

7. Final Administration

For OGDs Only

A copy of the acknowledged final tasking form must be sent by the **Authority's Commercial Manager (who placed the task)** and by the Contractor electronically to the FATS Team at the following address:

DPA 2018

FATS 1c

Commercial Commands and Centre

Spruce 3b # 1301

MOD Abbey Wood

Bristol BS34 8JH'

1.1 Additional Conditions

1.1.1 In this FATS Tasking Form the following terms shall, unless the context otherwise requires, have the following meanings:

“Authority Premises” means any premises or other establishment located in the United Kingdom owned by or otherwise occupied or used by the Authority.

“Call-Off Task” means the consultancy services described in the Statement of Requirement (such services being the “Call-Off Services” and such requirement being the “Requirement”) required by the Authority to be delivered by the Contractor under this Contract.

“Call-Off Task Commencement Date” deemed to be 2 January 2019.

“Contractor Deliverable” means each or any deliverable (other than the Results (as defined in DEFCON 703)) supplied or to be supplied by or on behalf of the Contractor to the Authority in connection with the performance of the Call-Off Task.

“Project” means the preparation and finalisation of any and all documentation (including reports), information and data relating to the Future Maritime Support Programme.

“Task Price” means the aggregate of the amounts payable by the Authority to the Contractor in connection with the Contractor’s performance of the Call-Off Task in accordance with the terms of this Contract, such amount being specified in Section 3. Price.

1.1.2 DEFCON658 (Edn.10/17)* - Cyber

Further to DEFCON 658* the Cyber Risk Level of the Contract is Low, as defined in Def Stan 05-138.

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

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

1.2 Price

1.2.1. The Contractor acknowledges and agrees that the Call-Off Task is subject to the provisions of the Contract and that the Task Price:

- a. includes all costs, charges, fees and expenses incurred or to be incurred by the Contractor in performance of the Call-Off Services, including in relation to (but not limited to) travel, accommodation and subsistence associated with Contractor’s attendance at any Authority Premise(s) for any period of time required for the Contractor to perform the Call-Off Services; and
- b. is firm and not subject to variation other than in accordance with the provisions of DEFCON 503*.

1.3 Intellectual Property Rights

1.3.1 DEFCON703 (Edn.08/13) - Intellectual Property Rights - Vesting in the Authority

1.3.2 In addition to and without prejudice to the Authority's other rights provided in relation to this Call-Off Task all intellectual property generated under or in relation to the Call-Off Task shall be subject to the terms of DEFCON 703 (which is hereby incorporated to apply to such task). The Contractor acknowledges and agrees that (in addition to its rights under DEFCON 703) the Authority shall be entitled to edit or modify the content of the Results and/or each or any of the Contractor Deliverables when incorporating or referring to the Results and/or such deliverable in whole or part into other documents and data prepared or assembled by or on behalf of the Authority in connection with the Project.

1.4 Loans

Not Applicable

1.5 Delivery

1.5.1. Unless instructed otherwise by the Authority in writing, the Contractor shall place all Results (as defined in DEFCON 703) and all other Contractor Deliverables relating to the Project in the Microsoft Office SharePoint site made available on or about the Call-Off Task Commencement Date by the Authority to the Contractor as a document and data repository for such task.

1.5.2. The Contractor shall ensure that all Results and Contractor Deliverables, other than scanned documents, in connection with the Project shall be content readable native files or accompanied by content readable native renditions of the files.

1.6 Payment/Receipts

1.6.1 Without limitation to the Authority's other rights under this Contract:

a. the Contractor shall provide, with each claim for payment in relation to its performance of the Call-Off Task, evidence to the reasonable satisfaction of the Authority that the acceptance criteria specified in the Requirement for the respective milestone stage payment (as so specified) have been met in full. This claim for payment and evidence must be submitted to the Authority at the end of every month throughout the duration of this contract. And

b. if the Authority is not reasonably satisfied that the acceptance criteria has been met in full, the Authority shall notify the Contractor to such effect. Subject to the respective rights of the Parties under DEFCON 530, the Authority shall not be liable for any payment relevant to the achievement of any such milestone unless and until the Contractor has met all such criteria relevant to such milestone. Final payment shall only be made when all deliverables have been completed to the satisfaction of the Authority.

1.7 Contract Administration

1.7.1 Progress Meetings

1.7.2 The Contractor further acknowledges and agrees that:

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- a. the Authority may in connection with the Call-Off Task require the Contractor and/or any of its personnel to access, and conduct activities in relation to Call-Off Task at, one or more Authority Premises in connection with the Project; and
 - b. the Contractor's access to those establishments and to Controlled Information is conditional upon and subject to the Contractor's personnel obtaining and maintaining security clearance at the appropriate level; and
 - c. if any Contractor personnel fails to obtain, maintain or renew his or her security clearance, the Contractor shall promptly notify the Authority to such effect and replace those personnel with another or others of equal or greater skill, knowledge and experience relevant to the discharge of the Call-Off Task and possessing the appropriate security clearance; and
 - d. it remains the responsibility of the Contractor to ensure that it has and maintains appropriate resources (including personnel) at all times to discharge its obligations under this Contract in relation to the Call-Off Task and that accordingly any personnel substitution shall not (without limitation to the generality of Condition 1.2.1) result in an increase to the Task Price or relieve the Contractor from any of its obligations under this Contract in relation to the Call-Off Task, including in connection with the scheduled end date of the Call-Off Task specified in the Requirement.
- 1.7.3 The Contractor shall within five Business Days after the Contractor's acceptance of the Call-Off Task submit a completed DEFFORM 539A to the Authority identifying those parts of the task that the Contractor reasonably considers to be commercially sensitive for the purpose of DEFCON 539.

1.8 Aggregate Liability Cap

- 1.8.1 In this Condition 1.8 the following terms shall, unless the context otherwise requires, have the following meanings:

"Affiliate" means in relation to any person, any holding company or subsidiary of that person or any subsidiary of such holding company, and "holding company" and "subsidiary" shall have the meaning given to them in Section 1159 of the Companies Act 2006;

"Aggregate Call-Off Liability Cap" means an aggregate amount equal to 150% of professional fees;

"Call-Off Contract" means this FATS 5 Tasking (FATS 5 Reference Number FATS5/FMSP/019) entered into between the Authority and the Contractor for the provision of certain support by the Contractor in connection with the Future Maritime Support Programme, such tasking being placed on and subject to the terms of this FATS Tasking Form and the Framework Agreement;

"Contractor" means the supplier engaged under this Call-Off Contract to provide the Services specified in this Call-Off Contract, such supplier being PA Consulting Services Limited (as further specified in the Call-Off Contract);

"Contractor Related Party" means:

- a. any officer, servant, consultant or agent of the Contractor or any Affiliate of the Contractor;

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- b. any sub-contractor (of any tier) of the Contractor; or
- c. any other person (not identified in a. and b. immediately above) on or at any of the Authority Sites at the express or implied invitation of the Contractor;

“Framework Agreement” means the framework agreement for technical support (No. 5) entered into between the Authority and (amongst others) the Contractor on 24th May 2017, as amended from time to time in accordance with its terms;

1.8.2 Notwithstanding any other provision of this Call-Off Contract (other than Conditions 1.8.3 and 1.8.4, to which this Condition 1.8.2 is subject), the maximum aggregate liability of the Contractor to the Authority with respect to claims arising out of or in connection with the performance of this Call-Off Contract alone shall not exceed (and shall be limited to) the Aggregate Call-Off Liability Cap.

1.8.3 In respect of any liability under or in relation to this Call-Off Contract the following matters shall not be subject to (and shall not count towards) the Aggregate Call-Off Liability Cap:

- a. any liability identified in Clause 26.1 of the Framework Agreement;
- b. any liability of the Contractor arising in connection with the early termination or expiry of the Framework Agreement, irrespective of (in the case of the early termination of the Framework Agreement) whether or not the cause of such termination has arisen out of or in connection with this Call-Off Contract;
- c. (without limitation to sub-Condition b. immediately above) any liability or liabilities arising out of any act(s) constituting (a) Prohibited Act(s);
- d. any breach by the Contractor of its obligations provided in (a) DEFCON 531* and/or (in relation to this Call-Off Contract) Appendix 2 to Schedule 3; (b) DEFCONs 659A and 660; and/or (c) DEFCON 670*;
- e. any liability or liabilities arising out of the Contractor abandoning this Call-Off Contract, unless that abandonment is due to a breach of this Call-Off Contract by the Authority; or
- f. any liability or liabilities arising out of any act(s) or omission(s) constituting wilful misconduct or gross negligence committed or made by the Contractor and/or any Contractor Related Party.

1.8.4 Nothing in Condition 1.8 shall affect (and shall in no way limit or exclude):

- a. any liability or liabilities arising under or in connection with: (i) any other FATS 5 Tasking or (ii) the Framework Agreement in no way related to or otherwise connected with this Call-Off Contract; or
- b. the operation of express rights granted by this Agreement to any third party or third parties pursuant to the Contracts (Rights of Third Parties) Act 1999.

Appendix 2 to Schedule 3 (Confidentiality Agreement)

The provisions of this Clause are supplemental to DEFCON 531*

1. Both DEFCON 531* and the provisions of this Clause apply to:
 - (A) This Tasking;
 - (B) Any Information disclosed by either party prior to the issue of a draft Tasking and in contemplation of Work being placed by the Authority under a Tasking; and
 - (C) Any Tasking placed under this Agreement, provided that Information provided to a party for the purpose of Tendering for a Tasking shall only be used for that Tendering purpose, and Information provided to a party for performing a Task placed on it under this Agreement shall only be used for the performance of that Task.

2. Subject to its requirements of continued access to Information necessary to exercise its rights of disclosure and use hereunder including under any Tasking Order, and to the obligations set out herein in respect of any Controlled Information, the recipient of any Information shall:
 - (A) Upon the expiry or termination of the Agreement; or
 - (B) Upon the expiry or termination of any Tasking Order (for the purposes of which Information is disclosed); or
 - (C) If the Authority decides not to proceed with the issue of a Tasking Order (for the purposes of which Information is disclosed),

in accordance with any reasonable directions given and/or a reasonable request made by the other party promptly:
 - (1) Return to the other party the Information and all copies thereof; or
 - (2) Take such other measures in respect of the Information and all copies thereof as may be required elsewhere in the Tasking Order.

3. The provisions of DEFCON 531* and of this Clause shall survive the expiry or termination of the Agreement or any Tasking Order in accordance with 2(A) or 2(B) or the decision not to proceed in accordance with 2(C).