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|  |  |
|  | Your Reference: |
|  |  |
|  | Our Reference: 701553485 |
|  |  |
|  | Date: |
|  |  |
|  |  |

Dear Sir/Madam,

Invitation To: Tender Reference Number: 701553485- Flight Tasking Management System

1. You are invited to tender for Flight Tasking Management System in accordance with the attached documentation.

2. The anticipated date for the contract award decision is TBC , please note that this is an indicative date and may change.

3. You must submit your Tender no later than TBC .

4. Please confirm receipt of this tender to Mrs. Caroline Razavi stated in the E-mail address caroline.razavi750@mod.uk.

Yours faithfully

Caroline Razavi

**Invited Suppliers**

|  **Supplier Name** | **Supplier Address** |  **Contact Name** |  **Contact Email** |
| --- | --- | --- | --- |

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**Terms and Conditions**

**DEFFORM 47**

**Contents**

This Invitation to Tender sets out the requirements that Tenderers must meet to submit a valid Tender. It also contains the draft Contract, further related documents and forms and sets out the Authority’s position with respect to the competition.

This invitation consists of the following documentation:

· DEFFORM 47 – Invitation To Tender. .The DEFFORM 47 sets out the key requirements that Tenderers must meet to submit a valid Tender. It also sets out the conditions relating to this competition. For ease it is broken into:

Section A – Introduction

 Section B – Key Tendering Activities

Section C – Instructions on Preparing Tenders

Section D – Tender Evaluation

Section E – Instructions on Submitting Tenders

Section F – Conditions of Tendering

DEFFORM 47 Annex A – Tender Submission Document (Offer)

Appendix 1 to DEFFORM 47 Annex A (Offer) – Information on Mandatory Declarations

· Contract Documents (As per the contents table in the Terms and Conditions)

Terms & Conditions which includes the Schedule of Requirements and any additional Schedules, Annexes and/or Appendices

· DEFFORM 111 – Appendix to Contract - Addresses and Other Information

· DEFFORM 539A – Tenderer’s Commercially Sensitive Information Form (or SC1B Schedule 4 or SC2 Schedule 5)

· Any other relevant documentation: not applicable

**Section A - Introduction**

**DEFFORM 47 Definitions**

In this ITT the following words and expressions shall have the meanings given to them below:

A1. “The Authority” means the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland, acting as part of the Crown.

A2. “Compliance Regime” is a legally enforceable set of rules, procedures, physical barriers and controls that, together, act to prevent the flow of sensitive or protected information to parties to whom it may give an unfair advantage.

A3. “Conditions of Tendering” means the conditions set out in this DEFFORM 47 that govern the competition.

A4. A “Consortium Arrangement” means two or more economic operators who have come together specifically for the purpose of bidding for this Contract and who establish a consortium agreement or special purpose vehicle to contract with the Authority.

A5. “Contract” means a Contract entered into between the successful Tenderer or consortium members and the Authority, should the Authority award a Contract as a result of this competition.

A6. “Contract Terms & Conditions” means the attached conditions including any schedules, annexes and appendices that will govern the Contract entered into between the successful Tenderer and the Authority, should the Authority award a Contract as a result of this competition.

A7. “Contractor Deliverables” means the works, goods and/or the services, including packaging (and Certificate(s) of Conformity and supplied in accordance with any Quality Assurance (QA) requirements if specified) which the Contractor is required to provide under the Contract.

A8. “Cyber Security Model” means the model defined in DEFCON 658.

A9. “Government Furnished Information” means information or data issued or made available to the Tenderer in connection with the Contract by or on behalf of the Authority.

A10. “ITT Documentation” means this ITT and any information in any medium or form (for example drawings, handbooks, manuals, instructions, specifications and notes of pre-tender clarification meetings), issued to you, or to which you have been granted access by the Authority, for the purposes of responding to this ITT.

A11. “ITT Material” means any other material (including patterns and samples), equipment or software, in any medium or form issued to you, or to which you have been granted access, by the Authority for the purposes of responding to this ITT.

A12. “Schedule of Requirements” (Section 1 in Terms and Conditions, Schedule 2 in Standardised Contracting Template 1B (SC1B) or Schedule 2 in Standardised Contracting Template 2 (SC2)) means that part of the Contract which identifies, either directly or by reference, the Contractor Deliverables to be supplied or carried out, the quantities involved and the price or pricing terms in relation to each Contractor Deliverable.

A13. The “Statement of Requirement” Flight tasking Management System means that part of the Contract which details the technical requirements and acceptance criteria of the Contractor Deliverables.

A14. A ‘Sub-Contractor’ means any party engaged or intended to be engaged by the Contractor at any level of sub-contracting to provide Contractor Deliverables for the purpose of performing this Contract.

A15. A “Sub-Contracting Arrangement” means a group of economic operators who have come together specifically for the purpose of bidding for this Contract, where one of their number will be the party to the Contract with the Authority, the remaining members of that group being Sub-Contractors to the lead economic operator.

A16. A “Tender” is the offer that you are making to the Authority.

A17. “Tenderer” means the economic operator submitting a response to this Invitation to Tender. Where “you” is used this means an action on you the Tenderer.

A18. A “Third Party” is any person (including a natural person, corporate or unincorporated body (whether or not having separate legal personality)), other than the Authority, the Tenderer or their respective employees.

A19. A “Virtual Tender Board” means the electronic platform to which Tenders are submitted to the Authority. Tenderers are provided log in details within one week of this ITT.

**Purpose**

A20. The purpose of this ITT is to invite you to submit a Tender, in accordance with the instructions set out in this ITT, to propose a solution and best price to meet the Authority’s requirement. This documentation explains and sets out the:

a.        timetable for the next stages of the procurement;

b.        instructions, conditions and processes that governs this competition;

c.        information you must include in your Tender and the required format;

d.        administrative arrangements for the receipt and evaluation of Tenders;

e.        criteria and methodology for the evaluation of Tenders; and

f. Contract Terms & Conditions

A21.   The sections in this ITT and associated documents are structured in line with a generic tendering process and do not indicate importance / precedence.

A22. This Requirement was Advertised (Publication: OJEU; Publication Date: TBC) under the following reference 701553485

A23.   This procurement is In accordance with Public Contracts Regulations 2015.

A24.   This ITT has either been issued to all potential Tenderers that expressed an interest, or has been issued to all potential Tenders chosen during the Tender selection stage listed on page 2 of this DEFFORM 47.

A25. Potential Tenderers can be found on the Contract Bidders Notice as advertised on the Defence Contracts Online (DCO).

A26. Funding has been approved on 2021/02/10 00:00:00.

**ITT Documentation and ITT Material**

A27. ITT Documentation, ITT Material and any Intellectual Property Rights (IPR) in them shall remain the property of the Authority or other Third-Party owners and is released solely for the purposes of enabling you to submit a Tender. You must:

a.                take responsibility for the safe custody of the ITT Documentation and ITT Material and for all loss and damage sustained to it while in your care;

b.                not copy or disclose the ITT Documentation or any part of it to anyone other than the bid team involved in preparing your Tender, and not use it except for the purpose of responding to this ITT;

c.                seek written approval from the Authority if you need to provide access to any ITT Documentation or ITT Material to any Third Party;

d.                abide by any reasonable conditions imposed by the Authority in giving its approval under sub-paragraph A27.c, which at a minimum will require you to ensure any disclosure to a Third Party is made by you in confidence.  Alternatively, due to IPR issues for example, the disclosure may be made, in confidence, directly by the Authority;

e.                accept that any further disclosure of ITT Documentation or ITT Material (or use beyond the original purpose), or further use of ITT Documentation or ITT Material, without the Authority’s written approval may make you liable for a claim for breach of confidence and / or infringement of IPR, a remedy which may involve a claim for compensation;

f.                inform the named Commercial Officer if you decide not to submit a Tender;

g.               immediately confirm destruction of (or in the case of software, that it is beyond use) all ITT Documentation, ITT Material and derived information of an unmarked nature, should you decide not to respond to this ITT, or you are notified by the Authority that your Tender has been unsuccessful; and

h.                consult the named Commercial Officer to agree the appropriate destruction process if you are in receipt of ITT Documentation and ITT Material marked ‘OFFICIAL-SENSITIVE’ or ‘SECRET’.

A28.  Some or all of the ITT Documentation and ITT Material may be subject to one or more confidentiality agreements made between you and either the Authority or a Third Party, for example a confidentiality agreement established in the form of DEFFORM 94.  The obligations contained in any such agreement will be in addition to, and not derogate from, your obligations under paragraph A27 above.

**Tender Expenses**

A29. You will bear all costs associated with preparing and submitting your Tender. The Authority will not be liable for the costs of any Tender, work or effort incurred by you participating in this tender process, including where the tender process is terminated or amended by the Authority, where the Authority decides not to award a Contract or where you withdraw from the tender process either directly or indirectly as costs under any other Contract with the Authority.

**Consortia and Sub-Contracting Arrangements**

A30. The Authority requires all Tenderers to identify whether any and/or which Consortium Arrangements or Sub-Contracting Arrangements will apply in the case of their Tender, and in particular specify the Consortium Arrangement or Sub-Contracting Arrangement entity or both and their workshare. In the case of a Sub-Contracting Arrangement, the Authority requires all Tenderers to identify the entity that will be the party to the Contract with the Authority.

**Material Change of Control**

A31. You must inform the Authority in writing as soon as you become aware of:

a. any material changes to any of the information, representations or other matters of fact communicated to the Authority as part of your PQQ response or in connection with the submission of your PQQ response;

b. any material adverse change in your circumstances which may affect the truth, completeness or accuracy of any information provided as part of your PQQ response or in connection with the submission of your PQQ response or in your financial health or that of any Consortium Arrangement member or Sub-Contracting Arrangement member; or

c. any material changes to your financial health or that of a party to the Consortium Arrangement or Sub-Contracting Arrangement; and

d. any material changes to the makeup of the Consortium Arrangement or Sub-Contracting Arrangement, including:

i. the form of legal arrangement by which the Consortium Arrangement or Sub-Contracting Arrangement will be structured;

ii. the identity of Consortium Arrangement or Sub-Contracting Arrangement;

iii. the intended division or allocation of work or responsibilities within or between the Consortium Arrangement or Sub-Contracting Arrangement; and

iv. any change of control of any Consortium Arrangement or Sub-Contracting Arrangement.

A32. If a change described in paragraph A31 occurs, the Authority may reassess you against the PQQ selection criteria. The Authority reserves the right to require you to submit an updated/amended PQQ response (or parts thereof) to reflect the revised circumstances so that the Authority can make a further assessment by applying the published selection criteria to the new information provided. The outcome of this further assessment may affect your suitability to proceed with the procurement.

A33. In relation to a change described in paragraph A31, as far as is reasonably practicable, you must discuss any such proposed changes with the Authority before they occur and you must additionally highlight any changes from your PQQ response relating to any change in the Consortium Arrangement or Sub-Contracting Arrangement or any change relating to conflicts of interest following a change, directly or indirectly in your ownership or control or of any Consortium Arrangement or Sub-Contracting Arrangement

A34. The Authority reserves the right, at its sole discretion to disqualify any Tenderer who makes any material change to any aspects of its responses to the PQQ if:

a. it fails to re-submit to the Authority the updated relevant section of its PQQ response providing details of such change in accordance with paragraph A33 as soon as is reasonably practicable and in any event no later than business days following request from the Authority; or

b. having notified the Authority of such change, the Authority considers that the effect of the change is such that on the basis of the evaluation undertaken by the Authority for the purpose of selecting potential providers to participate in the procurement, the Tenderer would not have pre-qualified.

**Contract Terms &Conditions**

A35. The Contract Terms & Conditions include all attachments listed in the contents of the Terms & Conditions, such as the Schedule of Requirements, any additional Schedules, Annexes and/or Appendices. The full text of Defence Conditions (DEFCONs) and Defence Forms (DEFFORMS) are available electronically via the [Knowledge in Defence (KiD) website.](https://www.gov.uk/guidance/knowledge-in-defence-kid)

A36. The Contract Terms & Conditions are attached.

**Other Information**

A37. **The Armed Forces Covenant**

a. The Armed Forces Covenant is a promise from the nation to those who serve, or who have served, and their families, to ensure that they are treated fairly and are not disadvantaged in their day to day lives, as a result of their service.

b. The Covenant is based on two principles:

i. That the Armed Forces community would not face disadvantages when compared to other citizens in the provision of public and commercial services; and

ii. That special consideration is appropriate in some cases, especially for those who have given most, such as the injured and the bereaved.

The Authority encourages all Tenderers, and their suppliers, to sign the Armed Forces Covenant, declaring their support for the Armed Forces community by displaying the values and behaviours set out therein.

c. The Armed Forces Covenant provides guidance on the various ways you can demonstrate your support through your Covenant pledges and how by engaging with the Covenant and Armed Forces, such as employing Reservists, a company or organisation can also see real benefits in their business.

d. If you wish to register your support you can provide a point of contact for your company on this issue to the Armed Forces Covenant Team at the address below, so that the Authority can alert you to any events or initiatives in which you may wish to participate. The Covenant Team can also provide any information you require in addition to that included on the website.

 Email address: employerrelations@rfca.mod.uk

 Address: Defence Relationship Management

 Ministry of Defence

 Holderness House

 51-61 Clifton Street

 London

 EC2A 4EY

e. Paragraph A37 a to d above are not a condition of working with the Authority now or in the future, nor will this issue form any part of the Tender evaluation, Contract award procedure or any resulting Contract. However, the Authority very much hopes you will want to provide your support.

A38.   **Tupe**

**Applicability Of TUPE**

a.   Your attention is drawn to the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE), as amended and /or the Service Provision Change (Protection of Employment) Regulations (Northern Ireland) 2006, as amended from time to time. The Authority would be neither transferor nor transferee of the employees in the circumstances of any contract awarded as a result of this invitation and it is your responsibility to consider whether or not TUPE applies to this re-let and to tender accordingly. Notwithstanding this, you will wish to note that it is the Authority's view that TUPE is unlikely to be applicable if this Invitation to Tender results in a Contract being placed as the incumbent contractor has advised that there is no organised grouping of employees carrying out the services,  although the Authority shall not be liable for the opinion expressed above.

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

**Section B - Key Tendering Activities**

The key dates for this procurement are currently anticipated to be as follows:

| **Stage** | **Date and Time**  | **Initiated By** | **Submit to:** |
| --- | --- | --- | --- |
| Final date for Clarification Questions / Requests for additional information | TBC | Tenderers | Defence Sourcing Portal |
| The Authority issues Final Clarification Answers  | TBC | The Authority | All Tenderers |
| Tender Return | TBC | Tenderers | Defence Sourcing Portal |
| Tender Evaluation | TBC | The Authority | N/A |

**Notes**

**Tenderers Conference**

B1.        A Tenderers Conference is not being held.

**Clarification Questions**

B2. The Authority will automatically copy clarification questions and answers to all Tenderers, removing the names of those who have raised the clarification questions. If you wish the Authority to treat the clarification as confidential and not issue the response to all Tenderers, you must state this when submitting the clarification question and provide justification. If in the opinion of the Authority, the clarification is not confidential, the Authority will inform the Tenderer, who will have an opportunity to withdraw the question. If the clarification question is not withdrawn, the response will be issued to all Tenderers.

**Tender Return**

B3. The Authority may, in its own absolute discretion extend the deadline for receipt of tenders and in such circumstances the Authority will notify all Tenderers of any change.

**Negotiations**

B4.        Negotiations do not apply to this tender process.

        -------------------------------------------------------------

**Section C - Instructions on Preparing Tenders**

**Construction of Tenders**

C1. Your Tender must be written in English, using Arial font size 11. Prices must be in GBP ex VAT. Prices must be Firm Price. A price breakdown must be included in the Tender.

C2. To assist the Authority’s evaluation, you must set out your Tender response in accordance with Section D (Tender Evaluation).

**Validity**

C3. Your Tender must be valid and open for acceptance for 90from the Tender return date. In addition, the winning Tender must be open for acceptance for a further thirty (30) calendar days once the Authority announces its decision to award the Contract. In the event that legal proceedings challenging the award of the Contract are instituted, before entry into Contract, you must hold your Tender open for acceptance during this period, and for up to fourteen (14) calendar days after any legal proceedings have concluded.

**Section D - Tender Evaluation**

**Tender Evaluation**

D1. Annex A, B and C below details how your Tender will be evaluated, the tools used to evaluate the Tender and the evaluation criteria.

D2. Negotiations do not apply to this tender process.

**Annex A - Technical Evaluation Methodology**

**Contents**

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[2. Evaluators 1](#_Toc482106765)

[3. Criteria 1](#_Toc482106766)

[4. Marking of Responses 1](#_Toc482106767)

[5. The Technical Evaluation Process 3](#_Toc482106768)

[6. Moderation of Evaluations 3](#_Toc482106769)

[7. Results from Scored Criteria 3](#_Toc482106770)

[8. Results from Pass / Fail Criteria 4](#_Toc482106771)

[9. Technical Compliance 5](#_Toc482106772)

[10. Provision of Results to Tenderers 5](#_Toc482106773)

1. **Purpose**
	1. This Annex details the process which the technical elements of the Tenders submitted in response to this Invitation to Tender (ITT) will be evaluated, including the criteria the Tenderer is required to address and the weightings of these criteria. The technical elements consist of the solution proposed by the Tenderer to deliver the outputs detailed within the Statement of Requirement (SoR) within the limitations described within the SoR and associated Terms and Conditions.
2. **Evaluators**
	1. The response to the technical elements of this ITT will be assessed by a team of Subject Matter Experts (SMEs) deemed appropriate by the Authority. These SMEs will evaluate each Tender and will be referred to further in this Annex as the evaluators.
3. **Criteria**
	1. The technical evaluation criteria are set out at Appendix 1 and Appendix 2 including the marking method and any weighting applied to the criteria.
4. **Marking of Responses**
	1. All criteria will be marked using the relevant marking matrices detailed below:
		1. **Pass / Fail** - Where the marking method for a criterion is **Pass or Fail** then the Tender will be marked in accordance with Table 1 detailed below:

**Table 1 - Technical Evaluation Marking for Pass / Fail Criteria**

| **Mark** | **Proposed Solution** |
| --- | --- |
| Pass  | The Tender shows **all** of the following:1. The Tenderer has demonstrated that the solution is fully deliverable; evidence for this:* Details how the capability will be delivered.
* Complies with necessary standards detailed in the criteria and recognises key constraints.
* Shows efficiencies in the use of resources.

2. Any effects on the Authority resulting from the Tenderer’s solution are acceptable. |
| Fail | The Tender shows **any** of the following:1. The Tenderer has failed, or only partially, demonstrated that the solution is deliverable; evidence for this:* Vaguely details how the capability will be delivered.
* Only complies with necessary standards detailed in the criteria but does not recognise key constraints.
* Does not clearly show efficiencies in the use of resources.

2. Some effects on the Authority resulting from the Tenderer’s solution are undesirable. |

* + 1. **Scored** - Where the marking method for a criterion is **Scored** then the tender will be marked in accordance with Table 2 detailed below:

**Table 2 - Technical Evaluation Marking for Scored Criteria**

| **Mark** | **Proposed Solution** |
| --- | --- |
| 100 | High ConfidenceThe Tender shows **all** of the following:1. The Tenderer has demonstrated that the solution is fully deliverable; evidence for this:* Clearly and comprehensively details how the capability will be delivered.
* Complies with all standards detailed in the criteria whilst recognising and mitigating all constraints.
* Shows effective and efficient use of resources.

2. Any effects on the Authority resulting from the Tenderer’s solution are acceptable. |
| 80 | Good ConfidenceThe Tender shows **all** of the following:1. The Tenderer has demonstrated that the solution is fully deliverable; evidence for this:* Highly details how the capability will be delivered.
* Complies with necessary standards detailed in the criteria whilst recognising and mitigating key constraints.
* Show efficiencies in the use of resources.

2. Any effects on the Authority resulting from the Tenderer’s solution are acceptable. |
| 60 | SatisfactoryThe Tender shows **all** of the following:1. The Tenderer has demonstrated that the solution is fully deliverable; evidence for this:* Details how the capability will be delivered.
* Complies with necessary standards detailed in the criteria and recognises key constraints.
* Shows limited efficiencies in the use of resources.

2. Any effects on the Authority resulting from the Tenderer’s solution are acceptable. |
| 40 | Minor ConcernsThe Tender shows **any** of the following:1. The Tenderer has only partially demonstrated that the solution is deliverable; evidence for this:* Incomplete details how the capability will be delivered.
* Only complies with necessary standards detailed in the criteria but does not recognise key constraints.
* Does not clearly show efficiencies in the use of resources.

2. Some effects on the Authority resulting from the Tenderer’s solution are undesirable. |
| 20 | Major ConcernsThe Tender shows **any** of the following:1. The Tenderer has failed, or only partially, demonstrated that the solution is deliverable; evidence for this:* Fails to detail how the capability will be delivered.
* Fails to comply with minimum necessary standards detailed in the criteria and does not recognise key constraints.
* Fails to identify any efficiency in the use of resources.

2. Any effects on the Authority resulting from the Tenderer’s solution are unacceptable. |
| 0 | FailNo response provided. |

* 1. The Tenderer is to respond using the Defence Sourcing Portal (DSP). The Technical Evaluation criterion have been provided at Appendix 2 however all responses must be uploaded to the corresponding criterion located within the Technical Envelope. The responses to the criterion detailed within the Appendix and the DSP Technical Envelope are to be clear and concise; responses that are unclear or unstructured may result in the Tenderer receiving a lower mark due to the difficulty for the evaluators to identify the information
	2. Where the Tenderer does not upload their response to the DSP, then the Tenderer’s response will not be evaluated and be deemed non-compliant.
1. **The Technical Evaluation Process**
	1. The Tenderers solution to the technical elements of this ITT are to address all of the responses required and detailed in Appendix 2. These responses will be assessed by a team brought together by the Authority as detailed at Section 2. The Tenderer’s solution to each technical criterion will be assessed for compliance by the evaluators.
	2. Once each response has been fully considered then either a Pass or Fail mark or a Score ranging from 100 to 0, in integers of 20, will be awarded depending on marking detailed for that criterion.
2. **Moderation of Evaluations**
	1. Once all evaluators have completed their evaluations then a moderation exercise will be undertaken. The moderation will review disparities between the markings awarded by the evaluators.
	2. The moderation may result in evaluators being requested to reconsider the original mark awarded.
	3. Where the moderation determines that a Tenderer’s response is found to have areas of minor uncertainty the evaluators may request, via the relevant Commercial Officer, a Clarification Question (CQ) to be raised. On the return of the response of the CQ by the Tenderer, the evaluators will re-evaluate the relevant criteria using the response to the CQ in a reiteration of the Technical Evaluation Process detailed above at Section 5.
	4. CQs will only be raised if there seems to be areas of minor misunderstanding as to the meaning of the Tender by the evaluators or where the evaluators perceive there to have been a genuine mistake by the Tenderer. Where a Tenderer has not submitted a response, omits responses to criteria, or has significant areas of non-compliance then a CQ will not be raised.
3. **Results from Scored Criteria**
	1. For those criteria, which will be marked on a Scored basis, then the following will apply.
	2. Where multiple evaluators are assigned to assess the Tenderer’s response then the average (mean) of the results of the evaluators shall be used and termed the Average Score. This shall be a rational number displayed to 2 decimal places and shall be average of the score awarded by all evaluators against each criterion using the following equation:

Average Score =

Where:

*n* = Number of evaluators

*e1* = Score awarded by first evaluator against the criterion

*e2* = Score awarded by second evaluator against the criterion

*ex* = Score awarded by subsequent evaluators against the criterion

1. **Results from Pass / Fail Criteria**
	1. For those criteria, which will be marked on a Pass / Fail basis, then the following will apply.
	2. Where multiple evaluators are assigned to assess the Tenderer’s response then a consensus of the result of each criteria from each evaluator will be used to create a Consensus Result. Where any one evaluator marks the criteria as a Fail then the Consensus Result will default to Fail.
2. **Technical Compliance**
	1. Unless otherwise stated against a particular criterion, the material detailed in this Section shall be used to determine if a Tenderer’s bid is deemed to be technically compliant or non-compliant.
	2. Where there is a Fail in any part of those criteria marked as Pass or Fail then the Tenderer’s bid will be considered to be technically non-compliant.
	3. Where the Score to any element is 40 (Minor Concerns) or less then the Tenderer’s bid will be considered to be technically non-compliant.
	4. Where a Tenderer’s bid is deemed to be technically non-compliant, the Tenderer’s bid will not be taken forward for a Commercial score to be awarded.
	5. Where a Tenderer’s bid is deemed to be technically compliant, then the Final Technical Score shall be the measure that will be used for reconciliation with the Commercial score to determine the “Winning Tenderer”.
3. **Provision of Results to Tenderers**
	1. The Successful Tenderer or Tenderers will not, by default, be provided with a breakdown of the technical evaluation. Such a breakdown of their results may be requested through the relevant Commercial Officer.
	2. Unsuccessful Tenderer or Tenderers will be provided with the following level of breakdown of the technical evaluation provided in the Notification of Contract Award Decision letters issued following completion of the competition:
		1. For criteria marked on a Scored basis, the Tenderer will be provided with the Average Score along with the Weighted Score (if weightings are used). The Average Score will be displayed as whole numbers in integers between 0 and 100 in accordance with the marking matrix at Section 4. The whole number will be determined by using the bracket within the marking matrix that the Tenderer’s Average Score falls within.
		2. For criteria marked on a Pass / Fail basis, the Tenderer will be provided with the Consensus Result displaying if the Tenderer has achieved a Pass or Fail mark in accordance with the marking matrix at Section 4.
		3. For all criteria, the reasons for the mark provided to the Tenderer.
		4. For all criteria, the relative mark of the Successful Tenderer(s) and the Successful Tenderer(s)’s relative characteristics and advantages.

**Appendix 1**

**Tender Evaluation Details**

**Flight Tasking Management System**

| **Criteria** | **Marking Method** | **Weighting (%)** |
| --- | --- | --- |
| 1 | Scored | N/A |
| 2 | Scored | N/A |
| 3 | Pass/Fail | N/A |
| 4 | Scored | N/A |
| 5 | Pass/Fail | N/A |
| 6 | Scored | N/A |
| 7 | Scored | N/A |
| 8 | Scored | N/A |
| 9 | Scored | N/A |
| 10 | Scored |  N/A |
| 11 | Scored | N/A |
| 12 | Scored | N/A |
| 13 | Scored | N/A |
| 14 | Scored | N/A |
| 15 | Scored | N/A |
| 16 | Scored | N/A |
| 17 | Scored | N/A |
| 18 | Scored | N/A |
| 19 | Scored | N/A |
| 20 | Scored | N/A |
| 21 | Scored | N/A |
| 22 | Pass/Fail | N/A |
| 23 | Pass/Fail | N/A |
| 24 | Scored | N/A |

**Appendix 2**

|  |  |
| --- | --- |
| Criterion Number: |  |
| Criterion: | Demonstrate that your company’s solution will provide software to support all flight tasking and management activities of the RAF Air Transport / Air-to-Air Refuelling (AT/AAR) Flying Programmes. Demonstration must show the delivery of end to end functionality from task inception to completion. |
| Statement of Requirement (SoR) Reference: | B1.1 |
| Marking Method: | Scored |

|  |  |
| --- | --- |
| Criterion Number: |  |
| Criterion: | Demonstrate that your company’s solution will have all functional areas to be fully integrated. Demonstration is to confirm that data sharing and data migration between functional areas will be invisible to user. |
| SoR Reference: | B.1.2 |
| Marking Method: | Scored |
|  |  |

|  |  |
| --- | --- |
| Criterion Number: |  |
| Criterion: | Confirm that, and detail how, your company’s solution provides sufficient software licences to support the user community. |
| SoR Reference: | B.1.4 |
| Marking Method: | Pass / Fail |
|  |  |

|  |  |
| --- | --- |
| Criterion Number: |  |
| Criterion: | Demonstrate that your company’s solution includes the capability to provide users with: * Automatic alert notifications;
* Colour coded warnings to alert to changes within full spectrum of AT/AAR programme; and,
* 'Attention getters' for any user action that would result in the loss of flight data, compromise task viability or breach 2 Group (Gp) Operations (Ops) Manual regulations.
 |
| SoR Reference: | B.1.7 |
| Marking Method: | Scored |

|  |  |
| --- | --- |
| Criterion Number: |  |
| Criterion: | Confirm that your company’s solution shall be capable of ingesting Digital Aeronautical Flight Information File (DAFIF) data for planning purposes. |
| SoR Reference: | B.1.6 |
| Marking Method: | Pass / Fail |

|  |  |
| --- | --- |
| Criterion Number: |  |
| Criterion: | Demonstrate that your company’s solution includes the capability for a detailed and fully editable database of airfields.  |
| SoR Reference: | B.1.8 |
| Marking Method: | Scored |

|  |  |
| --- | --- |
| Criterion Number: |  |
| Criterion: | Demonstrate that your company’s solution includes the capability for a detailed and fully editable database of user aircraft fleets.  |
| SoR Reference: | B.1.9 |
| Marking Method: | Scored |

|  |  |
| --- | --- |
| Criterion Number: |  |
| Criterion: | Demonstrate that your company’s solution includes functionality for users to:* Manage AT/AAR bids from Defence sponsors, up to 3 months before bid results in operational task;
* Create, prioritise and authorise bids; and,
* View bid reports as approved by the Air Mobility Allocation Committee (AMAC).
 |
| SoR Reference: | B.2.1 |
| Marking Method: | Scored |

|  |  |
| --- | --- |
| Criterion Number: |  |
| Criterion: | Demonstrate that your company’s solution includes functionality for users to:* Allocate AT/AAR bids to most suitable RAF aircraft fleets;
* Create AT/AAR bid components, subdividing bid into optimised aircraft loads; and,
* Allocate optimum loads to each aircraft type.
 |
| SoR Reference: | B.2.2 |
| Marking Method: | Scored |

|  |  |
| --- | --- |
| Criterion Number: |  |
| Criterion: | Demonstrate that your company’s solution includes the ability to specify flight crew and support crew requirements and allocations to tasks. |
| SoR Reference: | B.2.5, B.2.6 |
| Marking Method: | Scored |

|  |  |
| --- | --- |
| Criterion Number: |  |
| Criterion: | Demonstrate that your company’s solution includes the ability to:* Create Transportation Orders (TRANSOPs);
* Assign, remove and manage tasks within TRANSOPs;
* Display the flight legs of TRANSOPs graphically;
* Print TRANSOP as required; and,
* Ability to paste Word and Excel data into TRANSOP as required.
 |
| SoR Reference: | B.2.8. |
| Marking Method: | Scored |

|  |  |
| --- | --- |
| Criterion Number: |  |
| Criterion: | Demonstrate that your company’s solution includes the ability to:* Finalise task details and release TRANSOP;
* Create recipient list to which TRANSOP to be sent; and,
* Allow TRANSOP to be modified after release.
 |
| SoR Reference: | B.2.10 |
| Marking Method: | Scored |

|  |  |
| --- | --- |
| Criterion Number: |  |
| Criterion: | Demonstrate that your company’s solution includes the ability to:* Manage and display the flow of aircraft through the airfields used by the AT/AAR fleets;
* Tailor the maximum number of aircraft to be handled and specify the load/offload times; and,
* Display of flow management graphically.
 |
| SoR Reference: | B.2.18 |
| Marking Method: | Scored |

|  |  |
| --- | --- |
| Criterion Number: |  |
| Criterion: | Demonstrate that your company’s solution includes the ability to:* Capture how long a visiting aircraft has been parked at a airfield
* Assign it to a relevant parking bay;
* Assign any services rendered to that aircraft, from a pre-defined list; and,
* Cost the services provided and generate invoices based on these costs
 |
| SoR Reference: | B.2.19 |
| Marking Method: | Scored |

|  |  |
| --- | --- |
| Criterion Number: |  |
| Criterion: | Demonstrate that your company’s solution includes a database of all crew, to include personal information, role and qualifications. |
| SoR Reference: | B.3.1 |
| Marking Method: | Scored |

|  |  |
| --- | --- |
| Criterion Number: |  |
| Criterion: | Demonstrate that your company’s solution includes the capability to manage flight sectors, including updates to departure and arrival times through route template. |
| SoR Reference: | B.4.1 |
| Marking Method: | Scored |

|  |  |
| --- | --- |
| Criterion Number: |  |
| Criterion: | Demonstrate that your company’s solution includes the capability to monitor active flights and display sector information when selected. |
| SoR Reference: | B.4.8 |
| Marking Method: | Scored |

|  |  |
| --- | --- |
| Criterion Number: |  |
| Criterion: | Demonstrate that your company’s solution includes the capability to mark task as completed when updated arrival times available and produce task report. |
| SoR Reference: | B.4.9 |
| Marking Method: | Scored |

|  |  |
| --- | --- |
| Criterion Number: |  |
| Criterion: | Demonstrate that your company’s solution includes the capability to store, edit and delete diplomatic clearance details of each country overflown by and routes of AT/AAR aircraft. |
| SoR Reference: | B.5.1, B.5.2 |
| Marking Method: | Scored |

|  |  |
| --- | --- |
| Criterion Number: |  |
| Criterion: | Demonstrate that your company’s solution includes the capability to produce, edit, track, print and save diplomatic clearance requests and amendments. |
| SoR Reference: | B.5.4, B.5.5 |
| Marking Method: | Scored |

|  |  |
| --- | --- |
| Criterion Number: |  |
| Criterion: | Demonstrate that your company’s solution includes a On Time Performance (OTP) data capture system as part of the FTMS. |
| SoR Reference: | B.6.1 |
| Marking Method: | Scored |

|  |  |
| --- | --- |
| Criterion Number: |  |
| Criterion: | Confirm that your company’s solution shall deliver a fully comprehensive training programme relevant to the needs of the RAF and produce software user guides, database administration guides. |
| SoR Reference: | B.7.1, B.7.2 |
| Marking Method: | Pass / Fail |

|  |  |
| --- | --- |
| Criterion Number: |  |
| Criterion: | Confirm that your company’s solution shall deliver a system to run concurrently with the current application for a minimum period of 3 months and that, during this period, all historic tasking data will be migrated from the current system. |
| SoR Reference: | B.7.3 |
| Marking Method: | Pass / Fail |

|  |  |
| --- | --- |
| Criterion Number: |  |
| Criterion: | Demonstrate that your company’s solution includes:* Support and advice for system, operational and technical information issues, contactable by telephone and email.
* Progress reports and meetings with the Authority to discuss the IT support system on a regular basis.
 |
| SoR Reference: | B.7.5, B.7.6 |
| Marking Method: | Scored |

**Commercial Evaluation**

**Annex B - Commercial Evaluation Methodology**

1. The response to the Commercial element of this Invitation to Tender (ITT) will be assessed by Defence Commercial Officers and other relevant specialists deemed appropriate by the Authority.

2. The Tenderer’s response to the ITT is to be clear and concise; responses that are unclear or unstructured may result in the Tender being rejected by the Authority.

**3.** **Acceptance of Terms and Conditions and Compliance with DEFFORM 47**

a. Tenderers must accept all Terms and Conditions set out in the Contract document. Acceptance, or otherwise, must be indicated at Appendix 1 to this Annex.

b. Bids must contain all requirements detailed within the DEFFORM 47 and Annexes.

c. The above shall be assessed on a **Pass or Fail** basis as follows:

|  |  |
| --- | --- |
| **Mark** | **Proposed Solution** |
| Pass | The Tenderer accepts all of the Authority’s Terms and Conditions, and complies with all requirements of the DEFFORM 47 and Annexes including pricing in line with the pricing schedule and provide breakdowns as requested.  |
| Fail | The Tenderer fails to accept, or attempts to amend, any of the Authority’s Terms or Conditions, or omits any requirement of the DEFFORM 47 and Annexes within their response including pricing the proposal not in line with the pricing schedule. |

d. **Evaluation Process**

i. The Tenderers response to the Commercial elements of this ITT should address all of the requirements detailed in Appendix 1.

ii. This response shall be assessed by Defence Commercial Officers as detailed at Paragraph 1.

iii. Once the response has been fully considered, either a Pass or Fail mark will be awarded.

e. **Commercial Compliance**

i. Where a Tenderer’s Bid fails as above, then the Tenderer will be considered Commercially non-compliant.

Annex B to DEFFORM 47 701553485

**Appendix 1 - Commercial Compliance**

The Tenderer should scrutinise the Conditions, DEFCONs, Special Conditions and the Special Processes, together with the relevant Annexes, extremely carefully.

The Commercial Compliance Table shown below should be marked by the Tenderer according to whether each Condition, DEFCON or Process can be fully met or not.

If a Tenderer is not able to meet in full the demands of an item, the reasons for this should be given on a separate sheet, and clearly cross referenced to the item concerned.

Tenderers should be aware that no item should be ticked as being offered unless the condition can be met.

If a Contract were to be awarded, the Authority would expect the Contract to be performed under the required Conditions.

| **Tenderer’s Compliance with Terms and Conditions** |
| --- |
|  | **Title** | **Full Acceptance of Condition** | **Notes** |
| **Yes** | **No** |
| **General Conditions** |
| 1 | General |  |  |  |
| 2 | Duration of Contract |  |  |  |
| 3 | Entire Agreement |  |  |  |
| 4 | Governing Law |  |  |  |
| 5 | Precedence |  |  |  |
| 6 | Amendments to Contract |  |  |  |
| 7 | Variations to Specification |  |  |  |
| 8 | Authority Representatives |  |  |  |
| 9 | Severability |  |  |  |
| 10 | Waiver |  |  |  |
| 11 | Assignment of Contract |  |  |  |
| 12 | Third Party Rights |  |  |  |
| 13 | Transparency |  |  |  |
| 14 | Disclosure of Information |  |  |  |
| 15 | Publicity and Communication with the Media |  |  |  |
| 16 | Change of Control of Contractor |  |  |  |
| 17 | Environmental Requirements |  |  |  |
| 18 | Contractor’s Records |  |  |  |
| 19 | Notices |  |  |  |
| 20 | Progress Monitoring, Meeting and Reports |  |  |  |
| **Supply of Contract Deliverables** |
| 21 | Supply of Contractor Deliverables and Quality Assurance |  |  |  |
| 22 | Marking of Contractor Deliverables |  |  |  |
| 23 | Packaging and Labelling (Excluding Contractor Deliverables Containing Munitions) |  |  |  |
| 24 | Supply of Hazardous Materials or Substances in Contractor Deliverables |  |  |  |
| 25 | Timber and Wood-Derived Products |  |  |  |
| 26 | Certificate of Conformity |  |  |  |
| 27 | Access to Contractor’s Premises |  |  |  |
| 28 | Delivery / Collection |  |  |  |
| 29 | Acceptance |  |  |  |
| 30 | Rejection |  |  |  |
| 31 | Diversion Orders |  |  |  |
| 32 | Self-to-Self Delivery |  |  |  |
| **Licences and Intellectual Property** |
| 33 | Import and Export Licences |  |  |  |
| 34 | Third Party Intellectual Property – Rights and Restrictions |  |  |  |
| **Pricing and Payment** |
| 35 | Contract Price |  |  |  |
| 36 | Payment and Recovery of Sums Due |  |  |  |
| 37 | Value Added Tax |  |  |  |
| 38 | Debt Factoring |  |  |  |
| 39 | Subcontracting and Prompt Payment |  |  |  |
| **Termination** |
| 40 | Dispute Resolution |  |  |  |
| 41 | Termination for Insolvency or Corrupt Gifts |  |  |  |
| 42 | Termination for Convenience |  |  |  |
| 43 | Material Breach |  |  |  |
| 44 | Consequences of Termination |  |  |  |
| **45. The Project Specific DEFCONS and DEFCON SC Variants That Apply to this Contract are:** |
| DEFCON76 |  |  |  |
| DEFCON 91 |  |  |  |
| DEFCON 532 |  |  |  |
| DEFCON 532B |  |  |  |
| DEFCON 627 |  |  |  |
| DEFCON 658 (SC2) (Edn. 11/17) - Cyber |  |  |  |
| DEFCON684 |  |  |  |
| DEFCON 660 |  |  |  |
| **46. The special conditions that apply to this contract are:** |  |  |  |
| Option periods |  |  |  |
| Limitations on Liability |  |  |  |
|  |  |  |  |
|  |  |  |  |

A Supplier Assurance Questionnaire **must** be completed ensuring that the minimum cyber risk profile is met which is linked to reference number -RAR-G9G87XBG. This must be completed via the internet based DCPP Cyber Security Model online: <https://suppliercyberprotection.service.xgov.uk/>**.** Where you cannot demonstrate that you have achieved the proportionate security requirements associated with this requirement, a Cyber Implementation Plan (CIP) must be submitted. Where a bidder has produced a CIP which is deemed unacceptable by the RAF Senior Information Risk Owner (SIRO) to accept then they will be declared non-compliant for this requirement. Further guidance is provided on the DCPP website, once you commence the Supplier Assurance Questionnaire please note that you must include the above RAR reference at the start of this process.

**Annex C**

**Specific Tender Evaluation Details – 701553485**

**The Provision of a Flight Tasking Management System**

1. **Assessment of Meat Methodology**
	1. The award of a Contract for this Requirement shall be based on the **Weighted** **Value for Money index.**

**2. Weighted Value for Money Index example**

The overall tender score is calculated as follows:

Where:

*wQ* = weighting of non-cost criteria

*wC* = weighting applied to cost

Assuming that wQ = 60% and wC = 40% gives:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Tender  | Non-cost score  | Cost (£)  | Weighted VFM Index  | CommerciallyCompliant | Rank  |
| A  | 6260/40 = 488.2  | 20  | 24.41  | Yes | 3  |
| B  | 8560/40 = 783.7  | 24  | 32.65  | Yes | 2  |
| C  | 10060/40 = 1000.0  | 29  | 34.48  | Yes | 1  |

Using this example Tenderer C is the winning contractor based on the VFM index score and being commercially compliant as described in Annex B.

**3. Weightings**

**3.1** The weightings which apply for this tender, no 701553485, are WQ = 60% and WC = 40%

4. **Cost**

**4.1** For the purposes of this evaluation the cost will be the total cost ex VAT for lead in costs and the core requirement for a 3 year period.

 **Section E - Instructions on Submitting Tenders**

**Submission of your Tender**

E1. Your Tender and any ITT Documentation must be submitted electronically via the Defence Sourcing Portal (DSP) by TBC . The Authority reserves the right to reject any Tender received after the stated date and time.  Hard copy, paper or delivered digital Tenders (e.g. email, DVD) at OFFICIAL SENSITIVE classification are no longer required and will not be accepted by the Authority.

E2. You must provide via the DSP one priced copy of your Tender and one unpriced copy. Both copies should be clearly labelled and easily identifiable. You must ensure that there are no prices present in your unpriced copy. The Authority has the right to request, at its discretion, that any pricing information found in the unpriced copy is redacted in accordance with paragraph E3.

E3. The Authority may, in its own absolute discretion allow the Tenderer to rectify any irregularities identified in the Tender by the Authority or provide clarification after the Tender return date. For example, this may include, but is not limited to, redacting pricing information in the unpriced copy of the tender, rectifying, or providing clarification in relation to a corrupt or blank document. Tenderers will be provided with instructions via the DSP on how they can correct such irregularities which must be completed by the deadline set. The Authority will cross reference the amended Tender with the original Tender submitted to the DSP before the Tender return date to ensure that no other amendments, other than in relation to the specific irregularity/clarification communicated by the Authority, have been made. Should Tenderers make additional amendments to the Tender other than those relating to the specific irregularity/clarification communicated to the Tenderer by the Authority, this will result in a non-compliant bid.

E4. The DSP is accredited to OFFICIAL SENSITIVE. Material that is protectively marked above this classification must not be uploaded to the DSP. Please contact caroline.razavi750@mod.gov.uk if you have a requirement to submit documents above OFFICIAL SENSITIVE

E5. You must not upload any ITAR or Export Controlled information as part of your Tender or ITT documentation into the DSP. You must contact caroline.razavi750@mod.gov.uk to discuss any exchange of ITAR or Export Controlled information. You must ensure that you have the relevant permissions to transfer information to the Authority.

E6. You must ensure that your DEFFORM 47 Annex A is signed, scanned and uploaded to DSP with your Tender as a PDF (it must be a scanned original). The remainder of your Tender must be compatible with MS Word and other MS Office applications.

**Lots**

E7. N/A

**Variant Bids**

E8. N/A

**Samples**

E9.        Where samples are required for evaluation purposes you must be prepared to submit them without charge. You should clearly label samples with the following particulars:

a. your name and address;

b. the Tender Reference Number and due date for return of the Tender; and

c. the Description and Item Number as shown in the Schedule of Requirements.

E10. You should send any samples to the named Commercial Officer after the Tender return date.

E11. The Authority may retain all samples for twelve (12) months from the Tender return date. After this period, the Authority will destroy the samples unless you specifically state you require their return. The Authority may keep samples associated with a successful Tender indefinitely.

E12. Samples that are consumed will not be returned.

**Section F - Conditions of Tendering**

F1. The issue of ITT Documentation or ITT Material is not a commitment by the Authority to place a Contract as a result of this competition or at a later stage. Neither does the issue of this ITT or subsequent Tender submission create any implied Contract between the Authority and any Tenderer and any such implied Contract is expressly excluded.

F2. The Authority reserves the right, but is not obliged to:

 a. vary the terms of this ITT in accordance with applicable law;

 b. seek clarification or additional documents in respect of a Tenderer’s submission during the Tender evaluation where necessary for the purpose of carrying out a fair evaluation. Tenderers are asked to respond to such requests promptly;

 c. visit your site;

 d. disqualify any Tenderer that submits a non-compliant Tender in accordance with the instructions or conditions of this ITT;

 e. disqualify any Tenderer that is guilty of misrepresentation in relation to its Tender, expression of interest, the dynamic PQQ or the tender process;

 f. re-assess your suitability to remain in the competition, for example where there is a material change in the information submitted in and relating to the PQQ response, see paragraphs A31 to A34;

 g. withdraw this ITT at any time, or choose not to award any Contract as a result of this tender process, or re-invite Tenders on the same or any alternative basis;

 h. re-issue this ITT on a single source basis, in the event that this procurement does not result in a ‘competitive process’ as defined in the Single Source Contract Regulations 2014, making such adjustments as would be required by the application of the Defence Reform Act 2014 and/or the Single Source Contract Regulations 2014;

 i. choose not to award any Contract as a result of the current tender process;

 j. where it is considered appropriate, ask for an explanation of the costs or price proposed in the Tender where the Tender appears to be abnormally low;

F3. The Contract will be entered into when the Authority sends written notification of its entry into the Contract, via a DEFFORM 159. Written notification will be issued, to the address you provide, on or before the end of the validity period specified in paragraph C3.

**Conforming to the Law**

F4. You must comply with all applicable UK legislation and any equivalent legislation in a third state.

F5. Your attention is drawn to legislation relating to the canvassing of a public official, collusive behaviour and bribery. If you act in breach of this legislation your Tender may be disqualified from this procurement. Disqualification will be without prejudice to any civil remedy available to the Authority or any criminal liability that your conduct may attract.

**Bid Rigging and Other Illegal Practices**

F6. You must report any bid rigging, fraud, bribery, corruption, or any other dishonest irregularity in connection to this tendering exercise to:

Defence Regulatory Reporting Cell Hotline

0800 161 3665 (UK) or

+44 1371 85 4881 (Overseas)

***Conflicts of Interest***

F7. Any attempt by Tenderers or their advisors to influence the contract award process in any way may result in the Tenderer being disqualified. Specifically, Tenderers shall not directly or indirectly at any time:

 devise or amend the content of their Tender in accordance with any agreement or arrangement with any other person, other than in good faith with a person who is a proposed partner, supplier, consortium member or provider of finance;

 enter into any agreement or arrangement with any other person as to the form or content of any other Tender, or offer to pay any sum of money or valuable consideration to any person to effect changes to the form or content of any other Tender;

 enter into any agreement or arrangement with any other person that has the effect of prohibiting or excluding that person from submitting a Tender;

 canvass the Authority or any employees or agents of the Authority in relation to this procurement; or

 attempt to obtain information from any of the employees or agents of the Authority or their advisors concerning another Tenderer or Tender.

F8. Where you have advised the Authority in relation to this procurement procedure or otherwise have been or are involved in any way in the preparation or conduct of this procurement procedure or where any other actual or potential conflict of interest (COI) exists or arises at any point before the Contract award decision, you must notify the Authority immediately.

F9. Where an actual or potential COI exists or arises, you must provide a proposed Compliance Regime within seven (7) calendar days of notifying the Authority of the actual or potential COI. The proposal must be of a standard which, in the Authority’s sole opinion, appropriately manages the conflict, provides sufficient separation to prevent distortion of competition and provides full details listed in F9 a to g below. Where the Contract is awarded and the COI is still relevant post-Contract award decision, your proposed Compliance Regime will become part of the Contract Terms and Conditions. As a minimum, the Compliance Regime must include:

 a. the manner of operation and management;

 b. roles and responsibilities;

 c. standards for integrity and fair dealing;

 d. levels of access to and protection of competitors’ sensitive information and Government Furnished Information;

 e. confidentiality and/or non-disclosure agreements (e.g. DEFFORM 702);

 f. the Authority’s rights of audit; and

 g. physical and managerial separation.

F10. Tenderers are ultimately responsible for ensuring that no COI exist between the Tenderer and its advisers, and the Authority and its advisers. Any Tenderer who fails to comply with this requirement (including where the Authority does not deem the proposed Compliance Regime to be of a standard which appropriately manages the conflict) may be disqualified from the procurement at the discretion of the Authority.

**Government Furnished Assets**

F11. Where the Authority provides Government Furnished Assets (GFA) in support of this competition, you must include details of the GFA in your Public Store Account and treat it in accordance with Def Stan 05-099. If unsuccessful in this competition, you must seek instructions for the GFA from the named Commercial Officer.

**Standstill Period**

F12. The Authority is allowing a space of ten (10) calendar days between the date of dispatch of the electronic notice of its decision to award a Contract to the successful Tenderer before entering into a Contract, known as the standstill period. The standstill period ends at 23:59 on the 10th day after the date the DEFFORM 158s are sent. If the 10th day is not a business day, the standstill period ends at 23:59 of the next business day.

**Publicity Announcements**

F13. If you wish to make an announcement regarding this procurement, you must seek approval from the named Commercial Officer and Press Office and such permission will only be given at the sole discretion of the Authority. Requests must be made in writing to the named Commercial Officer and a copy of the draft announcement provided. This shall then be forwarded to the Press Office and their contact details will be provided for further follow up.

F14. Under no circumstances should you confirm to any Third Party the Authority’s Contract award decision before the Authority’s announcement of the award of Contract.

**Sensitive Information**

F15. All Central Government Departments and their Executive Agencies and Non-Departmental Public Bodies are subject to control and reporting within Government. In particular, they report to the Cabinet Office and HM Treasury for all expenditure. Further, the Cabinet Office has a cross-governmental role delivering overall Government policy on public procurement, including ensuring value for money, related aspects of good procurement practice and answering Freedom of Information requests.

F16. For these purposes, the Authority may share within Government any of the Tenderers documentation/information (including any that the Tenderer considers to be confidential and/or commercially sensitive such as specific bid information) submitted by the Tenderer to the Authority during this procurement. Tenderers taking part in this competition must identify any sensitive material in the DEFFORM 539A (or SC1B Schedule 4 or SC2 Schedule 5) and consent to these terms as part of the competition process. This allows the Authority to share information with other Government Departments while complying with our obligations to maintain confidentiality.

F17. Where required, the Authority will disclose on a confidential basis any information it receives from Tenderers during the tender process (including information identified by the Tenderer as Commercially Sensitive Information in accordance with the provisions of this ITT) to any Third Party engaged by the Authority for the specific purpose of evaluating or assisting the Authority in the evaluation of the Tenderer’s Tender. In providing such information the Tenderer consents to such disclosure.

**Reportable Requirements**

F18. Listed in the DEFFORM 47 Annex A (Offer) are the Mandatory Declarations. It is a Condition of Tendering that you complete and attach the returns listed in the Annex and, where you select yes, you attach the relevant information.

F19. Your Tender will be deemed non-compliant and excluded from the tender process if you fail to complete the Annex in full and attach relevant information where required.

**Specific Conditions of Tendering**

F20. none

**DEFFORM 47 Annex A - Edn 11/20**

**Ministry of Defence**

**Tender Submission Document (Offer) – Ref Number**

**To the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland (hereafter called “the Authority”)**

The undersigned Tenderer, having read the ITT Documentation, offers to supply the Contractor Deliverables at the stated price(s), in accordance with any referenced drawings and / or specifications, subject to the Conditions of Tendering. It is agreed that only the Contract Conditions or any amendments issued by the Authority shall apply.

|  |
| --- |
| **Applicable Law**  |
| I agree that any contract resulting from this competition shall be subject to English Law | Yes / No |
| **Total Value of Tender (excluding VAT)** |
| £ ……………………………………………………………………………………………………………………… WORDS ................................................................................................................................................................................ |
| **UK Value Added Tax** |
| If registered for Value Added Tax purposes, please insert:a. Registration No ..........................................b. Total amount of Value Added Tax payable on this Tender (at current rate(s)) £........................... |
| **Location of work (town / city) where contract will be performed by Prime:**  |
| Where items which are subject of your Tender are not supplied or provided by you, state location in town / city to be performed column (continue on another page if required) |
| Tier 1 Sub-contractor Company Name | Town / city to bePerformed | Contractor Deliverables | Estimated Value | SMEYes / No |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
| **Mandatory Declarations** (further details are contained in Appendix 1 to DEFFORM 47 Annex A (Offer)):  | **Tenderer’s Declaration** |
| Are the Contractor Deliverables subject to IPR that has been exclusively, or part funded by Private Venture, Foreign Investment or otherwise than by Authority funding?  | Yes\* / No  |
| Are the Contractor Deliverables subject to Foreign Export Control and Security Restrictions? If the answer is Yes, please complete and attach DEFFORM 528. | Yes\* / No  |
| Have you obtained the foreign export approval necessary to secure IP user rights in the Contractor Deliverables for the Authority, including technical data, as determined in the Contract Terms & Conditions? | Yes\* / No  |
| Have you provided details of how you willcomply with all regulations relating to the operation of the collection of custom import duties, including the proposed Customs procedure to be used and an estimate of duties to be incurred or suspended? | Yes / No |
| Have you completed a Supplier Assurance Questionnaire on the Supplier Cyber Protection Service? | Yes\* / No / N/A |
| Have you completed Form 1686 for sub-contracts? | Yes / No |
| Have you completed the compliance matrix/ matrices? | Yes / No / Not Required |
| Are you a Small Medium Sized Enterprise (SME)? | Yes / No |
| Have you and your sub-contractors registered with the Prompt Payment Code with regards to SMEs?  | Yes / No |
| Have you completed and attached Tenderer’s Commercially Sensitive Information Form?  | Yes / No |
| If you have not previously submitted a Statement Relating to Good Standing, within the last 12 months, or circumstances have changed have you attached a revised version? | Yes\* / No / N/A  |
| Do the Contractor Deliverables or any item provided in accordance with the Terms and Conditions of the Contract contain Asbestos, as defined by the control of Asbestos Regulations 2012? | Yes\* / No  |
| Have you completed and attached a DEFFORM 68 - Hazardous Articles, Deliverables materials or substances statement?  | Yes\* / No  |
| Do the Contractor Deliverables or any item provided in accordance with the Terms and Conditions of the Contract (including Packaging) use Substances that deplete the Ozone Layer,  as defined in Regulation (EC) 1005/2009, as it applies in Great Britain as retained EU law, and as it applies in Northern Ireland directly |  |
| Do the Contractor or any item provided in accordance with the Terms and Conditions of the Contract contain Asbestos, as defined by the control of Asbestos Regulations 2012? | Yes\* / No  |
| Where you have been informed that a Bank or Parent Company Guarantee is required, will you provide one during the standstill period, before Contract award, if you are identified as the winning Tenderer? | Yes / No / Not Required |
| Have you complied with the requirements of the Defence Safety Authority Regulatory Articles?  | Yes / No / Not Required |
| Have you completed the additional Mandatory Requirements (as per paragraph F18) stated in this ITT? | Yes / No / Not Required |
| \*If selecting Yes to any of the above questions, attach the information detailed in Appendix 1 to DEFFORM 47 Annex A (Offer). |
| **Tenderer’s Declaration of Compliance with Competition Law** |
| We certify that the offer made is intended to be genuinely competitive. No aspect of the price has been fixed or adjusted by any arrangement with any Third Party. Arrangement in this context includes any transaction, or agreement, private or open, or collusion, formal or informal, and whether or not legally binding. In particular:a. the offered price has not been divulged to any Third Party,b. no arrangement has been made with any Third Party that they should refrain from tendering,c. no arrangement with any Third Party has been made to the effect that we will refrain from bidding on a future occasion,d. no discussion with any Third Party has taken place concerning the details of either’s proposed price, ande. no arrangement has been made with any Third Party otherwise to limit genuine competition.We understand that any instances of illegal cartels or market sharing arrangements, or other anti-competitive practices, suspected by the Authority will be referred to the Competition and Markets Authority for investigation and may be subject to action under the Competition Act 1998 and the Enterprise Act 2002.We understand that any misrepresentations may also be the subject of criminal investigation or used as the basis for civil action.We agree that the Authority may share the Contractor’s information / documentation (submitted to the Authority during this Procurement) more widely within Government for the purpose of ensuring effective cross-Government procurement processes, including value for money and related purposes. We certify that we have identified any sensitive material in the Tenderer’s Commercially Sensitive Information Form (DEFFORM 539A). |
| **Dated this.................. day of ................................................................... Year ........................** |
| **Signature:**                    **In the capacity of**         **.......................................................................................................**(Must be scanned original)                    (State official position e.g. Director, Manager, Secretary etc.) |
| **Name:** (in BLOCK CAPITALS)**duly authorised to sign this Tender for and on behalf of:**(Tenderer's Name) | **Postal Address:****Telephone No:****Registered Company Number:****Dun And Bradstreet number:** |

**Appendix 1 to Annex A (Offer)**

**Edn11/20**

**Information on Mandatory Declarations**

**IPR Restrictions**

1. Where the Contractor Deliverables are subject to IPR that has been exclusively or part funded by Private Venture, Foreign Investment or otherwise than by Authority funding you must select ‘Yes’ in Annex A (Are the Contractor Deliverables subject to IPR that has been exclusively or part funded by Private Venture, Foreign Investment or otherwise than by Authority funding) .

2. If you have answered ‘Yes’ in Annex A (Offer) as directed by paragraph 3 below, you must provide details in your Tender of any Contractor Deliverable which will be, or is likely to be, subject to any IPR restrictions or any other restriction on the Authority’s ability to use or disclose the Contractor Deliverable, including export restrictions. In particular, you must identify:

a. any restriction on the provision of information to the Authority; any restriction on disclosure or the use of information by the Authority; any obligations to make payments in respect of IPR, and any Patent or Registered Design (or application for either) or other IPR (including unregistered Design Right) owned or controlled by you or a Third Party;

b. any allegation made against you, whether by claim or otherwise, of an infringement of Intellectual Property Rights (whether a Patent, Registered Design, unregistered Design Right, Copyright or otherwise) or of a breach of confidence, which relates to the performance of any resultant contract or subsequent use by or for the Authority of any Contractor Deliverables;

c. the nature of any allegation referred to under sub-paragraph 2.b., including any obligation to make payments in respect of the Intellectual Property Right of any confidential information and / or;

d. any action you need to take or the Authority is required to take to deal with the consequences of any allegation referred to under sub-paragraph 2.b.

3. You must, when requested, give the Authority details of every restriction and obligation referred to in paragraph 2. The Authority will not acknowledge any such restriction unless so notified under paragraph 2 or as otherwise agreed under any resultant Contract. You must also provide, on request, any information required for authorisation to be given under Section 2 of the Defence Contracts Act 1958.

4. If you have previously provided information under paragraphs 2 and 3 you can provide details of the previous notification, updated as necessary to confirm their validity.

**Notification of Foreign Export Control Restrictions**

5.
If, in the performance of the Contract, you need to import into the UK or export out of the UK anything not supplied by or on behalf of the Authority and for which a UK import or export licence is required, you will be responsible for applying for the licence. The Authority will provide you with all reasonable assistance in obtaining any necessary UK import or export licence.

6. In respect of any Contractor Deliverables, likely to be required for the performance of any resultant contract, you must provide the following information in your Tender:

Whether all or part of any Contractor Deliverables are or will be subject to:

a. a non-UK export licence, authorisation or exemption; or

b. any other related transfer control that restricts or will restrict end use, end user, re-transfer or disclosure.

You must complete DEFFORM 528 (or other mutually agreed alternative format) in respect of any Contractor Deliverables identified at paragraph 6 and return it as part of your Tender. If you have previously provided this information you can provide details of the previous notification and confirm the validity.

7. You must use reasonable endeavours to obtain sufficient information from your potential supply chain to enable a full response to paragraph 6. If you are unable to obtain adequate information, you must state this in your Tender. If you become aware at any time during the competition that all or part of any proposed Contractor Deliverable is likely to become subject to a non-UK Government Control through a Government-to-Government sale only, you must inform the Authority immediately by updating your previously submitted DEFFORM 528 or completing a new DEFFORM 528.

8. This does not include any Intellectual Property specific restrictions mentioned in paragraph 2.

9. You must notify the named Commercial Officer immediately if you are unable for whatever reason to abide by any restriction of the type referred to in paragraph 6.

10. Should you propose the supply of Contractor Deliverables of US origin the export of which from the USA is subject to control under the US International Traffic in Arms Regulations (ITAR), you must include details on the DEFFORM 528. This will allow the Authority to make a decision whether the export can or cannot be made under the US-UK Defense Trade Co-operation Treaty. The Authority shall then convey its decision to the Tenderer. If the Authority decides that use of the Treaty for the export is permissible, it is your responsibility to make a final decision whether you want to use that route for the export concerned if you are awarded the contract.

**Import Duty**

11. United Kingdom (UK) legislation permits the use of various procedures to suspend customs duties.

12. For the purpose of this competition, for any deliverables not yet imported into the UK, you are required to provide details of your plans to address customs compliance, including the Customs procedures to be applied (together with the procedure code) and the estimated Import Duty to be incurred and / or suspended.

13. You should note that it is your responsibility to ensure compliance with all regulations relating to the operation of the accounting for import duties. This includes but is not limited to obtaining the appropriate Her Majesty’s Revenue & Customs (HMRC) authorisations.

**Cyber Risk**

14. Cyber risk has been considered and in accordance with the Cyber Security Model resulted in a Cyber Risk Profile of ‘Low’. The Risk Assessment Reference is [RAR – G9G87XBG]. Tenderers are required to complete the Suppliers Assurance Questionnaire on the Supplier Cyber Protection Service and submit this as part of their Tender response, together with a Cyber Security Implementation Plan as appropriate.

**Sub-contracts Form 1686**

15. [Form 1686](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/710891/2018_May_Contractual_process.pdf) (also known as Appendix 5) is to be used in all circumstances where contractors wish to place a Sub-Contract at OFFICIAL-SENSITIVE with a contractor outside of the UK, or where the release of SECRET or above information is involved within the UK or overseas. The process will require submission of the single page document either directly to the MOD Project Team or, where specified, to the DE&S Security Advice Centre. You can find further information in the [Cabinet Office - Contractual Process.](https://www.gov.uk/government/publications/security-policy-framework)

**Small and Medium Enterprises**

16. The Authority is committed to supporting the Government’s Small and Medium-sized Enterprise (SME)policy, and we want to encourage wider SME participation throughout our supply chain. Our goal is that 25% of the Authority’s spending should be spent with SMEs by 2022; this applies to the money which the Authority spends directly with SMEs and through the supply chain. The Authority uses the European Commission definition of SME.

17. A key aspect of the Government’s SME Policy is ensuring that its suppliers throughout the supply chain are paid promptly.  All suppliers to the Authority and their sub-contractors are encouraged to make their own commitment and register with the [Prompt Payment Code](http://www.promptpaymentcode.org.uk/).

18. Suppliers are also encouraged to work with the Authority to support the Authority’s SME initiative, however this is not a condition of working with the Authority now or in the future, nor will this issue form any part of the Tender evaluation. Information on the Authority’s purchasing arrangements, our commercial policies and our SME policy can be found at [Gov.UK](https://www.gov.uk/government/organisations/ministry-of-defence/about/procurement). and the DSP.

19. The opportunity also exists for Tenderers to advertise any sub-contract valued at over £10,000 on the Defence Sourcing Portal and further details can be obtained directly from: https://www.gov.uk/guidance/subcontract-advertising. This process is managed by the Strategic Supplier Management team who can be contacted at: DefComrclSSM-Suppliers@mod.gov.uk.

**Transparency, Freedom of Information and Environmental Information Regulations**

20. The Authority shall publish notification of the Contract and publish Contract documents where required following a request under the FOI Act except where publishing such information would hinder law enforcement; would otherwise be contrary to the public interest; would prejudice the legitimate commercial interest of any person or might prejudice fair competition between suppliers.

21. The Authority may publish the contents of any resultant Contract in line with government policy set out in the Prime Minister’s letter of May 2010 ([Government Transparency and Accountability](https://www.gov.uk/government/government-efficiency-transparency-and-accountability)) and in accordance with the provisions of either DEFCON 539, SC1B Conditions of Contract Clause 5 or SC2 Conditions of Contract Clause 13.

22. Before publishing the Contract, the Authority will redact any information which is exempt from disclosure under the Freedom of Information Act 2000 (“the FOIA”) or the Environmental Information Regulations 2004 (“the EIR”).

23. You must complete the attached Tenderer’s Commercially Sensitive Information Form (DEFFORM 539A, SC1B Schedule 4 or SC2 Schedule 5) explaining which parts of your Tender you consider to be commercially sensitive. This includes providing a named individual who can be contacted with regard to FOIA and EIR.

24. You should note that while your views will be taken into consideration, the ultimate decision whether to publish or disclose information lies with the Authority. You are advised to provide as much detail as possible on the form. It is highly unlikely that a Tender will be exempt from disclosure in its entirety. Should the Authority decide to publish or disclose information against your wishes, you will be given prior notification.

**Electronic Purchasing**

25. Tenderers must note that use of the [Contracting, Purchasing and Finance (CP&F)](https://www.gov.uk/government/publications/mod-contracting-purchasing-and-finance-e-procurement-system) electronic procurement tool is a mandatory requirement for any resultant contract awarded following this Tender. By submitting this Tender, you agree to electronic payment. You may consult the service provider on connectivity options. Failure to accept electronic payment will result in your Tender being non-compliant and excluded from the tender process.

**Change of Circumstances**

26. In accordance with paragraph A31, if your circumstances have changed, please select ‘Yes’ to the appropriate question on DEFFORM 47 Annex A and submit a Statement Relating to Good Standing with your Tender.

**Asbestos, Hazardous Items and Depletion of the Ozone Layer**

27. The Authority is required to report any items that use asbestos, that are hazardous or where there is an impact on the Ozone. Where any Contractor Deliverables fall into one of these categories select ‘Yes’ to the appropriate question on DEFFORM 47 Annex A and provide further details in your Tender.

**Defence Safety Authority (DSA) Requirements**

28. There are no DSA Requirements.

**Bank or Parent Company Guarantee**

29. A Bank or Parent Company Guarantee is not required.

**Standardised Contracting Terms**

**SC2**

**GENERAL CONDITIONS**

**1.** **General**

a. The defined terms in the Contract shall be as set out in Schedule 1.

b. The Contractor shall comply with all applicable Legislation, whether specifically referenced in this Contract or not.

c. The Contractor warrants and represents, that:

(1) it has the full capacity and authority to enter into, and to exercise its rights and perform its obligations under, the Contract;

(2) from the Effective Date of Contract and for so long as the Contract remains in force it shall give the Authority Notice of any litigation, arbitration (unless expressly prohibited from doing so in accordance with the terms of the arbitration), administrative or adjudication or mediation proceedings before any court, tribunal, arbitrator, administrator or adjudicator or mediator or relevant authority against itself or a Subcontractor which would adversely affect the Contractor's ability to perform its obligations under the Contract;

(3) as at the Effective Date of Contract no proceedings or other steps have been taken and not discharged (nor, to the best of the knowledge of the Contractor, threatened) for its winding-up or dissolution or for the appointment of a receiver, administrative receiver, administrator, liquidator, trustee or similar officer in relation to any of its assets or revenues;

(4) for so long as the Contract remains in force it shall give the Authority Notice of any proceedings or other steps that have been taken but not discharged (nor to the best of the knowledge of the Contractor, threatened) for its winding-up or dissolution or for the appointment of a receiver, administrator, liquidator, trustee or similar officer in relation to any of its assets or revenues.

d. Unless the context otherwise requires:

(1) The singular includes the plural and vice versa, and the masculine includes the feminine and vice versa.

(2) The words “include”, “includes”, “including” and “included” are to be construed as if they were immediately followed by the words “without limitation”, except where explicitly stated otherwise.

(3) The expression “person” means any individual, firm, body corporate, unincorporated association or partnership, government, state or agency of a state or joint venture.

(4) References to any statute, enactment, order, regulation, or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation, or instrument as amended, supplemented, replaced or consolidated by any subsequent statute, enactment, order, regulation, or instrument.

(5) The heading to any Contract provision shall not affect the interpretation of that provision.

(6) Any decision, act or thing which the Authority is required or authorised to take or do under the Contract may be taken or done only by the person (or their nominated deputy) authorised in Schedule 3 (Contract Data Sheet) to take or do that decision, act, or thing on behalf of the Authority.

(7) Unless excluded within the Conditions of the Contract or required by law, references to submission of documents in writing shall include electronic submission.

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

This Contract comes into effect on the Effective Date of Contract and will expire automatically on the date identified in Schedule 3 (Contract Data Sheet) unless it is otherwise terminated in accordance with the provisions of the Contract, or otherwise lawfully terminated.

**3.** **Entire Agreement**

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

**4.** **Governing Law**

a. Subject to clause 4.d, the Contract shall be considered as a contract made in England and subject to English Law.

b. Subject to clause 4.d and 40 (Dispute Resolution) and without prejudice to the dispute resolution process set out therein, each Party submits and agrees to the exclusive jurisdiction of the Courts of England to resolve, and the laws of England to govern, any actions proceedings, controversy or claim of whatever nature arising out of or relating to the Contract or breach thereof.

c. Subject to clause 4.d any dispute arising out of or in connection with the Contract shall be determined within the English jurisdiction and to the exclusion of all other jurisdictions save that other jurisdictions may apply solely for the purpose of giving effect to this condition 4 and for the enforcement of any judgment, order or award given under English jurisdiction.

d. If the Parties agree pursuant to the Contract that Scots Law should apply then the following amendments shall apply to the Contract:

(1) Clause 4.a, 4.b and 4.c shall be amended to read:

“a. The Contract shall be considered as a contract made in Scotland and subject to Scots Law.

b. Subject to condition 40 (Dispute Resolution) and without prejudice to the dispute resolution process set out therein, each Party submits and agrees to the exclusive jurisdiction of the Courts of Scotland to resolve, and the laws of Scotland to govern, any actions, proceedings, controversy or claim of whatever nature arising out of or relating to the Contract or breach thereof.

c. Any dispute arising out of or in connection with the Contract shall be determined within the Scottish jurisdiction and to the exclusion of all other jurisdictions save that other jurisdictions may apply solely for the purpose of giving effect to this condition 4 and for the enforcement of any judgment, order or award given under Scottish jurisdiction.”

Clause 40.b shall be amended to read:

“In the event that the dispute or claim is not resolved pursuant to clause 40.a the dispute shall be referred to arbitration. Unless otherwise agreed in writing by the Parties, the arbitration and this clause 40.b shall be governed by the Arbitration (Scotland) Act 2010. The seat of the arbitration shall be Scotland. For the avoidance of doubt, for the purpose of arbitration the tribunal shall have the power to make provisional awards pursuant to Rule 53 of the Scottish Arbitration Rules, as set out in Schedule 1 to the Arbitration (Scotland) Act 2010.”

e. Each Party warrants to each other that entry into the Contract does not, and the performance of the Contract will not, in any way violate or conflict with any provision of law, statute, rule, regulation, judgement, writ, injunction, decree or order applicable to it. Each Party also warrants that the Contract does not conflict with or result in a breach or termination of any provision of, or constitute a default under, any mortgage, contract or other liability, charge or encumbrance upon any of its properties or other assets.

f. Each Party agrees with each other Party that the provisions of this condition 4 shall survive any termination of the Contract for any reason whatsoever and shall remain fully enforceable as between the Parties notwithstanding such a termination.

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

**5.** **Precedence**

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

(1) Conditions 1 - 44 (and 45 - 47, if included in this Contract) of the Conditions of the Contract shall be given equal precedence with Schedule 1 (Definitions of Contract) and Schedule 3 (Contract Data Sheet);

(2) Schedule 2 (Schedule of Requirements) and Schedule 8 (Acceptance Procedure);

(3) the remaining Schedules; and

(4) any other documents expressly referred to in the Contract.

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

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

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

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

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

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

b. Any variations that cause a change to:

(1) fit, form, function or characteristics of the Contractor Deliverables;

(2) the cost;

(3) Delivery Dates;

(4) the period required for the production or completion; or

(5) other work caused by the alteration,

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

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

a. Any reference to the Authority in respect of:

(1) the giving of consent;

(2) the delivering of any Notices; or

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

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

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

**9.** **Severability**

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

(1) such provision shall (to the extent that it is invalid, illegal or unenforceable) be given no effect and shall be deemed not to be included in the Contract but without invalidating any of the remaining provisions of the Contract; and

(2) the Parties shall use all reasonable endeavours to replace the invalid, illegal or unenforceable provision by a valid, legal and enforceable substitute provision the effect of which is as close as possible to the intended effect of the invalid, illegal or unenforceable provision.

**10.** **Waiver**

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

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

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

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

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

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

**13.** **Transparency**

a. Subject to clause 13.b but notwithstanding condition 14 (Disclosure of Information), the Contractor understands that the Authority may publish the Transparency Information to the general public. The Contractor shall assist and cooperate with the Authority to enable the Authority to publish the Transparency Information.

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

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

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

**14.** **Disclosure of Information**

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

(1) shall treat in confidence all Information it receives from the other;

(2) shall not disclose any of that Information to any third party without the prior written consent of the other Party, which consent shall not unreasonably be withheld, except that the Contractor may disclose Information in confidence, without prior consent, to such persons and to such extent as may be necessary for the performance of the Contract;

(3) shall not use any of that Information otherwise than for the purpose of the Contract; and

(4) shall not copy any of that Information except to the extent necessary for the purpose of exercising its rights of use and disclosure under the Contract.

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

(1) is disclosed to its employees and Subcontractors, only to the extent necessary for the performance of the Contract; and

(2) is treated in confidence by them and not disclosed except with the prior written consent of the Authority or used otherwise than for the purpose of performing work or having work performed for the Authority under the Contract or any subcontract.

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

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

(1) exercises rights of use or disclosure granted otherwise than in consequence of, or under, the Contract;

(2) has the right to use or disclose the Information in accordance with other Conditions of the Contract; or

(3) can show:

(a) that the Information was or has become published or publicly available for use otherwise than in breach of any provision of the Contract or any other agreement between the Parties;

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

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

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

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

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

f. The Authority may disclose the Information:

(1) on a confidential basis to any Central Government Body for any proper purpose of the Authority or of the relevant Central Government Body, which shall include: disclosure to the Cabinet Office and/or HM Treasury for the purpose of ensuring effective cross-Government procurement processes, including value for money and related purposes;

(2) to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;

(3) to the extent that the Authority (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;

(4) on a confidential basis to a professional adviser, consultant or other person engaged by any of the entities defined in Schedule 1 (including benchmarking organisations) for any purpose relating to or connected with this Contract;

(5) on a confidential basis for the purpose of the exercise of its rights under the Contract; or

(6) on a confidential basis to a proposed body in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under the Contract;

and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Authority under this condition.

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

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

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

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

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

**16.** **Change of Control of Contractor**

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

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

Mergers & Acquisitions Section

Strategic Supplier Management Team

Spruce 3b # 1301

MOD Abbey Wood,

Bristol, BS34 8JH

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

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

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

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

**17.** **Environmental Requirements**

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

**18.** **Contractor’s Records**

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

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

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

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

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

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

(1) the end of the Contract term;

(2) termination of the Contract; or

(3) the final payment

whichever occurs latest.

**19.** **Notices**

a. A Notice served under the Contract shall be:

(1) in writing in the English Language;

(2) authenticated by signature or such other method as may be agreed between the Parties;

(3) sent for the attention of the other Party’s Representative, and to the address set out in Schedule 3 (Contract Data Sheet);

(4) marked with the number of the Contract; and

(5) delivered by hand, prepaid post (or airmail), facsimile transmission or, if agreed in Schedule 3 (Contract Data Sheet), by electronic mail.

b. Notices shall be deemed to have been received:

(1) if delivered by hand, on the day of delivery if it is the recipient’s Business and otherwise on the first Business Day of the recipient immediately following the day of delivery;

(2) if sent by prepaid post, on the fourth Business Day (or the tenth Business Day in the case of airmail) after the day of posting;

(3) if sent by facsimile or electronic means:

(a) if transmitted between 09:00 and 17:00 hours on a Business Day (recipient’s time) on completion of receipt by the sender of verification of the transmission from the receiving instrument; or

(b) if transmitted at any other time, at 09:00 on the first Business Day (recipient’s time) following the completion of receipt by the sender of verification of transmission from the receiving instrument.

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

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

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

(1) performance/Delivery of the Contractor Deliverables;

(2) risks and opportunities;

(3) any other information specified in Schedule 3 (Contract Data Sheet); and

(4) any other information reasonably requested by the Authority.

**SUPPLY OF CONTRACTOR DELIVERABLES**

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

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

b. The Contractor shall:

(1) comply with any applicable quality assurance requirements specified in Schedule 3 (Contract Data Sheet) in providing the Contractor Deliverables; and

(2) discharge its obligations under the Contract with all due skill, care, diligence and operating practice by appropriately experienced, qualified and trained personnel.

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

d. The Contractor shall:

(1) observe, and ensure that the Contractor’s Team observe, all health and safety rules and regulations and any other security requirements that apply at any of the Authority’s premises;

(2) notify the Authority as soon as it becomes aware of any health and safety hazards or issues which arise in relation to the Contractor Deliverables; and

(3) before the date on which the Contractor Deliverables are to start, obtain, and at all times maintain, all necessary licences and consents in relation to the Contractor Deliverables.

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

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

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

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

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

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

a. Packaging responsibilities are as follows:

(1) The Contractor shall be responsible for providing Packaging which fully complies with the requirements of the Contract.

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

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

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

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

(1) The Contractor shall provide Packaging which:

(a) will ensure that each Contractor Deliverable may be transported and delivered to the consignee named in the Contract in an undamaged and serviceable condition; and

(b) is labelled to enable the contents to be identified without need to breach the package; and

(c) is compliant with statutory requirements and this Condition.

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

(a) reference in the Contract to a PPQ means the quantity of a Contractor Deliverable to be contained in an individual package, which has been selected as being the most suitable for issue(s) to the ultimate user;

(b) Robust Contractor Deliverables, which by their nature require minimal or no packaging for commercial deliveries, shall be regarded as "PPQ packages" and shall be marked in accordance with Clauses 23.i to 23.l. References to "PPQ packages" in subsequent text shall be taken to include Robust Contractor Deliverables; and

(c) for ease of handling, transportation and delivery, packages which contain identical Contractor Deliverables may be bulked and overpacked, in accordance with clauses 23.i to 23.k.

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

(1) The Health and Safety At Work Act 1974 (as amended);

(2) The Classification Hazard Information and Packaging for Supply Regulations (CHIP4) 2009 (as amended);

(3) The REACH Regulations 2007 (as amended); and

(4) The Classification, Labelling and Packaging Regulations (CLP) 2009 (as amended).

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

(1) The Safety Of Lives At Sea Regulations (SOLAS) 1974 (as amended); and

(2) The Air Navigation (Amendment) Order 2019.

e. As soon as possible, and in any event no later than one month before delivery is due, the Contractor shall provide a Safety Data Sheet in respect of each Dangerous Good in accordance with the REACH Regulations 2007 (as amended) and the Health and Safety At Work Act 1974 (as amended) and in accordance with condition 24 (Supply of Hazardous Materials or Substances in Contractor Deliverables).

f. The Contractor shall comply with the requirements for the design of MLP which include clauses 23.f and 23.g as follows:

(1) Where there is a requirement to design UK or NATO MLP, the work shall be undertaken by an MPAS registered organisation, or one that although non-registered is able to demonstrate to the Authority that its quality systems and military package design expertise are of an equivalent standard.

(a) The MPAS certification (for individual designers) and registration (for organisations) scheme details are available from:

DES SEOC SCP-SptEng-Pkg

MOD Abbey Wood

Bristol, BS34 8JH

Tel. +44(0)30679-35353

DESSEOCSCP-SptEng-PKg@mod.uk

(b) The MPAS Documentation is also available on the DStan website.

(2) MLP shall be designed to comply with the relevant requirements of Def Stan 81-041, and be capable of meeting the appropriate test requirements of Def Stan 81-041 (Part 3). Packaging designs shall be prepared on a SPIS, in accordance with Def Stan 81-041 (Part 4).

(3) The Contractor shall ensure a search of the SPIS index (the ‘SPIN’) is carried out to establish the SPIS status of each requirement (using DEFFORM 129a ‘Application for Packaging Designs or their Status’).

(4) New designs shall not be made where there is an existing usable SPIS, or one that may be easily modified.

(5) Where there is a usable SFS, it shall be used in place of a SPIS design unless otherwise stated by the Contract. When an SFS is used or replaces a SPIS design, the Contractor shall upload this information on to SPIN in Adobe PDF.

(6) All SPIS, new or modified (and associated documentation), shall, on completion, be uploaded by the Contractor on to SPIN. The format shall be Adobe PDF.

(7) Where it is necessary to use an existing SPIS design, the Contractor shall ensure the Packaging manufacturer is a registered organisation in accordance with clause 23.f(1) above, or if un-registered, is compliant with MPAS ANNEX A Supplement (Code) M. The Contractor shall ensure, as far as possible, that the SPIS is up to date.

(8) The documents supplied under clause 23.f(6) shall be considered as a contract data requirement and be subject to the terms of DEFCON 15 and DEFCON 21.

g. Unless otherwise stated in the Contract, one of the following procedures for the production of new or modified SPIS designs shall be applied:

(1) If the Contractor or their subcontractor is the PDA they shall:

(a) On receipt of instructions received from the Authority’s representative nominated in Box 2 of DEFFORM 111 at Annex A to Schedule 3 (Contract Data Sheet), prepare the required package design in accordance with clause 23.f.

(b) Where the Contractor or their subcontractor is registered they shall, on completion of any design work, provide the Authority with the following documents electronically:

i. a list of all SPIS which have been prepared or revised against the Contract; and

ii. a copy of all new / revised SPIS, complete with all continuation sheets and associated drawings, where applicable, to be uploaded onto SPIN.

(c) Where the PDA is not a registered organisation, then they shall obtain approval for their design from a registered organisation before proceeding, then follow clause 23.g(1)(b).

(2) Where the Contractor or their subcontractor is not the PDA and is un-registered, they shall not produce, modify, or update SPIS designs. They shall obtain current SPIS design(s) from the Authority or a registered organisation before proceeding with manufacture of Packaging. To allow designs to be provided in ample time, they should apply for SPIS designs as soon as practicable.

(3) Where the Contractor or their subcontractor is un-registered and has been given authority to produce, modify, and update SPIS designs by the Contract, he shall obtain approval for their design from a registered organisation using DEFFORM 129a before proceeding, then follow clause 23.g(1)(b).

(4) Where the Contractor or their subcontractor is not a PDA but is registered, he shall follow clauses 23.g(1)(a) and 23.g(1)(b).

h. If special jigs, tooling etc., are required for the production of MLP, the Contractor shall obtain written approval from the Commercial Officer before providing them. Any approval given will be subject to the terms of DEFCON 23 (SC2) or equivalent condition, as appropriate.

i. In addition to any marking required by international or national legislation or regulations, the following package labelling and marking requirements apply:

(1) If the Contract specifies UK or NATO MPL, labelling and marking of the packages shall be in accordance with Def Stan 81-041 (Part 6) and this Condition as follows:

(a) Labels giving the mass of the package, in kilograms, shall be placed such that they may be clearly seen when the items are stacked during storage.

(b) Each consignment package shall be marked with details as follows:

i. name and address of consignor;

ii. name and address of consignee (as stated in the Contract or order);

iii. destination where it differs from the consignee's address, normally either:

(i). delivery destination / address; or

(ii). transit destination, where delivery address is a point for aggregation / disaggregation and / or onward shipment elsewhere, e.g. railway station, where that mode of transport is used;

iv. the unique order identifiers and the CP&F Delivery Label / Form which shall be prepared in accordance with DEFFORM 129J.

(i). If aggregated packages are used, their consignment marking and identification requirements are stated at clause 23.l.

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

(a) description of the Contractor Deliverable;

(b) the full thirteen digit NATO Stock Number (NSN);

(c) the PPQ;

(d) maker's part / catalogue, serial and / or batch number, as appropriate;

(e) the Contract and order number when applicable;

(f) the words “Trade Package” in bold lettering, marked in BLUE in respect of trade packages, and BLACK in respect of export trade packages;

(g) shelf life of item where applicable;

(h) for rubber items or items containing rubber, the quarter and year of vulcanisation or manufacture of the rubber product or component (marked in accordance with Def Stan 81-041);

(i) any statutory hazard markings and any handling markings, including the mass of any package which exceeds 3kg gross; and

(j) any additional markings specified in the Contract.

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

(1) the full 13-digit NSN;

(2) denomination of quantity (D of Q);

(3) actual quantity (quantity in package);

(4) manufacturer's serial number and / or batch number, if one has been allocated; and

(5) the CP&F-generated unique order identifier.

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

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

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

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

(a) class group number;

(b) name and address of consignor;

(c) name and address of consignee (as stated on the Contract or Order);

(d) destination if it differs from the consignee's address, normally either:

i. delivery destination / address; or

ii. transit destination, if the delivery address is a point of aggregation / disaggregation and / or onward shipment e.g. railway station, where that mode of transport is used;

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

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

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

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

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

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

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

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

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

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

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

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

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

a. The Contractor shall provide to the Authority:

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

(2) for each Contractor Deliverable containing hazardous materials or substances, safety information as required by the Health and Safety at Work, etc Act 1974, at the time of supply.

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

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

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

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

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

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

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

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

(1) activity;

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

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

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

(1) Hard copies to be sent to:

Hazardous Stores Information System (HSIS)

Department of Safety & Environment, Quality and Technology (DS & EQT)

Spruce 2C, #1260,

MOD Abbey Wood (South)

Bristol BS34 8JH

(2) Emails to be sent to:

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

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

**25.** **Timber and Wood-Derived Products**

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

(1) shall comply with the Contract Specification; and

(2) must originate either:

(a) from a Legal and Sustainable source; or

(b) from a FLEGT-licensed or equivalent source.

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

(1) identification, documentation and respect of legal, customary and traditional tenure and use rights related to the forest;

(2) mechanisms for resolving grievances and disputes including those relating to tenure and use rights, to forest management practices and to work conditions; and

(3) safeguarding the basic labour rights and health and safety of forest workers.

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

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

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

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

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

(1) a record tracing the Recycled Timber to its previous end use as a standalone object or as part of a structure; and

(2) an explanation of the circumstances that rendered it impractical to record Evidence of proof of timber origin.

h. The Authority may disclose the Information:

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

(2) verify the forest source of the timber or wood; and

(3) assess whether the source meets the relevant criteria of clause 25.b.

i. The statistical reporting requirement at clause 25.j applies to all Timber and Wood-Derived Products delivered under the Contract. The Authority reserves the right to amend the requirement for statistical reporting, in the event that the UK Government changes the requirement for reporting compliance with the Government Timber Procurement Policy. Amendments to the statistical reporting requirement will be made in accordance with condition 6 (Amendments to Contract).

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

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

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

(1) companies that have a full registered status under the Forestry Commission and Timber Packaging and Pallet Confederation’s UK Wood Packaging Material Marking Programme (more detailed information can be accessed at www.forestry.gov.uk) and all such wood shall be treated for the elimination of raw wood pests and marked in accordance with that Programme; or

(2) sources supplying wood treated and marked so as to conform to Annex I and Annex II of the International Standard for Phytosanitary Measures, “Guidelines for Regulating Wood Packaging Material in International Trade”, Publication No 15 published by the Food and Agricultural Organisation of the United Nations (ISPM15) (more detailed information can be accessed at www.fao.org).

**26.** **Certificate of Conformity**

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

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

c. The Information provided on the CofC shall include:

(1) Contractor’s name and address;

(2) Contractor unique CofC number;

(3) Contract number and where applicable Contract amendment number;

(4) details of any approved concessions;

(5) acquirer name and organisation;

(6) Delivery address;

(7) Contract Item Number from Schedule 2 (Schedule of Requirements);

(8) description of Contractor Deliverable, including part number, specification and configuration status;

(9) identification marks, batch and serial numbers in accordance with the Specification;

(10) quantities;

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

Exceptions or additions to the above are to be documented.

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

**27.** **Access to Contractor’s Premises**

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

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

**28.** **Delivery / Collection**

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

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

(1) contact the Authority’s Representative as detailed in Schedule 3 (Contract Data Sheet) in advance of the Delivery Date in order to agree administrative arrangements for Delivery and provide any Information pertinent to Delivery requested;

(2) comply with any special instructions for arranging Delivery in Schedule 3 (Contract Data Sheet);

(3) ensure that each consignment of the Contractor Deliverables is accompanied by, (as specified in Schedule 3 (Contract Data Sheet)), a DEFFORM 129J in accordance with the instructions;

(4) be responsible for all costs of Delivery; and

(5) Deliver the Contractor Deliverables to the Consignee at the address stated in Schedule 2 (Schedule of Requirements) by the Delivery Date between the hours agreed by the Parties.

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

(1) contact the Authority’s Representative (Transport) as detailed in box 10 of DEFFORM 111 at Annex A to Schedule 3 (Contract Data Sheet) in advance of the Delivery Date in order to agree specific arrangements for Collection and provide any Information pertinent to the Collection requested;

(2) comply with any special instructions for arranging Collection in Schedule 3 (Contract Data Sheet);

(3) ensure that each consignment of the Contractor Deliverables is accompanied by, (as specified in Schedule 3 (Contract Data Sheet)), a DEFFORM 129J in accordance with the instructions;

(4) ensure that the Contractor Deliverables are available for Collection by the Authority from the Consignor (as specified in Schedule 3 (Contract Data Sheet)) by the Delivery Date between the hours agreed by the Parties; and

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

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

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

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

**29.** **Acceptance**

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

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

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

**30.** **Rejection and Counterfeit Materiel**

**Rejection:**

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

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

**Counterfeit Materiel:**

c. Where the Authority suspects that any Contractor Deliverable or consignment of Contractor Deliverables contains Counterfeit Materiel, it shall:

(1) notify the Contractor of its suspicion and reasons therefore;

(2) where reasonably possible, and if requested by the Contractor within 10 business days of such notification, (at the Contractor’s own risk and expense and subject to any reasonable controls specified by the Authority) afford the Contractor the facility to (i) inspect the Contractor Deliverable or consignment and/or (ii) obtain a sample thereof for validation or testing purposes.

(3) give the Contractor a further 20 business days or such other reasonable period agreed by the Authority, from the date of the inspection at 30.c.(2).(i) or the provision of a sample at 30.c.(2).(ii), to comment on whether the Contractor Deliverable or consignment meets the definition of Counterfeit Materiel; and

(4) determine, on the balance of probabilities and strictly on the evidence available to it at the time, whether the Contractor Deliverable or consignment meets the definition of Counterfeit Materiel

Where the Authority has determined that the Contractor Deliverable, part or consignment of Contractor Deliverables contain Counterfeit Material then it may reject the Contractor Deliverable, part or consignment under 30.a-30.b (Rejection).

d. In addition to its rights under 30.a and 30.b (Rejection), where the Authority reasonably believes that any Contractor Deliverable or consignment of Contractor Deliverables contains Counterfeit Materiel, it shall be entitled to:

(1) Retain any Counterfeit Materiel; and/or

(2) retain the whole or any part of such Contractor Deliverable or consignment where it is not possible to separate the Counterfeit Materiel from the rest of the Contractor Deliverable, or consignment;

and such retention shall not constitute acceptance under condition 29 (Acceptance).

e. Where the Authority intends to exercise its rights under clause 30.d, it shall where reasonable permit the Contractor, within a period specified by the Authority, to arrange at its own risk and expense and subject to any reasonable controls specified by the Authority, for:

(1) The separation of Counterfeit Materiel from any Contractor Deliverable or part of a Contractor Deliverable; and/or

(2) the removal of any Contractor Deliverable or part of a Contractor Deliverable that the Authority is satisfied does not contain Counterfeit Materiel.

f. In respect of any Contractor Deliverable, consignment or part thereof that is retained in accordance with clause 30.d, including where the Authority permits the Contractor to remove non-Counterfeit Materiel under clause 30.e but the Contractor fails to do so within the period specified by the Authority and subject to clause 30.j, the Authority shall be entitled to exercise any, all, or any combination of, the following rights:

(1) To         dispose of it responsible, and in a manner that does not permit its reintroduction into the supply chain or market;

(2) to pass it to a relevant investigatory or regulatory authority;

(3) to retain conduct or have conducted further testing including destructive testing, for further investigatory, regulatory or risk management purposes. Results from any such tests shall be shared with the Contractor; and/or

(4) to recover the reasonable costs of testing, storage, access, and/or disposal of it from the Contractor.

Exercise of the rights granted at clauses 30.f.(1) to 30.f.(3) shall not constitute acceptance under condition 29 (Acceptance).

g. Any scrap or other disposal payment received by the Authority shall be off set against any amount due to the Authority under clause 30.f.(4). If the value of the scrap or other disposal payment exceeds the amount due to the Authority under clause 30.f.(4) then the balance shall accrue to the Contractor.

h. The Authority shall not use a retained Article or consignment other than as permitted in this condition 30.c – 30.k.

i. The Authority may without restriction report a discovery of Counterfeit Materiel and disclose information necessary for the identification of similar materiel and its possible sources.

j. The Contractor shall not be entitled to any payment or compensation from the Authority as a result of the Authority exercising the rights set out in this condition 30.c – 30.k except where it has been determined in accordance with condition 40 (Dispute Resolution) that the Authority has made an incorrect determination in accordance with clause 30.c.(4). In such circumstances the Authority shall reimburse the Contractors reasonable costs of complying with clause 30.c.

**31.** **Diversion Orders**

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

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

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

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

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

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

**32.** **Self-to-Self Delivery**

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

**LICENCES AND INTELLECTUAL PROPERTY**

**33.** **Import and Export Licences**

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

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

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

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

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

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

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

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

e. During the term of the Contract and for a period of up to 2 years from completion of the Contract, the Authority may make a written request to the Contractor to seek a variation to the conditions to a foreign export licence or import licence or authorisation to enable the Authority to re-export or re-transfer a licensed or authorised item or licensed or authorised information from the UK to a non-licensed or unauthorised third party. If the Authority makes such a request it will consult with the Contractor before making a determination of whether the Authority or the Contractor is best placed in all the circumstance to make the request. Where, subsequent to such consultation the Authority notifies the Contractor that the Contractor is best placed to make such request:

(1) the Contractor shall, or procure that the Contractor’s subcontractor shall, expeditiously consider whether or not there is any reason why it should object to making the request and, where it has no objection, file an application to seek a variation of the applicable export licence or import licence or authorisation in accordance with the procedures of the licensing authority. Where the contractor has an objection, the Parties shall meet within five (5) working days to resolve the issue and should they fail the matter shall be escalated to an appropriate level within both Parties’ organisations, to include their respective export licensing subject matter experts; and

(2) the Authority shall provide sufficient information, certification, documentation and other reasonable assistance as may be necessary to support the application for the requested variation.

f. Where the Authority determines that it is best placed to make such request the Contractor shall provide sufficient information, certification, documentation and other reasonable assistance as may be necessary to support the Authority to make the application for the requested variation.

g. Where the Authority invokes clause 33.e or 33.f the Authority will pay the Contractor a fair and reasonable charge for this service based on the cost of providing it.

h. Where the Contractor subcontracts work under the Contract, which is likely to be subject to foreign export control, import control or both the Contractor shall use reasonable endeavours to incorporate in each subcontract equivalent obligations to those set out in this Condition. Where it is not possible to include equivalent terms to those set out in this Condition, the Contractor shall report that fact and the circumstances to the Authority.

i. Without prejudice to HM Government's position on the validity of any claim by a foreign government to extra-territoriality, the Authority shall provide the Contractor with sufficient information, certification, documentation and other reasonable assistance to facilitate the granting of export licences or import licences or authorisations by a foreign Government in respect of the performance of the Contract.

j. The Authority shall provide such assistance as the Contractor may reasonably require in obtaining any UK export licences necessary for the performance of the Contract.

k. The Contractor shall use reasonable endeavours to identify whether any Contractor Deliverable is subject to:

(1) a non-UK export licence, authorisation or exemption; or

(2) any other related transfer or export control,

that imposes or will impose end use, end user or re-transfer or re-export restrictions, or restrictions on disclosure to individuals based upon their nationality. This does not include the Intellectual Property-specific restrictions of the type referred to in condition 34 (Third Party Intellectual Property – Rights and Restrictions).

l. If at any time during the term of the Contract the Contractor becomes aware that all or any part of the Contractor Deliverables are subject to Clause 33.k(1) or 33.k(2), it shall notify the Authority of this as soon as reasonably practicable by providing details in the DEFFORM 528 or other mutually agreed alternative format. Such notification shall be no later than thirty (30) days of knowledge of any affected Contractor Deliverable and in any event such notification shall be not less than thirty (30) days prior to delivery of the Contractor Deliverables.

m. If the information to be provided under Clause 33.l has been provided previously to the Authority by the Contractor under the Contract, the Contractor may satisfy these requirements by giving details of the previous notification and confirming they remain valid and satisfy the provisions of Clause 33.l.

n. During the term of the Contract, the Contractor shall notify the Authority as soon as reasonably practicable of any changes in the information notified previously under clauses 33.l or 33.m of which it becomes or is aware that would affect the Authority’s ability to use, disclose, re-transfer or re-export an item or part of it as is referred to in those Clauses by issuing an updated DEFFORM 528 to the Authority.

o. For a period of up to 2 years from completion of the Contract and in response to a specific request by the Authority, the Contractor shall notify the Authority as soon as reasonably practicable of any changes in the information notified previously under Clause 33.l or 33.m of which it becomes aware that would affect the Authority’s ability to use, disclose, re-transfer or re-export an item or part of it as is referred to in those Clauses by issuing an updated DEFFORM 528 to the Authority.

p. Where following receipt of materiel from a subcontractor or any of its other suppliers restrictions are notified to the Contractor by that subcontractor, supplier or other third party or are identified by the Contractor, the Contractor shall immediately inform the Authority by issuing an updated DEFFORM 528. Within days of such notification, the Contractor shall propose to the Authority actions to mitigate the impact of such restrictions. Such proposals may include, where appropriate, mutually supported attempts to obtain removal or modification to the restrictions or to obtain appropriate authorisations from the relevant foreign government. The Authority shall notify the contractor within days of receipt of a proposal whether it is acceptable and where appropriate the Contract shall be modified in accordance with its terms to implement the proposal.

q. If the restrictions prevent the Contractor from performing its obligations under the Contract and have not been removed, modified or otherwise satisfactorily managed within a reasonable time, the Authority may at its absolute discretion elect to amend the contract in accordance with condition 6 or 7 or as otherwise may be provided by the Contract, or to terminate the Contract. Except as set out in clause 33.r, in the event of termination in these circumstances termination shall be on fair and reasonable terms having regard to all the circumstances including payments already made and that would otherwise be due under the Contract, costs incurred by the Contractor and benefits received by the Authority. The Parties, acting in good faith, will use all reasonable endeavours to agree such fair and reasonable terms failing which either Party may refer the matter to dispute resolution in accordance with the provisions in the Contract.

r. In the event that the restrictions notified to the Authority pursuant to Clause 33.l were known or ought reasonably have been known by the Contractor (but were not disclosed) at contract award or if restrictions notified to the Authority pursuant to clauses 33.n or 33.p were known or ought reasonably to have been known by the Contractor at the date of submission of the most recent DEFFORM 528 submitted to the Authority in accordance with Clause 33.l, termination under Clause 33.q will be in accordance with condition 43 (Material Breach) and the provisions of clause 33.v will not apply.

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

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

u. Where:

(1) restrictions are advised by the Authority to the Contractor in a DEFFORM 528 provided pursuant to Clauses 33.s or 33.t or both; or

(2) any of the information provided by the Authority in any DEFFORM 528 proves to be incorrect or inaccurate;

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

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

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

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

(1) any invention or design the subject of patent or registered Design Rights (or application thereof) owned by a third party which appears to be relevant to the performance of the Contract or to use by the Authority of anything required to be done or delivered under the Contract;

(2) any restriction as to disclosure or use, or obligation to make payments in respect of any other intellectual property (including technical Information) required for the purposes of the Contract or subsequent use by the Authority of anything delivered under the Contract and, where appropriate, the notification shall include such Information as is required by Section 2 of the Defence Contracts Act 1958;

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

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

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

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

(1) the Authority has made or makes an admission of any sort relevant to such question;

(2) the Authority has entered or enters into any discussions on such question with any third party without the prior written agreement of the Contractor;

(3) the Authority has entered or enters into negotiations in respect of any relevant claim for compensation in respect of Crown Use under Section 55 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1977;

(4) legal proceedings have been commenced against the Authority or the Contractor in respect of Crown Use, but only to the extent of such Crown Use that has been properly authorised.

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

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

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

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

(1) if the owner (or its exclusive licensee) takes or threatens in writing to take any relevant action against the Contractor, the Authority shall issue to the Contractor a written authorisation in accordance with the provisions of Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949, and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

n. The general authorisation and indemnity is:

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

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

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

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

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

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

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

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

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

**PRICING AND PAYMENT**

**35.** **Contract Price**

a. The Contractor shall provide the Contractor Deliverables to the Authority at the Contract Price. The Contract Price shall be a Firm Price unless otherwise stated in Schedule 3 (Contract Data Sheet).

b. Subject to condition 35.a the Contract Price shall be inclusive of any UK custom and excise or other duty payable. The Contractor shall not make any claim for drawback of UK import duty on any part of the Contract Deliverables supplied which may be for shipment outside of the UK.

**36.** **Payment and Recovery of Sums Due**

a. Payment for Contractor Deliverables will be made by electronic transfer and prior to submitting any claims for payment under clause 36b the Contractor will be required to register their details (Supplier on-boarding) on the Contracting, Purchasing and Finance (CP&F) electronic procurement tool.

b. Where the Contractor submits an invoice to the Authority in accordance with clause 36a, the Authority will consider and verify that invoice in a timely fashion.

c. The Authority shall pay the Contractor any sums due under such an invoice no later than a period of 30 days from the date on which the Authority has determined that the invoice is valid and undisputed.

d. Where the Authority fails to comply with clause 36b and there is undue delay in considering and verifying the invoice, the invoice shall be regarded as valid and undisputed for the purpose of clause 36c after a reasonable time has passed.

e. The approval for payment of a valid and undisputed invoice by the Authority shall not be construed as acceptance by the Authority of the performance of the Contractor’s obligations nor as a waiver of its rights and remedies under this Contract.

f. Without prejudice to any other right or remedy, the Authority reserves the right to set off any amount owing at any time from the Contractor to the Authority against any amount payable by the Authority to the Contractor under the Contract or under any other contract with the Authority, or with any other Government Department.

**37.** **Value Added Tax**

a. The Contract Price excludes any UK output Value Added Tax (VAT) and any similar EU (or non-EU) taxes chargeable on the supply of Contractor Deliverables by the Contractor to the Authority.

b. If the Contractor is required by UK VAT law to be registered for UK VAT (or has registered voluntarily) in respect of his business activities at the time of any supply, and the circumstances of any supply are such that the Contractor is liable to pay the tax due to HM Revenue and Customs (HMRC), the Authority shall pay to the Contractor in addition to the Contract Price (or any other sum due to the Contractor) a sum equal to the output VAT chargeable on the tax value of the supply of Contractor Deliverables, and all other payments under the Contract according to the law at the relevant tax point.

c. The Contractor is responsible for the determination of VAT liability. The Contractor shall consult its Client Relationship Manager or the HMRC Enquiries Desk (and not the Authority’s Representative (Commercial)) in cases of doubt. The Contractor shall notify the Authority’s Representative (Commercial) of the Authority’s VAT liability under the Contract, and any changes to it, within twenty (20) Business Days of becoming aware the liability is other than at the standard rate of VAT. In the event of any doubt about the applicability of the tax in such cases, the Authority may require the Contractor to obtain, and pass to the Authority, a formal ruling from HMRC. The Contractor shall comply promptly with any such requirement. Where the Contractor obtains a ruling from HMRC, it shall supply a copy to the Authority within three (3) Business Days of receiving that ruling unless it proposes to challenge the ruling. Where the Contractor challenges the ruling it shall supply to the Authority a copy of any final decisions issued by HMRC on completion of the challenge within three (3) Business Days of receiving the decision.

d. Where supply of Contractor Deliverables comes within the scope of UK VAT, but the Contractor is not required by UK VAT law to be registered for UK VAT (and has not registered voluntarily), the Authority shall be responsible for assessing and paying over directly to HMRC any UK output VAT due in respect of the Contractor Deliverables. The Contractor shall be responsible for ensuring it takes into account any changes in VAT law regarding registration.

e. Where Contractor Deliverables are deemed to be supplied to the Authority outside the UK, the Contractor may be required by the laws of the country where the supply takes place to register there for EU (or non-EU) turnover or similar tax. In that event, the Authority shall pay to the Contractor in addition to the Contract Price (and any other sum due to the Contractor under the Contract) a sum equal to the tax the Contractor is liable to pay to the tax authorities of the country in question in relation to the Contractor Deliverables within thirty (30) calendar days of a written request for payment of any such sum by the Contractor.

f. In relation to the Contractor Deliverables supplied under the Contract the Authority shall not be required to pay any sum in respect of the Contractor’s input VAT (or similar EU or non-EU or both input taxes). However, these input taxes will be allowed where it is established that, despite the Contractor having taken all reasonable steps to recover them, it has not been possible to do so. Where there is any doubt that the Contractor has complied with this requirement the matter shall be resolved in accordance with condition 40 (Dispute Resolution).

g. Should HMRC decide that the Contractor has incorrectly determined the VAT liability, in accordance with clause 37.b above, the Authority will pay the VAT assessed by HMRC. In the event that HMRC so determines, the Contractor shall pay any interest charged on any assessment or penalties or both directly to HMRC. Such interest or penalties or both shall not be recoverable from the Authority under this Contract or any other contract. The Contractor shall supply the Authority with a copy of all correspondence between HMRC and the Contractor’s advisors regarding the VAT assessment within three (3) Business Days of a written request from the Authority for such correspondence.

**38.** **Debt Factoring**

a. Subject to the Contractor obtaining the prior written consent of the Authority in accordance with condition 11 (Assignment of Contract), the Contractor may assign to a third Party (“the Assignee”) the right to receive payment of the Contract Price or any part thereof due to the Contractor under the Contract (including interest which the Authority incurred through late payment under the Late Payment of Commercial Debts (Interest) Act 1998 (“the Act”)). Any assignment of the right to receive payment of the Contract Price (or any part thereof) under this condition 38 shall be subject to:

(1) reduction of any sums in respect of which the Authority exercises its right of recovery under clause 36.f

(2) all related rights of the Authority under the Contract in relation to the recovery of sums due but unpaid; and

(3) the Authority receiving notification under both clauses 38.b and 38.c(2).

b. In the event that the Contractor obtains from the Authority the consent to assign the right to receive the Contract Price (or any part thereof) under clause 38.a, the Contractor shall notify the Authority in writing of the assignment and the date upon which the assignment becomes effective.

c. The Contractor shall ensure that the Assignee:

(1) is made aware of the Authority’s continuing rights under clauses 38.a(1) and 38.a(2); and

(2) notifies the Authority of the Assignee’s contact Information and bank account details to which the Authority shall make payment, subject to any reduction made by the Authority in accordance with clauses 38.a(1) and 38.a(2).

d. The provisions of condition 36 (Payment and Recovery of Sums Due) shall continue to apply in all other respects after the assignment and shall not be amended without the prior approval of the Authority.

**39.** **Subcontracting and Prompt Payment**

a. Subcontracting any part of the Contract shall not relieve the Contractor of any of the Contractor’s obligations, duties or liabilities under the Contract.

b. Where the Contractor enters into a Subcontract he shall cause a term to be included in such Subcontract:

(1) providing that where the Subcontractor submits an invoice to the Contractor, the Contractor will consider and verify that invoice in a timely fashion;

(2) providing that the Contractor shall pay the Subcontractor any sums due under such an invoice no later than a period of thirty (30) days from the date on which the Contractor has determined that the invoice is valid and undisputed;

(3) providing that where the Contractor fails to comply with clause 39.b(1) above, and there is an undue delay in considering and verifying the invoice, that the invoice shall be regarded as valid and undisputed for the purposes of clause 39.b(2) after a reasonable time has passed; and

(4) requiring the counterparty to that Subcontract to include in any Subcontract which it awards, provisions having the same effect as clauses 39.b(1) to 39.b(4).

**TERMINATION**

**40.** **Dispute Resolution**

a. The Parties will attempt in good faith to resolve any dispute or claim arising out of or relating to the Contract through negotiations between the respective representatives of the Parties having authority to settle the matter, which attempts may include the use of any alternative dispute resolution procedure on which the Parties may agree.

b. In the event that the dispute or claim is not resolved pursuant to clause 40.a the dispute shall be referred to arbitration. Unless otherwise agreed in writing by the Parties, the arbitration and this clause 40.b shall be governed by the Arbitration Act 1996. For the purposes of the arbitration, the arbitrator shall have the power to make provisional awards pursuant to Section 39 of the Arbitration Act 1996.

c. For the avoidance of doubt, anything said, done or produced in or in relation to the arbitration process (including any awards) shall be confidential between the Parties, except as may be lawfully required in judicial proceedings relating to the arbitration or otherwise.

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

**Insolvency:**

a. The Authority may terminate the Contract, without paying compensation to the Contractor, by giving written Notice of such termination to the Contractor at any time after any of the following events:

Where the Contractor is an individual or a firm:

(1) the application by the individual or, in the case of a firm constituted under English law, any partner of the firm to the court for an interim order pursuant to Section 253 of the Insolvency Act 1986; or

(2) the court making an interim order pursuant to Section 252 of the Insolvency Act 1986; or

(3) the individual, the firm or, in the case of a firm constituted under English law, any partner of the firm making a composition or a scheme of arrangement with his or its creditors; or

(4) the presentation of a petition for bankruptcy order against the individual or, in the case of a firm constituted under English law, any partner of the firm unless it is withdrawn within three (3) Business Days from the date on which the Contractor is notified of the presentation; or

(5) the court making a bankruptcy order in respect of the individual or, in the case of a firm constituted under English law, any partner of the firm; or

(6) where the Contractor is either unable to pay his debts as they fall due or has no reasonable prospect of being able to pay debts which are not immediately payable. The Authority shall regard the Contractor as being unable to pay his debts if:

(a) he has failed to comply with or to set aside a Statutory demand under Section 268 of the Insolvency Act 1986 within twenty-one (21) days of service of the Statutory Demand on him; or

(b) execution or other process to enforce a debt due under a judgement or order of the court has been returned unsatisfied in whole or in part.

(7) the presentation of a petition for sequestration in relation to the Contractor's estates unless it is withdrawn within three (3) Business Days from the date on which the Contractor is notified of the presentation; or

(8) the court making an award of sequestration in relation to the Contractor’s estates.

Where the Contractor is a company registered in England:

(9) the presentation of a petition for the appointment of an administrator; unless it is withdrawn within three (3) Business Days from the date on which the Contractor is notified of the presentation; or

(10) the court making an administration order in relation to the company; or

(11) the presentation of a petition for the winding-up of the company unless it is withdrawn within three (3) Business Days from the date on which the Contractor is notified of the presentation; or

(12) the company passing a resolution that the company shall be wound-up; or

(13) the court making an order that the company shall be wound-up; or

(14) the appointment of a Receiver or manager or administrative Receiver.

Where the Contractor is a company registered other than in England, events occur or are carried out which, within the jurisdiction to which it is subject, are similar in nature or effect to those specified in clauses 41.a(9) to 41.a(14) inclusive above.

b. Such termination shall be without prejudice to and shall not affect any right of action or remedy which shall have accrued or shall accrue thereafter to the Authority and the Contractor.

**Corrupt Gifts:**

c. The Contractor shall not do, and warrants that in entering the Contract it has not done any of the following (hereafter referred to as 'prohibited acts'):

(1) offer, promise or give to any Crown servant any gift or financial or other advantage of any kind as an inducement or reward;

(a) for doing or not doing (or for having done or not having done) any act in relation to the obtaining or execution of this or any other contract with the Crown; or

(b) for showing or not showing favour or disfavour to any person in relation to this or any other Contract with the Crown.

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

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

(1) to terminate the Contract and recover from the Contractor the amount of any loss resulting from the termination;

(2) to recover from the Contractor the amount or value of any such gift, consideration or commission; and

(3) to recover from the Contractor any other loss sustained in consequence of any breach of this condition, where the Contract has not been terminated.

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

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

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

(a) requiring the Contractor to procure the termination of a subcontract where the prohibited act is that of a Subcontractor or anyone acting on its or their behalf;

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

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

**42.** **Termination for Convenience**

a. The Authority shall have the right to terminate the Contract in whole or in part at any time by giving the Contractor at least twenty (20) business days written notice (or such other period as may be stated in Schedule 3 (Contract Data Sheet)). Upon expiry of the notice period the Contract, or relevant part thereof, shall terminate without prejudice to the rights of the parties already accrued up to the date of termination. Where only part of the Contract is being terminated, the Authority and the Contractor shall owe each other no further obligations in respect of the part of the Contract being terminated, but will continue to fulfil their respective obligations on all other parts of the Contract not being terminated.

b. Following the above notification the Authority shall be entitled to exercise any of the following rights in relation to the Contract (or part being terminated) to direct the Contractor to:

(1) not start work on any element of the Contractor Deliverables not yet started;

(2) complete in accordance with the Contract the provision of any element of the Contractor Deliverables;

(3) as soon as may be reasonably practicable take such steps to ensure that the production rate of the Contractor Deliverables is reduced as quickly as possible;

(4) terminate on the best possible terms any subcontracts in support of the Contractor Deliverables that have not been completed, taking into account any direction given under clauses 42.b(2) and 42.b(3) of this condition.

c. Where this condition applies (and subject always to the Contractor’s compliance with any direction given by the Authority under clause 42.b):

(1) The Authority shall take over from the Contractor at a fair and reasonable price all unused and undamaged materiel and any Contractor Deliverables in the course of manufacture that are:

(a) in the possession of the Contractor at the date of termination; and

(b) provided by or supplied to the Contractor for the performance of the Contract,

except such materiel and Contractor Deliverables in the course of manufacture as the Contractor shall, with the agreement of the Authority, choose to retain;

(2) the Contractor shall deliver to the Authority within an agreed period, or in absence of such agreement within a period as the Authority may specify, a list of:

(c) all such unused and undamaged materiel; and

(d) Contractor Deliverables in the course of manufacture,

that are liable to be taken over by, or previously belonging to the Authority, and shall deliver such materiel and Contractor Deliverables in accordance with the directions of the Authority;

(3) in respect of Services, the Authority shall pay the Contractor fair and reasonable prices for each Service performed, or partially performed, in accordance with the Contract.

d. The Authority shall (subject to clause 42.e below and to the Contractor’s compliance with any direction given by the Authority in clause 42.b above) indemnify the Contractor against any commitments, liabilities or expenditure which would otherwise represent an unavoidable loss by the Contractor by reason of the termination of the Contract, subject to:

(1) the Contractor taking all reasonable steps to mitigate such loss; and

(2) the Contractor submitting a fully itemised and costed list of such loss, with supporting evidence, reasonably and actually incurred by the Contractor as a result of the termination of the Contract or relevant part.

e. The Authority’s total liability under the provisions of this Condition shall be limited to the total price of the Contractor Deliverables payable under the contract (or relevant part), including any sums paid, due or becoming due to the Contractor at the date of termination.

f. The Contractor shall include in any subcontract over £250,000 which it may enter into for the purpose of the Contract, the right to terminate the subcontract under the terms of clauses 42.a to 42.e except that:

(1) the name of the Contractor shall be substituted for the Authority except in clause 42.c(1);

(2) the notice period for termination shall be as specified in the subcontract, or if no period is specified twenty (20) business days; and

(3) the Contractor’s right to terminate the subcontract shall not be exercised unless the main Contract, or relevant part, has been terminated by the Authority in accordance with the provisions of this condition 42.

g. Claims for payment under this condition shall be submitted in accordance with the Authority’s direction.

**43.** **Material Breach**

a. In addition to any other rights and remedies, the Authority shall have the right to terminate the Contract (in whole or in part) with immediate effect by giving written Notice to the Contractor where the Contractor is in material breach of its obligations under the Contract.

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

(1) carrying out any work that may be required to make the Contractor Deliverables comply with the Contract; or

(2) obtaining the Contractor Deliverable in substitution from another supplier.

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

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

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

**DEFCON 532B**

DEFCON 532B (Edn. 04/20) - Protection Of Personal Data (Where Personal Data is being processed on behalf of the Authority)

**DEFCON 627**

DEFCON 627 (Edn. 12/10) - Quality Assurance - Requirement for a Certificate of Conformity

**DEFCON 658 (SC2)**

DEFCON 658 (SC2) (Edn. 11/17) - Cyber

**DEFCON 660**

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

**DEFFORM 532**

|  |  |
| --- | --- |
| **Personal Data Particulars** | **DEFFORM 532**Edn 10/19 |

This Form forms part of the Contract and must be completed and attached to each Contract containing DEFCON 532B.

|  |  |
| --- | --- |
| **Data Controller** | The Data Controller is the Secretary of State for Defence (the Authority).The Personal Data will be provided by:*FTMS Programme Office**Air Mobility Force Headquarters**RAF Brize Norton**Carterton**Oxfordshire**OX18 3LX* |
| **Data Processor** | The Data Processor is the Contractor.The Personal Data will be processed at: *FTMS Programme Office**Air Mobility Force Headquarters**RAF Brize Norton**Carterton**Oxfordshire**OX18 3LX* |
| **Data Subjects** | The Personal Data to be processed under the Contract concern the following Data Subjects or categories of Data Subjects: *[please specify]**MOD Armed Forces Personnel involved in flying operations**MOD Contractor Personnel involved in flying operations* |
| **Categories of Data**  | The Personal Data to be processed under the Contract concern the following categories of data: *Rank**Name**Date of Birth**Service number(s)**Service role**Contact details**Military flying operations competencies and qualifications* |
| **Special Categories of data (if appropriate)** | The Personal Data to be processed under the Contract concern the following Special Categories of data:Nil |
| **Subject matter of the processing** | The processing activities to be performed under the contract are as follows: *[please specify]**Personal data is used to allocate suitably qualified personnel to taskings and monitor / log completion of taskings against individual personnel.*  |
| **Nature and the purposes of the Processing**  | The Personal Data to be processed under the Contract will be processed as follows: *Personnel planning and allocating tasks will review competency and qualification data to allocate suitable personnel to taskings. The personal data will also be used during emergency situations to confirm what personnel are allocated and deployed on taskings. Personal data will also be used to compile records of what taskings individual personnel have completed.*  |
| **Technical and organisational measures** | The following technical and organisational measures to safeguard the Personal Data are required for the performance of this Contract: *Data will only be held and processed on the system which is hosted on the internal MOD system architecture and is closed from open source access and internet connectivity. All users of the MOD system have to have individual accounts and access controls, and the specific system in the Contract has further individual user accounts and access controls; only authorised and appropriate users can view and access/manipulate personal data. There are further access level controls to restrict visibility of personal data.* |
| **Instructions for disposal of Personal Data**  | The disposal instructions for the Personal Data to be processed under the Contract are as follows (where Disposal Instructions are available at the commencement of Contract): *All personal data is to be deleted from contracted system at cessation of contract or end of contract period.* |
| **Date from which Personal Data is to be processed** | Where the date from which the Personal Data will be processed is different from the Contract commencement date this should be specified here: *N/A* |

The capitalised terms used in this form shall have the same meanings as in the General Data Protection Regulations.

**DEFCON 658 - Cyber Risk Profile - Low**

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

**DEFCON 076 (SC2)**

DEFCON 076 (SC2) (Edn. 11/17) - Contractor's Personnel at Government Establishments

**General Conditions**

**Third Party IPR Authorisation**

AUTHORISATIONBY THE CROWN FOR USE OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS

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

**Intellectual Property Rights**

**DEFCON 091**

DEFCON 091 (Edn. 11/06) - Intellectual Property Rights in Software

**Note**

Notes: [For the purposes of clause 3e the prescribed Nations are those within NATO & the EU and Australia & New Zealand.]

**Payment Terms**

Payments will be made monthly in arrears

**Special Indemnity Conditions**

**DEFCON 684**

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

**46 Special conditions that apply to this Contract**

**SC2 - ITT - Annex A - Limitation of Contractors Liability**

**1.** **LIMITATIONS ON LIABILITY**

**Unlimited liabilities**

1.1        Neither Party limits its liability for:

1.1.1 death or personal injury caused by its negligence, or that of its employees, agents or sub-contractors (as applicable);

1.1.2 fraud or fraudulent misrepresentation by it or its employees;

1.1.3 breach of any obligation as to title implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or

1.1.4 any liability to the extent it cannot be limited or excluded by law.

1.2 The financial caps on the Contractor's liability set out in Clause 1.4 below shall not apply to the following:

1.2.1 for any indemnity given by the Contractor to the Authority under this Contact, including but not limited to DEFCON 684;

1.2.2 the Contractor's indemnity in relation to DEFCON 91 (Intellectual Property in Software) and condition 34 (Third Party IP – Rights and Restrictions);

1.2.3 the Contractor's indemnity in relation to TUPE at Schedule 6;

1.2.4        breach by the Contractor of DEFCON 532B and Data Protection Legislation; and

1.3 The financial caps on the Authority's liability set out in Clause 1.5 below shall not apply to the following:

1.3.1 for any indemnity given by the Authority to the Contractor under this Contract, including but not limited to condition 42; and

1.3.2 the indemnity given by the Authority in relation to TUPE under Schedule 6 shall be unlimited; and

**Financial limits**

1.4 Subject to Clauses 1.1 and 1.2 and to the maximum extent permitted by Law:

1.4.1 throughout the Term the Contractor's total liability in respect of losses that are caused by Defaults of the Contractor shall in no event exceed:

(i) in respect of DEFCON 76 (SC2) £10 million in aggregate;

(ii)in respect of condition 43b £10 million in aggregate;

1.4.2 without limiting Clause 1.4.1 and subject always to Clauses 1.1, 1.2, and 1.4.3, the Contractor's total liability throughout the Term in respect of all other liabilities (but excluding any Service Credits paid or payable) whether in contract, in tort (including negligence), arising under warranty, under statute or otherwise under or in connection with this Contract shall be £10 million in aggregate.

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

1.5 Subject to Clauses 1.1, 1.3, 1.3.3 and 1.6, and to the maximum extent permitted by Law the Authority's total liability (in aggregate) whether in contract, in tort (including negligence), under warranty, under statute or otherwise under or in connection with this Contract shall in respect of all liabilities (taken together) be limited to the Charges paid by the Authority in the relevant Contract Year in respect of any and all claims in that Contract Year.

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

**Consequential loss**

1.7 Subject to Clauses 1.1, 1.2 and 1.8, neither Party shall be liable to the other Party or to any third party, whether in contract (including under any warranty), in tort (including negligence), under statute or otherwise for or in respect of:

1.7.1 indirect loss or damage;

1.7.2 special loss or damage;

1.7.3 consequential loss or damage;

1.7.4 loss of profits (whether direct or indirect);

1.7.5 loss of turnover (whether direct or indirect);

1.7.6 loss of business opportunities (whether direct or indirect); or

1.7.7 damage to goodwill (whether direct or indirect),

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

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

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

(i) to any third party;

(ii) for putting in place workarounds for the Contractor Deliverables and other deliverables that are reliant on the Contractor Deliverables; and

(iii) relating to time spent by or on behalf of the Authority in dealing with the consequences of the Default;

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

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

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

1.8.5 damage to the Authority's physical property and tangible assets, including damage under DEFCONs 76 (SC2) and 611 (SC2)*;*

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

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

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

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

**Invalidity**

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

**Third party claims or losses**

1.10 Without prejudice to any other rights or remedies the Authority may have under this Contract (including but not limited to any indemnity claim under DEFCONs 91 and condition 34 or at Law), the Authority shall be entitled to make a claim under this Contract against the Contractor in respect of any losses incurred by the Authority which arise out of a claim made against the Authority by a third party under any contract with that third party provided that such third party claim:

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

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

**No double recovery**

1.11 Neither Party shall be entitled to employ such rights and remedies available to it so as to seek to recover more than once in respect of the same loss, but the Authority shall be entitled to use (singly or together) such rights and remedies available to the Authority so as to recover the full extent of any recoverable losses suffered or incurred, including any remedies the Authority may have against any guarantor.

**Option Periods**

**Contract Option Periods**

a.           The Option Periods detailed in the pricing Schedule will be subject to a Firm Price not subject to variation.

b.    The Contractor hereby grants the Authority the irrevocable Option to purchase the above service in accordance with the Terms and Conditions set out in the Contract.

c.    The Authority shall have the right to exercise each Option Period up to 3 months prior to the tasking completion date.  The Authority shall have the right to exercise all 2 Option Periods at the same time or by one Option Period at a time.

d.    The Authority shall not be obliged, or under any obligation, to exercise any of the Option Periods detailed.

**SC2 Schedules**

**Schedule 1 - Definitions of Contract**

|  |  |
| --- | --- |
| **Articles** | means the Contractor Deliverables (goods and/or the services), including Packaging (and Certificate(s) of Conformity and supplied in accordance with any QA requirements if specified) which the Contractor is required to provide under the Contract in accordance with Schedule 2 (Schedule of Requirements), but excluding incidentals outside Schedule 2 (Schedule of Requirements) such as progress reports. (**This definition only applies when DEFCONs are added to these Conditions**); |
| **Authority** | means the Secretary of State for Defence acting on behalf of the Crown; |
| **Authority’sRepresentative(s)** | shall be those person(s) defined in Schedule 3 (Contract Data Sheet) who will act as the Authority’s Representative(s) in connection with the Contract. Where the term “Authority’s Representative(s)” in the Conditions is immediately followed by a functional description in brackets, the appropriate Authority’s Representative(s) shall be the designated person(s) for the purposes of condition 8; |
| **Business Day** | means 09:00 to 17:00 Monday to Friday, excluding public and statutory holidays; |
| **Central Government Body** | a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics:a. Government Department;b. Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);c. Non-Ministerial Department; orExecutive Agency; |
| **Collect** | means pick up the Contractor Deliverables from the Consignor. This shall include loading, and any other specific arrangements, agreed in accordance with clause 28.c and Collected and Collection shall be construed accordingly; |
| **Commercial Packaging** | means commercial Packaging for military use as described in Def Stan 81-041 (Part 1) |
| **Conditions** | means the terms and conditions set out in this document; |
| **Consignee** | means that part of the Authority identified in Schedule 3 (Contract Data Sheet) to whom the Contractor Deliverables are to be Delivered or on whose behalf they are to be Collected at the address specified in Schedule 3 (Contract Data Sheet) or such other part of the Authority as may be instructed by the Authority by means of a Diversion Order; |
| **Consignor** | means the name and address specified in Schedule 3 (Contract Data Sheet) from whom the Contractor Deliverables will be dispatched or Collected; |
| **Contract** | means the Contract including its Schedules and any amendments agreed by the Parties in accordance with condition 6 (Amendments to Contract); |
| **Contract Price** | means the amount set out in Schedule 2 (Schedule of Requirements) to be paid (inclusive of Packaging and exclusive of any applicable VAT) by the Authority to the Contractor, for the full and proper performance by the Contractor of its obligations under the Contract. |
| **Contractor** | means the person who, by the Contract, undertakes to supply the Contractor Deliverables, for the Authority as is provided by the Contract. Where the Contractor is an individual or a partnership, the expression shall include the personal representatives of the individual or of the partners, as the case may be, and the expression shall also include any person to whom the benefit of the Contract may be assigned by the Contractor with the consent of the Authority; |
| **Contractor Commercially Sensitive Information** | means the Information listed in the completed Schedule 5 (Contractor’s Commercially Sensitive Information Form), which is Information notified by the Contractor to the Authority, which is acknowledged by the Authority as being commercially sensitive; |
| **Contractor Deliverables** | means the goods and/or the services, including Packaging (and Certificate(s) of Conformity and supplied in accordance with any QA requirements if specified) which the Contractor is required to provide under the Contract; |
| **Control** | means the power of a person to secure that the affairs of the Contractor are conducted in accordance with the wishes of that person:a. by means of the holding of shares, or the possession of voting powers in, or in relation to, the Contractor; orb. by virtue of any powers conferred by the constitutional or corporate documents, or any other document, regulating the Contractor;and a change of Control occurs if a person who Controls the Contractor ceases to do so or if another person acquires Control of the Contractor; |
| **CPET** | means the UK Government’s Central Point of Expertise on Timber, which provides a free telephone helpline and website to support implementation of the UK Government timber procurement policy; |
| **Crown Use** | in relation to a patent means the doing of anything by virtue of Sections 55 to 57 of the Patents Act 1977 which otherwise would be an infringement of the patent and in relation to a Registered Design has the meaning given in paragraph 2A(6) of the First Schedule to the Registered Designs Act 1949;  |
| **Dangerous Goods** | means those substances, preparations and articles that are capable of posing a risk to health, safety, property or the environment which are prohibited by regulation, or classified and authorised only under the conditions prescribed by the:a. Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009 (CDG) (as amended 2011);b. European Agreement Concerning the International Carriage of Dangerous Goods by Road (ADR);c. Regulations Concerning the International Carriage of Dangerous Goods by Rail (RID);d. International Maritime Dangerous Goods (IMDG) Code;e. International Civil Aviation Organisation (ICAO) Technical Instructions for the Safe Transport of Dangerous Goods by Air;f. International Air Transport Association (IATA) Dangerous Goods Regulations. |
| **DBS Finance** | means Defence Business Services Finance, at the address stated in Schedule 3 (Contract Data Sheet); |
| **DEFFORM** | means the MOD DEFFORM series which can be found at <https://www.aof.mod.uk>; |
| **DEF STAN** | means Defence Standards which can be accessed at [https://www.dstan.mod.uk](http://www.dstan.mod.uk); |
| **Deliver** | means hand over the Contractor Deliverables to the Consignee. This shall include unloading, and any other specific arrangements, agreed in accordance with condition 28 and Delivered and Delivery shall be construed accordingly; |
| **DeliveryDate** | means the date as specified in Schedule 2 (Schedule of Requirements) on which the Contractor Deliverables or the relevant portion of them are to be Delivered or made available for Collection; |
| **Denomination of Quantity (D of Q)** | means the quantity or measure by which an item of material is managed; |
| **Design Right(s)** | has the meaning ascribed to it by Section 213 of the Copyright, Designs and Patents Act 1988; |
| **Diversion Order** | means the Authority’s written instruction (typically given by MOD Form 199) for urgent Delivery of specified quantities of Contractor Deliverables to a Consignee other than the Consignee stated in Schedule 3 (Contract Data Sheet); |
| **EffectiveDate of Contract** | means the date specified on the Authority’s acceptance letter; |
| **Evidence** | means either:a. an invoice or delivery note from the timber supplier or Subcontractor to the Contractor specifying that the product supplied to the Authority is FSC or PEFC certified; orb. other robust Evidence of sustainability or FLEGT licensed origin, as advised by CPET; |
| **Firm Price** | means a price (excluding VAT) which is not subject to variation; |
| **FLEGT** | means the Forest Law Enforcement, Governance and Trade initiative by the European Union to use the power of timber-consuming countries to reduce the extent of illegal logging; |
| **Government Furnished Assets (GFA)** | is a generic term for any MOD asset such as equipment, information or resources issued or made available to the Contractor in connection with the Contract by or on behalf of the Authority; |
| **Hazardous Contractor Deliverable** | means a Contractor Deliverable or a component of a Contractor Deliverable that is itself a hazardous material or substance or that may in the course of its use, maintenance, disposal, or in the event of an accident, release one or more hazardous materials or substances and each material or substance that may be so released; |
| **Independent Verification** | means that an evaluation is undertaken and reported by an individual or body whose organisation, systems and procedures conform to “ISO Guide 65:1996 (EN 45011:1998) General requirements for bodies operating product certification systems or equivalent”, and who is accredited to audit against forest management standards by a body whose organisation, systems and procedures conform to “ISO 17011: 2004 General Requirements for Providing Assessment and Accreditation of Conformity Assessment Bodies or equivalent”; |
| **Information** | means any Information in any written or other tangible form disclosed to one Party by or on behalf of the other Party under or in connection with the Contract; |
| **Issued Property** | means any item of Government Furnished Assets (GFA), including any materiel issued or otherwise furnished to the Contractor in connection with the Contract by or on behalf of the Authority; |
| **Legal and Sustainable** | means production and process methods, also referred to as timber production standards, as defined by the document titled “UK Government Timber Production Policy: Definition of legal and sustainable for timber procurement". The edition current on the day the Contract documents are issued by the Authority shall apply; |
| **Legislation** | means in relation to the United Kingdom any Act of Parliament, any subordinate legislation within the meaning of section 21 of the Interpretation Act 1978, any exercise of Royal Prerogative or any enforceable community right within the meaning of Section 2 of the European Communities Act 1972; |
| **Military Level Packaging (MLP)** | means Packaging that provides enhanced protection in accordance with Def Stan 81-041 (Part 1), beyond that which Commercial Packaging normally provides for the military supply chain; |
| **Military Packager Approval Scheme (MPAS)** | is a MOD sponsored scheme to certify military Packaging designers and register organisations, as capable of producing acceptable Services Packaging Instruction Sheet (SPIS) designs in accordance with Defence Standard (Def Stan) 81-041 (Part 4); |
| **Military Packaging Level (MPL)** | shall have the meaning described in Def Stan 81-041 (Part 1); |
| **MPAS Registered Organisation** | is a packaging organisation having one or more MPAS Certificated Designers capable of Military Level designs. A company capable of both Military Level and commercial Packaging designs including MOD labelling requirements; |
| **MPAS Certificated Designer** | shall mean an experienced Packaging designer trained and certified to MPAS requirements; |
| **NATO** | means the North Atlantic Treaty Organisation which is an inter-governmental military alliance based on the North Atlantic Treaty which was signed on 4 April 1949; |
| **Notices** | shall mean all Notices, orders, or other forms of communication required to be given in writing under or in connection with the Contract; |
| **Overseas** | shall mean non UK or foreign; |
| **Packaging** | Verb. The operations involved in the preparation of materiel for; transportation, handling, storage and Delivery to the user; Noun. The materials and components used for the preparation of the Contractor Deliverables for transportation and storage in accordance with the Contract; |
| **Packaging Design Authority (PDA)** | shall mean the organisation that is responsible for the original design of the Packaging except where transferred by agreement. The PDA shall be identified in the Contract, see Annex A to Schedule 3 (Appendix – Addresses and Other Information), Box 3; |
| **Parties** | means the Contractor and the Authority, and Party shall be construed accordingly; |
| **Primary Packaging Quantity(PPQ)** | means the quantity of an item of material to be contained in an individual package, which has been selected as being the most suitable for issue(s) to the ultimate user, as described in Def Stan 81-041 (Part 1); |
| **Recycled Timber** | means recovered wood that prior to being supplied to the Authority had an end use as a standalone object or as part of a structure. Recycled Timber covers:a. pre-consumer reclaimed wood and wood fibre and industrial by-products; b. post-consumer reclaimed wood and wood fibre, and driftwood; c. reclaimed timber abandoned or confiscated at least ten years previously;it excludes sawmill co-products; |
| **Safety Data Sheet** | has the meaning as defined in the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) Regulations 2007 (as amended); |
| **Schedule of Requirements** | means Schedule 2 (Schedule of Requirements), which identifies, either directly or by reference, Contractor Deliverables to be provided, the quantities and dates involved and the price or pricing terms in relation to each Contractor Deliverable; |
| **Short-Rotation Coppice** | means a specific management regime whereby the poles of trees are cut every one to two years and which is aimed at producing biomass for energy. It is exempt from the UK Government timber procurement policy. For avoidance of doubt, Short-Rotation Coppice is not conventional coppice, which is subject to the timber policy; |
| **Specification** | means the description of the Contractor Deliverables, including any specifications, drawings, samples and / or patterns, referred to in Schedule 2 (Schedule of Requirements); |
| **STANAG4329** | means the publication NATO Standard Bar Code Symbologies which can be sourced at [https://www.dstan.mod.uk/faqs.html](http://www.dstan.mod.uk/faqs.html); |
| **Subcontractor** |  |
| **Timber and Wood-Derived Products** | means timber (including Recycled Timber and Virgin Timber but excluding Short-Rotation Coppice) and any products that contain wood or wood fibre derived from those timbers. Such products range from solid wood to those where the manufacturing processes obscure the wood element; |
| **TransparencyInformation** | means the content of this Contract in its entirety, including from time to time agreed changes to the Contract, and details of any payments made by the Authority to the Contractor under the Contract; |
| **Virgin Timber** | means Timber and Wood-Derived Products that do not include Recycled Timber. |

**Schedule 2 - Schedule of Requirements**

**Statement of Requirement**

**The Provision of a Flight Tasking Management System (FTMS) for the Royal Air Force**

| Ref | Requirement |
| --- | --- |
| **A** | **General Requirements** |
|  |  |
| **A.1** | **Scope of Requirement** |
| A.1.a | Force elements within 2 Gp currently utilise the Boeing Operational Control System (BOCS) as the primary tool for planning and managing all 2 Gp UK and overseas flying operations, at RAF Brize Norton and RAF Northolt. The system, which was introduced in 2007 as an end-to-end planning tool, is also utilised by Defence Supply Chain Operational Movements (DSCOM), based at MOD Abbey Wood, as 2 Gp’s Tasking Authority, as its sole enabling planning tool from task creation to task completion. The current contract ends on 31 Mar 2022. The user shall be provided with an application that delivers end-to-end functionality, from task inception to task completion and continues to deliver the efficiencies of the current system. The capability will be used in support of the RAF’s Strategic and Tactical Air Transport Fleets. The application, which delivers the capability, will be the critical component in the planning and execution of tasks from both fleets. The application will be employed at multiple sites and access, both read and write, can be made from any location which has access to MODNET and has been licensed to use the application. |
|  |  |
| **A.2** | **Definitions** |
| A.2.a | In addition to the definitions detailed in the Terms and Conditions of the Contract the following definitions shall also apply. Where the definitions below contrast to those detailed in the Terms and Conditions of the Contract then the definitions within the Terms and Conditions of the Contract shall take precedence. |
|  | Definition | Interpretation |
|  | Contractor’s Personal Use | Any use of MOD furnished property, facilities or equipment intended for the primary benefit of the Contractor or the Contractor’s Personnel which is contrary to the MOD’s interests is considered personal use. |
|  | Contractor’s Personnel | Any employees, including sub-contractors or other agents working on behalf of the Contractor, shall be deemed the Contractor’s Personnel. |
|  | Designated Officer | The Designated Officer is the MOD representative responsible for the Requirement and is as defined at Box 2 of DEFFORM 111 of this Contract. |
|  |  |
| **A.3** | **Abbreviations and Acronyms** |
| A.3.a | In addition to the abbreviations and acronyms detailed in the Terms and Conditions of the Contract the following abbreviations and acronyms will be used. |
|  | Abbreviation or Acronym | Interpretation |
|  | AAR | Air to Air Refuelling |
|  | air movs | air movements |
|  | AMAC | Air Mobility Allocation Committee |
|  | AOC | Air Officer Commanding |
|  | AOR | Area Of Responsibility |
|  | AT | Air Transport |
|  | ATSy | Air Transport Security |
|  | DAFIF | Digital Aeronautical Flight Information File |
|  | DO | Designated Officer |
|  | DSAT | Defence Systems Approach to Training |
|  | DSCOM | Defence Supply Chain Operational Movements |
|  | FIR | Flight Information Region  |
|  | FTMS | Flight Tasking Management System |
|  | GFA | Government Furnished Assets |
|  | GFI | Government Furnished Information |
|  | Gp | Group |
|  | HQ2Gp | Headquarters 2 Group |
|  | hrs | hours |
|  | IATA | International Air Transport Association |
|  | ICAO | International Civil Aviation Organisation |
|  | IT | Information Technology |
|  | MOD | Ministry of Defence |
|  | No 1 AIDU | Number 1 Aeronautical Information Documentation Unit |
|  | OC | Officer Commanding |
|  | Ops | Operations |
|  | OTP | On Time Performance |
|  | RAF | Royal Air Force |
|  | SC | Security Check |
|  | SoR | Statement of Requirement |
|  | TRANSOP | Transportation Order |
| **A.4** | **References** |
| A.4.a | In addition to the references detailed in the Terms and Conditions of the Contract the following references shall also apply as well as any subsequent revisions and amendments to the references. This list does not absolve the Contractor from conforming to any other relevant publications. |
|  | Reference | Version | Source |
|  | Data Protection Act 2018 | 2018 c. 12 | http://www.legislation.gov.uk/ukpga/2018/12/contents/enacted |
|  | Government Security Classifications | 1.1 | https://www.gov.uk/government/publications/government-security-classifications |
|  |  |
| **A.5** | **Processes and Related Taskings** |
| A.5.a | There are no interdependent contracts or requirements which will affect the Requirement. |
|  |  |
| **A.6** | **Site** |
| A.6.a | The main site for Authority engagement and liaison with the Operations Management Systems Officer is RAF Brize Norton, Oxfordshire. Training should be provided at RAF Brize Norton, Oxfordshire; RAF Northolt, London; and MOD Abbey Wood, Bristol. Provision of training facilities and coordination of users at these sites will be responsibility of the Authority.  |
| **A.7** | **Security** |
| A.7.a | The Contractor is to ensure that all of the Contractor’s Personnel have Security Check (SC) clearance. Where the Contractor’s Personnel does not have SC clearance that individual may be allowed escorted access to MOD facilities, but may be restricted on access to MOD systems and data.. |
| A.7.b | All information related to or generated by this Contract is to be treated in the appropriate manner in accordance with Government Security Classifications. The classification of the material to be handled shall not exceed OFFICIAL-SENSITIVE in nature. |
| A.7.c | All personal data processed under this Contract is to be treated in accordance with the Data Protection Act 2018. |
|  |  |
| **A.8** | **Site Access** |
| A.8.a | The Contractor is to ensure that all of the Contractor’s Personnel have Security Check (SC*)* clearance. Where the Contractor’s Personnel does not have SC clearance that individual may be allowed escorted access to MOD facilities, but may be restricted on access to MOD systems and data. The Operations Management Systems Officer at RAF Brize Norton, Oxfordshire will arrange for regular Contractor Personnel needing access to site to obtain relevant site passes and permits.  |
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| **A.9** | **Safety and Environmental Provisions** |
| A.9.a | When on the Site the Contractor is to comply with all MOD Safety, Health and Environmental Protection regulations and policy. The Operations Management Systems Officer at RAF Brize Norton, Oxfordshire will arrange for regular Contractor Personnel needing access to site to obtain relevant site briefings and induction training. All other visitors will receive escorted access.  |
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| **A.10** | **Hours of Operation and Times of Delivery** |
| A.10.a | The provided Software is to be available 24/7, 365 days per year. Scheduled downtime for upgrades and maintenance is to be agreed with Authority at least 48hrs prior. Software helpdesk support required, as a minimum, to be available Mon-Fri 08:00-17:00hrs. All Contractor visitors to Authority sites shall be between the hours of 0800 -1700 on weekdays with exception of recognised UK Bank Holidays and Public Holidays. |
|  |  |
| **A.11** | **Contract Monitoring** |
| A.11.a | For the purposes of contract monitoring, representatives of the Contractor will routinely report to the Designated Officer on the performance of the Contract. |
| A.11.b | The Contractor is responsible for the performance of the Contract by any sub-contractors or other agents working on behalf of the Contractor. The Contractor is to deal with any issues relating to any sub-contractors or other agents working on behalf of the Contractor, this however does not exclude sub-contractors or other agents working on behalf of the Contractor from attending any Contract Monitoring meeting or contributing to any report where it is appropriate for such sub-contractors or other agents to do so. |
| A.12.c | If any sub-contractors or other agents working on behalf of the Contractor are found unsuitable, for whatever reason, the Contractor is to engage with the relevant sub-contractors or other agents to broker a resolution. |
|  |  |
| **A.12** | **Government Furnished Assets** |
| A.12.a | The Contractor will be furnished with the pieces of Government Furnished Assets (GFA) as detailed at Annex A to this SoR. |
| A.12.b | The Contractor is to report to the Designated Officer any failures of GFA at the first instance for repair or replacement, as appropriate. |
|  |  |
| **A.13** | **Personnel Qualification Requirements and Training** |
| A.13.b | The Contractor is responsible for the sourcing of the appropriate training for the Contractor’s Personnel unless otherwise noted at Annex B.  |
| A.13.c | The Contractor is responsible for all costs for training of the Contractor’s Personnel in order to meet their obligations under the Contract unless otherwise noted at Annex B. |
| **A.14** | **Certification and Accreditation** |
| A.14.a | The application must be capable of being hosted in one of Defence’s chosen hosting environments. These are the MCP for client / server solution or ACE / ICE for Web based solution. The hosting environment will be dependent upon the architecture of the winning solution. The vendor must provide support in configuring and installing the application in to the chosen hosting environment. MCP is client server using RDP.ACE is Microsoft Azure Cloud Hosting.ICE is Amazon Web Services. |

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| **B** | **Deliverable Requirements** |  |  |  |

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| Ref | Requirement | Additional Information | Quantity | Standard of Performance |
| **B1** | Core Functionality  |  |  |  |
| B1.1 | Provide software to support all flying related activities of the RAF AT/AAR programme. Must deliver end-end functionality from task inception to completion. | Automation of planning tasks to support streamlined manpower teams.Software is to be available through the MODNET system – Authority support to deliver hosting provision will be provided.  | Up to 800 write access users and up to 2000 read access users. Licences should support 200 concurrent users. | Software to be available 24/7, 365 days per year. Scheduled downtime for upgrade and maintenance to be agreed with Authority at least 48hrs prior. Software helpdesk support required, as a minimum, to be available Mon-Fri 08:00-17:00hrs. Helpdesk should be able to provide advice in operating the application and to deal with errors or anomalies. |
| B1.2 | All functional areas to be fully integrated. Data sharing and data migration between functional areas to be invisible to user. | Data must be consistent and accurate throughout the system. |  |  |
| B1.3 | The ability to clearly define responsibility periods, whereby different parts of the organisation control specific tasks. | Ensure that the correct area of the organisation is working with the tasks. |  | Responsibility periods must be user controlled and defined. |
| B1.4 | Provide sufficient software licences to support the user community.  | Users (up to specified licence limits) must be able to access the system 24/7, 365 days per year. | Up to 800 write access users and up to 2000 read access users. Licences should support 200 concurrent users. |  |

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| B1.5 | Use graphical interface for functional methodology wherever possible. | Speeds up the planning process, better utilisation of information. |  | Graphical capability to be fully backed up by tabular information capability. |
| B1.6 | System must be cable of ingesting DAFIF Data for planning purposes. | DAFIF data to be used as configured and screened by No 1 AIDU. |  | DAFIF is standard ICAO format to build Airways and Airways Waypoint structure data. |
| B1.7 | Provide automatic alert notifications, colour coded warnings to alert to changes within full spectrum of AT/AAR programme. Use 'attention getters' for any user action that would result in the loss of flight data, compromise task viability or breach 2 Gp Ops Manual regulations. | Users to be alerted when planning is outside of 2 Gp Ops Manual regulations. |  | Requirements B1.7 – B1.11Existing data is held and owned by the Authority and will be provided to successful vendor as part of contract award.Extracts of existing data held, data formats and fields, and relevant regulatory material will be provided in a data vault for permitted bidders.  |
| B1.8 | Provide a detailed database of airfields, fully editable and amendable. | Critical information used in the planning and execution of tasks. | To include key information related to the use of the airfield by HQ2Gp fleets. |
| B1.9 | Provide a detailed database of RAF aircraft fleets. | Critical information used in the planning and execution of tasks. | To include details of aircraft type, role and configuration. |
| B1.10 | Provide the ability to add details of visiting aircraft and maintain these in the aircraft fleet database. | Critical information used in the planning and execution of tasks. | The ability to include details of aircraft type, role and configuration. |
| B1.11 | Provide a detailed database of airfield, embassy and handling agent contacts' fully editable and amendable. | Critical information used in the planning and execution of tasks. | Allow multiple contacts for each airfield, embassy and handling agent. |

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| **B2** | Task Scheduling |  |  |  |
| B2.1 | Have functionality for users to: manage AT/AAR bids from Defence sponsors, up to 3 months before bid results in operational task. Create, prioritise and authorise bids, and view bid reports as approved by the AMAC. | Bidding is the method by which task sponsors initially detail the requirement. | Up to 300 bids per month. |  |
| B2.2 | Have functionality for users to: allocate AT/AAR bids to most suitable RAF aircraft fleets. Create AT/AAR bid components, subdividing bid into optimised aircraft loads. Allocate optimum loads to each aircraft type. | To achieve best utilisation of aircraft. |  | As required to satisfy bid. |
| B2.3 | Create and manage individual aircraft tasks from bid components. | To achieve best utilisation of aircraft. | Up to 500 aircraft tasks ('trips') per month. | As required to satisfy bid.  |
| B2.4 | Create and manage routes for aircraft task. | To achieve most efficient and best utilisation of ac in completion of the task. |  | As required to satisfy bid. |
| B2.5 | Specify flight crew requirements. Detail requirements for captain, co-pilot, navigator, air engineer, air loadmaster and air steward, depending on aircraft type. | Task to be populated with the necessary crew requirements in order to complete the task.  |  | Existing data is held and owned by the Authority and will be provided to successful vendor as part of contract award.Extracts of existing data held, data formats and fields, and relevant regulatory material will be provided in a data vault for permitted bidders |
| B2.6 | Specify support crew requirements. Detail requirements for ground engineering, air movs, ATSy and miscellaneous support, plus supernumerary crew. | Task to be populated with the necessary support crew requirements in order to complete the task. |  |
| B2.7 | Request or re-submit airfield bookings for tasks. Track airfield slot time requests using IATA protocol, with ICAO protocol as a back-up. | Airfields required in order to achieve the task. | All airfields visited by RAF AT/AAR aircraft to be covered. | As required, depending on numbers of airfields within task itinerary.  |
| B2.8 | Create TRANSOPs, and assign, remove and manage tasks within TRANSOPS Display the flight legs of TRANSOPS graphically, and print TRANSOP as required. Ability to paste Word and Excel data into TRANSOP as required. | TRANSOP are the method by which sqns and crews are formally tasked. | Up to 2000 TRANSOP items per month, including amendments. | All TRANSOPS to reflect latest task information, and retain amendment history. Examples of TRANSOPs, data formats and fields, and relevant regulatory material will be provided in a data vault for permitted bidders |
| B2.9 | Hold details of and specify aircraft role | Aircraft role is dependant on the task requirements. |  | Must take account of all configurations of AT/AAR aircraft in current use, as well as those due to enter RAF service during period of contract. |
| B2.10 | Finalise task details and release TRANSOP. Create recipient list to which TRANSOP to be sent. Allow TRANSOP to be modified after release. | TRANSOP detail the formal tasking of the aircraft. | Up to 2000 TRANSOP items per month, including amendments.  | All TRANSOPs to reflect latest task information, and retain amendment history.TRANSOPs to be emailed from system to inputted user addresses when selected by users. |
| B2.11 | Creation of flight folders. Export any document or information screen to specified folder. | Allows the latest information to be collated in to a flight folder for crews. |  | AT/AAR programme information to be viewable and printable in both tabular and graphical modesExports to be available in ..xlsx, csv, .PDF and .docx formats as applicable. |
| B2.12 | Link bids to enable task completion of several bids on one aircraft itinerary or one bid on numbers of different aircraft itineraries, or any variation in between. All amended or cancelled bids to have ability to be re-instated as per original requirement rather than re-entering data from scratch.  | Allows for better utilisation of the aircraft fleet. | Up to 200 bids per month |  |

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| B2.13 | Provide a method to access information contained in the application outside of the main programme via web links. The ability to filter and print information. | Large user population who require read only access. | Up to 800 write access users and up to 2000 read access users. Licences should support 200 concurrent users. | Access through the web link should not affect the licence allocation for the main application. |
| B2.14 | Create and manage tasks supporting the tactical flying programme. Include function capable of displaying tactical AT mission briefs either in required format or within text memo. Read access to task details to be available for all users. | Tactical flying programme has specific requirements. | Up to 16 tactical flying tasks per day | Exports to be available in ..xlsx, csv, .PDF and .docx formats as applicable. |
| B2.15 | View cancelled bids.  | All information on bids that were not supported (nil offered) to be retained in the system and included in relevant transop. |  |  |
| B2.16 | Hold and view aircraft defect information. Amendable and updateable by user. | Used to manage the allocation of aircraft to tasks. |  | Must be able to support the current fleet and future fleet requirement. |
| B2.17 | Store and modify aircraft routes. Each route, and associated task detail, to be capable of modification or breaking down into shorter legs in near real time. | Used in the planning cycle | Store up to 10 aircraft routes for each aircraft type (based on flights between specified departure and arrival airfields) for default or manual selection as required.  | Ability to accept and ingest routes in ICAO Flight Plan format. |

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| B2.18 | The ability to manage and display the flow of aircraft through the airfields used by the AT/AAR fleets. The ability to tailor the maximum number of aircraft to be handled and specify the load/offload times. Provision of a graphical display of flow management. | Delivers better utilisation of the aircraft fleet and ensures the programme is achievable. |  | Customisable Colour coded graphical representation of the aircraft fleet with the ability to export to reports. Exports to be available in ..xlsx, csv, .PDF and .docx formats as applicable.Sequential displays of all movements at a selectable airfield location, with ability to tailor views and detail.  |
| B2.19 | The ability to capture how long a visiting aircraft has been parked at a unit, assign it to a relevant parking bay, and to assign any services rendered to that aircraft, from a pre-defined list. The application should be able to cost the services provided and generate an invoice based on these costs. | Delivers better utilisation of the airfield and facilities third party revenue capture. |  | Customisable Colour coded graphical representation of the aircraft fleet with the ability to export to reports. Exports and invoice to be available in ..xlsx, csv, .PDF and .docx formats as applicable. Invoice format will be provided in a data vault for permitted bidders.Sequential displays of all movements at a selectable airfield location, with ability to tailor views and detail.  |
| **B3** | Crew Rostering |  |  |  |
| B3.1 | Provide a database of all crew, to include personal information, role and qualifications. | Used in the allocation of crew to tasks. | Must be able to hold information on all crews, in excess 2000 personnel. | Existing data is held and owned by the Authority and will be provided to successful vendor as part of contract award.Extracts of existing data held, data formats and fields, and relevant regulatory material will be provided in a data vault for permitted bidders |
| B3.2 | Provide a method to manage the allocation and awarding of crew qualifications.  | Allow for the management of crew training. |  | Must be able to hold information on all crews |
| B3.3 | Provide a customisable graphical, colour coded display of crew qualifications, with the ability to generate reports on selected crew members or population. | Allow for the management of crew training. |  | Must be able to hold information on all crews |
| B3.4 | Provide a dictionary of ground activities for allocation to crew members. | Allows for the management of personnel in conjunction with the allocated flying tasks. |  | Must be user-defined and amendable with the ability to add new activities.Existing data is held and owned by the Authority and will be provided to successful vendor as part of contract award.Extracts of existing data held, data formats and fields, and relevant regulatory material will be provided in a data vault for permitted bidders |
| B3.5 | Display all flying tasks as unfinalised or finalised by planners, with flight sectors reflecting linked bids requirements. Flying tasks to show crew positions and qualifications required for sector. | Allows for management of the flying programme |  | Must be able to handle all crew flight sectors created by planning teams. |
| B3.6 | Allocate crews to tasks. Warnings to be issued when flying tasks change. Crew allocation to be conducted manually. Warnings to be issued when crew rules or qualifications breached. Audit capability to show 'authoriser'. | Ensures correct allocation of qualified competent crew to tasks. |  | Crews to be allocated to tailored crew routes which can be a combination of numerous aircraft routes. |
| B3.7 | Define crew roles and crew composition, applicable to flight crew, supernumerary crew and ground support crew. | To satisfy the requirements of the aircraft task. |  | Must be fully amendable and updateable. |
| B3.8 | Manage the allocation of slip crews. Slip crew location to be clearly indicated and crew rules and qualifications to be fully applied. | Slip crews used routinely by the strategic air transport fleet. |  | Extracts of relevant regulatory material will be provided in a data vault for permitted bidders |
| B3.9 | Produce crew reports. - crew roster reports, crew flight reports and ground activities reports. Crew flying hours and duties completed to be used to update crew database. | Used in the management of crew flying totals. |  | Reports should be exportable to .docx, .xlsx and .PDF as a minimum. |
| B3.10 | Ability to search flight sectors, by flight number, task number, task type, origin and destination airports. | Allows user to interrogate the database. |  |  |
| B3.11 | Hold the crew rules sets for all aircraft types. | Governs the crew utilisation. |  | Must be fully amendable and updateable. |
| B3.12 | Issue messages (including rosters) to crew members via web access, with receipt notification. | Allows changes to the flying programme to be disseminated. |  | This functionality should be included for read only users of the database. |
| B3.13 | Receive messages from crew members via web access, with receipt notification. | Allows changes to the flying programme to be disseminated. |  | This functionality should be included for read only users of the database. |
| B3.14 | Ability to export crew messages to a format which allows delivery through e-mail. | Allows changes to the flying programme to be disseminated. |  |  |
| **B4** | Flight Watch |  |  |  |
| B4.1 | Manage flight sectors, including updates to departure and arrival times through route template. | Enables general management of the flying programme. |  |  |
| B4.2 | Manage flight sectors passenger and freight allocation.  | Enables utilisation of the flight and produces reports on aircraft usage |  | Database should contain a user-defined, fully amendable list of freight items. |
| B4.3 | Ability to record confirmed passenger and freight bid data ‘actuals’, at flight departure. | Used to capture actual passenger and freight bid data for MI / data exploitation purposes. |  | Exports to be available in ..xlsx, csv, .PDF and .docx formats as applicable. |
| B4.4 | Ability to create new sectors or multiple sectors through route template. | Enables general management of the flying programme. |  |  |
| B4.5 | Make changes to crew allocation and requirements. | Crew changes as required by the task. |  |  |
| B4.6 | Calculate crew duty time and crew rest periods. | Ensure that routes are operated in accordance with 2 Gp Ops Manual. |  |  |
| B4.7 | Insert flow control slot times within flight sectors. Highlight flight sectors affected by slot time. | Highlights restrictions placed on the operation of the sector. |  |  |
| B4.8 | Allocate tasks to airframe, verify that the aircraft is suitable for the task with a warning. | To allow management of the aircraft fleet to meet the flying programme.  |  | Aircraft fleet to hold details of current configuration, restrictions and serviceability state |
| B4.9 | Monitor active flights and display sector information when selected. Colour coded to give an indication of the state of the sector. | To deliver effective management of the flying programme. |  |  |
| B4.10 | Mark task as completed when updated arrival times available and produce task report. | Task report used to capture statistics. |  | All reports to be exportable to .docx, .xlsx and .PDF formats as a minimum. |
| B4.11 | Provide functionality for the allocation of aircraft parking bays through a graphical and tabular display. | To allow management of and effective use of parking bays |  | Database should hold a user defined and amendable list of all parking bays. |
| B4.12 | Provide the ability to generate a pop-up warning on users screen. | Used to monitor 20 mile calls. |  | Warnings must be acknowledged before users can user other aspects of the programme. |
| **B5** | Diplomatic Clearance |  |  |  |
| B5.1 | Store, edit and delete diplomatic clearance details of each country overflown by AT/AAR aircraft. To include as a minimum (drop-down style options) diplomatic clearance type (positive, flight note or non-positive), notification period, validity period, block clearance number (if issued) and embassy contact details. | Required to achieve and manage the routing for AT and AAR overseas flights. |  | Must be capable of holding country data linked to diplomatic clearance requirements. |
| B5.2 | Store, edit and delete details of diplomatically approved routes by aircraft type. Details to include national airspaces entered, entry and exit points and elapsed flight times. | Required to achieve and manage the routing for AT and AAR overseas flights. |  | Must be capable of accepting routes generated in ICAO Flight Plan format. |
| B5.3 | Identify required diplomatic clearances for aircraft route and payload and the details to be included in the diplomatic requests. | Valid diplomatic clearance must be held to allow a flight to take place in a given FIR. |  | Should be viewable in a graphical display. |
| B5.4 | Produce, edit, print and save diplomatic clearance requests and amendments. Must also store E-mailed diplomatic requests to stored British embassy addresses and generate nationally produced forms by individual countries where required. | Used to expedite and manage the diplomatic request process. |  | Complete records required. Requests to be fully amendable, with all changes to request status highlighted with colour coding, particularly if route amendments alter foreign airspace entry times. |
| B5.5 | Track status of diplomatic clearance requests. Record date and time of requests, whether a response has been received in the case of positive clearances and the date/time of receipt. | Allows effective management of the diplomatic clearance process. |  | Complete records required. Status of request to viewable as an overall list, by flight number, transop, task number and sector, with colour coding to highlight phases of request process. |
| B5.6 | Record and store diplomatic clearance numbers on receipt. Date and time of receipt to be stored. | Allows effective management of the diplomatic clearance process. |  |  |
| B5.7 | Highlight received diplomatic clearances that are no longer required. | Allows for reallocation to other tasks. |  | Amendments/ cancellations warnings to be triggered by changes to flying task. |
| B5.8 | Provide warning of incomplete set of valid diplomatic clearance numbers for a task. Warnings highlighted against affected sectors in flight watch planning area. | Ensures that a task does not depart without a valid diplomatic clearance. |  |  |

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| **B6** | On Time Performance |  |  |  |
| B6.1 | Provide a On Time Performance (OTP) data capture system as part of the FTMS. | Provide users with the ability to provide a narrative on events aligned to a callsign and date within their Area of Responsibility. With OTP Cell able to increase or decrease those that are required to provide data.  |  | All enablers with management of flying program to have access to supply a narrative for their Area of Responsibility. |
| B6.2 | Provide the ability to apply OTP coding to all aircraft on the FTMS. | A system that has a flexible coding system that can be set by the organisation. With the ability to evolve to changing requirements. |  |  |
| B6.4 | Provide graphical displays of OTP data. | By taking the OTP Coding and other task data to generate graphical displays. |  |  |
| **B7** | Administration and Training |  |  |  |
| B7.1 | Produce software user guides, database administration guides.  | Aid the user in use of the application. |  | Guides to cover all aspects of the application. Updates to guides to be produced and available as required throughout life of contract. |
| B7.2 | Deliver effective training to all aspects of the user community through a mirrored training environment. | Allow users to operate the software effectively. |  | Training must be tailored to each functional area of the organisation and DSAT compliant and supported by appropriate training documentation.Expert user and Train-the-Trainer training should be offered in a 60 day period before concurrent running (B7.3) commences.  |
| B7.3 | Deliver a system to run concurrently with the current application for a minimum period of 3 months.  | Required to prove the application is capable, 3 months ties in with a full planning cycle. |  | System will not be formally accepted until satisfactory completion of the trial period.Satisfactory completion will be agreed between Authority and vendor as part of user testing acceptance programme. |
| B7.4 | Migrate all historic tasking data from the current system. | Provides a history of tasking achieved for production of statistical information. |  | Data must be migrated to allow ease of access. |

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| B7.5 | Provide a helpdesk facility.  | Required to provide advice in operating the application and to deal with errors or anomalies.  |  | As a minimum helpdesk to be available Mon-Fri 08:00-17:00 |
| B7.6 | Meet with the Authority to discuss the IT support system on a regular basis. | Will allow for development and possible enhancements to the application. |  | Periodicity of meeting to be agreed between Authority and application provider.As a minimum, a Quarterly Joint Service Review Meeting between Authority and Vendor will be held. Virtual meeting methods for this will be acceptable. |
| B7.7 | The application must be capable of being hosted in one of Defence’s chosen hosting environments. These are the MCP for client / server solution or ACE / ICE for Web based solution. | Application must be proven in the current operating environment. |  | The hosting environment will be dependent upon the architecture of the winning solution. The vendor must provide support in configuring and installing the application in to the chosen hosting environment.MCP is client server using RDP.ACE is Microsoft Azure Cloud Hosting.ICE is Amazon Web Services. |

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| **C** | **Option Requirements** |  |  |  |

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| Ref | Requirement | Additional Information | Quantity | Standard of Performance |
| **C2** | Task Scheduling |  |  |  |
| C2.1 | The ability for the system to receive a digital feed from external Logistics Information Systems (LogIS) containing bid data and allocation information | Used to pre-populate system bids and associated allocation data from an external bid management system. | Up to 300 bids per month. | Baseline capability for manual import (.csv) |
| C2.2 | The ability for the system to receive a digital feed from external Logistics Information Systems (LogIS) containing schedule (task) data | Used to pre-populate system tasks from an external bid management system. | Up to 300 bids per month. | Baseline capability for manual import (.csv) |
| **C3** | Crew Rostering |  |  |  |
| C3.1 | Produce individual crew flying hour reports. | Used in the management of individual flying hour totals and competency management. | Up to 1500 individual aircrew | Reports should be exportable to Word, Excel and PDF as a minimum.The Log Book function should also where possible record flying times, crew names, aircraft information and sortie details. The data fields outputted for a Flying Log Book function should mirror versions of Section 5 (Form 414 – Pilots Flying Log Book) or Section 3 (Form 1767 – Aircrew Flying Log Book). |
| **C6** | On Time Performance |  |  |  |
| C6.1 | Provide a mobile interface for OTP data input by relevant Enablers within their AOR | The ability via an app-based solution to input narratives and other information directly into the FTMS. |  | All enablers with management of flying program to have access to supply a narrative for their Area of Responsibility. |
| C6.2 | Provide a means of contacting AOR’s for additional information through FMTS | Enable a FMTS operator to request or send information/text message/email through the FMTS system direct. |  |  |

**Annex A**

**Government Furnished Assets (GFA)**

|  | **Government Furnished Information (GFI)** |
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| **Description** | Requirements B1.7 – B1.11, B2.5-2.6,B2.8, B3.1, B3.4Existing dataset information is held and owned by the Authority and will be provided to successful vendor as part of contract award.Existing data held, data formats and fields, and relevant regulatory material will be provided in a data vault for permitted bidders. |
| **Quantity** | Will be provided in electronic copy. |
| **Terms of Loan** | Information is provided for vendor to build and maintain operational system. All data will be required to be deleted/surrendered at end of contract. |
| **Date of Supply and Return** | Information will be available at contract award. Information will be updated as required throughout duration of contract. |
| **Location of Supply** | Information will be provided to nominated vendor point of contact via mutually agreed data transfer media.  |
| **Maintenance Responsibilities** | The Authority Operations Management Systems Officer will act as Authority point of contact for the maintenance of the information. |
| **Responsibility for Delivery / Collection** | The Authority Operations Management Systems Officer will act as Authority point of contact for provision of the information.  |
| **Packaging Issues** | All information will be maximum of Official classification.  |
| **Disposal Arrangements** | All data will be required to be deleted/surrendered at end of contract. |
| **Warranties** | Accuracy of data provided is the responsibility of the Authority. |
| **Force Majeure / Relief / Compensation** | The contractor is entitled to contract relief in the event of a MOD failure to supply. |

**701553485 – The Provision of a Flight Tasking Management System**

**Pricing Schedule**

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| **Requirement** |  |  |
|   |   | **Lead in costs FIRM PRICE (£ excl VAT)**  | **YEAR 1 FIRM PRICE (£ excl VAT)** | **YEAR 2 FIRM PRICE (£ excl VAT)** | **YEAR 3 FIRM PRICE (£ excl VAT)** | **TOTAL FIRM PRICE (£ excl VAT)** | ***option year 1*** | ***Option Year 2*** |
| SOR Ref | Description |  1 Jan 22 - 31 Mar 22 | 01 Apr 22 - 31 Mar 23 | 01 Apr 23 - 31 Mar 24 | 01 Apr 24 - 31 Mar 25 | Lead in costs +3 year period | *01 Apr 25-31 Mar 26* | *01 Apr 26 - 31 Mar 27* |
| B.1 | Core Functionality |   |   |   |   | **£0.00** |  |  |
| B2 | Task Scheduling  |   |   |   |   | **£0.00** |  |  |
| B3 | Crew Rostering |   |   |   |   | **£0.00** |  |  |
| B4 | Flight Watch |   |   |   |   | **£0.00** |  |  |
| B5 | Diplomatic Clearance |   |   |   |   | **£0.00** |  |  |
| B6 | On Time performance |   |   |   |   | **£0.00** |  |  |
| B7 | Administration and Training |   |   |   |   | **£0.00** |  |  |
| **TOTALS** | **£0.00** | **£0.00** | **£0.00** | **£0.00** | **£0.00** | ***£0.00*** | ***£0.00*** |

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|   | **Requirement Options** | **YEAR 1 FIRM PRICE (£ excl VAT)** | **YEAR 2 FIRM PRICE (£ excl VAT)** | **YEAR 3 FIRM PRICE (£ excl VAT)** | **TOTAL FIRM PRICE (£ excl VAT)** | ***option year 1*** | ***Option Year 2*** |
| SOR Ref | Description | 01 Apr 22 - 31 Mar 23 | 01 Apr 23 - 31 Mar 24 | 01 Apr 24 - 31 Mar 25 | 3 year period | *01 Apr 25-31 Mar 26* | *01 Apr 26 - 31 Mar 27* |
| C2.1 | The ability for the system to receive a digital feed from external Logistics Information Systems (LogIS) containing bid data and allocation information |   |   |   |   |   |   |
| C2.2 | The ability for the system to receive a digital feed from external Logistics Information Systems (LogIS) containing schedule (task) data |   |   |   |   |   |   |
| C3.1 | Produce individual crew flying hour reports. |   |   |   |   |   |   |
| C6.1 | Provide a mobile interface for OTP data input by relevant Enablers within their AOR |   |   |   |   |   |   |
| C6.2 | Provide a means of contacting AOR’s for additional information through FMTS |   |   |   |   |   |   |

**Schedule 3 - Contract Data Sheet**

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| **General Conditions** |
| **Condition 2 – Duration of Contract:**        The Contract expiry date shall be: 2025/03/31 00:00:00 |
| **Condition 4 – Governing Law:**Contract to be governed and construed in accordance with: English LawSolicitors or other persons based in England and Wales (or Scotland if Scots Law applies) irrevocably appointed for Contractors without a place of business in England (or Scotland, if Scots Law applies) in accordance with clause 4.g (if applicable) are as follows: |
| **Condition 8 – Authority’s Representatives:**The Authority’s Representatives for the Contract are as follows:Commercial: Caroline Razavi (as per DEFFORM 111)Project Manager: Sqn Ldr Matt Lane (as per DEFFORM 111) |
| **Condition 19 – Notices:**Notices served under the Contract shall be sent to the following address:Authority: NIMROD, RAF HIgh Wycombe, 3 site HP144UE (as per DEFFORM 111)Contractor: Notices can be sent by electronic mail? Yes |
| **Condition 20.a – Progress Meetings:**The Contractor shall be required to attend the following meetings:Please see SOR |
| **Condition 20.b – Progress Reports:**The Contractor is required to submit the following Reports:Please see SORReports shall be Delivered to the following address:Please see SOR |

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| **Supply of Contractor Deliverables** |
| **Condition 21 – Quality Assurance:**Is a Deliverable Quality Plan required for this Contract? If required, the Deliverable Quality Plan must be set out as defined in AQAP 2105 and delivered to the Authority (Quality) within Business Days of Contract Award. Once agreed by the Authority the Quality Plan shall be incorporated into the Contract. The Contractor shall remain at all times solely responsible for the accuracy, suitability and applicability of the Deliverable Quality Plan.Other Quality Assurance Requirements: |
| **Condition 22 – Marking of Contractor Deliverables:**        Special Marking requirements: none |
| **Condition 24 - Supply of Data for Hazardous Contractor Deliverables, Materials and Substances:**A completed Schedule 6 (Hazardous Contractor Deliverables, Materials or Substance Statement), and if applicable, Safety Data Sheet(s) are to be provided by e-mail with attachments in Adobe PDF or MS WORD format to:a) The Authority’s Representative (Commercial)b) Defence Safety Authority – DSA-DLSR-MovTpt-DGHSIS@mod.ukto be Delivered no later than one (1) month prior to the Delivery Date for the Contract Deliverable or by the following date:  |
| **Condition 25 – Timber and Wood-Derived Products:**A completed Schedule 7 (Timber and Wood-Derived Products Supplied under the Contract: Data Requirements) is to be provided by e-mail with attachments in Adobe PDF or MS WORD format to the Authority’s Representative (Commercial)to be Delivered by the following date: N/A |
| **Condition 26 – Certificate of Conformity:**Is a Certificate of Conformity required for this Contract? Yes |
| **Condition 28.b – Delivery by the Contractor:**The following Line Items are to be Delivered by the Contractor:all        Special Delivery Instructions:Each consignment is to be accompanied by a DEFFORM 129J. |
| **Condition 28.c - Collection by the Authority:**The following Line Items are to be Collected by the Authority:noneSpecial Delivery Instructions:N/A         |
|  **Condition 30 – Rejection:**The default time limit for rejection of the Contractor Deliverables is thirty (30) days unless otherwise specified here: |
| **Condition 32 – Self-to-Self Delivery:**Self-to-Self Delivery required? NoIf required, Delivery address applicable: |

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| **Pricing and Payment** |
| **Condition 35 – Contract Price:**All Schedule 2 line items shall be FIRM Price |

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| **Termination** |
| **Condition 42 – Termination for Convenience:**The Notice period for terminating the Contract shall be twenty (20) days unless otherwise specified here: |

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| **Other Addresses and Other Information** *(forms and publications addresses and official use information)* |
| See Annex A to Schedule 3 (DEFFORM 111) |

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

**Contract No:**

**1.** **Authority Changes**

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

**2.** **Notice of Change**

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

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

**3.** **Contractor Change Proposal**

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

b. The Contractor Change Proposal shall include:

1. the effect of the Change on the Contractor’s obligations under the Contract;

2. a detailed breakdown of any costs which result from the Change;

3. the programme for implementing the Change;

4. any amendment required to this Contract as a result of the Change, including, where appropriate, to the Contract Price; and

5. such other information as the Authority may reasonably require.

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

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

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

1. evaluate the Contractor Change Proposal;

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

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

1. indicate its acceptance of the Change Proposal by issuing an amendment to the Contract in accordance with Condition 6 (Amendments to Contract); or

2. serve a Notice on the Contractor rejecting the Contractor Change Proposal and withdrawing (where issued) the Authority Notice of Change.

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

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

**5.** **Contractor Changes**

If the Contractor wishes to propose a Change, it shall serve a Contractor Change Proposal on the Authority, which shall include all of the information required by Clause 3b above, and the process at Clause 4 above shall apply.

**Schedule 5 - Contractor's Commercial Sensitive Information Form (i.a.w. condition 13)**

**Contract No:**

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| Contract No:   701553485     |
| Description of Contractor’s Commercially Sensitive Information:       |
| Cross Reference(s) to location of sensitive information:       |
| Explanation of Sensitivity:       |
| Details of potential harm resulting from disclosure:       |
| Period of Confidence (if applicable):       |
| Contact Details for Transparency / Freedom of Information matters:Name:      Position:      Address:      Telephone Number:      Email Address:       |

**Schedule 6 – Not applicable**

**Schedule 7 – Not applicable**

**Schedule 8 - Acceptance Procedure (i.a.w. condition 29)**

**Schedule 9 – TRANSFER REGULATIONS**

 **EMPLOYEE TRANSFER ARRANGEMENTS ON EXIT**

1. **Definitions**
	1. In this Schedule 9, save where otherwise provided, words and terms defined in Schedule 1 (Definitions) of the Contract shall have the meaning ascribed to them in Schedule 1 (Definitions) of the Contract.
	2. Without prejudice to Schedule 1 (Definitions) of the Contract unless the context otherwise requires:

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

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

(ii) the Data Protection Act 2018;

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

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

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

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

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

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

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

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

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

1. **EMPLOYMENT**
	1. **Information on Re-tender, Partial Termination, Termination or Expiry**
		1. No earlier than [two years] preceding the termination, partial termination or Expiry of this Contract or a potential Transfer Date or at any time after the service of a notice to terminate this Contract or the provision of any of the Services (whether in whole or part) or on receipt of a written request by the Authority, the Contractor shall (and shall procure that any Employing Sub-Contractor shall):
			1. supply to the Authority such information as the Authority may reasonably require in order to consider the applicaton of the Transfer Regulations on the termination, partial termination or expiry of this Contract;
			2. supply to the Authority such full and accurate and up-to-date information as may be requested by the Authority including the information listed in Appendix 1 to this Schedule 9 relating to the employees who are wholly or mainly employed, assigned or engaged in providing the Services or part of the Services under this Contract who may be subject to a Relevant Transfer;
			3. provide the information promptly and in any event not later than three months from the date when a request for such information is made and at no cost to the Authority;
			4. acknowledge that the Authority will use the information for informing any prospective New Provider for any services which are substantially the same as the Services or part of the Services provided pursuant to this Contract;
			5. inform the Authority of any changes to the information provided under paragraph 2.1.1(a) or 2.1.1(b) up to the Transfer Date as soon as reasonably practicable.
		2. Three months preceding the termination, partial termination or expiry of this Contract or on receipt of a written request from the Authority the Contractor shall:
			1. ensure that Employee Liability Information and such information listed in Part A of Appendix 2 of this Schedule 9 (Personnel Information) relating to the Transferring Employees is provided to the Authority and/or any New Provider;
			2. inform the Authority and/or any New Provider of any changes to the information provided under this Paragraph 2.1.2 up to any Transfer Date as soon as reasonably practicable;
			3. enable and assist the Authority and/or any New Provider or any sub-contractor of a New Provider to communicate with and meet those employees and their trade union or other employee representatives.
		3. No later than 28 days prior to the Transfer Date the Contractor shall provide the Authority and/or any New Provider with a final list of the Transferring Employees together with the information listed in Part B of Appendix 2 of this Schedule 9 (Personnel Information) relating to the Transferring Employees. The Contractor shall inform the Authority and/or New Provider of any changes to this list or information up to the Transfer Date.
		4. Within 14 days following the relevant Transfer Date the Contractor shall provide to the Authority and/or any New Provider the information set out in Part C of Appendix 2 of this Schedule 9 in respect of Transferring Employees.
		5. Paragraphs 2.1.1 and 2.1.2 of this Schedule are subject to the Contractor's obligations in respect of the Data Protection Legislation and the Contractor shall use its best endeavours to obtain the consent of its employees (and shall procure that its Sub-Contractors use their best endeavours to obtain the consent of their employees) to the extent necessary under the Data Protection Legislation or provide the data in an anonymous form in order to enable disclosure of the information required under paragraphs 2.1.1 and 2.1.2. Notwithstanding this paragraph 2.1.5, the Contractor acknowledges (and shall procure that its Sub-Contractors acknowledge) that they are required to provide sufficient information to the Authority to enable the Authority to determine the nature of the activities being undertaken by employees engaged in providing the Services, to assess whether there is an organised grouping for the purposes of the Transfer Regulations and to assess who is assigned to such organised grouping. To the extent that anonymous data has been provided by the Contractor pursuant to its obligations under Paragraph 2.1.1 or 2.1.2 above, the Contractor shall provide full data to the Authority no later than 28 days prior to the Transfer Date.
		6. On notification to the Contractor by the Authority of a New Provider or within the period of six months prior to the Termination Date or after service of a notice to terminate this Contract (whether in whole or in part), whichever is earlier and in any event on receipt of a written request by the Authority, the Contractor shall not and shall procure that an Employing Sub-Contractor shall not:
			1. materially amend or promise to amend the rates of remuneration or other terms and conditions of employment of any person wholly or mainly employed or engaged in providing the Services under this Contract; or
			2. replace or re-deploy from the Services any person wholly or mainly employed or engaged in providing the Services, or materially increase or decrease the number of persons performing the Services under this Contract or the working time spent on the Services (or any part thereof); or
			3. reorganise any working methods or assign to any person wholly or mainly employed or engaged in providing the Services (or any part thereof) any duties unconnected with the Services (or any part thereof) under this Contract; or
			4. terminate or give notice to terminate the employment of any person wholly or mainly employed or engaged in providing the Services (or any part thereof) under this Contract other than in the case of serious misconduct or for poor performance,

save in the ordinary course of business and with the prior written consent of the Authority (not to be unreasonably withheld or delayed) and the Contractor shall indemnify and keep indemnified the Authority in respect of any reasonable costs (including reasonable legal costs), losses and expenses and all damages, compensation, fines and liabilities arising out of or in connection with any breach of paragraphs 2.1.1, 2.1.2, 2.1.3, 2.1.4 or 2.1.6 of this Schedule 9.

* + 1. The Authority may at any time prior to the period set out in paragraph 2.1.5 of this Schedule 9 request from the Contractor any of the information in sections 1(a) to (d) of Appendix 1 and the Contractor shall and shall procure any Sub-Contractor will provide the information requested within 28 days of receipt of that request.
	1. **Obligations in Respect of Transferring Employees**
		1. To the extent that the Transfer Regulations apply on expiry, termination or partial termination of this contract, the Contractor shall and shall procure any Employing Sub-Contractor shall and the Authority shall and shall procure that a New Provider shall in such circumstances:
			1. before and in relation to the Transfer Date liaise with each other and shall co-operate with each other in order to implement effectively the smooth transfer of the Transferring Employees to the Authority and/or a New Provider; and
			2. comply with their respective obligations under the Transfer Regulations including their obligations to inform and consult under Regulation 13 of the Transfer Regulations.
	2. **Unexpected Transferring Employees**
		1. If a claim or allegation is made by an employee or former employee of the Contractor or any Employing Sub-Contractor who is not named on the list of Transferring Employees provided under paragraph 2.1.3 (an "**Unexpected Transferring Employee**") that he has or should have transferred to the Authority and/or New Provider by virtue of the Transfer Regulations, the Party receiving the claim or allegation shall notify the other Party (or the Contractor shall notify the Authority on the Sub-Contractor’s behalf and the Authority shall notify the Contractor on the New Provider’s behalf) in writing as soon as reasonably practicable and no later than ten Business Days after receiving notification of the Unexpected Transferring Employee's claim or allegation, whereupon:
			1. the Contractor shall (or shall procure that the Employing Sub-Contractor shall), as soon as reasonably practicable, offer and/or confirm continued employment to the Unexpected Transferring Employee or take such other steps so as to effect a written withdrawal of the claim or allegation; and
			2. if the Unexpected Transferring Employee's claim or allegation is not withdrawn or resolved the Contractor shall notify the Authority (who will notify any New Provider who is a party to such claim or allegation), and the Authority (insofar as it is permitted) and/or New Provider (as appropriate) shall employ the Unexpected Transferring Employee or as soon as reasonably practicable, (subject to compliance with its obligations at paragraph 2.3.1(c)(iii)), serve notice to terminate the Unexpected Transferring Employee's employment in accordance with his contract of employment; and
			3. the Contractor shall indemnify the Authority against all reasonable costs (including reasonable legal costs) losses and expenses and all damages, compensation, fines and liabilities arising out of or in connection with any of the following liabilities incurred by the Authority or New Provider in dealing with or disposing of the Unexpected Transferring Employee's claim or allegation:
				1. any additional costs of employing the Unexpected Transferring Employee up to the date of dismissal where the Unexpected Transferring Employee has been dismissed in accordance with paragraph 2.3.1(b);
				2. any liabilities acquired by virtue of the Transfer Regulations in relation to the Unexpected Transferring Employee;
				3. any liabilities relating to the termination of the Unexpected Transferring Employee's employment but excluding such proportion or amount of any liability for unfair dismissal, breach of contract or discrimination attributable:
1. to a failure by the Authority or a New Provider to act reasonably to mitigate the costs of dismissing such person);
2. directly or indirectly to the procedure followed by the Authority or a New Provider in dismissing the Unexpected Transferee; or
3. to the acts/omissions of the Authority or a New Provider not wholly connected to the dismissal of that person;
	* + - 1. any liabilities incurred under a settlement of the Unexpected Transferring Employee's claim which was reached with the express permission of the Contractor (not to be unreasonably withheld or delayed);
				2. reasonable administrative costs incurred by the Authority or New Provider in dealing with the Unexpected Transferring Employee's claim or allegation, subject to a cap per Unexpected Transferring Employee of £5,000; and
				3. legal and other professional costs reasonably incurred;
		1. the Authority shall be deemed to have waived its right to an indemnity under paragraph 2.3.1(c) if it fails without reasonable cause to take, or fails to procure any New Provider takes, any action in accordance with any of the timescales referred to in this paragraph 2.3.
	1. **Indemnities on transfer under the Transfer Regulations on Partial Termination, Termination or Expiry of the Contract**
		1. If on the expiry, termination or partial termination of the Contract there is a Relevant Transfer, the Contractor shall indemnify the Authority and any New Provider against all reasonable costs (including reasonable legal costs) losses and expenses and all damages, compensation, fines and liabilities arising out of or in connection with any claim by any employee or trade union representative or employee representative arising whether before or after the Transfer Date out of any failure by the Contractor or any Sub-Contractor to comply with their obligations under Regulation 13 of the Transfer Regulations in relation to any Transferring Employee or any other employee of the Contractor or any Sub-Contractor affected by the Relevant Transfer (as defined by Regulation 13 of the Transfer Regulations), save to the extent that all reasonable costs (including reasonable legal costs), losses and expenses and all damages, compensation, fines and liabilities are a result of the act or omission of the Authority or the New Provider.
		2. If there is a Relevant Transfer, the Authority shall indemnify the Contractor against all reasonable costs (including reasonable legal costs) losses and expenses and all damages, compensation, fines and liabilities arising out of, or in connection with:
			1. any claim or claims by a Transferring Employee at any time on or after the Transfer Date which arise as a result of an act or omission of the Authority or a New Provider or a sub-contractor of a New Provider during the period from and including the Transfer Date;
			2. subject to paragraph 2.4.1 any claim by any employee or trade union representative or employee representative arising whether before or after the Transfer Date out of any failure by the Authority or a New Provider or a sub-contractor of a New Provider to comply with their obligations under Regulation 13 of the Transfer Regulations in relation to any Transferring Employee or any other employee engaged wholly or mainly in connection with the Services by the New Provider or any other employee of the Authority or any New Provider affected by the Relevant Transfer effected by this Contract (as defined by Regulation 13 of the Transfer Regulations),

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

* + 1. In the event of a Relevant Transfer, the Authority shall indemnify the Contractor in respect of all reasonable costs (including reasonable legal costs), losses and expenses and all damages, compensation, fines and other liabilities arising out of or in connection with or as a result of a substantial change by the Authority [or a New Provider or any sub-contractor of a New Provider] on or after the Transfer Date to the working conditions of any Transferring Employee to the material detriment of any such Transferring Employee. For the purposes of this paragraph 2.4.3, the expressions "substantial change" and "material detriment" shall have the meanings as are ascribed to them for the purposes of Regulation 4(9) of the Transfer Regulations.
	1. **Contracts (Rights of Third Parties) Act 1999**
		1. A New Provider may enforce the terms of paragraph 2.3 and 2.4 against the Contractor in accordance with the Contracts (Rights of Third Parties) Act 1999.
		2. The consent of a New Provider (save where the New Provider is the Authority) is not required to rescind, vary or terminate this Contract.
		3. Nothing in this paragraph 2.5 shall affect the accrued rights of the New Provider prior to the rescission, variation, expiry or termination of this Contract.
	2. **General**
		1. The Contractor shall not recover any Costs and/or other losses under this Schedule 9 where such Costs and/or losses are recoverable by the Contractor elsewhere in this Contract and/or are recoverable under the Transfer Regulations or otherwise.

**Appendix 1**

**CONTRACTOR PERSONNEL-RELATED INFORMATION TO BE RELEASED UPON RE-TENDERING WHERE THE TRANSFER REGULATIONS APPLIES**

1. Pursuant to paragraph 2.1.1(b) of this Schedule 9, the following information will be provided:

a) The total number of individual employees (including any employees of Sub-Contractors) that are currently engaged, assigned or employed in providing the Services and who may therefore be transferred. Alternatively the Contractor should provide information why any of their employees or those of their Sub-Contractors will not transfer;

b) The total number of posts or proportion of posts expressed as a full-time equivalent value that currently undertakes the work that is to transfer;

c) The preceding 12 months total pay costs – (Pay, benefits employee/employer national insurance contributions and overtime);

d) Total redundancy liability including any enhanced contractual payments;

2. In respect of those employees included in the total at 1(a), the following information:

a) Age (not date of Birth);

b) Employment Status (i.e. Fixed Term, Casual, Permanent);

c) Length of current period of continuous employment (in years, months) and notice entitlement;

d) Weekly conditioned hours of attendance (gross);

e) Standard Annual Holiday Entitlement (not "in year" holiday entitlement that may contain carry over or deficit from previous leave years);

f) Pension Scheme Membership:

g) Pension and redundancy liability information;

h) Annual Salary;

i) Details of any regular overtime commitments (these may be weekly, monthly or annual commitments for which staff may receive an overtime payment);

j) Details of attendance patterns that attract enhanced rates of pay or allowances;

k) Regular/recurring allowances;

l) Outstanding financial claims arising from employment (i.e. season ticket loans, transfer grants);

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

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

**Appendix 2**

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

**Part A**

1. Pursuant to paragraph 2.1.2 of this Schedule 9, the written statement of employment particulars as required by section 1 of the Employment Rights Act 1996 together with the following information (save where that information is included within that statement) which will be provided to the extent it is not included within the written statement of employment particulars:
	1. **Personal, Employment and Career**

a) Age;

b) Security Vetting Clearance;

c) Job title;

d) Work location;

e) Conditioned hours of work;

f) Employment Status;

g) Details of training and operating licensing required for Statutory and Health and Safety reasons;

h) Details of training or sponsorship commitments;

i) Standard Annual leave entitlement and current leave year entitlement and record;

j) Annual leave reckonable service date;

k) Details of disciplinary or grievance proceedings taken by or against transferring employees in the last two years;

l) Information of any legal proceedings between employees and their employer within the previous two years or such proceedings that the transferor has reasonable grounds to believe that an employee may bring against the transferee arising out of their employment with the transferor;

m) Issue of Uniform/Protective Clothing;

n) Working Time Directive opt-out forms; and

o) Date from which the latest period of continuous employment began.

* 1. **Superannuation and Pay**

a) Maternity leave or other long-term leave of absence (meaning more than 4 weeks) planned or taken during the last two years;

b) Annual salary and rates of pay band/grade;

c) Shifts, unsociable hours or other premium rates of pay;

d) Overtime history for the preceding twelve-month period;

e) Allowances and bonuses for the preceding twelve-month period;

f) Details of outstanding loan, advances on salary or debts;

g) Pension Scheme Membership;

h) For pension purposes, the notional reckonable service date;

i) Pensionable pay history for three years to date of transfer;

j) Percentage of any pay currently contributed under additional voluntary contribution arrangements; and

k) Percentage of pay currently contributed under any added years arrangements.

* 1. **Medical**

a) Details of any period of sickness absence of 3 months or more in the preceding period of 12 months; and

b) Details of any active restoring efficiency case for health purposes.

* 1. **Disciplinary**

a) Details of any active restoring efficiency case for reasons of performance; and

b) Details of any active disciplinary cases where corrective action is on going.

* 1. **Further information**

a) Information about specific adjustments that have been made for an individual under the Equality Act 2010;

b) Short term variations to attendance hours to accommodate a domestic situation;

c) Individuals that are members of the Reserves, or staff that may have been granted special leave for public duties such as a School Governor; and;

d) Information about any current or expected maternity or other statutory leave or other absence from work.

**Part B**

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

a) Employee's full name;

b) Date of Birth

c) Home address;

d) Bank/building society account details for payroll purposes Tax Code.

**PART C**

* 1. **Information to be provided within 14 days following a Transfer Date:**
		1. Performance Appraisal

The current year's Performance Appraisal;

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

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

Superannuation and Pay

Cumulative pay for tax and pension purposes;

Cumulative tax paid;

National Insurance Number;

National Insurance contribution rate;

Other payments or deductions being made for statutory reasons;

Any other voluntary deductions from pay;

**DEFFORM 111**

**DEFFORM 111**

**Appendix - Addresses and Other Information**

**1. Commercial Officer**

Name: Caroline Razavi

Address: NIMROD, RAF High Wycombe, Sitre 3 HP14 4UE

Email: caroline.razavi750@mod.gov.uk         03001652169

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

Name: Sqn ldr Matt Lane

Address Air Mobility Force Headquarters

Email: matt.lane253@mod.gov.uk                 03001609192

**3. Packaging Design Authority** Organisation & point of contact:

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



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

**Branch/Name:**



**(b) U.I.N.**

**5. Drawings/Specifications are available from** Sqn ldr Matt Lane

**6.** **Intentionally Blank**

**7.** **Quality Assurance Representative:** Tammy Curwen

Commercial staff are reminded that all Quality Assurance requirements should be listed under the General Contract Conditions.

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

**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** The items are to be consigned as follows:

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

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

Air Freight Centre

IMPORTS  030 679 81113 / 81114 Fax 0117 913 8943

EXPORTS  030 679 81113 / 81114 Fax 0117 913 8943

Surface Freight Centre

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

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

**B.JSCS**

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

JSCS Fax No. 01869 256837

Users requiring an account to use the MOD Freight Collection Service should contact DESWATERGUARD-ICS-Support@mod.gov.uk in the first instance.

**11. The Invoice Paying Authority**

Ministry of Defence, DBS Finance, Walker House, Exchange Flags Liverpool, L2 3YL

 0151-242-2000 Fax: 0151-242-2809

**Website is:** [https://www.gov.uk/government/organisations/ministry-of-defence/about/procurement#invoice-processing](#https://www.gov.uk/government/organisations/ministry_of_defence/about/procurement)

**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:** Leidos-FormsPublications@teamleidos.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 Internet site requests should be submitted through the Commercial Officer named in Section 1.

**Quality Assurance Conditions**

**AQAP 2110**

NATO Quality Assurance Requirements for Design, Development and Production.

Edition D Version 1

**AQAP 2210**

NATO Supplementary Software Quality Assurance Requirements to AQAP 2110 and AQAP 2310

Edition A Version 2

**DEFSTAN 05-061 Pt 4**

Quality Assurance Procedural Requirements - Contractor Working Parties

Issue 3

**DEFSTAN 05-061 Pt 9**

Quality Assurance Procedural Requirements - Independent Inspection Requirements for Safety Critical Items

Issue 5

**DEFSTAN 05-135**

Avoidance of Counterfeit materiel

**Informative Quality Assurance Standards**

*For guidance on the application and interpretation of AQAPs refer to the appropriate AQAP Standards Related Document (SRD).*

*Where GQA is performed against this contract it will be in accordance with AQAP 2070 Edition B Version 4.*

*ISO 25051:2014 Software Engineering - Software Product Quality Requirements and Evaluation (SQuaRE) - Requirements for quality of COTS software product and instructions for testing.*