accordance with the provisions herein.

2.8 Security Measures (with SAL)

- 2.8.1 For the purposes of 659A, the secret matter of the Contract is defined in the Authority's Security Aspects Letter (SAL) ref **JSSENS/xxxx**, dated **xx/xx/18** at Annex C to this Contract. Changes in these classifications will be notified by the Authority's Commercial Representative to whom enquiries about the SAL should be addressed.

2.9 Security Vetting of Contractor's Personnel and Places of Work

- 2.9.1 Where it is a statutory requirement that any Contractor's Personnel be of a required clearance level before undertaking particular work as specified in the SAL(s) at Annex C to this Contract, the Contractor will need to ensure the validity of the clearance throughout the term of employment.
- 2.9.2 The Contractor shall ensure that all personnel are made aware of and comply with all the appropriate security measures, as directed by the Contract and the security policy, and with the security regulations pertaining to all work and documents relating to the project and the environments where the Contractor's activities may be undertaken.
- 2.9.3 The facilities in which the Contractor shall store/handle classified material in relation to this Contract shall be, and shall remain for the duration of the Contract, suitable for handling the information in accordance with the security requirements as defined in the SoW at Annex A and in the SAL(s) at Annex C to this Contract. The Contractor shall include in any relevant Sub-Contracts the provision, that should the Sub-Contractor intend to store/handle classified material in relation to the Contract, its facilities shall also be and remain for the duration of the Contract, suitable for handling the information in accordance with the security requirements as defined in the SoW at Annex A and in the SAL(s) at Annex C to this Contract.

2.10 Publicity

- 2.10.1 The Contractor shall note that no publicity or communication with representatives of press, television, radio or other media, unless otherwise agreed in writing by the Authority's Commercial Branch, shall be permitted on any aspects of this Contract. The Contractor shall not release any information publicly relating it, any employees, or Sub-Contractors to this Contract without the prior written approval of the Authority's Commercial Branch.
- 2.10.2 This Condition is to be flowed down to all Sub-Contractors.
- 2.10.3 Any failure to comply with the obligations under this Condition 2.9 shall be treated as a breach of contract potentially leading to termination or deductions equivalent to the damage resulting from any disclosure.

2.11 Future Work

- 2.11.1 Nothing in this Contract shall be interpreted as an undertaking by the Authority to place any other contract with the Contractor or to authorise the Contractor to carry out any further work in connection with the work carried out under this Contract.

2.12 Continuing Obligations

- 2.12.1 Save as otherwise expressly provided in this Contract or as already taken into account in the calculation of any payment on termination pursuant to this Contract, termination/expiry of this Contract shall be without prejudice to any accrued rights or obligations under this Contract prior to termination/expiry; and

- 2.12.2 termination/expiry of this Contract shall not affect the continuing rights and obligations of the Contractor and the Authority under:

2.12.2.1 Condition 2.8, Security Vetting of Contractor's Personnel and Places of Work;

2.12.2.2 DEFCON 659A (Edn.02/17) – Security Measures;

2.12.2.3 Condition 5, Intellectual Property Rights;

2.12.2.4 Condition 2.15, Confidentiality;

2.12.2.5 Condition 2.16, Controlled Information;

2.12.2.6 DEFCON 530 (Edn.12/14), Dispute Resolution;

and/or under any other provision of this Contract which is expressed to survive termination/expiry or which is required to give effect to such termination or the consequences of such termination.

2.13 Safety

- 2.13.1 The Contractor shall be responsible for the observance by itself, its employees, agents and Sub-Contractors of all safety precautions necessary for the protection of its employees, agents, Sub-Contractors and any other persons, including all precautions to be taken under statutory provisions or any other directions of any local or other authority having the force of law. The Contractor shall co-operate fully with the Authority to ensure the proper discharge of these duties.

2.14 Export Control

- 2.14.1 The Contractor shall be solely responsible for securing all necessary export licences in a timely manner to ensure that the Contractor shall meet the delivery dates in accordance with Annex A to the Contract. The Contractor shall keep the Authority informed of any regulatory changes affecting the deliverables under this Contract and any subsequent changes in the obligations of the Authority.
- 2.14.2 The Authority acknowledges that the deliverables under this Contract are subject to Swedish and US export control regulations and delivery is subject to timely Authority of End Use Certificates or statements as appropriate confirming compliance with such regulations in respect of the following items and such others as may be further identified by the Contractor under Clause 2.14.1:
- 2.14.1.1 Any equipment that is to be manufactured outside of the United Kingdom;
- 2.14.1.2 Any data, drawings, specifications, manufacturing data and other like information required for manufacture of any equipment under licence in the United Kingdom; and
- 2.14.1.3 For the provision of all other information, documents, technical assistance and data required to satisfy in full the requirements of this Contract.

2.15 Disclosure of Information

- 2.15.1 In addition to the provisions of DEFCON 531 (Edn.11/14), the Parties shall take every precaution to ensure that information arising from, or connected with, the Contract, is divulged only to the

minimum number of employees, and then only to the extent essential to each person's action in carrying out the Contract.

2.16 Controlled Information

- 2.16.1 This Condition shall apply in addition to and notwithstanding DEFCON 531 (Edn.11/14) or any other confidentiality Condition of the Contract.
- 2.16.2 For the avoidance of doubt all third party proprietary information providing performance of its proprietary product(s), shall be considered to bear the legend "Controlled Information".
- 2.16.3 For the purposes of this Condition "Controlled Information" shall mean any confidential information in any written or tangible form which is disclosed to the Contractor by or on behalf of the Authority under or in connection with the Contract, and which is identified by the legend "Controlled Information" or other approved legend notified to the Contractor. Controlled Information shall exclude information provided by oral communication.
- 2.16.4 The Contractor shall:
- 2.16.4.1 hold the Controlled Information and not use it other than for the purpose of discharging its obligations under the Contract;
 - 2.16.4.2 not copy the Controlled Information except as strictly necessary for the purpose of discharging its obligations under the Contract;
 - 2.16.4.3 not disclose the Controlled Information to any Third Party unless so authorised in writing beforehand by the Authority;
 - 2.16.4.4 Protect the Controlled Information diligently against unauthorised access and against loss; and
- Act diligently to ensure that:
- i. Controlled Information is disclosed to its employees only to the extent necessary for the purpose of discharging its obligations under the Contract;
 - ii. employees to whom Controlled Information is disclosed are made aware of and required to comply with the terms of this Condition 2.16.
- 2.16.5 Where Controlled Information is provided to the Contractor, it shall:
- 2.16.5.1 compile a register of that Controlled Information, which shall include explicit description of the Controlled Information, a record of the number of copies made and a record of all access to the Controlled Information including access to any copies of the Controlled Information.
 - 2.16.5.2 maintain this register for the duration of the Contract and for two years following completion of the Contract;
 - 2.16.5.3 make the register of access available to the Authority upon reasonable notice for inspection and audit for so long as it is required to be maintained under this Condition; and
 - 2.16.5.4 at the completion of the Contract, return to the Authority all original and duplicate copies of the Controlled Information, or else at the Authority's option destroy these copies and provide a certificate of destruction to the Authority.
- 2.16.6 This Condition shall not diminish or extinguish any right of the Contractor to copy, use or disclose any other information to the extent that it can show:

2.16.6.1 that the information concerned was or has become published or publicly available for use without breach of any provision of the Contract or any other agreement between the parties.

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

2.16.6.2 that the information concerned was lawfully provided by a Third Party without restriction on use or further disclosure; or

2.16.6.3 from its records, that the information was derived independently of the Controlled Information;

2.16.6.4 the extent that copying use or disclosure of this information shall not disclose its relationship to any Controlled Information.

3. SPECIFICATIONS, PLANS ETC

DEFCON 68 (Edn.02/17) – Supply of Hazard Data for Articles, Materials and Substances

DEFCON 117 (Edn.10/13) – Supply of Information for NATO Codification Purposes

DEFCON 129 (Edn.04/18) – Packaging (For Articles Other Than Munitions)

DEFCON 129J (Edn.18/11/16) – The Use of the Electronic Business Delivery Form

DEFCON 502 (Edn.05/17) – Specification Changes

DEFCON 602B (Edn.12/06) – Quality Assurance (without Quality Plan)

DEFCON 608 (Edn.10/14) – Access and Facilities to be Provided by the Contractor

DEFCON 624 (Edn.11/13) – Use of Asbestos

DEFCON 627 (Edn.12/10) – Requirement for a Certificate of Conformity

DEFCON 637 (Edn.05/17) – Defect Investigation and Liability

DEFCON 644 (Edn.07/18) – Marking of Articles

3.1 Commercial Risk

3.1.1 The Contractor acknowledges that any risk assessment which has been, or may be, undertaken in connection with this Contract has been, or will be, a project management function only. Such risk assessment does not affect the legal relationship between the parties. The issuing of any risk assessment questionnaire and the process of risk assessment generally, including without limitation, the identification of (or failure to identify):

3.1.1.1 particular risks and their impact; or

3.1.1.2 risk reduction measures, contingency plans and remedial actions

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

3.2 Quality Assurance

3.2.1 In addition to those standards and regulations provided for elsewhere in this Contract the Contractor shall comply with the following quality standards in the performance of its obligations under this Contract.

3.2.2 The Contractor shall hold and maintain an appropriate Third Party certification as awarded by a UK accredited certification body or equivalent. The resultant quality management system shall have appropriate scope for the work being undertaken; Quality assurance shall be conducted in accordance with AQAP 2110 Edition D.

3.2.3 For the purposes of this Contract the following Defence Standards shall apply:

3.2.3.1 Def Stan 05-57 Issue 6 dated 07/03/2014 Configuration Management of Defence Material - plus Annex H;

3.2.3.2 Def Stan 05-135 Issue No.1 dated 10/07/2014 Avoidance of Counterfeit;

3.2.3.3 Def Stan 05-61 Pt1 Issue No.6 dated 31/03/2016 Quality Assurance Procedural Requirements – Concessions;

3.2.3.4 Def Stan 05-61 Pt4 Quality Assurance Procedural Requirements – Contractor Working Parties;

3.2.3.5 Def Stan 05-61 Pt9 Quality Assurance Procedural Requirements – Independent Inspection Requirement for Safety Critical Items.

3.2.4 For the purposes of this contract the product quality requirements and evaluation of COTS software shall be in accordance with ISO/IEC 25001: 2014 entitled “Software Engineering – Software Product Quality Requirements and Evaluation (SQuaRE) – Planning and Management”.

3.3 Obsolescence Management

3.3.1 Obsolescence Management shall be in accordance with the Contractor’s Obsolescence Management Plan as required in Section 6.4.13 of the Statement of Work at Annex A to this Contract.

3.4 Configuration Control

3.4.1 Configuration Management shall be in accordance with the Contractor’s Configuration and Data Management Plan as required in Section 6.2.7 of the Statement of Work at Annex A to this Contract.

3.5 Independent Safety Advisor

3.5.1 The Contractor shall provide access to records, including sub-contractor records, for contract purposes, to enable the MOD appointed Independent Safety Advisor (ISA) to carry out safety audits and other assessment activities to meet MOD safety requirements.

3.6 Tasking

3.6.1 Post Design Services (PDS) and Ad-hoc Tasks will be agreed in accordance with the procedure at Annex F to this Contract.

3.7 Disposal

3.7.1 Disposal of equipment shall be in accordance with Section 6.4.14 of the Statement of Work at Annex A to this Contract.

4. PRICE

DEFCON 619A (Edn.09/97) – Customs Duty Drawback

DEFCON 649 (Edn.12/16) - Vesting

DEFCON 800 (Edn.12/14) – Qualifying Defence Contract (QDC)

DEFCON 801 (Edn.12/14) – Amendments to Qualifying Defence Contracts (Consolidated Versions)

DEFCON 802 (Edn.12/14) – QDC: Open Book on sub-contracts that are not Qualifying Sub-contracts

DEFCON 804 (Edn.03/15) – QDC: Confidentiality of Single Source Contract Regulations Information

4.1 Price

- 4.1.1 Firm Prices shall be agreed in advance, calculated using the firm labour rates at Appendix 2 to Annex F. All work to be undertaken under Item 13 of the SOR shall be tasked in accordance with the procedures detailed at Annex F. The Authority shall not be liable for any costs associated with work undertaken under Item 3 which has not been tasked in accordance with Annex F.
- 4.1.2 The total price of item 9 (meetings) to the SOR Condition 1.1 shall not exceed the Limit of Liability corresponding to Line 9 on the SOR Condition 1.1. The Contractor's obligation to attend and support shall not exceed that Limit of Liability.
- 4.1.3 In the event that equipment/data is being imported into the UK from overseas the Firm Price detailed on the SOR shall include all associated costs of meeting the requirement (excluding any required UK import duty).

4.2 Travel and Subsistence

- 4.2.1 For travel and subsistence costs applicable to tasks under item 10 of the SOR, the following shall apply:

- 4.2.1.1 The Authority shall require evidence of all travel and subsistence incurred in the performance of all tasks, this shall be paid on completion of the task. The travel and subsistence limits in Table 1 at Annex G to the Contract shall apply.

- 4.2.1.2 Any price in excess of the limits in Table 1 at Annex G to the Contract will require justification and the advance approval of the Commercial Officer stated in DEFFORM stated in DEFFORM 111, Box 1.

- 4.2.1.3 For any car journeys made in the performance of the Contract, the Contractor may claim £0.25p per mile, other claims including vehicle insurance are not allowable. For flights the Contractor may claim up to a total sum of £250 return. Any price in excess of these limits for flights will require justification and the advance approval of the Commercial Officer stated in DEFFORM 111, Box 1.

- 4.2.1.4 The limits for Travel and Subsistence in Table 1 at Annex G to the Contract are subject to 2% indexation per annum (excluding mileage) in line with the UK MOD Financial Year (as shown in Table 1).

- 4.2.1.5 For Air, Sea and Rail travel, if possible the Contractor shall use any benefits obtained as a direct consequence of the Contractor's performance under the Contract (e.g. Air Miles) to offset the costs of further travel required in performance of items placed under the Contract.

4.2 Options

- 4.2.1 In addition to and in consideration of the items identified in SOR Condition 1.1 the Contractor hereby grants to the Authority the irrevocable option to purchase the items set out in SOR Condition 1.2, jointly or individually in accordance with the Conditions set out in this clause. In the event that the

Authority chooses to invoke these option(s) they shall be incorporated into the Contract by formal Contract Amendment in accordance with DEFCON 503 (Edn.12/14).

- 4.2.2 The Authority shall have the right to exercise the Options detailed herein by the dates specified or within such further period as corresponds to the aggregation of any period(s) for the duration of which the Authority is prevented from exercising any such Option by reason of any breach of the Contract by the Contractor.
- 4.2.3 Options 1-14 shall be valid until 31/12/23 The Authority shall notify the Contractor no later than 60 Business Days prior to the take up of the Option.
- 4.2.4 Option 15 shall be valid until 31/12/20 The Authority shall notify the Contractor no later than 60 Business Days prior to the take up of the Option.
- 4.2.5 Option 16 shall be valid until 31/12/21 The Authority shall notify the Contractor no later than 60 Business Days prior to the take up of the Option.
- 4.2.6 Option 17 shall be valid until 31/12/22 The Authority shall notify the Contractor no later than 60 Business Days prior to the take up of the Option.
- 4.2.7 Option 18 shall be valid until 31/12/23 The Authority shall notify the Contractor no later than 60 Business Days prior to the take up of the Option.
- 4.2.8 The Options will not be covered under the Contract unless taken up in accordance with Clause 4.2.2 above. There will be no obligation on the Authority to take up any of the Options.

4.3 Contract Profit Rate

- 4.4.1 The Contract Profit Rate that shall apply to the Contract shall be xx

4.4 Import Duty

- 4.5.1 Should the Contractor require to import items from outside the European Community (EC), he shall immediately inform the Authority with details of the article to be imported, the purpose for which the article is required and the country from which it is being imported. Where appropriate the Authority will provide the Contractor with appropriate certification in order that the Contractor can claim appropriate exemptions from import duty.

5. INTELLECTUAL PROPERTY RIGHTS

DEFCON 16 (Edn.10/04) – Repair and Maintenance

DEFCON 21 (Edn.10/04) – Retention of Records

DEFCON 90 (Edn.11/06) - Copyright

DEFCON 126 (Edn.11/06) – International Collaboration

DEFCON 632 (Edn.08/12) – Third Party Intellectual Property – Rights and Restrictions

5.1 Software Licencing

5.1.1 All software delivered under item x of the SOR – Condition 1 in the Contract shall be supplied under the terms of The Head Agreement for Licence Terms for Commercial Software, at Annex N to this Contract (DEFFORM 701, Edn (04/06) dated xx/xx/xx between the parties, and associated schedule reference JSENS/00131 at Appendix 1 to Annex N to this Contract.

6. LOANS

DEFCON 23 (Edn.08/09) – Special Jigs, Tooling and Test Equipment

DEFCON 76 (Edn.12/06) – Contractor's Personnel at Government Establishments

DEFCON 611 (Edn.02/16) – Issued Property

DEFCON 612 (Edn.10/98) – Loss Of or Damage to the Articles

DEFCON 694 (Edn.07/18) – Accounting for Property of the Authority

6.1 Government Furnished Assets (GFA)

- 6.1.1 All GFA issued by the Authority to the Contractor for the purpose of carrying out the work under SOR Items 1 & 2 is listed at Annex E to this Contract. All GFA will be provided on the terms and conditions stated therein, and are subject to the provisions of DEFCON 611 (Edn.02/16).
- 6.1.2 Save for the applicability of DEFCON 632 (Edn.08/12), any information of a technical nature that has been provided to the Contractor by the Authority under the Contract is provided, subject to Clause 6.1.3, without any potential liability to the Authority; the Contractor is responsible for and remains completely liable for any use it may make of such information in the execution of the Contract, and for assuring itself that the information is fit for purpose and accurate.
- 6.1.3 All changes to the GFA list shall be undertaken by a formal Contract Amendment in accordance with DEFCON 503 (Edn.12/14) and the process in DEFCON 620 (Edn.05/17).
- 6.1.4 In the event that the Authority fails to make an item of GFA available by the agreed date, and as a direct result, the Contractor is unable to achieve the delivery date as stipulated in the Milestone Payment Plan at Annex D, then the contractor shall be entitled to apply for an extension of time to the delivery date.
- 6.1.5 The Contractor must as soon as practicable, and in any event within five (5) Business Days, of the Authority having failed to provide the GFA at the agreed time notify the Authority's Commercial Branch of its claim for an extension in time to the delivery date. As part of that claim, the Contractor must demonstrate to the reasonable satisfaction of the Authority's Commercial Branch that it has used all reasonable endeavours to mitigate and recover any delay.
- 6.1.6 If the Contractor has complied with its obligations under Clause 6.1.5 the Authority shall postpone the delivery date by such time as shall be reasonable for the Authority's failure to provide the GFA by the agreed date, taking into account the likely effect of the delay.
- 6.1.7 The Contractor shall take any steps as may be reasonably necessary to ensure that it has brought to the notice of all Sub-Contractors and any other persons dealing with any GFA that the Authority is the owner, the handling requirements associated and that obligations to flow down Conditions of this Contract are met. The Contractor shall notify the Authority immediately of any attempts by a Third Party to secure a lien or rights of a similar kind on any GFA. At the same time the Contractor shall notify the Third Party that the Authority is the owner of the GFA. This shall not relieve the Contractor of his obligations under DEFCON 611 (Edn.02/16).

7. DELIVERY

DEFCON 5J (Edn.18/11/16) – Unique Identifiers

DEFCON 113 (Edn.02/17) – Diversion Orders

DEFCON 507 (Edn.10/98) – Delivery

DEFCON 514 (Edn.08/15) – Material Breach

DEFCON 524 (Edn.10/98) – Rejection

DEFCON 525 (Edn.10/98) – Acceptance

DEFCON 621A (Edn.06/97) – Transport (If the Authority Is Responsible For Transport)

DEFCON 621B (Edn.10/04) – Transport (If Contractor Is Responsible For Transport)

7.1 Document Deliverables

- 7.1.1 For the purposes of DEFCON525 (Edn.10/98), Acceptance and DEFCON524 (Edn.10/98), Rejection, document deliverables shall be accepted once the Authority has reviewed the document and the Authority's Project Manager is satisfied that the deliverable meets the requisite quality. The Authority shall review the document and provide any comments to the Contractor within twenty Business Days of confirming receipt of the document. The Contractor shall then incorporate those comments within a revised document (subject to any further agreement that may be required) which shall be issued to the Authority within ten Business Days of receiving the Authority's comments. If the Authority does not provide comments within twenty Business Days of confirmation of receipt of the original document this shall constitute acceptance of that document by the Authority.
- 7.1.2 Following receipt of the revised document the Authority shall notify the Contractor of any errors or omissions within ten Business Days. The Contractor shall correct these errors and/or omissions and submit the corrected document to the Authority within five Business Days. If no errors or omissions are identified acceptance shall be deemed to have taken place once the ten Business Days have elapsed.
- 7.1.3 Document deliverables that address or arise from Safety or Security requirements are not subject to an automatic acceptance. The Contractor shall give the Authority notice of at least twenty Business Days prior to the submission of such deliverable documents.
- 7.1.4 The Parties shall adopt the following receipting process for document deliverables. If the Party issuing the document or providing comments does not receive confirmation of the receipt of such document or comments from the other Party within two Business Days of having issued such document or comments, the issuing Party shall be responsible for contacting the other Party to establish the whereabouts of such documents or comments.

7.2 Delivery

- 7.2.1 Where any Article to be supplied under the Contract is to be delivered otherwise than being handed over by the Contractor to the Authority, as where an Article is to be delivered by the Contractor to his own premises or to those of a sub-contractor ('self-to-self'), the risk in such Article shall (notwithstanding the provisions of DEFCON 612) remain vested in the Contractor until such time as the Article is handed over to the Authority.
- 7.2.2 The Contractor shall be responsible for the transport and delivery of items x in accordance with DEFCON 621B (Edn.10/04). Transfer of title in the articles shall occur upon the articles being handed over by the Contractor to the Authority or to the Representative of the Authority.

8. PAYMENTS/RECEIPTS

DEFCON 513 (Edn.11/16) – Value Added Tax

DEFCON 522 (Edn.11/17) – Payment and Recovery of Sums Due

DEFCON 534 (Edn.06/17) – Subcontracting and Prompt Payment

DEFCON 649 (Edn.12/16) – Vesting

DEFCON 670 (Edn.02/17) – Tax Compliance

8.1 Payment

- 8.1.1 SOR Item 1 – Payment shall be made bi-monthly in arrears for the provision of the service in accordance with the Statement of Work at Annex to this Contract, in accordance with the Milestone Payment Plan at Annex D to this Contract, subject to satisfactory completion of each milestone.
- 8.1.2 When an Option is taken, or a task is performed in accordance with the procedure at Annex F, payment shall be on successful completion of each task, or in accordance with an agreed Milestone Payment Plan, and subject to any additional agreed acceptance criteria specified in the tasking form.

8.2 Key Performance Indicators

- 8.2.1 The Contractor's performance shall be measured quarterly in accordance with the Quarterly Programme Meeting (QPM) schedule, using the Key Performance Indicators (KPIs) contained within Annex H of this Contract.
- 8.2.1 The performance against each KPI shall be assessed as Satisfactory (GREEN), Cause for Concern (AMBER) or Unsatisfactory (RED) in accordance with the Performance Criteria at Annex H to this Contract.
- 8.2.3 Where the performance review has established that satisfactory performance levels (GREEN) have been provided by the Contractor in every area of review, the Authority shall authorise full claims for payment of work of Schedule of Requirements Item X in accordance with Clause XX of the Terms and Conditions of this Contract.
- 8.2.4 In the event that the Contractor's performance against any of the following KPIs has not been satisfactory (AMBER or RED indicator), the Authority shall deduct a proportion of Schedule of Requirements Item 1 as a remedy for poor performance in accordance with the criteria detailed within section H of this Annex .
- 8.2.5 For the avoidance of doubt, the total permanent withhold for Schedule of Requirements Item 1 for the corresponding quarter shall be the cumulative total of any deductions against the KPIs set out in this Annex. Deductions shall be permanent and not subject to any further review or reimbursement.
- 8.2.6 In the event the Contractor's performance is Unsatisfactory (RED) in three or more KPI's for 2 consecutive quarters this is to be considered a Critical Service Failure. In this instance a Rectification Plan shall be provided to the Authority detailing how the unsatisfactory performance shall be remedied and expected service levels (re)established. If satisfactory performance has not been achieved in the quarter following completion of the Rectification Plan, the Authority reserves its rights to terminate the Contract in accordance with Condition XX.

8.3 Milestone Payments

- 8.3.1 The Authority shall, subject to the terms and conditions of this Contract, make to the Contractor payments against SOR Items 1, 2, 3 and 6 in accordance with the Milestone Payment Plan set out at Annex D to this Contract.
- 8.3.2 The Contractor shall be entitled to milestone payments, to be claimed in accordance with Condition 8.1 for each milestone under the Milestone Payment Plan. The Contractor shall have completed or performed the part of the Contract to which the milestone relates when:

- 8.3.2.1 the Contractor has completed all work comprised in the milestone for which the payment is sought and the Authority shall have certified completion of that milestone in accordance with the Contract;
 - 8.3.2.2 the milestones have been completed sequentially unless otherwise agreed between the Parties;
 - 8.3.2.3 the Contractor shall have complied with all its contractual obligations which enable the Authority to monitor the Contractor's contractual performance, including but not limited to those obligations related to the provision of information to the Authority.
- 8.3.3 Notwithstanding Clause 8.3.2, above, the Authority shall not be obliged to make a payment to the Contractor if the Authority has reasonable cause to believe that the Contractor will be unlikely to render complete performance of his obligations in respect of Item 2 of SOR Condition 1.1.
- 8.3.4 Where the Authority intends to rely on Clause 8.3.3 above as the basis for rejecting any claim for interim payment which the Contractor may make, the Authority shall give to the Contractor notice in writing of his intention together with the Authority's reasons for the rejection.
- 8.3.5 The Authority shall without prejudice to any other right / remedy of either party, be entitled to recover in full all interim payments made under the Contract where:
 - 8.3.5.1 the Contract, or the part of the Contract under which Items 1 and 2 of SOR Condition 1.1 is to be provided, is terminated otherwise than in accordance with DEFCON 656B (Edn.08/16) or expires by reason of passing of time; and
 - 8.3.5.2 the Contractor has failed to complete performance of Items 1 and 2 of SOR Condition 1.1.
- 8.3.6 In the event of repayment to the Authority under the provisions of Clause 8.3.5 above then all that which vested in the Authority under the provisions of DEFCON 649 (Edn.12/16) and which related to Items 1 and 2 of SOR Condition 1.1 shall re-vest in and become the absolute property of the Contractor.
- 8.3.7 Payment of an interim payment by the Authority under this Condition 8.3 shall not, unless expressly stated to do so, constitute:
 - 8.3.7.1 acceptance by the Authority of any contractual deliverable;
 - 8.3.7.2 a representation by the Authority that the Contractor has complied with any contractual obligations; or
 - 8.3.7.3 a waiver of the Authority's right to subsequently claim that the conditions for payment of that milestone payment were not satisfied.
- 8.3.8 The Parties acknowledge that the schedule of deliverables under **SOR Item xx** of Annex A to this Contract are dependent on progress of the GBAD project schedule. In the event a key dependency fails to materialise as a result of GBAD programme performance, outside of the Contractor's influence, which has a significant impact of the Contractor's ability to complete a milestone deliverable (as defined by Annex D to this Contract) the Parties agree to review the applicable Milestone Payment to consider if the Contractor is reasonably prevented from claiming payment.
- 8.3.9 The onus shall be on the Contractor to provide evidence to the reasonable satisfaction of the Authority that it has completed all possible activity associated with the Milestone criteria, notwithstanding the failed dependency. The Authority shall then, acting reasonably, determine if any amendment to the applicable Milestone is required to include payment for such work so completed. The Parties shall negotiate any required amendment which shall be incorporated into the Contract in accordance with DEFCON 503 (Edn.12/14). If the Parties do not reach agreement within a reasonable period the dispute resolution process shall be followed in accordance with DEFCON 530 (Edn.12/14)

9. CONTRACT ADMINISTRATION

DEFCON 604 (Edn.06/14) – Progress Reports

NOTE: For the purposes of the Contract, the frequency of reports shall be in accordance with the requirements of the SoR at Annex A.

DEFCON 605 (Edn.06/14) – Financial Reports

DEFCON 609 (Edn.06/14) – Contractor's Records

DEFCON 642 (Edn.06/14) – Progress Meetings

NOTE: For the purposes of Clause 1 the frequency of meetings shall be as defined in the SoR at Annex A to this Contract.

DEFCON 647 (Edn.09/13) – Financial Management Information

9.1 Contractor's Personnel

- 9.1.1 For the purpose of this Contract, the term "Contractor's Personnel" shall include all employees of the Contractor and Sub-Contractors to the Contractor who are assigned to the Contract. The Contractor shall bear full responsibility for the actions of these personnel, in connection with the activities associated with the Contract, throughout the duration of the Contract.
- 9.1.2 Personnel employed under the Contract must have appropriate security clearances, qualifications and competence and in all respects, be acceptable to the Authority. Where so required, full particulars of all personnel to be so employed shall be forwarded in advance to the Authority's Project Manager for confirmation of acceptability.
- 9.1.3 The Contractor shall give at least one month's notice where reasonably possible to the Authority's Project Manager of any loss of key personnel and the proposed remedial action.
- 9.1.4 The Contractor shall appoint a single point of contact responsible for the primary interface of this Contract.
- 9.1.5 For this Contract, the primary interface representing the Authority will be the JSENS DT Commercial Officer and Project Manager and the contact points are detailed in DEFFORM 111 Boxes 1 and 2 respectively.

9.2 Contract Reporting

- 9.2.1 In accordance with the Defence Reform Act 2014 (DRA) and the Single Source Contract Regulations 2014 (SSCR) the Contractor shall be legally required to provide the following:
 - 9.2.1.1 a Contract Pricing Statement which the Contractor shall submit to the SSRO prior to one month from the initial reporting date, however, the Contract Pricing Statement shall be agreed by the Contractor and the Authority prior to agreeing the Contract Price;
 - 9.2.1.2 a Contract Reporting Plan which the Contractor shall submit to the SSRO prior to one month from the initial reporting date, however, the Contract Reporting Plan shall be agreed by the Contractor and the Authority prior to Contract Signing;
 - 9.2.1.3 a Contract Notification Report which the Contractor shall submit to the SSRO prior to one month from the initial reporting date; and
 - 9.2.1.4 Interim Contract Reports which the Contractor shall submit to the SSRO. The periodic frequency on which Interim Contract Reports shall be submitted by the Contractor shall be agreed

by the Contractor and the Authority prior to Contract signing and shall be detailed by the Contractor in the Contracting Reporting Plan; or

9.2.1.5 Quarterly Contract Reports shall be submitted by the Contractor to the SSRO instead of Interim Contract Reports if the Contract value inclusive of Options exceeds £50M (ex VAT). Quarterly Contract Reports shall be submitted by the Contractor within one month of the end of each calendar quarter for the duration of the QDC.

9.3 Earned Value Management

- 9.3.1 The Contractor shall define, implement and maintain an Earned Value Management (EVM) process to be used in the management of the Contract. It shall be applied to Items XX of the Schedule of Requirement - Contract JSENS00131.
- 9.3.2 The Contractor shall undertake EVM in accordance with the below principles, supported by the price accrual information provided under DEFCON605 (EDN.06/14).
- 9.3.2 The EVM process will use the following formulas:
- 9.3.2.1 Planned Value (PV)
 - 9.3.2.2 Earned Value (EV)
 - 9.3.2.3 Actual Cost (AC)
 - 9.3.2.4 Schedule Variance ($SV = EV - PV$)
 - 9.3.2.5 Schedule Performance Index ($SPI = EV/PV$)
 - 9.3.2.6 Cost Performance Index ($CPI = EV/AC$)
- 9.3.3 The base for evaluation shall be against a baselined schedule showing significant activities, milestones and deliveries associated with Items XX of the schedule of Requirements, selected from the following documents and agreed, jointly at the initial start-up meeting.
- 9.3.3.1 Milestone Payment Plan
 - 9.3.3.2 Project Master Schedule
- 9.3.4 The EVM report, shall detail schedule and cost performance, based on planned activities and milestones, versus actuals (using the formula set detailed at 1.3). A progress (working) schedule shall be included as an annex to the EVM report.
- 9.3.5 EVM shall be reported quarterly as part of the Quarterly Progress Report and included as a formal agenda item at the Quarterly Progress Meeting.

9.4 Co-operation On Expiry Of Contract

- 9.4.1 During the final six months before the expiry date of the Contract, or during the period of any termination notice, the Contractor shall co-operate fully, with the transfer of responsibility of the Contract and associated Articles, from the Contractor to any person (follow on Contractor) or to the Authority. For the purposes of this Clause the meaning of the term co-operate shall include:

- 9.4.1.1 liaising with the Authority and/or any follow-on Contractor, and providing reasonable assistance and advice concerning the management of the Contract and the transfer to the Authority or to such Follow-on Contractor; and
 - 9.4.1.2 ensuring that the Authority and/or any follow-on Contractor will have access to, and the rights to use and obtain, all information and Articles necessary for continued performance of the Contract.
 - 9.4.1.3 allowing any such follow-on Contractor access (at reasonable times and on reasonable notice) to the Articles but not so as to interfere with or impede the current management of the Contract.
- 9.4.2 The Contractor shall use all reasonable endeavours so as to facilitate the smooth transfer of responsibility of the Contract to a follow-on Contractor or to the Authority, as the case may be, and the Contractor shall take no action at any time during the Contract period or thereafter which is calculated or intended, directly or indirectly, to prejudice or frustrate or make more difficult such transfer.

9.5 Authority Step In Period

- 9.5.1 If at any time the Authority, in its sole opinion, deems it necessary for operational requirements, it may, at its discretion, take over responsibility for the management and/or provision of the In-Service Support services. The Authority may, at their discretion, appoint an agent to act on their behalf in relation to a Step-In provision. During a Step In, the Authority or their appointed agent shall be termed "the Administrator".
- 9.5.2 The period during which the Step In (a "Step In Period") will commence on the day the Authority tells the Contractor in writing of the Step In and who the associated Administrator is. A Step In Period will continue until the Authority ends it by giving the Contractor notice in accordance with the provisions set out at paragraph 10 below.
- 9.5.3 During a Step In Period, the Contractor shall ensure that all of the Contractor's Personnel and the Contractor's Sub-Contractors comply with reasonable instructions from the Administrator. The Contractor will provide reasonable access and assistance to the Administrator during a Step In period.
- 9.5.4 In respect of the Step In Period in which the Authority is taking required Step In action and provided that the Contractor provides the Authority with any reasonable assistance, the service charge due from the Authority to the Contractor shall equal the amount the Contractor would receive if it were satisfying all its obligations and providing the Service affected by the required action in full over that period. The Contractor shall demonstrate the costs it has incurred as a result of providing the Authority with such reasonable assistance (and such costs are considered reasonable in relation to the performance of the assistance provided), which exceed the agreed Quarterly Service Charge, the amount these costs exceed the Quarterly Service Charge shall be at the Authority's expense.
- 9.5.5 During the Step In period the service credit/bonus payments will cease to apply.

9.6 Authority Step Out

- 9.6.1 The Authority may at any time during the Step In Period, notify the Contractor that the Authority wishes to cease the Step In Period setting out a reasonable programme for transition of contractual responsibility to the Contractor and the date on which it intends to cease the Step In Period, in which event:
- 9.6.1.1 As soon as is reasonably practical but in any case within ten Business Days of receipt of the Authority's Commercial Manager's notification pursuant to Clause 9.6 above, the

Parties shall consult with other as to, and agree upon the Step Out Plan and the method by which the Authority shall cease the Step In action.

9.6.1.2 If within 15 Business Days of the Parties first meeting to agree the Step Out Plan, the Parties are unable to reach agreement, then the matter shall be determined in accordance with DEFCON 530 (Dispute Resolution).

9.6.1.3 Upon agreement of a Step Out Plan pursuant to this Contract Condition 9.6 the Parties shall comply with their respective obligations in implementing the Step Out Plan.

9.6.2 On the date on which the Step In Period ceases, in accordance with the Step Out Plan:

9.6.2.1 The Authority will be released from all of its obligations and liabilities in relation to the Step In Period arising prior to the cessation of the Step In Period other than its obligations to pay the Contractor in accordance with Contract Condition 8.2.

9.6.2.2 The Authority shall return any assets to the Contractor which the Contractor provided to it to enable the Authority to perform the Step In Period.

9.6.2.3 The Contractor shall resume all or any part of the In-Service Support services which was the subject of the Step In Period.

9.7 Correction Plan

9.7.1 Where the Contractor is required to prepare a Correction Plan it shall, subject to obtaining the Authority's approval of the Correction Plan, promptly thereafter implement the Correction Plan, with the intention of remedying, preventing and avoiding recurrence of the Service Level Failure, according to the timescales and activities set out in the Correction Plan.

9.7.2 Correction Plan approvals process:

9.7.2.1 The Contractor shall use all reasonable endeavours to provide a draft Correction Plan to the Authority, as soon as reasonably practicable, and in any event, within 24 hours from the occurrence of the System Failure from the time on which the Contractor first became aware of the Service Level Failure;

9.7.2.2 The Authority shall give its approval as soon as reasonably practicable, and in any event within 1 Business Day (unless otherwise agreed between the parties) of receipt of the draft Correction Plan (but without imposing any obligation on the Authority to give such approval if the proposed corrective action is unacceptable.

9.7.2.3 Where following submission of a draft Correction Plan, the Authority has comments relating to the Correction Plan, the Authority shall notify the Contractor of its comments within the period set out in paragraph 9.7.2.2 and the Contractor shall consider any comments received from the Authority and re-issue the Correction Plan for approval as soon as reasonably practical, and in any event within 1 Business Day from the receipt of such comments, the Authority will not unreasonably withhold or delay its approval of the resubmitted Correction Plan.

Appendix - Addresses and Other Information

1. Commercial Officer

Name: DES JSSENS-Comrc1-2-2

Address: JSSENS DT, McIntosh #0012, MOD Abbey Wood, Bristol, BS34 8JH

Email: Amanda.Upshall483@mod.gov.uk

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

Name: DES JSSENS-GAMB PM

Address: JSSENS DT, McIntosh #0012, Abbey Wood South, Bristol, BS34 8JH

Email: Darren.Almond@mod.gov.uk

3. Packaging Design Authority

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

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

DES JSSENS-ILS1

Tel No: 030 679 32007

(b) U.I.N. P2535A

5. Drawings/Specifications are available from

N/A

6. Intentionally Blank

7. Quality Assurance Representative:

DES ISTAR-BMT-QM1

McIntosh 0 #0012, Abbey Wood South, Bristol, BS34 8JH

Email: martin.murphy946@mod.gov.uk

AQAPS and DEF STANs are available from UK Defence Standardization, for access to the documents and details of the helpdesk visit <http://dstan.uwh.dii.f.r.mil.uk/> [intranet] or <https://www.dstan.mod.uk/> [extranet, registration needed].

8. Public Accounting Authority

1. Returns under DEFCON 694 (or SC equivalent) should be sent to DBS Finance ADMT – Assets In Industry 1, Level 4 Piccadilly Gate, Store Street, Manchester, M1 2WD

☎ 44 (0) 161 233 5397

2. For all other enquiries contact DES Fin FA-AMET Policy, Level 4 Piccadilly Gate, Store Street, Manchester, M1 2WD

☎ 44 (0) 161 233 5394

9. Consignment Instructions

Document deliverables shall be delivered to the Project Manager as detailed at Box 2, or a nominated representative as notified by the Authority.

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

11. The Invoice Paying Authority (see Note 1)

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>

12. Forms and Documentation are available through *:

Ministry of Defence, Forms and Pubs Commodity Management
PO Box 2, Building C16, C Site

Lower Arncott

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

Applications via fax or email: DESLCSLS-

OpsFormsandPubs@mod.uk

NOTE

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

<https://www.aof.mod.uk/aofcontent/tactical/toolkit/index.htm>

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

Statement of Work (SoW)

Defence Equipment and Support Joint Sensor and Engagements Networks Delivery Team, Statement of Work for Giraffe Agile-Multi Beam Radar (G-AMB) CLS Support Contract

Version x dated xx xxx 2018

Statement of Work (SoW)

Defence Equipment and Support Joint Sensor and Engagements Networks Delivery Team, Statement of Work for Support of G-AMB Emulators, G-AMB MOD C Integration Activities, Modifications, Supporting Information and Meeting Attendance in Support of the [REDACTED] Programme

Version x dated xx xxx 2018

Deliverable Item Descriptions (DIDs)

Giraffe Agile-Multi Beam Radar (G-AMB) Support Contract

Version 0.1

Security Aspects Letter

To be incorporated by Contract Award

Milestone Payment Plan for SOR Line Items 1,2,3 and 6

To be proposed by the Contractor

ID	Milestone Description	Acceptance Criteria	Date	Value (£)
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				

Government Furnished Assets

To be proposed by the Contractor

[illegible]

Task Authorisation Procedure

1. Any work performed under Schedule of Requirements (SOR) Item 3 shall be in accordance with the procedures detailed below and the contract conditions.
2. Any work to be performed shall be authorised via the Tasking Form at Appendix 1 to this Annex.
3. Each Tasking form will be allocated a unique sequential tasking order number by the Authority commencing Task001.

1. Tasking Procedure

- 1.1 Tasks will be initiated by the Authority by completion of Part 1 of the Tasking Authorisation Form (TAF) at Appendix 1 to this Annex. The TAF will then be forwarded by the Authority's Commercial Officer to the Contractor for costing.
- 1.2 On receipt of the TAF, the Contractor shall within 3 Business Days acknowledge receipt and request further clarification from the Authority, if required on Part 1 of the TAF. The Authority shall endeavour to provide a clarification response to the Contractor (where applicable) within 5 Business Days. The Contractor shall complete Part 2 and return to the Authority's Commercial Officer within 15 Business Days of receipt of the TAF, or unless otherwise agreed with the Authority (refer to KPI 2 in Annex G to this Contract), along with a proposal and cost breakdown for the task using those rates and prices agreed at Appendix 2 to this Annex to produce a Firm Price.
- 1.3 On receipt of the TAF, if acceptable, the Authority shall complete Part 3, providing authorisation for the Contractor to conduct the task and will return the TAF to the Contractor's Commercial Officer. The Authority will record all approved tasks on Appendix 3 by formal Contract Amendment in accordance with DEFCON 503 (Edn.12/14).
- 1.4 On completion of a Task, the Contractor shall complete Part 4 of the TAF and forward it to the Authority's Project Manager for completion of Part 5 under which the Authority approves formal closure of the Task.

2. PROCEDURE FOR CHANGE TO EXISTING TASKS

- 2.1 Changes to TAFs shall be managed in accordance with DEFCON 620 (Edn.05/17). For clarity the following procedure shall apply:
 - 2.1.1 A change may be proposed by the Authority or by the Contractor.
 - 2.1.2 If the change is requested by the Contractor, they shall provide a written request detailing the change required, the reasons for the change, and an indication of the impact to delivery, price and Milestone payment plan (if applicable to the task), for the Authority's consideration.
 - 2.1.3 If the Authority wishes to either:
 - 2.1.3.1 pursue a requested change; or
 - 2.1.3.2 propose a change
 it shall notify the Contractor by re-issuing Part 1 of the TAF, updating the issue number accordingly.
 - 2.1.4 The Contractor shall then issue Part 2 of the up-issued TAF within 15 Business Days of receipt, as a formal quotation for the Authority's consideration, in accordance with KPI 2.
 - 2.1.5 The Authority shall endeavour to respond to the Contractor's completed Part 2 within 10 Business Days. It shall either;
 - 2.1.5.1 approve the change by re-issuing Part 3 of the up-issued TAF; or
 - 2.1.5.2 reject the change by email notification to the Contractor.
- 2.2 The Authority shall update Appendix 3 to Annex F (List of Approved Tasks) by formal Contract Amendment in accordance with DEFCON 503 (Edn.12/14).

TASK AUTHORISATION FORM

Part 1 – Request for Task

The Authority has a requirement for the following Task:

Task No:	Issue No:	Priority:	Date:
Date raised:		Originator:	
Task Title:			
Task Description:			
Completion required by date			

Part 2 – Provision of Quotation/Proposal (To be completed by Contractor)

Task Proposal:		
Breakdown of Cost:		
Completion Date		
Name:	Position:	
Date:	Signature:	

Part 3 – Authorisation to proceed

Approval to proceed with task: JSSENS/00137 TASK_____against a firm price of:

Project Manager's Approval:

Signature:.....Name:.....

Post Title:..... Date:.....

Finance Officer Approval:

Signature:.....Name:.....

Post Title:..... Date:.....

Commercial Officer Approval:

Signature:.....Name:.....

Post Title:..... Date:.....

Part 4 – Task Completion report (To be completed by the Contractor)

Task: JSSENS/00137 TASK_ ___ is now considered to be complete. Any required evidence is also provided.

Signature.....Name:.....

Date.....Position in Company:.....

Part 5 – Confirmation of Task Completion by the Authority's Project Manager

Signature.....Name:.....

Date.....Post title:.....

Upon signature of Part 5, the Contractor can submit claim for payment

Firm Rates for Ad Hoc Tasking

The following hourly rates are firm rates.

[illegible]

List of Approved Tasks under Line Item 3

[illegible]

Travel & Subsistence Rates for Tasks and Ad-hoc Meetings at Line Item 10 of the SOR

Travel & Subsistence (Max allowance)	FY 19/20	FY 20/21	FY 21/22	FY 22/23
Accommodation				
Breakfast				
Lunch				
Evening Meal				
Mileage (Price per Mile)				

The above rates are based on the Civil Service Allowable Rates, these are provided as a base rate only, and are subject to Negotiation.

Key Performance Indicators

This Annex sets out the mechanism by which the Contractor's performance under the Contract will be measured and monitored.

KPI 1 – Spares Delivery

Service Area		Management
Description		Delivery of spares
Definitions		Performance shall be measured against delivery of spares and collection of repairable items to/from XX within the timeframe specified in the SOW, to achieve the required Availability of XX.
Authority Review Period		N/A
Start		Spares/Repair demand raised and formal notification issued to the Contractor.
Stop		Receipt of delivery of Spare or Repaired Item to XX
Data Source		The Contractor
Data Maintainer		The Contractor
Data Provider		The Contractor
Monitoring Frequency		Quarterly
Reporting Frequency		Quarterly
Reporting Method		Quarterly Management Reports
Level	Performance Criteria	Effect on Payment
GREEN	Satisfactory. All Spares/Repairable Items requested within the quarter, delivered within the timeframe specified in the SOW within a tolerance of +/- 1 working day. Delivery of spares are within a total Supply Chain Pipeline Timelines (SCPT) tolerance of +/- 10 working days.	Full payment of sum due under Item 1 of the Contract for that quarter (subject to impact of other KPIs).
AMBER	Cause for Concern. All Spares/Repairable Items requested within the quarter, delivered within the timeframe specified in the SOW within a tolerance of +/- 5 working days.	2% permanent withhold of sum due under Item 1 of the Contract for that quarter
RED	Unsatisfactory. All Spares/Repairable Items requested within the quarter, delivered within the timeframe specified in the SOW within a tolerance of +/- 10 working day.	6% permanent withhold of sum due under Item 1 of the Contract for that quarter

KPI 2 – Technical Help Desk

Service Area		Delivery
Description		Technical helpdesk.
Definitions		<p>The Contractor shall provide a Technical Single Point of Contact (SPoC) for all queries / information requests. The SPoC is expected to be available during office hours (08:00 – 16:00, Monday-Friday) via telephone and / or e-mail.</p> <p>The SPoC is expected to acknowledge requests for full written responses within 2 working days and provide the full written response within 5 working days to the satisfaction of the PM, resolving the issue.</p>
Authority Review Period		N/A
Start		Full written response request (E-Mail) from the PM for Engineering advice/ information.
Stop		Full written response (E-Mail) received from Contractor:
Data Source		The Authority
Data Maintainer		The Authority
Data Provider		The Authority
Monitoring Frequency		Daily
Reporting Frequency		Quarterly
Reporting Method		Quarterly Management Reports – calculation of average time taken for full written responses.
Level	Performance Criteria	Effect on Payment
GREEN	<p>Satisfactory.</p> <p>Contractor's total average time to provide full written responses to Authority enquiries is 5 working days or less (over the quarter).</p>	0% permanent deduction of sum due under Item 1 of the Contract for that quarter (subject to impact of other KPIs).
AMBER	<p>Cause for Concern.</p> <p>Contractor's total average time to provide full written responses to Authority enquiries is 6 - 7 working days (over the quarter).</p>	2% permanent deduction of sum due under Item 1 of the Contract for that quarter
RED	<p>Unsatisfactory.</p> <p>Contractor's total average time to provide full written responses to Authority enquiries is 8 or more working days (over the quarter).</p>	4% permanent deduction of sum due under Item 1 of the Contract for that quarter

KPI 3 – Quarterly Reports

Service Area		Management
Description		Timely issue of full and accurate Quarterly Management Reports (QMR) at least 10 working days prior to the scheduled Quarterly Progress Meetings (QPM).
Definitions		Report covers all areas identified in the CLS Statement of Work Clock stops if Contractor can demonstrate to the Project Manager (PM) and Commercial Manager (CM) satisfaction that events outside their control have prevented timely submission. The PM and Contractor shall agree date and time for clock to re-start in such circumstances.
Authority Review Period		10 working days
Start		10 working days prior to QPM
Stop		Acceptance by the PM & CM of a delivered, accurate Management Report, that covers all areas required, as detailed in the Statement of Work and Contract Condition 7.1
Data Source		The Contractor
Data Maintainer		The Contractor
Data Provider		The Contractor
Monitoring Frequency		Quarterly
Reporting Frequency		Quarterly
Reporting Method		Quarterly Management Reports
Level	Performance Criteria	Effect on Payment
GREEN	Satisfactory. QMR made available 10 working days prior to the scheduled QMP to the satisfaction of the PM & CM.	0% permanent deduction of sum due under Item 1 of the Contract for that quarter (subject to impact of other KPIs).
AMBER	Cause for Concern. Contractor provides a QMP to the satisfaction of the PM & CM 5-9 working days prior to the scheduled QPM.	2% permanent deduction of sum due under Item 1 of the Contract for that quarter
RED	Unsatisfactory. Contractor provides a QMP to the satisfaction of the APM, 4 working days or less prior to the scheduled QPM.	4% withhold of sum due under Item 1 of the Contract for that quarter

KPI 3 Tasking Information

Service Area		Management
Description		Provision of Tasking Information
Definitions		<p>Timely completion of full and accurate tasking proposals including:</p> <p>Tasking information, scope of work, full cost breakdown using the agreed rates within the contract and timescales. Proposals are to be provided in accordance with the procedure at Condition 4.2 of the Contract.</p> <p>Where complexity of Tasking request prevents completion within 15 working days, the Contractor shall notify the Authority of this within 3 days of the initial request and request a longer response time. The PM & CM shall be the ultimate arbiter of this decision.</p> <p>Clock stops if Contractor can demonstrate to the Authority's satisfaction that events outside their control have prevented timely delivery. The Authority and Contractor to agree date and time for clock to re-start in such circumstances.</p>
Authority Review Period		15 working days
Start		Issue of Tasking Form to the Contractor.
Stop		Acceptance of delivered, accurate Tasking Form, that covers all areas required, by the Authority.
Data Source		The Contractor
Data Maintainer		The Contractor
Data Provider		The Contractor
Monitoring Frequency		Quarterly
Reporting Frequency		Quarterly
Reporting Method		Quarterly Management Reports
Level	Performance Criteria	Effect on Payment
GREEN	<p>Satisfactory.</p> <p>100% of all tasking information scheduled for completion in the quarter fully completed on or before the scheduled completion date to the satisfaction of the PM & CM.</p>	0% permanent deduction of sum due under Item 1 of the Contract for that quarter (subject to impact of other KPIs).
AMBER	<p>Cause for Concern.</p> <p>50%-99% of all tasking information scheduled for completion in the quarter fully completed on or before the scheduled completion date to the satisfaction of the PM & CM.</p>	2% permanent deduction of sum due under Item 1 of the Contract for that quarter
RED	<p>Unsatisfactory.</p> <p>49% or fewer tasking information requests scheduled for completion in the quarter fully completed on or before the scheduled completion date to the satisfaction of the PM & CM.</p>	4% permanent deduction of sum due under Item 1 of the Contract for that quarter

DEFFORM 539A Tenderer's Commercially Sensitive Information Form (To be completed by Contractor)

ITT Ref No: JSSENS/00131
Description of Tenderer's Commercially Sensitive Information:
Cross Reference(s) to location of sensitive information in Tender:
Explanation of Sensitivity:
Details of potential harm resulting from disclosure:
Period of Confidence (if applicable):
Contact Details for Transparency / Freedom of Information matters:

Contract Reports and Meetings

Serial Number	SoW Reference	Description	Delivery Date from Date of Contract Award
1	6.2.1.2 (a)	Quarterly Progress Meeting	QPM
2	6.2.4	Quarterly Progress Report	10 working days before QPM
3	6.2.1.2 (b)	Joint Governance Board	Annually
4	6.2.1.2 (c)	Advisory Team Visit	Annually
5	6.2.1.2 (d)	Configuration Change Board	Bi-Annual
6	6.2.1.2 (e)	Project Safety and Environmental Panel	Bi Annual
7	6.2.1.2 (f)	Security Working Group	Quarterly
8	6.2.1.2 (g)	Security Vulnerability Assessments	Annually
9	6.2.6	Risk Management Plan	Contract Award. To be updated as required and submitted to the Authority for approval. Acceptance shall be in accordance with Section 7.1 to this Contract
10	6.2.3.1 (b)	System Security Management Plan	Contract Award. To be updated as required and submitted to the Authority for approval. Acceptance shall be in accordance with Section 7.1 to this Contract
11	6.2.7	Configuration and Data Management Plan	Contract Award. To be updated as required and submitted to the Authority for approval. Acceptance shall be in accordance with Section 7.1 to this Contract
12	6.2.8	Change Management Plan	Contract Award. To be updated as required and submitted to the Authority for approval. Acceptance shall be in accordance with Section 7.1 to this Contract
13	6.2.9	Roadmap Management	Annually
14	6.2.10	Government Furnished Assets Register	Contract Award. To be updated as required and submitted to the Authority for approval. Acceptance shall be in accordance with Section 7.1 to this Contract
15	6.2.3.1 (f)	Obsolescence Management Plan	Contract Award. To be updated as required and submitted to the Authority for approval. Acceptance shall be in accordance with Section 7.1 to this Contract
16	6.2.3.1 (g)	Safety and Environmental Management Plan	Contract Award. To be updated as required and submitted to the Authority for approval. Acceptance shall be in accordance with Section 7.1 to this Contract
17	6.2.3.1 (h)	Equipment Support Management Plan	Contract Award. To be updated as required and submitted to the Authority for approval. Acceptance shall be in accordance with Section 7.1 to this Contract
18	6.2.3.1 (i)	Software Support Plan	Contract Award. To be updated as required and submitted to the Authority for approval. Acceptance shall be in accordance with Section 7.1 to this Contract
19	6.3.6	Technical Publications	Contract Award. To be updated as required and submitted to the Authority for approval. Acceptance shall be in accordance with Section 7.1 to this Contract
20	6.3.7	Support Desk Log	Quarterly at the QPM

Spares Annex

To be completed by Contractor

Test Equipment

To be completed by Contractor

JSSENS/00131 DEFFORM 315 CONTRACT DATA REQUIREMENT

1. <u>ITT/Contract Number</u> JSSENS/00131	2. <u>CDR Number</u> 1	3. <u>Data Category</u> Repair Maintenance Operation Support	4. <u>Contract Delivery Date</u> In accordance with the delivery dates for each of the items specified on the Schedule of Requirements
5. <u>Equipment/Equipment Subsystem Description</u> Annex A SOR Item 5 Annex B SOR Items XX		6. <u>General Description of Data Deliverable</u> Operating Manuals Maintenance Manuals (1 st and 2 nd line) Training Publications	
7. <u>Purpose for which data is required</u> The future operation, support and maintenance of the system. Future training requirements of the system.		8. <u>Intellectual Property Rights</u> a. <u>Applicable DEFCONs</u> DEFCON16 (Edn.10/04) - Repair and Maintenance Information DEFCON21 (Edn.10/04) - Retention of Records b. <u>Special IP Conditions</u> None	
9. <u>Update/Further Submission Requirements</u> Re-issue of CD-ROM required, if technical information is amended.			
10. <u>Medium of Delivery</u> CD-ROM Upload to Kahootz		11. <u>Number of Copies</u> 1	

1. <u>ITT/Contract Number</u> JSENS/00131	2. <u>CDR Number</u> 2	3. <u>Data Category</u> Operator Manuals	4. <u>Contract Delivery Date</u> In accordance with the delivery dates for each of the items specified on the Schedule of Requirements
5. <u>Equipment/Equipment Subsystem Description</u> Annex B SOR Items XX		6. <u>General Description of Data Deliverable</u> Emulation Environment Operator Manuals.	
7. <u>Purpose for which data is required</u> Installation and Operation of the Emulation Environment.		8. <u>Intellectual Property Rights</u> a. <u>Applicable DEFCONs</u> DEFCON16 (Edn 10/04) – Repair and Maintenance Information. DEFCON21 (Edn.10/04) - Retention of Records b. <u>Special IP Conditions</u> None	
10. <u>Update/Further Submission Requirements</u> Re-issue of CD-ROM required, if technical information is amended.			
10. <u>Medium of Delivery</u> CD-ROM Upload to kahootz		12. <u>Number of Copies</u> 1	

1. <u>ITT/Contract Number</u> JSSENS/00131	2. <u>CDR Number</u> 3	3. <u>Data Category</u> G-AMB Data Pack	4. <u>Contract Delivery Date</u> In accordance with the delivery dates for each of the items specified on the Schedule of Requirements
5. <u>Equipment/Equipment Subsystem Description</u> Annex B SOR Items XX		6. <u>General Description of Data Deliverable</u> G-AMB Data Pack	
7. <u>Purpose for which data is required</u> To support integration of the G-AMB Mod C UK System with the G-BAD Fi - BMC4i System.		8. <u>Intellectual Property Rights</u> a. <u>Applicable DEFCONs</u> DEFCON16 (Edn 10/04) – Repair and Maintenance Information. DEFCON21 (Edn.10/04) - Retention of Records b. <u>Special IP Conditions</u>	
11. <u>Update/Further Submission Requirements</u> Re-issue of CD-ROM required, if technical information is amended.			
10. <u>Medium of Delivery</u> CD-ROM Upload to Kahootz		13. <u>Number of Copies</u> 1	

1. <u>ITT/Contract Number</u> JSSENS/00131	2. <u>CDR Number</u> 4	3. <u>Data Category</u> G-AMB Code of Connection	4. <u>Contract Delivery Date</u> In accordance with the delivery dates for each of the items specified on the Schedule of Requirements
5. <u>Equipment/Equipment Subsystem Description</u> Annex B SOR Items XX		6. <u>General Description of Data Deliverable</u> G-AMB Data Pack	
7. <u>Purpose for which data is required</u> To support integration of the G-AMB Mod C UK System with the G-BAD [REDACTED] System.		8. <u>Intellectual Property Rights</u> a. <u>Applicable DEFCONs</u> DEFCON16 (Edn 10/04) – Repair and Maintenance Information. DEFCON21 (Edn.10/04) - Retention of Records b. <u>Special IP Conditions</u>	
12. <u>Update/Further Submission Requirements</u> Re-issue of CD-ROM required, if technical information is amended.			
10. <u>Medium of Delivery</u> CD-ROM Upload to Kahootz		14. <u>Number of Copies</u> 1	

**HEAD AGREEMENT FOR LICENCE TERMS FOR COMMERCIAL SOFTWARE PURCHASED BY
THE SECRETARY OF STATE FOR DEFENCE**

This Agreement is made this day of in the year.....

BETWEEN

The Secretary of State for Defence, a corporation sole, (afterwards referred to as the AUTHORITY) as represented by the Directorate of Intellectual Property Rights, Poplar 2a #2218, MOD Abbey Wood, Bristol BS34 8JH

AND

[Insert company's name, registration number and corporate address] (afterwards referred to as the COMPANY);

each being referred to as a "Party" and collectively as the "Parties".

BACKGROUND

- I. The AUTHORITY wishes to agree standard terms of licence with the COMPANY which will apply to "Commercial Software" products it procures from the COMPANY in order to avoid the need to negotiate individual terms each time those products are purchased; and
- II. The COMPANY is prepared to agree standard terms of licence with the AUTHORITY in order to facilitate sales of Commercial Software to the AUTHORITY.

For the purpose of this Agreement "Commercial Software" means software available commercially including that software modified on sale to suit the requirements of a customer.

THE HEAD AGREEMENT

1. The Parties agree that they will adopt the terms of licence set out in the Annex to this Head Agreement (the "Annex"), as the standard terms of licence for the procurement of Commercial Software by the AUTHORITY from the COMPANY and from any of its wholly owned subsidiaries

for which the COMPANY is entitled to make this Head Agreement. This shall not imply that either Party may not propose other conditions for any particular licence or that either Party shall be bound to accept any particular licence in the terms set out in the Annex.

2. Each software licence which is to be procured subject to the standard terms of licence set out in the Annex, shall be established by a schedule (the "Schedule") which incorporates those terms by making reference to this Head Agreement and the Annex. Each licence so concluded shall be legally separate from this Head Agreement.
3. Each Schedule will take the format provided in the Attachment to the Annex. Individual Schedules may include special conditions adding to, varying, or setting aside any condition set out in the Annex and in the event of any conflict between the terms of the Annex and the special conditions of a Schedule the latter shall prevail.
4. Either Party shall be entitled to terminate this Head Agreement at any time on written notice to the other Party but the termination shall not vary the conditions of or terminate any extant Licences.
5. This Head Agreement shall be subject to and construed and interpreted in accordance with the Laws of England and shall be subject to the jurisdiction of the Courts of England. Other jurisdictions may apply solely for the purpose of giving effect to this Agreement and for the enforcement of any judgement, order or award given under English jurisdiction.

Signed for and on behalf of the Secretary of State for Defence

.....

[Print name]

In the capacity of*[Insert capacity of signatory]*

Signed for and on behalf of the COMPANY *[Insert name of company]*

.....

[Print name].....

In the capacity of*[Insert capacity of signatory]*

**ANNEX TO THE HEAD AGREEMENT FOR LICENCE TERMS FOR COMMERCIAL SOFTWARE
BETWEEN THE SECRETARY OF STATE FOR DEFENCE ANDDATED
.....**

AGREED STANDARD CONDITIONS

1 DEFINITIONS

- 1.1 "AUTHORITY" shall mean the Secretary of State for Defence.
- 1.2 "LICENSOR" shall mean the Company identified in the Head Agreement or the wholly owned subsidiary of the Company identified in the Schedule as being the Party granting the Licence to the AUTHORITY.
- 1.3 "Licensed Software" means the computer programs listed in Part I of the Schedule together with any user documentation, update programs and anything else furnished to the AUTHORITY by the LICENSOR under the Licence in connection with those listed programs, and any portion and copy of any of them.
- 1.4 "Use" (or "to Use") in relation to the Licensed Software means copying the software from a store unit or medium into equipment, customising it within its existing functionality and consistent with the user documentation, running or processing it, operating upon it, all of these acts either alone or with other programs, and producing copies including, where appropriate, in eye-readable form.
- 1.3 "Designated Equipment" means that equipment in respect of which Use of the Licensed Software is licensed. It shall be the equipment specified in Part II of the Schedule unless changed to alternative equipment in accordance with the provisions of Clauses 2.3 or 2.4.
- 1.4 "Designated Site" means that site for which the Licensed Software is licensed. It shall be the site specified at Part III of the Schedule unless changed to an alternative site in accordance with the provisions of Clause 2.3.
- 1.5 "Licence" means the rights granted by the LICENSOR to the AUTHORITY in respect of the Licensed Software and all the conditions associated with it, as set out in the Standard Conditions in combination with a relevant Schedule.

- 1.6 “Schedule” means a schedule to the Head Agreement (in the format provided in the Attachment to this Annex) established by signature of the AUTHORITY and the LICENSOR, under which the LICENSOR undertakes to supply the Licensed Software for Use by the AUTHORITY under the conditions of the Licence. Each Schedule, in combination with these Standard Conditions, constitutes a distinct Licence independent of any other Licence existing by operation of the Head Agreement.
- 1.7 “Standard Conditions” means the conditions set out in this Annex to the Head Agreement, comprising Clauses 1 to 15.
- 1.8 “Special Conditions” means those conditions (if any) specified in Part VIII of the Schedule.

2 LICENCE GRANT

- 2.1 The AUTHORITY may Use the Licensed Software on the Designated Equipment at the Designated Site in accordance with the Licence from the date of receipt of the Licensed Software by the AUTHORITY.
- 2.2 The AUTHORITY may allow contractors of the AUTHORITY and their sub-contractors to Use the Licensed Software on the Designated Equipment at the Designated Site on AUTHORITY contracts only, provided that the AUTHORITY ensures or procures that those contractors and sub-contractors are bound by the conditions of the Licence and that, unless prevented by security considerations, the AUTHORITY shall notify the LICENSOR of the identity of those contractors or sub-contractors as soon as is reasonably practical. The AUTHORITY shall not charge for that Use.
- 2.3 The AUTHORITY may specify alternative Designated Equipment or an alternative Designated Site by notification to the LICENSOR, in which case Clause 2.1 shall apply only to the alternative Designated Equipment or Designated Site as notified. However, in the event that the alternative Designated Equipment shall be equipment of a greater processing capacity or capability or a different operating system outside the parameters of the original Designated Equipment the LICENSOR may require the AUTHORITY to pay a fair and reasonable additional fee which will not exceed the difference between the corresponding fees shown in respect of Use of the Licensed Software on the existing and alternative Designated Equipment respectively in the LICENSOR's price list current at the time when the AUTHORITY has specified the alternative Designated Equipment.

- 2.4 The AUTHORITY may Use the Licensed Software on alternative equipment if the Designated Equipment is temporarily inoperative until the Designated Equipment is again operative without notification or additional payment to the LICENSOR.
- 2.5 Notwithstanding the above, the AUTHORITY may copy the Licensed Software in machine-readable form for back-up purposes for Use of the Licensed Software. The AUTHORITY may also create eye readable copies of documentation solely for utilisation by operating personnel of the Licensed Software. All copyright in such copies shall remain the property of the LICENSOR.

3 DELIVERY AND ACCEPTANCE

- 3.1 The LICENSOR shall deliver the Licensed Software at a time and to a place agreed with the AUTHORITY.
- 3.2 The LICENSOR or the AUTHORITY as mutually agreed shall install each program of the Licensed Software on the Designated Equipment and test it against acceptance tests if agreed between the LICENSOR and the AUTHORITY.
- 3.3 The AUTHORITY may reject the Licensed Software within the acceptance period specified in Part IV of the Schedule only (which period starts on receipt of the Licensed Software by the AUTHORITY) if it fails an agreed acceptance test or if it does not perform on the Designated Equipment in accordance with the functionality set out in an agreed statement or user document provided by the LICENSOR. The AUTHORITY shall be understood to have accepted the Licensed Software if it has not been validly rejected before the expiry of the acceptance period.
- 3.4 If the AUTHORITY rejects the Licensed Software in accordance with Clause 3.3 the Licence for it shall terminate and the AUTHORITY shall be entitled to reimbursement of any fees paid in respect of the Licensed Software.
- 3.5 The AUTHORITY and the LICENSOR may mutually agree to extend the acceptance period, or to amend the Schedule appropriately, for any Licensed Software that would otherwise have been rejected under Clause 3.3.

4 PAYMENT

- 4.1 The LICENSOR will invoice the AUTHORITY for the agreed licence fees in the amount and in accordance with the invoice arrangements set out respectively in Parts V and VI of the Schedule on or after receipt by the AUTHORITY of the Licensed Software.

- 4.2 The AUTHORITY shall pay the invoice value within 30 days from the later of delivery of the Licensed Software or the date of receipt of a valid invoice related to that Licensed Software. Payment does not constitute acceptance of the Licensed Software.

5 CONFIDENTIALITY

- 5.1 Subject to Clause 5.2 and except as otherwise agreed in writing, the AUTHORITY and the LICENSOR shall each hold in confidence and shall not use, disclose or otherwise make available, except in accordance with the Licence, all the following information received from the other under or in connection with the Licence:

- a. the Licensed Software;
- b. details of the AUTHORITY's use and application of the Licensed Software;
- c. any other information which is identified as being disclosed in confidence at the time of disclosure

provided that:

the obligation for b. and c. relates only to information received in writing or other material form; and

if such information is disclosed orally, the obligation shall apply for 30 days unless the discloser confirms such information in writing or other material form within 30 days when the obligation of confidence shall apply thereafter.

- 5.2 The obligations under Clause 5.1 shall not require the receiving Party to maintain confidence in, or refrain from using, any part of the information to the extent that the receiving Party can show that such part of the information:

- a. was already known to that Party, without restraint on use or disclosure, prior to the date of receipt or acquisition under or in connection with the Licence; or
- b. has been received by that Party, without restraint on use or disclosure, from a third party having the right to disclose it; or
- c. has entered the public domain otherwise than in breach of the Licence or any other agreement between the Parties; or

d. was generated by that Party independently of the information which is subject to Clause 5.1;

provided that the relationship of such part of the information to the remainder of the information which is subject to Clause 5.1 is not revealed.

5.3 The obligations under Clause 5.1 shall be perpetual.

5.4 The AUTHORITY shall ensure or procure that any individual to whom the Licensed Software is made available is made aware of, and complies with, the obligations as to confidentiality and other relevant conditions of the Licence.

5.5 The AUTHORITY shall reproduce and maintain any copyright notices and trade marks on or in any of the copies of the Licensed Software made in accordance with the Licence, including partial copies, and on any software changed under the terms of the Licence.

6 IPR ACTIONS AND LIABILITIES FOR IPR INFRINGEMENT

6.1 The LICENSOR declares that he is entitled as either owner or licensee to provide the Licensed Software to the AUTHORITY on the terms and conditions of the Licence.

6.2 Subject to the limitations imposed in Clauses 6.3 and 6.4, the LICENSOR shall assume all liability and indemnify the AUTHORITY against all costs or liabilities arising under any valid claim or action brought by a third party against either Party, or against any of its contractors (which expression shall include any sub-contractor) engaged in tasks relevant to the provision of the Licensed Software or to the AUTHORITY's exercise of the Licence, in respect of any third party intellectual property right, including a patent, registered or unregistered design right, trade mark, copyright, trade secret or confidential information, which relates to the supply of the Licensed Software or the Use of the Licensed Software in accordance with the Licence by the AUTHORITY or its contractor, then:

(a) If the claim or action is brought against the LICENSOR he shall take full responsibility for dealing with settling or defending the claim or action;

(b) If any claim is made against the AUTHORITY or its contractors the LICENSOR shall be given full responsibility for dealing with settling or defending the claim as appropriate in his judgement;

(c) If legal action is taken against the AUTHORITY or its contractor that Party shall be entitled to join the LICENSOR in the action.

6.3 Clause 6.2 shall not apply, and the AUTHORITY shall assume all liability for and indemnify the LICENSOR and its contractors, against all costs and liabilities under the claim or action in the event that it arises as a consequence of any of :

- a. Use of the Licensed Software by the AUTHORITY, or by a contractor permitted to use the Licensed Software pursuant to Clause 2.2, outside the LICENSOR's specification or user documentation on the Designated Equipment or in a manner outside the reasonable knowledge or expectation of the LICENSOR or in circumstances particular to the AUTHORITY as distinct from other customers for the equivalent Licensed Software;
- b. Use of modifications to the Licensed Software not provided or not approved in writing by the LICENSOR;
- c. infringement by the LICENSOR of any third party intellectual property right by reason only of use of any material provided by the AUTHORITY for the purposes of the Licence, but only to the extent that this material is held and used within the terms under which it was provided and used solely for the purposes of the Licence.

6.4 Clause 6.2 shall not apply in the event that, without the consent of the LICENSOR (which shall not be unreasonably withheld) the AUTHORITY:

- a. has made or makes an admission of any sort to the third party relevant to the claim or action;
- b. the AUTHORITY has entered or enters into negotiations with the third party relevant to the claim or action;
- c. the AUTHORITY has made or makes an offer to the third party for settlement of the claim or action.

6.5 Each Party undertakes to notify and consult the other promptly in the event of any enquiry, claim or action brought or likely to be brought against it or its contractor or the Parties jointly, which relates to infringement of any third party intellectual property right in connection with the supply or Use of the Licensed Software under the Licence. By joint agreement, the AUTHORITY may take the lead in dealing with settling and defending any such enquiry claim or action made against it directly in consultation with the LICENSOR and, subject to the

LICENSOR's agreement as to the terms of any settlement, this shall not displace any liability of the LICENSOR arising under Clause 6.2. If any claim is made against the AUTHORITY under Section 55 of the Patents Act 1977 as a result of the AUTHORITY's use of the Software, and if the AUTHORITY offers a settlement of the claim, otherwise than as a result of a Court order and without the agreement of the LICENSOR, the LICENSOR shall be relieved of any liability which might otherwise arise under Clause 6.2.

- 6.6 In the event that any claim or action is made which is subject to Clause 6.2 or if in the LICENSOR's reasonable opinion such claim or action is likely to be made, the LICENSOR shall promptly utilise all reasonable endeavours to:
- a. establish or secure the AUTHORITY's right to continue to Use the Licensed Software or, failing to do so,
 - b. avoid that claim or action by, and after consultation with the AUTHORITY as to how to minimise the AUTHORITY's loss of Use of the Licensed Software, replacing or modifying the Licensed Software without significant change to the specification of the Licensed Software all at the LICENSOR's expense, including installation and testing.
- 6.7 In the event of the LICENSOR being unable to satisfy the requirements of sub-Clauses 6.6a. or 6.6b. the LICENSOR may terminate the Licence relating to the Licensed Software upon not less than three months written notice unless a lesser period is determined by any court order, and the LICENSOR shall make a refund of the licence fee to the AUTHORITY, either in full or with the agreement of the AUTHORITY (which shall not be unreasonably withheld) of a portion of the licence fee representing the lost portion of the Licence.
- 6.8 The conditions set forth in clauses 6.2 to 6.7 represents the total liability and responsibility of each Party to the other under a Licence in respect of any actual or alleged infringement of any intellectual property right owned by a third party, and take precedence over any other liability condition in the Licence.

7 WARRANTY

- 7.1 LICENSOR warrants that discrepancies between Licensed Software and the LICENSOR's specification or user documentation current at the time of delivery reported and demonstrated by the AUTHORITY during the warranty period stated in Part VII of the Schedule will be remedied by LICENSOR without unreasonable delay in a manner commensurate with good software industry practice and without payment by the AUTHORITY. During the warranty period the LICENSOR

undertakes to provide to the AUTHORITY free of charge corrections to material errors known to the LICENSOR.

- 7.2 All warranties in the Licensed Software and its user documentation other than that given under Clause 7.1 are hereby excluded including, without limitation, the implied warranty and conditions of satisfactory quality and fitness for a particular purpose, but this shall not prejudice the right of the AUTHORITY to reject the Licensed Software in accordance with Clause 3.3.
- 7.3 No oral or written information or advice given by the LICENSOR, its agents or employees shall create a warranty or extend the scope of the warranty given under Clause 7.1.
- 7.4 The LICENSOR shall utilise all reasonable endeavours to ensure that any Licensed Software supplied, irrespective of the mode of delivery, is free from any published computer virus. In the event that it can be shown that, at the time of delivery, the Licensed Software incorporated such a virus then the AUTHORITY may require the LICENSOR to remove the virus and within the limits of backup data provided by the AUTHORITY to restore any computer system incorporating the Designated Equipment to its pre-infected state or bear the cost of the necessary restoration work.

8 GENERAL LIABILITY CONDITIONS

- 8.1 The LICENSOR shall have no liability to the AUTHORITY for any indirect or consequential damages or losses which might arise by reason of Use of the Licensed Software by or for the AUTHORITY including, without limitation, loss of profit, loss of revenue, loss of use, loss of business information produced by Use of the Licensed Software.

8.2 The exclusion provided under Clause 8.1 shall not apply where the AUTHORITY suffers loss because of a defect within the Licensed Software which defect is known to the LICENSOR at the time the Licensed Software is furnished to the AUTHORITY unless the AUTHORITY has previously been made aware of and accepted the presence of the defect and its relevance to the AUTHORITY's application of the Licensed Software.

- 8.3 The total of the LICENSOR's liability under or in connection with this Agreement (whether arising from contract, negligence or any other basis) is limited in respect of each event or series of connected events to the value given in Part IX of the Schedule, provided that no limitation shall apply in respect of liability for death of or injury to persons arising from the LICENSOR's negligence, as provided by the Unfair Contracts Act 1977, and, except in relation to sub-Clause 13.2.2, no limitation shall apply in respect of any liability arising under the provisions of Clause 6.2.

9 TERM AND TERMINATION OF THE LICENCE

- 9.1 Each Licence shall continue until the AUTHORITY terminates it by written notification to the LICENSOR, or it is terminated pursuant to Clauses 3.4 or 6.7.
- 9.2 The AUTHORITY shall within thirty days of termination of a Licence, through all reasonable endeavours and to the best of its knowledge, return or destroy, at the LICENSOR's option, all originals and destroy all copies of the Licensed Software including partial copies and modifications except that the AUTHORITY may on prior written authorisation from the LICENSOR retain one copy for archival purposes only. The AUTHORITY shall promptly certify in writing once it has so done.
- 9.3 In the event of the LICENSOR drawing the attention of the AUTHORITY to a breach of any condition of a Licence then:
- a. where the breach is of a nature that cannot be remedied, the AUTHORITY undertakes to settle with the LICENSOR on fair and reasonable terms and to utilise all reasonable endeavours to ensure that a further breach does not occur,
 - b. where the breach is capable of being remedied, the AUTHORITY shall promptly remedy the breach and where appropriate put in place measures to ensure that a further breach does not occur. The AUTHORITY shall indemnify the LICENSOR for all loss and damage incurred by him as a result of the breach.

9.4 The termination of any Licence shall be without prejudice to the continuation of the Head Agreement or any other Licence under it.

10 COMBINATION OF SOFTWARE

- 10.1 The AUTHORITY may combine all or part of the Licensed Software with other materials to form a new work. Any portion of the Licensed Software included in a new work shall be Used only on Designated Equipment and shall be subject to the conditions of the Licence. The LICENSOR shall be absolved from any obligation or liability under the Licence to the extent that this arises as a result of the creation or use of any new work not approved in writing by the LICENSOR.

11 OUTPUT

- 11.1 The AUTHORITY may freely copy and utilise any output resulting from Use in accordance with LICENSOR - supplied documentation of the Licensed Software.

12 DISPUTES

- 12.1 Other than for any claim arising from non payment of a valid invoice should any question, dispute or difference whatsoever arise between the AUTHORITY and LICENSOR in relation to or in connection with this Agreement or the Schedule of any Licence granted under it, the AUTHORITY or the LICENSOR may give notice to the other in writing of the existence of that question, dispute or difference and both Parties will attempt to reach a solution. If no mutually acceptable solution is found the AUTHORITY or the LICENSOR may give notice to the other in writing (the ADR notice) that the matter is to be referred to Alternative Dispute Resolution (ADR).
- 12.2 Upon receipt of the ADR notice and subject to sub-Clause 12.3, the Parties shall define the type of ADR to be adopted and the rules for its implementation. Failing agreement to adopt, or to achieve, resolution by one such type, the Parties may decide to adopt a second type of ADR. The Parties agree that after a period of two (2) months from the date of receipt of the ADR notice, or such other date as may be agreed by the Parties, and provided that the dispute remains unresolved, it shall finally be settled by arbitration by a sole arbitrator at the request in writing by either party to the other. Failing agreement on the appointment of the arbitrator within 14 days of receipt of such request, the arbitrator shall be appointed by the President for the time being of the Law Society, in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment of it. The costs of any ADR shall be shared equally by the AUTHORITY and the LICENSOR, however, the costs of arbitration shall be settled by the arbitrator.
- 12.3 Where a Party rejects the referral of the matter to ADR he shall promptly notify the other Party in writing of that rejection and the reasons for it.

13 TRANSFER

- 13.1 The LICENSOR shall not assign his interest in any Licence or the intellectual property licensed thereunder without providing for the continuance of the AUTHORITY'S rights under the Licence and without notifying the AUTHORITY in writing of the identity of the assignee.
- 13.2 Unless prevented by law or national regulation the AUTHORITY shall have the right to novate any Licence to a separate legal entity, without charge to itself or the legal entity, upon two months written notice to the LICENSOR, as provided below:

13.2.1 following a transfer from the AUTHORITY to the legal entity of any function of the AUTHORITY for which the Licensed Software has been obtained; or

13.2.2 on disposal to the legal entity of surplus Designated Equipment where the Licensed Software is essential to the running of that equipment, whether or not it is embedded in the equipment, provided that all warranties (whether express or implied) and all indemnities shall be void, the Licensed Software shall be supplied “as is”, and the liability referred to in Clause 8.3 shall be ten pounds sterling only.

PROVIDED THAT the Licensed Software novated in accordance with this sub-Clause may only be used for the same purposes for which the Authority was licensed in accordance with Clause 2 and wider use shall require the written approval of, and the grant of a further licence by, the LICENSOR.

14 DISCONTINUANCE OF BUSINESS

14.1 The AUTHORITY shall have the right to secure from the LICENSOR, or from the authorised trustees or receivers acting on behalf of the LICENSOR, in the event of the LICENSOR permanently ceasing to maintain the Licensed Software or the LICENSOR permanently discontinuing in business because of bankruptcy, receivership, dissolution, or other form of permanent business disruption and that business is not continued by a successor in interest to the LICENSOR to whom the benefits and obligations of this Agreement and any licence granted under it have been assigned, Licensed Software documentation including program source code in the possession and control of the LICENSOR, but no more than the LICENSOR uses himself, as the AUTHORITY shall consider necessary for it to maintain and continue its normal Use of the Licensed Software for the duration of the Licence but for no other purpose.

14.2 If so required by a Special Condition, the LICENSOR shall compile and maintain, at a price or in accordance with a price formula identified in the Special Condition, an up to date copy of the Licensed Software documentation to which the AUTHORITY is entitled under Clause 14.1 which

copy shall be held by the LICENSOR as a bailee without lien for the AUTHORITY and be made available to the AUTHORITY without additional charge. In the absence of such a Special Condition, the copy shall be prepared on the AUTHORITY's demand and it shall be made available to the AUTHORITY at a fair and reasonable price based on the cost of compilation, reproduction and dispatch.

14.3 The AUTHORITY shall have the right to utilise the Licensed Software documentation to which it is entitled under Clause 14.1 for the purpose of maintaining its Use of the Licensed Software for the duration of the Licence but for no other purpose. The AUTHORITY shall hold in confidence all information in the documentation.

15 GENERAL

15.1 If any provision of this Agreement is held to be invalid, illegal or unenforceable to any extent then:

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

15.2 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.

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

15.4 Neither the LICENSOR nor the AUTHORITY shall be liable for failure to perform any of its obligations under the Licence if that failure results from circumstances beyond its reasonable control.

15.5 Headings have been included for convenience only and shall not be used in construing any condition of the Licence.

- 15.6 The Licence shall be subject to and construed and interpreted in accordance with the Laws of England and shall be subject to the non-exclusive jurisdiction of the Courts of England for the enforcement of any arbitral decision.
- 15.7 The Licence shall constitute the entire agreement between the Parties relating to the Licensed Software and supersedes any previous agreement.
- 15.8 No right is granted to any person who is not a Party to the Licence to enforce any term of the Licence in his own right and the Parties declare that they have no intention to grant any such right.

ATTACHMENT TO ANNEX TO HEAD AGREEMENT – STANDARD FORM OF LICENSING SCHEDULE

SCHEDULE TO THE HEAD AGREEMENT BETWEEN THE AUTHORITY AND[Insert name of Company] **DATED:**[Insert date of Head Agreement] Version Number:[insert, if any]

CONTRACT REFERENCE NUMBER:

By their respective signatures of this Schedule the Secretary of State For Defence (the “AUTHORITY”) undertakes to purchase and[insert name of the LICENSOR which must be either the name of the COMPANY as recorded on the Head Agreement or the name of a legally entitled wholly owned subsidiary] (the “LICENSOR”) undertakes to supply the Licensed Software for Use on the Designated Equipment at the Designated Site (all as identified below) under the Standard Conditions set down in the Annex to the Head Agreement and any Special Conditions set down in Part VIII below which may vary or add to those Standard Conditions.

PART I - LICENSED SOFTWARE PROGRAMS

Insert details of each program sufficient for unambiguous identification of nature and release standard

Indicate for each program whether these are supplied by the LICENSOR as owner or a licensee of the owner.

PART II - DESIGNATED EQUIPMENT

Insert identification details of the specific equipment on which the Licensed Software is licensed for use (which can be specified as an individual installation, or if the LICENSOR allows any installation of a particular type of processing characteristic) or else insert “not restricted” as a safe default.

PART III - DESIGNATED SITE

Insert identification details of the specific site or sites on which the Licensed Software is licensed for use, or else insert “not restricted” as a safe default.

PART IV – ACCEPTANCE PERIOD & TEST

Insert the acceptance period defined by duration and commencement event or defined by a specific end date.

Insert acceptance test documentation reference, if applicable.

PART V - LICENCE FEES

Insert the full details of the payments to be made by the AUTHORITY as licence fees and identify separately any payments to be made for software installation or support.

PART VI - INVOICE ARRANGEMENTS

Insert the AUTHORITY's address for submission of the Invoice and any special requirements for Invoicing

PART VII - WARRANTY PERIOD

Insert the warranty period defined by duration and commencement event or defined by a specific end date.

PART VIII - SPECIAL CONDITIONS

Insert here any special conditions. These can add to or vary the Standard Conditions contained in the Annex to the Head Agreement. If the Licensed Software comprises a library of routines, or a compiler or other software generating tool, incorporate and complete the appropriate provisions from below:

<i>Provisions for library compiler or software generator.</i>

PART IX – LIMITS OF LICENSOR's LIABILITY

Insert the LICENSOR's limit of liability consequent on matters arising in connection with the Licence (whether arising from contract, negligence or any other basis), other than through death, injury or infringement of third party intellectual property rights

In the event that no separate limit of liability is inserted in connection with the Licence the LICENSOR's liability under this PART IX shall not exceed five million pounds sterling.

FOR LICENSOR FOR AUTHORITY

Signed Signed

Name Name

[*Print Name*] [*Print Name*]

Appointment Appointment

Date Date

