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Your Reference:

Our Reference: 702596452

Date: 08 April 2022

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Dear Sir/Madam,

Invitation To: Tender Reference Number: 702596452- Alternative Navigation - Data Merging

1. You are invited to tender for Alternative Navigation - Data Merging in competition in accordance with the attached documentation.
2. The requirement can be seen within Annex A to Schedule 2 Statement of Requirement.
3. The anticipated date for the contract award decision is 20 June 2022, please note that this is an indicative date and may change.
4. You must submit your Tender to the Defence Sourcing Portal by 16-May-2022 12:00:00 noon (GMT+1).

Yours faithfully

Tom Shields

**Invited Suppliers**

<b>Supplier Name</b>	<b>Supplier Address</b>	<b>Contact Name</b>	<b>Contact Email</b>
BAE Systems Applied Intelligence Limited	Waterside House 170 Priestly Road Surrey Research Guildford GU2 7RQ UK	Kushal Pattni	Kushal.pattni2@baesystems.com
Blue Bear Systems Research Ltd	4 Highfield Parc Highfield Road Oakley Bedford MK43 7TA UK	Paul Quinlan	paul.quinlan@bbsr.co.uk
CGI IT UK Ltd	14th Floor 20 Fenchurch Street London EC3M 3BY UK	Peter Death	peter.death@cgi.com
Civitanavi System	Via del Progresso, 5 63827 Pedaso (FM) Italy	Alan Kaile	akaile@civitanavi.com
GMV NSL Ltd	Sir Colin Campbell Building Innovation Park Triumph Road Nottingham NG7 2TU UK	Richard Bowden	richard.bowden@gmvnsl.com
Greeve Limited	Unit 17 Severn Farm Industrial Estate Welshpool Powys SY21 7DF Wales	Vicky Jones	vicky@greeve.co.uk
HORIBA MIRA	Watling Street Nuneaton Warwickshire CV10 0TU UK	Robert Mohacsi	robert.mohacsi@horiba-mira.com
Northrop Grumman UK Ltd	2nd Floor Clareville House 26-27 Oxendon Street London SW1Y 4EL UK	Graeme Lea	graeme.lea@euro.ngc.com

OFFICIAL

Plextek Services Limited	The Plextek Building London Road Great Chesterford CB10 1NY UK	Bede Oneill	Bede.oneill@plextek.com
QinetiQ Limited	Malvern Technology Centre St Andrews Road Malvern Worcestershire WR14 3PS	David Baxter	Dbaxter2@qinetiq.com

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## Terms and Conditions

### DEFFORM 47

#### Contents

DEFFORM 47  
(EDN 04/22)

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: see explanatory note 2

- 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:
  - o Section A – Introduction Page 3
  - o Section B – Key Tendering Activities Page 8
  - o Section C – Instructions on Preparing Tenders Page 10
  - o Section D – Tender Evaluation Page 11
  - o Section E – Instructions on Submitting Tenders Page 12
  - o Section F – Conditions of Tendering Page 14
  - o DEFFORM 47 Annex A – Tender Submission Document (Offer) Page A1
- Appendix 1 to DEFFORM 47 Annex A (Offer) – Information on Mandatory Declarations
- Contract Documents (As per the contents table in the Terms and Conditions)
  - o 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 Sensitive Information (or SC1B Schedule 4 or SC2 Schedule 5)
- Any other relevant documentation: Security Aspects Letter

**Section A - Introduction**

DEFFORM 47  
(Edn 02/22)

**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. "Defence Sourcing Portal" means the electronic platform in which Tenders are submitted to the Authority.
- A10. "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..
- A11. "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
- A12. "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.
- A13. "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.
- A14. The "Statement of Requirement" Annex A to Schedule 2 means that part of the Contract which details the technical requirements and acceptance criteria of the Contractor Deliverables.
- A15. 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.
- A16. 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.

A17. A “Tender” is the offer that you are making to the Authority.

A18. “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.

A19. 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.

## **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: FIND A TENDER; Publication Date: 02 Feb 2022 under the following reference 702596452 notice number 2022/S 000-003325.

A23. This procurement is In accordance with Defence and Security Public Contracts Regulations 2011.

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 DSP.

A26. Funding has been approved on 2021/07/16.

## **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](#).

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](mailto: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.

## 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:
Invitation to Tenderers' Conference	25 April 2022	The Authority	All Tenderers
Date for Confirmation of attendance at Tenderers' Conference	22 April 2022	Tenderers	DES Space-Comrcl3
Final date for Clarification Questions / Requests for additional information	2 May 2022	Tenderers	Defence Sourcing Portal
The Authority issues Final Clarification Answers	9 May 2022	The Authority	All Tenderers
Tender Return	16 May 2022	Tenderers	Defence Sourcing Portal
Tender Evaluation	16 May 2022	The Authority	N/A
Contract Award	20 June 2022	The Authority	N/A

### Notes

#### Tenderers Conference

B1. A Tenderers Conference is being held as indicated in the table above, it enables the Authority to present the requirement to all Tenderers at the same time. It also provides Tenderers the opportunity to ask questions about the requirement. A copy of the presentation along with any questions raised and answers provided will be issued to all Tenderers regardless of attendance to the Tenderers Conference

#### 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.

Responses to the questions submitted will be published twice a week on the Wednesday and Friday lunchtime through the Messages function on the Defence Sourcing Portal (DSP) via a Clarification Questions Log to all Tenderers. In addition, at times the Authority may issue communications to tenderers via the DSP, therefore please ensure that the DSP mailbox is reviewed on a regular basis. Tenderers should therefore regularly check for messages on

DSP throughout the competition.

The originator of the question will be anonymised and the Authority's response will be published to all tenderers to ensure preferential treatment is not given. If you feel that a question should not be published, you must explain why this is the case when you ask the question. The Authority will ultimately decide whether it is in the interests of all tenderers to publish the question and response.

This competition follows DSPCR (Defence and Security Public Contracts Regulations) 2011 Restricted Procedure therefore no negotiation on contractual terms is permitted.

### **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.

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## **Section C - Instructions on Preparing Tenders**

DEFFORM 47  
(Edn 04/22)

### **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 is not required 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 90 from 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**

### **D1. Aim of the Tendering Process**

1. The Authority aims to award two contracts, to two contractors, who shall separately undertake the work, The Authority has allocated a budget of £737,958 ex VAT including all options to each contract.
2. The highest scoring compliant tender, within the budgetary envelope of £737,958 ex VAT including all options will receive an offer of contract.
3. The second highest scoring compliant tender, within the budgetary envelope of £737,958 ex VAT will also receive an offer of contract.
4. The Authority is not obligated to place a second contract if no other contract is compliant or within the budget allocation of £737,958 ex VAT.

### **D2. Tender Compliance**

1. A compliant tender is one which;
  - a. answers all the questions in the Defence Sourcing Portal in accordance with the instructions provided for each question and follows the instructions of this DEFFORM 47, it's associated Annexes and Appendices; and
  - b. meets the minimum score for a 'pass' for each question as set out in the Defence sourcing Portal; and
  - c. does not attempt to negotiate on the Authority's contractual terms, schedules, annexes, appendices or any other part of the contract; and
  - d. Is within the allocated budget of envelope including all options of £737,958 ex VAT per contract keeping in mind that the Authority aims to let two contracts within the total specified budgetary envelope of £1,475,916 ex VAT; and
  - e. Completes the Supplier Assurance Questionnaire located within section 1.3 of the technical envelope on DSP, question reference 1.3.1 using the risk assessment reference RAR-362904222. If the bidder is unable to achieve compliance Appendix 1 to this Annex (D) must also be completed and attached to the DSP at reference 1.3.2.
2. Non-compliant tenders that fail to meet criteria above and will be deemed non-compliant and the whole tender will be excluded from the competition.

### **D3. The Evaluation Process**

#### **1. Initial compliance checks**

- A compliance check will take place to confirm whether tenderers have answered all the

questions in DSP. Tenderers who have answered each question will progress to the Commercial (including Price evaluation). Tenders who do not answer all the questions will be considered non-compliant and the whole tender will be excluded from the competition without being scored.

## 2. Commercial (including Price) Evaluation Process

A price compliance check will be conducted to establish if the total price of the tender, including the price for items 1, 2, 3 and 4 of Schedule 2 Schedule of Requirement is no more than £737,958 ex VAT as detailed in the Contract Notice, the Authority's advertised budget totals £1,475,916 ex VAT with aim to award two contracts within the total budget. Tenderers who fail to provide a price within the allocated budget of £737,958 ex VAT including all options will be classed as non-compliant and excluded from the competition without being scored.

Next a Commercial compliance check will take place to establish whether the tenderer accepts all the terms and conditions of the contract. Rejection, partial acceptance or attempts to negotiate on the terms and conditions of the contract will result in the tender being classed as non-compliant and the tender will be excluded from the competition without being scored.

n.b. If the winning Tenderer's company turnover is less than that of the price of the tender for year one of the Contract then a parent company or bank guarantee will need to be uploaded to the DSP to provide the Authority with financial assurance before any offer of contract is made.

## 3. Technical Evaluation Process

The Technical questions, along with relevant weightings, scoring criteria and word count for answers can be found on DSP and responses must be submitted through DSP.

Each of the Authority's evaluators will independently assess responses to the technical questions using the marking scheme at Table 1 below, except for the single Project Management Plan Question which will be scored using the marking scheme at Table 2.

A moderation meeting between all evaluators will be held once all the evaluators have independently assessed the answers and a moderated score for each question will be reached. **If any question scores '0' it shall be considered a 'fail' and the whole tender will be excluded from the competition.** The moderated score for each question will be multiplied by that questions weighting to calculate the weighted score for each question and each weighting will be added to provide a total score out of 100. The score will be used to calculate the Value For Money Index Score- see Section D3 for details.

**Table 1: Technical Marking Scheme**

Technical Marking Scheme		
Score	Result	Criteria
0	FAIL	No Answer – Nil or inadequate response. Fails to demonstrate an ability to meet the requirement. No confidence in the responses provided by the

		tenderer.
30%	PASS	Satisfactory – The response addresses some of the elements of the requirement but there is not enough detail or explanation how the requirement will be fulfilled. There is an adequate level of confidence in the responses provided by the tenderer.
70%	PASS	Good - The response addresses the majority of the elements of the requirement but does not fully detail or explain how the requirement will be fulfilled. There is high confidence in the responses provided by the tenderer.
100%	PASS	Excellent - The response is comprehensive, unambiguous and demonstrates a thorough understanding of requirement and provides details of how the requirement will be met in full. There is full confidence in the responses provided by the tenderer.

**Table 2 Project Management Plan Question Marking Scheme for question 1.2.8 in technical section within DSP**

Project Management Plan Question Marking Scheme		
Score	Result	Criteria
0	FAIL	Nil or poor response. Either does not provide a Project Management Plan (PMP) OR the response does not fully detail and explain how the requirement will be fulfilled which gives limited confidence that the tenderer understands the requirement.
30%	PASS	Satisfactory - The response addresses some of the project management plan criteria and provides good detail and explanation for how the final report will be delivered by 31 March 2023. There is an adequate level of confidence in the responses provided by the tenderer.
70%	PASS	Good - The response addresses all project management plan criteria and provides good detail and explanation for how the requirement will be fulfilled and that the final report will be delivered by 31 March 2023. There is high confidence in the responses provided by the tenderer.
100%	PASS	Excellent - The response addresses all project management plan criteria and provides full detail and explanation for how the requirement will be fulfilled and that the final report will be delivered on or before 31 March 2023. There is full confidence in the responses provided by the tenderer.

**Table 3: Technical Questions Weightings**

DSP reference	Short Title/Description	Requirement	Scoring	Weighting
1.2.1	Design Principles	Please describe how you shall implement the design principles of a systems of systems or an open architecture approach.	0, 30,70,100	5%



		Your response must be 3000 words maximum, any word count beyond this limit will be discounted.		
1.2.2	Assured PNT	<p>Please describe your understanding of Assured PNT and how you shall implement the Assured PNT characteristics described in Annex B of the Statement of Requirements (SOR).</p> <p>Your response must be 3000 words maximum, any word count beyond this limit will be discounted.</p>	0,30,70,100	5%
1.2.3	Core Work Package	<p>Please describe in detail how, by March 2023, you shall meet the requirements for the Core WP set out in the SOR:</p> <ul style="list-style-type: none"> <li>· Generate a wide and diverse range of platform PNT architectures representative of those in existing MOD platforms.</li> <li>· Identify methods of inserting Alt-Nav technology measurements into each architecture.</li> <li>· Demonstrate at TRLs up to and including TRL6 the practicality of each down-selected insertion method with high confidence that it will perform as predicted in real platform PNT installation. Please describe likely software and hardware elements.</li> </ul> <p>Your response must be 4000 words maximum, any word count beyond this limit will be discounted.</p>	0,30,70,100	35%
1.2.4	Technology Summary	<p>Describe how your technology concepts will be implemented to meet the requirements</p> <p>You must include context by providing a summary of how your technology works within your response</p> <p>Your response must be 3000 words maximum, any word count beyond this limit will be discounted.</p>	0,30,70,100	5%
1.2.5	Options	<p>Please describe in detail how you shall deliver each options requirements set out in the SOR if they are activated.</p> <p>Your response must be 3000 words</p>	0,30,70,100	10%

		maximum, any word count beyond this limit will be discounted.		
1.2.6	Technology size (FOR INFORMATION ONLY)	Please provide an indication of the current size, weight and power (SWAP) of the technology (if it exists) and the future SWAP expected to be achieved through development activities funded under this work.	For information only	N/A
1.2.7	Technology Development	<p>Please provide details of the following for the concept/technology development -</p> <ul style="list-style-type: none"> <li>a) Risks</li> <li>b) Constraints</li> <li>c) Assumptions</li> <li>d) Dependencies</li> </ul> <p>Your response must be 3000 words maximum, any word count beyond this limit will be discounted.</p>	0, 30,70,100	10%
1.2.8	Project Management Plan	<p>Please provide a comprehensive project management plan for contracted services, this must include the following:</p> <ul style="list-style-type: none"> <li>• Outcomes</li> <li>• project updates</li> <li>• milestones</li> <li>• deliverables</li> <li>• delivery blockers</li> <li>• individuals</li> <li>• barriers</li> <li>• dependencies</li> <li>• mitigations</li> <li>• risks and issues</li> <li>• stakeholder management</li> </ul> <p>Your response must be 4000 words maximum, any word count beyond this limit will be discounted.</p>	0, 30,70,100	10%
1.2.9	Team Structure	<p>Please detail your team structure and composition to carry out this work, highlighting relevant experience on PNT technologies (list which), military PNT data interfaces (list which), PNT data fusion algorithms, software modelling and building hardware in the loop demonstrators.</p> <p>Your response must be 1000 words maximum, any word count beyond this</p>	0,30,70,100	10%

		limit will be discounted		
1.2.10	Knowledge Share	Please explain how you shall ensure that knowledge acquired during the contract term is transferred to the Authority to allow the Authority and other third parties to improve awareness of strategic approaches? Deliverable 4 in Table 1 in SoR.  Your response must be 750 words maximum, any word count beyond this limit will be discounted.	0, 30,70,100	10%
			<b>Total</b>	<b>100%</b>

**n.bThe weightings for the questions may be presented differently in DSP but this Section D contains the correct weightings.**

#### 4. Social Value Evaluation Process

The Social Value questions, along with relevant weightings, scoring criteria and word count for answers can be found on DSP and responses must be submitted through DSP.

The Social Value questions are situated in the Technical area of DSP but note that they are weighted **10% of the total 100% available for the whole tender**, not 10% of the total technical score. Social Value is therefore worth up to 14.3% of the total available marks for a tender.

Each of the Authority's evaluators will independently assess responses to the Social Value questions using the marking scheme at Table 5 below.

A moderation meeting between all evaluators will be held once all the evaluators have independently assessed the answers and a moderated score for each question will be reached. **If any question scores '0' it shall be considered a 'fail' and the whole tender will be excluded from the competition.** The moderated score for each question will be multiplied by that questions weighting to calculate the weighted score for each question and each weighted score will be added to provide a total score out of 100. The score will be used to calculate the Value For Money Index Score- see Section D3 for details.

**Table 4: Social Value Marking Scheme**

Social Value Marking Scheme		
Score	Result	Criteria
0	FAIL	Nil or poor response. Either does not provide any detail or explanation of how the requirement will be fulfilled OR the response addresses some of the requirement but does not fully detail and explain how the requirement will be fulfilled.
30%	PASS	Satisfactory - The response addresses all criteria of the requirement but

		does not fully detail or explain how all the requirement will be fulfilled.
70%	PASS	Good - The response addresses all criteria of the requirement and provides a good level of detail and explanation on how the requirement will be fulfilled
100%	PASS	Excellent - The response addresses all criteria of the requirement and fully details and explains in a clear and unambiguous way how the requirement will be fulfilled

**Table 5 Worked Example: Calculation of Social Value Weighting**

Reference	Requirement Theme	Weighting (100% of the total 10% for Social Value)	Score	Weighted Score
2.2.2	Fighting Climate Change	25%	70	17.5
2.2.3	Equal Opportunity	25%	30	7.5
2.2.4	Tackling Economic Equality	50%	100	50
<b>Total Social Value score</b>				<b>75 %</b>

n.bThe weightings for the questions may be presented differently in DSP but this Section D contains the correct weightings.

#### **D4. How the Authority will assess your bid**

Tenders will be evaluated using the Most Economically Advantageous Tender (MEAT) methodology based on Regulation 31 of the Defence and Security Public Contracts Regulations 2011.

In this competition, MEAT means tenders will be assessed on the overall weightings for each element contained within Table 6 below and scores calculated using the Weighted Value for Money Index which is a MEAT methodology.

**Table 6 Overall Weightings**

Criteria	Total Weighting
Price	30%
Non- cost: Technical 60% +	70%

Social Value 10%	
Commercial	N/A- pass/fail
<b>TOTAL</b>	<b>100%</b>

Tenderers answers to the non- cost questions (Technical- including Project Management Plan- and Social Value) will be scored in accordance with Tables 1, 2 and 4 respectively of this Section D. Technical- including Project Management Plan- scores will then be weighted in accordance with Table 3 and the Social Value scores will be weighted in accordance with Table 6 of this Section D.

The total technical score (excluding Social Value) will be multiplied by 0.857 and the Social Value score (excluding technical) will be multiplied by 0.143. The two scores will be added to give the total non- cost score (out of 100).

The following calculation will then be done; total non-cost score to the power of [Xy symbol on a scientific calculator or ^ symbol (shift 6) on a keyboard] (70/30) divided by the price of the tenderers bid, adjusted to two decimal points. This gives the WVFM Index Score. Tenders are then ranked and the winning tender will be the one with the highest WVFM Index Score.

In the event that more than one tender achieves the same score, the WVFM Index Score will be adjusted to three decimal places and so on until a differentiator is found. The winning tender will be the one with the highest WVFM Index Score.

Formula for Weighted Value For Money Index:

wQ = weighting of non-cost criteria 70% (comprising 60% Technical Criteria including Project Management Plan question + 10% weighted Social Value Criteria)

wC = weighting applied to cost (30%)

$$\frac{\text{Non - cost score}^{\frac{wQ}{wC}}}{\text{cost}}$$

### Worked example;

#### Technical Score

Tenders Technical score is 80 out of a possible 100.

0.857 is total available non-cost score minus Social Value.

$$80 \times 0.857 = 68.56$$

Social Value score

Tenders Social Value score is 75 out of a possible 100.

0.143 is total available non-cost score for Social Value minus the Technical score.

$$75 \times 0.143 = 10.725$$

Total non-cost score

$68.56 + 10.725 = 79.285$  which is the non-cost score out of 100.

Price

Tender price is £700,000

Value for Money Index Score

79.285 to the power of [XY symbol on a scientific calculator or use ^ symbol (shift 6) on a keyboard]  $(70/30) / 700,000 = 0.03857870967$

The score is then multiplied by 1000 and rounded to 2 decimal places to give a readable VFM Index Score of 38.58.

**Worked example of ranking tenders**

Example Tender	Non-cost (combined Technical and Social Value) score	Price	VFM Index Score	Rank
A	79.285	£700,000	38.58	2
B	82	£675,000	43.28	1 (the winning tender)
C	60	£725,000	19.44	3

**Appendix 1 Cyber Implementation Plan Template**

MOD contract Number:	
CSM Risk Assessment Reference:	
CSM Cyber Risk Profile:	
Name of Supplier: (to be shared with the MOD only)	
Current level of Supplier compliance:	
Reasons why Supplier is unable to achieve full compliance:	
Measures planned to achieve compliance / mitigate the risk with associated dates:	
Anticipated date of compliance / mitigations will be in place:	
<b>For MOD internal completion</b>	

OFFICIAL

Risk Accepted	Yes/No
Notified (If applicable):	
Decision recorded on Octavian/equivalent:	Yes/No
Name	
Position	
Date	



## **Section E - Instructions on Submitting Tenders**

**DEFFORM 47**  
**(Edn 04/22)**

### **Submission of your Tender**

E1. Your Tender and any ITT Documentation must be submitted electronically via the Defence Sourcing Portal (DSP) by 16 May 2022 12:00 noon GMT+1. 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. Tenderers are required to submit an electronic online Tender response to 702596452.

E2. You must provide all responses to the ITT via the DSP, you must ensure no prices are included within the technical envelope. The Authority has the right to request, at its discretion, that any pricing information found in the technical envelope 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 Thomas.shields101@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 Thomas.shields101@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. This requirement has not been split into lots.

### **Variant Bids**

E8. The Authority will not accept variant bids.

### **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 before 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. Not Applicable

DEFFORM 47 Annex A

DEFFORM 47 Annex A  
(Edn 04/22)

## Ministry of Defence

**Tender Submission Document (Offer) – Ref Number702596452**

**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.

<b>Applicable Law</b>				
I agree that any contract resulting from this competition shall be subject to English Law				Yes / No
<b>Total Value of Tender (excluding VAT)</b>				
<p>£ ..... .....</p> <p>WORDS ..... .....</p>				
<b>UK Value Added Tax</b>				
<p>If registered for Value Added Tax purposes, please insert:</p> <p>a. Registration No .....</p> <p>b. Total amount of Value Added Tax payable on this Tender (at current rate(s)) £.....</p>				
<b>Location of work (town / city) where contract will be performed by Prime:</b>				
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 be Performed	Contractor Deliverables	Estimated Value	SME Yes / No

<b>Mandatory Declarations</b> (further details are contained in Appendix 1 to DEFFORM 47 Annex A (Offer)):	<b>Tenderer's Declaration</b>
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 completed and attached a DEFFORM 711 – Notification of Intellectual Property Rights (IPR) Restrictions?	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 will comply 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 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, and
- e. 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 Sensitive Information Form (DEFFORM 539A).

**Dated this..... day of ..... Year .....**

**Signature: In the capacity of**

(Must be scanned original)  
(Secretary etc.)

(State official position e.g. Director, Manager,

**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:**

**DunAnd Bradstreet number:**

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

**Edn 08/21**

### **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-362904222. 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](#) (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. Form 1686 and further guidance can be found in the Cabinet Office's [Contractual Process](#).

**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](#).
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](#) 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: DefComrcISSM-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 Government's [Transparency Principles](#) and in accordance with the provisions of either DEFCON 539, SC1B Conditions of Contract Clause 5 or SC2 Conditions of Contract Clause 12.
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 \(CP&F\)](#) 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. You will be informed whether you are required to provide a Bank or Parent Company Guarantee. In the event that you are selected as the winning Tenderer, you must provide your Bank or Parent Company Guarantee (in the form of DEFFORM 24/24A as appropriate) during the standstill period. No Contract will be awarded until a suitable Bank or Parent Company Guarantee, as appropriate, is in place. Failure to provide a Bank or Parent Company Guarantee during the standstill period, will result in you being de-selected as the winning Tenderer. The Authority reserves the right to re-evaluate the Tenders, (if necessary) to take into account the absence of the de-selected Tenderer, enabling the Authority to establish the next winning Tenderer and award a Contract.

## Deliverables

### Deliverables Note

This matrix is intended to provide an overview of the parties' contractual obligations to assist with contract management. It does not form part of the contract and should not be relied upon to aid interpretation of the contract. In the event of any conflict, inconsistency or discrepancy between this matrix and the contract, the terms of the contract shall take precedence.

### Supplier Contractual Deliverables

#### Supplier Contractual Deliverables

Name	Description	Due	Responsible Party
Obligation Condition 1.c.(2) - Notification of litigation	Notification of; Litigation, arbitration, administrative, adjudication or mediation proceedings against itself or a Subcontractor		Supplier Organization
Obligation Condition 1.c.(4) - Notification of Winding-up	Notice of any proceedings or steps taken for its winding-up or dissolution or for the appointment of a receiver, administrator, liquidator,		Supplier Organization
Obligation Condition 5.b - Notice of inconsistency between contract documents	If either Party becomes aware of any inconsistency within or between Contractual documents they shall notify the other Party forthwith		Supplier Organization
Obligation Condition 18.a - Contractors Records (reminder)	maintain all records in connection with the Contract for a period of at least six (6) years		Supplier Organization
Obligation DEFCON 21 (Edn 10/04) Clause - 3a - Maintenance of Deliverables (reminder)	To maintain at least one copy of all deliverable information to which DEFCON 21 applies during the period of the Contract and for at least two years after the Contract, or period as may be specified in the contract.		Supplier Organization
Obligation DEFCON 91 (Edn 11/06) Clause - 5b - Software as required	A copy of the Software as is required for performance of obligations to be retained.		Supplier Organization
Obligation Condition 20.a -	attend progress meetings at the frequency or times		Supplier Organization

Attendance at Progress Meetings	specified in the contract		
Obligation Condition 20.b - Progress Reports	submit progress reports at the times and in the format specified in the contract		Supplier Organization
Obligation Condition 16.a - Change of Control of Contractor	Written Notification of any intended, planned or actual change in control of the Contractor, including any Sub-contractors.		Supplier Organization
Obligation Condition 16.b - Notification of Concern due to Change of Control	advise the Contractor in writing of any concerns due to Change of Control		Supplier Organization
Obligation Condition 23.e, 24.a, and 24.c - Safety Data Sheet	provide a Safety Data Sheet in respect of each Dangerous/Hazardous Material or substance supplied or deliverable containing such.		Supplier Organization
Obligation Condition 23.f.(6) And Condition 23.g.(1).(b) - Documents relating to design of new MLP Packaging	"All SPIS, new or modified, shall be uploaded by the on to SPIN. where the Supplier is the PDA and registered a list of all SPIS which have been prepared or revised against the Contract; and a copy of all new / revised SPIS, complete with all continuation sheets and associated drawings shall be provided for upload"		Supplier Organization
Obligation Condition 24.d - Schedule 6 hazardous Contractor Deliverables, Materials or Substances Supplied under the Contract: Data Requirements	a completed Schedule 6 (Hazardous Contractor Deliverables, Materials or Substances Supplied under the Contract: Data Requirements)		Supplier Organization
Obligation Condition - Compliance with hazard reporting requirements for	in addition to the requirements of CHIP and / or the CLP Regulation 1272/2008 and REACH the Contractor shall comply with		Supplier Organization

materials or substances are ordnance, munitions or explosives	hazard reporting requirements of DEF STAN 07-085 Design Requirements for Weapons and Associated Systems.		
Obligation Condition 25.c - Source of Timber and Wood	If requested Evidence that the Timber and Wood-Derived Products supplied to the Authority comply with the requirements of clause 25.a or 25.b or both.		Supplier Organization
Obligation Condition 26.a - Certificate of Conformity	Provide a Certificate of Conformity and any applicable Quality Plan		Supplier Organization
Obligation Condition 36.c - Payment	no later than 30 days from receipt of valid undisputed invoice		Supplier Organization
Obligation Condition 37.c - Notification of applicable VAT	Notification of VAT liability or changes to it		Supplier Organization
Obligation Condition 42.c.(2) - Post notification of Termination	List of Unused and undamaged materiel; contractor deliverables in the course of manufacture.		Supplier Organization
Obligation Clause Condition 42.f - Subcontract Termination	inclusion of Termination clause in subcontracts over £250,000		Supplier Organization
Commercial Exploitation Levy - Reminder that Statements of Sales and Auditor Certificate are required annually	Applicable to contracts with Commercial Exploitation Agreements. A reminder to Suppliers that Statements of Sales along with Auditor Certificate are required annually.	01-JAN-2020	Supplier Organization

### Buyer Contractual Deliverables

#### Buyer Contractual Deliverables

Name	Description	Due	Responsible Party
Obligation Condition 5.b - Notice of inconsistency between contract	If either Party becomes aware of any inconsistency within or between Contractual documents they shall notify the other Party		Buyer Organization



documents	forthwith		
Obligation Condition 8.c - Change in Authority Representatives	Written confirmation of any change to the Authorities Representatives		Buyer Organization
Obligation Condition 14.f.(6) - Use of confidentiality agreement	Disclosure of Information on a confidential basis shall be subject to a confidentiality agreement containing terms no less stringent than those placed on the Authority		Buyer Organization
Obligation Condition 33.a 33.i - Import Export Licence Information	sufficient information, certification, documentation and other reasonable assistance to obtain necessary UK import/export licence or to facilitate the granting of export/import licences or authorisations by a foreign Government		Buyer Organization
Obligation Condition 33.l - Notification of restrictions in use due to non- UK licence	If 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		Buyer Organization
Obligation Condition 36.a - Register on CP&F	provide details for registration on CP&F		Buyer Organization
Obligation Condition 42.a - Termination	Written notice of Termination of part or whole of contract		Buyer Organization

**Standardised Contracting Terms****SC2****SC2 (Edn 02/22)****General Conditions****1. General**

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

on behalf of the Authority.

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

## **2.Duration of Contract**

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

## **3.Entire Agreement**

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

## **4.Governing Law**

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

b. Subject to clause 4.d and Condition 39 (Dispute Resolution) and without prejudice to the dispute resolution process set out therein, each Party submits and agrees to the exclusive jurisdiction of the Courts of England to resolve, and the laws of England to govern, any actions proceedings, controversy or claim of whatever nature arising out of or relating to the Contract or breach thereof.

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

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

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

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

b. Subject to Condition 39 (Dispute Resolution) and without prejudice to the dispute resolution process set out therein, each Party submits and agrees to the exclusive jurisdiction of the Courts of Scotland to resolve, and the laws of Scotland to govern, any actions, proceedings, controversy or claim of whatever nature arising out of or relating to the Contract or breach thereof.

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

(2) Clause 39.b shall be amended to read:

“In the event that the dispute or claim is not resolved pursuant to clause 39.a the dispute shall be referred to arbitration. Unless otherwise agreed in writing by the Parties, the arbitration and this clause 39.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 the Contract that Scots Law should apply), the Contractor irrevocably appoints the solicitors or other persons in England and Wales (or Scotland where the Parties agree pursuant to the Contract that Scots Law should apply) detailed in Schedule 3 (Contract Data Sheet) as their agents to accept on their behalf service of all process and other documents of whatever description to be served on the Contractor in connection with any litigation or arbitration within the English jurisdiction (or Scottish jurisdiction where the Parties agree pursuant to the Contract that Scots Law should apply) arising out of or relating to the Contract or any issue connected therewith.

## **5.Precedence**

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

- (1) Conditions 1 - 43 (and 44 - 46, if included in the Contract) of the Conditions of the Contract shall be given equal precedence with Schedule 1 (Definitions of Contract) and Schedule 3 (Contract Data Sheet);
- (2) Schedule 2 (Schedule of Requirements) and Schedule 8 (Acceptance Procedure);
- (3) the remaining Schedules; and
- (4) any other documents expressly referred to in the Contract.

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

## **6.Formal Amendments to the Contract**

a. Except as provided in Condition 30 and subject to clause 6.c, the Contract may only be amended by the written agreement of the Parties (or their duly authorised representatives acting on their behalf). Such written agreement shall consist of:

- (1) the Authority Notice of Change under Schedule 4 (Contract Change Control Procedure) (where used);
- (2) the Authority's offer set out in a serially numbered amendment letter issued by the Authority to the Contractor; and
- (3) the Contractor's unqualified acceptance of such offer as evidenced by the Contractor's duly signed DEFFORM 10B.

b. Where required by the Authority in connection with any such amendment, the Contractor shall (as so required) confirm that any existing Parent Company Guarantee is sufficiently comprehensive so as to cover and support all of the Contractor's liabilities and obligations under and in connection with the Contract (as amended by such amendment) or provide a revised Parent Company Guarantee with such DEFFORM 10B to achieve the same purposes.

c. Where the Authority wishes to amend the Contract to incorporate any work that is unpriced at the time of amendment:

- (1) if the Contract is not a Qualifying Defence Contract, the Authority shall have the right to settle with the Contractor a price for such work under the terms of DEFCON 643 (SC2) or DEFCON 127. Where DEFCON 643 (SC2) is used, the Contractor shall make all appropriate arrangements with all its Subcontractors affected by the Change or Changes in accordance with clause 5 of DEFCON 643 (SC2); or
- (2) if the Contract is a Qualifying Defence Contract, the Contract Price shall be redetermined on amendment in accordance with the Defence Reform Act 2014 and Single Source Contract Regulations 2014 (each as amended from time to time).

#### Changes to the Specification

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

### **7. Authority Representatives**

- (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 7.

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

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

### **8. Severability**

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

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

### **9. Waiver**

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

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

### **10. Assignment of Contract**

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

### **11. Third Party Rights**

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

### **12. Transparency**

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

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

c. If, in the Authority's reasonable opinion, publication of any element of the Transparency Information and Publishable Performance Information would be contrary to the public interest, the Authority shall be entitled to exclude such Information from publication. The Authority acknowledges that it would expect the public interest by default to be best served by publication of the Transparency Information and Publishable Performance Information in its entirety. Accordingly, the Authority acknowledges that it shall only exclude Transparency Information and Publishable Performance Information from publication in exceptional circumstances and agrees that where it decides to exclude Information from publication on that basis, it will provide a clear statement to the general public explaining the categories of information that have been excluded from publication and reasons for withholding that information.

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

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

### **Publishable Performance Information**

- e. Within three (3) months of the effective date of Contract the Contractor shall provide to the Authority for its approval (such approval shall not be unreasonably withheld or delayed) a draft Publishable Performance Information KPI Data Report consistent with the content requirements of Schedule 9.
- f. If the Authority rejects any draft Publishable Performance Information the Contractor shall submit a revised version of the relevant KPI Data Report for further approval by the Authority with five (5) business days of receipt of any notice or rejection, taking account of any recommendations for revision and improvement to the report provided by the Authority. This process shall be repeated until the parties have an agreed version of the Publishable Performance Information.
- g. The Contractor shall provide an accurate and up-to-date version of the KPI Data Report to the Authority for each quarter at the frequency referred to in the agreed Schedule 9.
- h. Any dispute in connection with the preparation and/or approval of Publishable Performance Information, other than under clause 12.f, shall be resolved in accordance with the dispute resolution procedure provided for in this Contract.
- i. The requirements of this Condition are in addition to any other reporting requirements in this Contract.

### **13. Disclosure of Information**

- a. Subject to clauses 13.d to 13.i and Condition 12 each Party:
  - (1) shall treat in confidence all Information it receives from the other;
  - (2) shall not disclose any of that Information to any third party without the prior written consent of the other Party, which consent shall not unreasonably be withheld, except that the Contractor may disclose Information in confidence, without prior consent, to such persons and to such extent as may be necessary for the performance of the Contract;
  - (3) shall not use any of that Information otherwise than for the purpose of the Contract; and
  - (4) shall not copy any of that Information except to the extent necessary for the purpose of exercising its rights of use and disclosure under the Contract.
- b. The Contractor shall take all reasonable precautions necessary to ensure that all Information disclosed to the Contractor by or on behalf of the Authority under or in connection with the Contract:
  - (1) is disclosed to their employees and Subcontractors, only to the extent necessary for the performance of the Contract; and
  - (2) is treated in confidence by them and not disclosed except with the prior written consent of the Authority or used otherwise than for the purpose of performing work or having work performed for the Authority under the Contract or any subcontract.
- c. The Contractor shall ensure that their employees are aware of the Contractor's arrangements for discharging the obligations at clauses 13.a and 13.b before receiving Information and shall take such steps as may be reasonably practical to enforce such arrangements.
- d. A Party shall not be in breach of Clauses 13.a, 13.b, 13.f, 13.g and 13.h to the extent that either Party:
  - (1) exercises rights of use or disclosure granted otherwise than in consequence of, or under, the Contract;
  - (2) has the right to use or disclose the Information in accordance with other Conditions of the Contract; or
  - (3) can show:
    - (a) that the Information was or has become published or publicly available for use otherwise than in breach of any provision of the Contract or any other agreement between the Parties;

- (b) that the Information was already known to it (without restrictions on disclosure or use) prior to receiving the Information under or in connection with the Contract;
- (c) that the Information was received without restriction on further disclosure from a third party which lawfully acquired the Information without any restriction on disclosure; or
- (d) from its records that the same Information was derived independently of that received under or in connection with the Contract;

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

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

f. The Authority may disclose the Information:

- (1) to any Central Government Body for any proper purpose of the Authority or of the relevant Central Government Body, which shall include: disclosure to the Cabinet Office and/or HM Treasury for the purpose of ensuring effective cross-Government procurement processes, including value for money and related purposes. Where such a disclosure is made the Authority shall ensure that the recipient is made aware of its confidentiality;
- (2) to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;
- (3) to the extent that the Authority (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;
- (4) subject to clause 13.g below, on a confidential basis to a professional adviser, consultant or other person engaged by any of the entities defined in Schedule 1 (including benchmarking organisations) for any purpose relating to or connected with the Contract;
- (5) subject to clause 13.g below, on a confidential basis for the purpose of the exercise of its rights under the Contract; or
- (6) on a confidential basis to a proposed body in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under the Contract;

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

g. Where the Authority intends to disclose Information to a commercial entity which is not a Central Government Body in accordance with clauses 13.f.(4) or 13.f.(5) above, the Authority will endeavour to provide the Contractor with 3 Business Days' notice in advance of such disclosure. In relation to a disclosure of Information made under clause 13.f.(3) above, if reasonably requested by the Contractor within 2 Business Days of such notice being given, where the Authority has not already done so, it will endeavour to procure from the intended recipient of the Information an agreement containing confidentiality terms the same as, or substantially similar to, those placed on the Authority under this Condition.

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

i. The Authority shall not be in breach of the Contract where disclosure of Information is made solely and to the extent necessary to comply with the Freedom of Information Act 2000 (the "Act") or the Environmental Information Regulations 2004 (the "Regulations"). To the extent permitted by the time for compliance under the Act or the Regulations, the Authority shall consult the Contractor where the Authority is considering the disclosure of Information



under the Act or the Regulations and, in any event, shall provide prior notification to the Contractor of any decision to disclose the Information. The Contractor acknowledges and accepts that their representations on disclosure during consultation may not be determinative and that the decision whether to disclose Information in order to comply with the Act or the Regulations is a matter in which the Authority shall exercise its own discretion, subject always to the provisions of the Act or the Regulations.

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

#### **14.Publicity and Communications with the Media**

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

#### **15.Change of Control of Contractor**

a. The Contractor shall notify the Representative of the Authority at the address given in clause 15.b, as soon as practicable, in writing of any intended, planned or actual change in control of the Contractor, including any Subcontractors. 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

**and** emailed to: [DefComrcISSM-MergersandAcq@mod.gov.uk](mailto:DefComrcISSM-MergersandAcq@mod.gov.uk)

c. 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.

d. 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 15.a. The Authority shall act reasonably in exercising its right of termination under this Condition.

e. If the Authority exercises its right to terminate in accordance with clause 15.d 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 15.e must be fully supported by documentary evidence. The decision whether to make such a payment shall be at the Authority's sole discretion.

f. 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.

## **16.Environmental Requirements**

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

## **17.Contractor's Records**

- a. The Contractor and their Subcontractors shall maintain all records specified in and connected with the Contract (expressly or otherwise) and make them available to the Authority when requested on reasonable notice.
- b. The Contractor and their Subcontractors shall also permit access to relevant records that relate to the contractual obligations to supply goods or services under the Contract, held by or controlled by them and reasonably required by the Comptroller and Auditor General, their staff and any appointed representative of the National Audit Office, and provide such explanations and information as reasonably necessary for the following purposes:
  - (1) to enable the National Audit Office to carry out the Authority's statutory audits and to examine and/or certify the Authority's annual and interim report and accounts; and
  - (2) to enable the National Audit Office to carry out an examination pursuant to Part II of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources.
- c. With regard to the records made available to the Authority under clause 17.a of this Condition, and subject to the provisions of Condition 13 (Disclosure of Information), the Contractor shall permit records to be examined and if necessary copied, by the Authority, or Representative of the Authority, as the Authority may require.
- d. Unless the Contract specifies otherwise the records referred to in this Condition shall be retained for a period of at least 6 years from:
  - (1) the end of the Contract term;
  - (2) the termination of the Contract; or
  - (3) the final payment,whichever occurs latest.

## **18.Notices**

- a. A Notice served under the Contract shall be:
  - (1) in writing in the English language;
  - (2) authenticated by signature or such other method as may be agreed between the Parties;
  - (3) sent for the attention of the other Party's Representative, and to the address set out in Schedule 3 (Contract Data Sheet);
  - (4) marked with the number of the Contract; and
  - (5) delivered by hand, prepaid post (or airmail), facsimile transmission or, if agreed in Schedule 3 (Contract Data Sheet), by electronic mail.
- b. Notices shall be deemed to have been received:
  - (1) if delivered by hand, on the day of delivery if it is the recipient's Business Day and otherwise on the first Business Day of the recipient immediately following the day of delivery;
  - (2) if sent by prepaid post, on the fourth Business Day (or the tenth Business Day in the case of airmail) after the day of posting;
  - (3) if sent by facsimile or electronic means:

- (a) if transmitted between 09:00 and 17:00 hours on a Business Day (recipient's time) on completion of receipt by the sender of verification of the transmission from the receiving instrument; or
- (b) if transmitted at any other time, at 09:00 on the first Business Day (recipient's time) following the completion of receipt by the sender of verification of transmission from the receiving instrument.

#### **19. Progress Monitoring, Meetings and Reports**

- a. The Contractor shall attend progress meetings at the frequency or times (if any) specified in Schedule 3 (Contract Data Sheet) and shall ensure that their Contractor's representatives are suitably qualified to attend such meetings.
- b. The Contractor shall submit progress reports to the Authority's Representatives at the times and in the format (if any) specified in Schedule 3 (Contract Data Sheet). The reports shall detail as a minimum:
  - (1) performance/Delivery of the Contractor Deliverables;
  - (2) risks and opportunities;
  - (3) any other information specified in Schedule 3 (Contract Data Sheet); and
  - (4) any other information reasonably requested by the Authority.

#### **Supply of Contractor Deliverables**

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

- a. The Contractor shall provide the Contractor Deliverables to the Authority, in accordance with the Schedule of Requirements and the Specification, and shall allocate sufficient resource to the provision of the Contractor Deliverables to enable it to comply with this obligation.
- b. The Contractor shall:
  - (1) comply with any applicable quality assurance requirements specified in Schedule 3 (Contract Data Sheet) in providing the Contractor Deliverables; and
  - (2) discharge their obligations under the Contract with all due skill, care, diligence and operating practice by appropriately experienced, qualified and trained personnel.
- c. The provisions of clause 20.b. shall survive any performance, acceptance or payment pursuant to the Contract and shall extend to any remedial services provided by the Contractor.
- d. The Contractor shall:
  - (1) observe, and ensure that the Contractor's Team observe, all health and safety rules and regulations and any other security requirements that apply at any of the Authority's premises;
  - (2) notify the Authority as soon as they become aware of any health and safety hazards or issues which arise in relation to the Contractor Deliverables; and
  - (3) before the date on which the Contractor Deliverables are to start, obtain, and at all times maintain, all necessary licences and consents in relation to the Contractor Deliverables.

#### **21. Marking of Contractor Deliverables**

- a. Each Contractor Deliverable shall be marked in accordance with the 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 22 (Packaging and Labelling (excluding Contractor Deliverables containing Munitions)).

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

- a. Packaging responsibilities are as follows:
  - (1) The Contractor shall be responsible for providing Packaging which fully complies with the requirements of the Contract.
  - (2) The Authority shall indicate in the Contract the standard or level of Packaging required for each Contractor Deliverable, including the PPQ. If a standard or level of Packaging (including the PPQ) is not indicated in the Contract, the Contractor shall request such instructions from the Authority before proceeding further.
  - (3) The Contractor shall ensure all relevant information necessary for the effective performance of the Contract is made available to all Subcontractors.
  - (4) Where the Contractor or any of their Subcontractors have concerns relating to the appropriateness of the Packaging design and or MPL prior to manufacture or supply of the Contractor Deliverables they shall use DEFFORM 129B to feedback these concerns to the Contractor or Authority, as appropriate.
- b. The Contractor shall supply Commercial Packaging meeting the standards and requirements of Def Stan 81-041 (Part 1). In addition, the following requirements apply:
  - (1) The Contractor shall provide Packaging which:
    - (a) will ensure that each Contractor Deliverable may be transported and delivered to the consignee named in the Contract in an undamaged and serviceable condition; and
    - (b) is labelled to enable the contents to be identified without need to breach the package; and
    - (c) is compliant with statutory requirements and this Condition.
  - (2) The Packaging used by the Contractor to supply identical or similar Contractor Deliverables to commercial customers or to the general public (i.e. point of sale packaging) will be acceptable, provided that it complies with the following criteria:
    - (a) reference in the Contract to a PPQ means the quantity of a Contractor Deliverable to be contained in an individual package, which has been selected as being the most suitable for issue(s) to the ultimate user;
    - (b) Robust Contractor Deliverables, which by their nature require minimal or no packaging for commercial deliveries, shall be regarded as "PPQ packages" and shall be marked in accordance with clauses 22.i to 22.l. References to "PPQ packages" in subsequent text shall be taken to include Robust Contractor Deliverables; and
    - (c) for ease of handling, transportation and delivery, packages which contain identical Contractor Deliverables may be bulked and overpacked, in accordance with clauses 22.i to 22.k.
- c. The Contractor shall ascertain whether the Contractor Deliverables being supplied are, or contain, Dangerous Goods, and shall supply the Dangerous Goods in accordance with:
  - (1) The Health and Safety At Work Act 1974 (as amended);

- (2) The Classification Hazard Information and Packaging for Supply Regulations (CHIP4) 2009 (as amended);
  - (3) The REACH Regulations 2007 (as amended); and
  - (4) The Classification, Labelling and Packaging Regulations (CLP) 2009 (as amended).
- d. The Contractor shall package the Dangerous Goods as limited quantities, excepted quantities or similar derogations, for UK or worldwide shipment by all modes of transport in accordance with the regulations relating to the Dangerous Goods and:
- (1) The Safety Of Lives At Sea Regulations (SOLAS) 1974 (as amended); and
  - (2) The Air Navigation (Amendment) Order 2019.
- e. As soon as possible, and in any event no later than one month before delivery is due, the Contractor shall provide a Safety Data Sheet in respect of each Dangerous Good in accordance with the REACH Regulations 2007 (as amended) and the Health and Safety At Work Act 1974 (as amended) and in accordance with Condition 23 (Supply of Hazardous Materials or Substances in Contractor Deliverables).
- f. The Contractor shall comply with the requirements for the design of MLP which include clauses 22.f and 22.g as follows:
- (1) Where there is a requirement to design UK or NATO MLP, the work shall be undertaken by an MPAS registered organisation, or one that although non-registered is able to demonstrate to the Authority that their quality systems and military package design expertise are of an equivalent standard.
    - (a) The MPAS certification (for individual designers) and registration (for organisations) scheme details are available from:  
DES LSOC SpSvcs--SptEng-Pkg1  
MOD Abbey Wood  
Bristol, BS34 8JH  
Tel. +44(0)30679-35353  
[DESLSOC-SpSvcs-SptEng-Pkg1@mod.gov.uk](mailto:DESLSOC-SpSvcs-SptEng-Pkg1@mod.gov.uk)
    - (b) The MPAS Documentation is also available on the DStan website.
  - (2) MLP shall be designed to comply with the relevant requirements of Def Stan 81-041, and be capable of meeting the appropriate test requirements of Def Stan 81-041 (Part 3). Packaging designs shall be prepared on a SPIS, in accordance with Def Stan 81-041 (Part 4).
  - (3) The Contractor shall ensure a search of the SPIS index (the 'SPIN') is carried out to establish the SPIS status of each requirement (using DEFFORM 129a 'Application for Packaging Designs or their Status').
  - (4) New designs shall not be made where there is an existing usable SPIS, or one that may be easily modified.
  - (5) Where there is a usable SFS, it shall be used in place of a SPIS design unless otherwise stated by the Contract. When an SFS is used or replaces a SPIS design, the Contractor shall upload this information on to SPIN in Adobe PDF.
  - (6) All SPIS, new or modified (and associated documentation), shall, on completion, be uploaded by the Contractor on to SPIN. The format shall be Adobe PDF.
  - (7) Where it is necessary to use an existing SPIS design, the Contractor shall ensure the Packaging manufacturer is a registered organisation in accordance with clause 22.f.(1) above, or if un-registered, is compliant with MPAS ANNEX A Supplement (Code) M. The Contractor shall ensure, as far as possible, that the SPIS is up to date.
  - (8) The documents supplied under clause 22.f.(6) shall be considered as a contract data requirement and be subject to the terms of DEFCON 15 and DEFCON 21.

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

- (1) If the Contractor or their Subcontractor is the PDA they shall:
  - (a) On receipt of instructions received from the Authority's representative nominated in Box 2 Annex A to Schedule 3 (Contract Data Sheet), prepare the required package design in accordance with clause 22.f.
  - (b) Where the Contractor or their Subcontractor is registered, they shall, on completion of any design work, provide the Authority with the following documents electronically:
    - i. a list of all SPIS which have been prepared or revised against the Contract; and
    - ii. a copy of all new / revised SPIS, complete with all continuation sheets and associated drawings, where applicable, to be uploaded onto SPIN.
  - (c) Where the PDA is not a registered organisation, then they shall obtain approval for their design from a registered organisation before proceeding, then follow clause 22.g.(1)(b).
- (2) Where the Contractor or their Subcontractor is not the PDA and is un-registered, they shall not produce, modify, or update SPIS designs. They shall obtain current SPIS design(s) from the Authority or a registered organisation before proceeding with manufacture of Packaging. To allow designs to be provided in ample time, they should apply for SPIS designs as soon as practicable.
- (3) Where the Contractor or their Subcontractor is un-registered and has been given authority to produce, modify, and update SPIS designs by the Contract, they shall obtain approval for their design from a registered organisation using DEFFORM 129a before proceeding, then follow clause 22.g.(1)(b).
- (4) Where the Contractor or their Subcontractor is not a PDA but is registered, they shall follow clauses 22.g.(1)(a) and 22.g.(1)(b).

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

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

- (1) If the Contract specifies UK or NATO MPL, labelling and marking of the packages shall be in accordance with Def Stan 81-041 (Part 6) and this Condition as follows:
  - (a) Labels giving the mass of the package, in kilograms, shall be placed such that they may be clearly seen when the items are stacked during storage.
  - (b) Each consignment package shall be marked with details as follows:
    - i. name and address of consignor;
    - 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 22.I.

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

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

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

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

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

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

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

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

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

mode of transport is used;

- (e) where applicable, the reference number of the delivery note produced by CP&F relating to the contents. The consignee's copy of each delivery note shall be placed in the case / container. If the Contractor Deliverables listed in the delivery note are packed in several cases, the consignee's copy shall be placed in the first case and a separate list detailing the contents shall be prepared for each case after the first and placed in the case to which it relates. Each case is to be numbered to indicate both the number of the case and the total number of cases concerned e.g. 1/3, 2/3, 3/3;
  - (f) the CP&F-generated shipping label; and
  - (g) any statutory hazard markings and any handling markings.
- m. Authorisation of the Contractor to undertake Packaging design, or to use a packaging design, that was not part of the original requirement under the Contract, shall be considered as an alteration to the specification in accordance with Condition 6 (Formal Amendments to the Contract).
- n. The Contractor shall ensure that timber and wood-containing products supplied under the Contract comply with the provisions of Condition 24 (Timber and Wood-Derived Products) and Annex I and Annex II of the International Standards for Phytosanitary Measures, "Guidelines for Regulating Wood Packaging Material in International Trade", Publication No 15 (ISPM 15).
- o. All Packaging shall meet the requirements of the Packaging (Essential Requirements) Regulations 2003 (as amended) where applicable.
- p. In any design work the Contractor shall comply with the Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (as amended) or equivalent legislation. Evidence of compliance shall be a contractor record in accordance with Condition 17 (Contractor's Records).
- q. This Condition is concerned with the supply of Packaging suitable to protect and ease handling, transport and storage of specified items. Where there is a failure of suitable Packaging (a design failure), or Packaging fails and this is attributed to the Packaging supplier, then the supplier shall be liable for the cost of replacing the Packaging.
- r. Liability for other losses resulting from Packaging failure or resulting from damage to Packaging, (such as damage to the packaged item etc.), shall be specified elsewhere in the Contract.
- s. General requirements for service Packaging, including details of UK and NATO MLP and Commercial Packaging descriptions, are contained in Def Stan 81-041 (Part 1) "Packaging of Defence Materiel". Def Stans, NATO Standardisation Agreements (STANAGs), and further information are available from the DStan internet site at: <https://www.dstan.mod.uk/>
- t. Unless specifically stated otherwise in the invitation to tender or the Contract, reference to any standard including Def Stans or STANAGs in any invitation to tender or Contract document means the edition and all amendments extant at the date of such tender or Contract.
- u. In the event of conflict between the Contract and Def Stan 81-041, the Contract shall take precedence.

### **23. Supply of Data for 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 the extant Classification, Labelling and Packaging (GB CLP) Regulation; 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 extant UK REACH Regulation:
- (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 23.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 the GB CLP and UK REACH the Contractor shall comply with hazard reporting requirements of DEF STAN 07-085 Design Requirements for Weapons and Associated Systems.
- f. If the Contractor Deliverables, materials or substances are or contain or embody a radioactive substance as defined in the extant Ionising Radiation Regulations, the Contractor shall additionally provide details of:
- (1) activity; and
  - (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 23.a.(1) and 23.b.(1), any information arising from the provisions of clauses 23.e, 23.f and 23.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:

[DESTTECH-QSEPEnv-HSISMulti@mod.gov.uk](mailto:DESTTECH-QSEPEnv-HSISMulti@mod.gov.uk)

- i. Failure by the Contractor to comply with the requirements of this Condition shall be grounds for rejecting the affected Contractor Deliverables. Any withholding of information concerning Hazardous Contractor Deliverables, materials or substances shall be regarded as a material breach of Contract under Condition 42 (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 42.
- j. 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.

## **24. 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 24.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 24.a or 24.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 24.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 24.a or 24.b or both.
- f. The Contractor shall maintain records of all Timber and Wood-Derived Products delivered to and accepted by the Authority, in accordance with Condition 17 (Contractor's Records).
- g. Notwithstanding clause 24.c, if exceptional circumstances render it strictly impractical for the Contractor to record Evidence of proof of timber origin for previously used Recycled Timber, the Contractor shall support the use of this Recycled Timber with:
  - (1) a record tracing the Recycled Timber to its previous end use as a standalone object or as part of a structure; and
  - (2) an explanation of the circumstances that rendered it impractical to record Evidence of proof of timber origin.
- h. The Authority reserves the right to decide, except where in the Authority's opinion the timber supplied is incidental to the requirement and from a low risk source, whether the Evidence submitted to it demonstrates compliance with clause 24.a or 24.b, or both. In the event that the Authority is not satisfied, the Contractor shall commission and meet the costs of

an Independent Verification and resulting report that will:

- (1) verify the forest source of the timber or wood; and
  - (2) assess whether the source meets the relevant criteria of clause 24.b.
- i. The statistical reporting requirement at clause 24.j applies to all Timber and Wood-Derived Products delivered under the Contract. The Authority reserves the right to amend the requirement for statistical reporting, in the event that the UK Government changes the requirement for reporting compliance with the Government Timber Procurement Policy. Amendments to the statistical reporting requirement will be made in accordance with Condition 6 (Formal Amendments to the Contract).
- j. The Contractor shall provide to the Authority, a completed Schedule 7 (Timber and Wood-Derived Products Supplied under the Contract: Data Requirements), the data or Information the Authority requires in respect of Timber and Wood-Derived Products delivered to the Authority under the Contract, or in respect of each order in the case of a Framework Agreement, or at such other frequency as stated in the Contract. The Contractor shall send all completed Schedule 7s (Timber and Wood-Derived Products Supplied under the Contract: Data Requirements), including nil returns where appropriate, to the Authority's Representative (Commercial).
- k. The Schedule 7 (Timber and Wood-Derived Products Supplied under the Contract: Data Requirements) may be amended by the Authority from time to time, in accordance with Condition 6 (Formal Amendments to the Contract).
- l. The Contractor shall obtain any wood, other than processed wood, used in Packaging from:
- (1) companies that have a full registered status under the Forestry Commission and Timber Packaging and Pallet Confederation's UK Wood Packaging Material Marking Programme (more detailed information can be accessed at [www.forestry.gov.uk](http://www.forestry.gov.uk)) and all such wood shall be treated for the elimination of raw wood pests and marked in accordance with that Programme; or
  - (2) sources supplying wood treated and marked so as to conform to Annex I and Annex II of the International Standard for Phytosanitary Measures, "Guidelines for Regulating Wood Packaging Material in International Trade", Publication No 15 published by the Food and Agricultural Organisation of the United Nations (ISPM15) (more detailed information can be accessed at [www.fao.org](http://www.fao.org)).

## **25.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. Each CofC should include the wording "Certificate of Conformity" in the title of the document to allow for easy identification. One CofC is to be used per NSN/part number; a CofC must not cover multiple line items.
- c. The Contractor shall consider the CofC to be a record in accordance with Condition 17 (Contractor's Records).
- d. The Information provided on the CofC shall include:
- (1) Contractor's name and address;
  - (2) Contractor unique CofC number;
  - (3) Contract number and where applicable Contract amendment number;
  - (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) NATO Stock Number (NSN) (where allocated);
- (10) identification marks, batch and serial numbers in accordance with the Specification;
- (11) quantities;
- (12) 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.

e. Where Schedule 2 (Schedule of Requirements) and any applicable Quality Plan require demonstration of traceability and design provenance through the supply chain the Contractor shall include in any relevant subcontract the requirement for the Information called for at clause 25.d. The Contractor shall ensure that this Information is available to the Authority through the supply chain upon request in accordance with Condition 17 (Contractor Records).

## **26. Access to Contractor's Premises**

- a. The Contractor shall provide to the Authority's Representatives following reasonable Notice, relevant accommodation/facilities, at no direct cost to the Authority, and all reasonable access to their premises for the purpose of monitoring the Contractor's progress and quality standards in performing the Contract.
- b. As far as reasonably practical, the Contractor shall ensure that the provisions of clause 26.a are included in their subcontracts with those suppliers identified in the Contract. The Authority, through the Contractor, shall arrange access to such Subcontractors.

## **27. Delivery / Collection**

- a. Schedule 3 (Contract Data Sheet) shall specify whether the Contractor Deliverables are to be Delivered to the Consignee by the Contractor or Collected from the Consignor by the Authority.
- b. Where the Contractor Deliverables are to be Delivered by the Contractor (or a third party acting on behalf of the Contractor), the Contractor shall, unless otherwise stated in writing:
  - (1) contact the Authority's Representative as detailed in Schedule 3 (Contract Data Sheet) in advance of the Delivery Date in order to agree administrative arrangements for Delivery and provide any Information pertinent to Delivery requested;
  - (2) comply with any special instructions for arranging Delivery in Schedule 3 (Contract Data Sheet);
  - (3) ensure that each consignment of the Contractor Deliverables is accompanied by, (as specified in Schedule 3 (Contract Data Sheet)), a DEFFORM 129J in accordance with the instructions;
  - (4) be responsible for all costs of Delivery; and
  - (5) Deliver the Contractor Deliverables to the Consignee at the address stated in Schedule 2 (Schedule of Requirements) by the Delivery Date between the hours agreed by the Parties.
- c. Where the Contractor Deliverables are to be Collected by the Authority (or a third party acting on behalf of the Authority), the Contractor shall, unless otherwise stated in writing:
  - (1) contact the Authority's Representative (Transport) as detailed in box 10 of Annex A to Schedule 3 (Contract Data Sheet) in advance of the Delivery Date in order to agree

specific arrangements for Collection and provide any Information pertinent to the Collection requested;

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

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

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

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

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

(1) on the Delivery of the Contractor Deliverables by the Contractor to the Consignee in accordance with clause 27.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 27.c.

## **28.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 29.b has elapsed.

## **29.Rejection and Counterfeit Materiel**

Rejection:

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

b. Rejection of any of the Contractor Deliverables under clause 29.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 29.c.(2).(i) or the provision of a sample at 29.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 29.a and 29.b (Rejection).

d. In addition to its rights under 29.a and 29.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 28 (Acceptance).

e. Where the Authority intends to exercise its rights under clause 29.d, it shall where reasonable permit the Contractor, within a period specified by the Authority, to arrange at their 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 29.d, including where the Authority permits the Contractor to remove non-Counterfeit Materiel under clause 29.e but the Contractor fails to do so within the period specified by the Authority and subject to clause 29.j, the Authority shall be entitled to exercise any, all, or any combination of, the following rights:

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

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

(3) to retain conduct or have conducted further testing including destructive testing, for further investigatory, regulatory or risk management purposes. Results from any such tests shall 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 29.f.(1) to 29.f.(3) shall not constitute acceptance under Condition 28 (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 29.f.(4). If the value of the scrap or other disposal payment exceeds the amount due to the Authority under clause 29.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 clauses 29.c – 29.j.

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 clauses 29.c – 29.j except where it has been determined in accordance with Condition 39 (Dispute Resolution) that the Authority has made an incorrect determination in accordance with clause 20.c.(4). In such circumstances the Authority shall reimburse the Contractors reasonable costs of complying with clause 29.c.

### **30.Diversion Orders**

- a. The Authority shall notify the Contractor at the earliest practicable opportunity if it becomes aware that a Contractor Deliverable is likely to be subject to a Diversion Order.
- b. The Authority may issue a Diversion Order for the urgent delivery of the Contractor Deliverables identified in it. These Contractor Deliverables are to be delivered by the Contractor using the quickest means available as agreed by the Authority.
- c. The Authority reserves the right to cancel the Diversion Order.
- d. If the terms of the Diversion Order are unclear, the Contractor shall immediately contact the Representative of the Authority who issued it for clarification and/or further instruction.
- e. If the Diversion Order increases the quantity of Contractor Deliverables beyond the scope of the Contract, it is to be returned immediately to the Authority's Commercial Officer with an appropriate explanation.
- f. The Contractor shall be entitled to reasonable additional delivery and packaging costs incurred in complying with the Diversion Order or cancellation. Claims are to be submitted by the Contractor to the Authority's Commercial Officer together with applicable receipts and agreed as an amendment to the Contract in accordance with Condition 6 (Formal Amendments to the Contract). The Contractor shall comply with the requirements of the Diversion Order upon receipt of the Diversion Order.

### **31.Self-to-Self Delivery**

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

Licences and Intellectual Property

### **32.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 32.e or 32.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 33 (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 32.k.(1) or 32.k.(2), they 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 32.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 32.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 32.l or 32.m of which they become or are 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 32.l or 32.m of which they become 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 their other suppliers restrictions are notified to the Contractor by that Subcontractor, supplier or other third party or are identified by the Contractor, the Contractor shall immediately inform the Authority by issuing an updated DEFFORM 528. Within [X] days of such notification, the Contractor shall propose to the Authority actions to mitigate the impact of such restrictions. Such proposals may include, where appropriate, mutually supported attempts to obtain removal or modification to the restrictions or to obtain appropriate authorisations from the relevant foreign government. The Authority shall notify the contractor within [X] days of receipt of a proposal whether it is acceptable and where appropriate the Contract shall be modified in accordance with its terms to implement the proposal.

q. If the restrictions prevent the Contractor from performing their 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 as otherwise may be provided by the Contract, or to terminate the Contract. Except as set out in clause 32.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 32.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 32.n or 32.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 32.l, termination under clause 32.t will be in accordance with Condition 42 (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 32.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 32.s or 32.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 their obligations under the Contract, the matter shall be handled under the terms of Condition 6 (Formal Amendments to the Contract) 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 41 (Termination for Convenience) and as referenced in the Contract.

v. Pending agreement of any amendment of the Contract as set out in clause 32.q or 32.u, provided the Contractor takes such steps as are reasonable to mitigate the impact, the Contractor shall be relieved from their obligations to perform those elements of the Contract directly affected by the restrictions or provision of incorrect or incomplete information.

### **33.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 33.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 33.a has been notified previously, the Contractor may meet their obligations by giving details of the previous notification.

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

- (1) the Authority has made or makes an admission of any sort relevant to such question;
- (2) the Authority has entered or enters into any discussions on such question with any third party without the prior written agreement of the Contractor;
- (3) the Authority has entered or enters into negotiations in respect of any relevant claim for compensation in respect of Crown Use under Section 55 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949;
- (4) legal proceedings have been commenced against the Authority or the Contractor in respect of Crown Use, but only to the extent of such Crown Use that has been properly authorised.

d. The indemnity in clause 33.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 33.a, a relevant invention or design is notified to the Authority by the Contractor after the Effective Date of Contract, then:

- (1) if the owner (or its exclusive licensee) takes or threatens in writing to take any relevant action against the Contractor, the Authority shall issue to the Contractor a written authorisation in accordance with the provisions of Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949, and
- (2) in any event, unless the Contractor and the Authority can agree an alternative course of action, the Authority shall not unreasonably delay the issue of a written authorisation in accordance with the provisions of Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949.

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

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

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

- (1) a relevant discharge has been given under Section 2 of the Defence Contracts Act 1958, or relevant authorisation in accordance with Sections 55 or 57 of the Patents Act 1977, Section 12 of the Registered Designs Act 1949 or Section 240 of the Copyright, Designs and Patents Act 1988 in respect of any intellectual property; or
- (2) any obligation to make payments for intellectual property has not been promptly notified to the Authority under clause 33.a.

k. Where authorisation is given by the Authority under clause 33.e, 33.f or 33.g, to the extent permitted by Section 57 of the Patents Act 1977, Section 12 of the Registered Designs Act 1949 or Section 240 of the Copyright, Designs and Patents Act 1988, the Contractor shall also be:

- (1) released from payment whether by way of royalties, licence fees or similar expenses in respect of the Contractor's use of the relevant invention or design, or the use of any relevant model, document or information for the purpose of performing the Contract; and
- (2) authorised to use any model, document or information relating to any such invention or design which may be required for that purpose.

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

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

performing the Contract;

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

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

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

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

n. The general authorisation and indemnity is:

(1) clauses 33.a – 33.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 33.n.(3), the Party notified shall advise the other Party in writing within thirty (30) Business Days whether or not it is assuming conduct of the negotiations or litigation. In that case the Party against whom a claim is made or action brought shall not make any statement which might be prejudicial to the settlement or defence of such a claim without the written consent of the other Party;

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

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

p. Nothing in Condition 33 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**

### **34.Contract Price**

- a. The Contractor shall provide the Contractor Deliverables to the Authority at the Contract Price. The Contract Price shall be a Firm Price unless otherwise stated in Schedule 3 (Contract Data Sheet).
- b. Subject to clause 34.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.

### **35.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 35.b the Contractor will be required to register their details (Supplier on-boarding) on the Contracting, Purchasing and Finance (CP&F) electronic procurement tool.
- b. Where the Contractor submits an invoice to the Authority in accordance with clause 35.a, the Authority will consider and verify that invoice in a timely fashion.
- c. The Authority shall pay the Contractor any sums due under such an invoice no later than a period of 30 days from the date on which the Authority has determined that the invoice is valid and undisputed.
- d. Where the Authority fails to comply with clause 35.a and there is undue delay in considering and verifying the invoice, the invoice shall be regarded as valid and undisputed for the purpose of clause 35.c after a reasonable time has passed.
- e. The approval for payment of a valid and undisputed invoice by the Authority shall not be construed as acceptance by the Authority of the performance of the Contractor's obligations nor as a waiver of its rights and remedies under the Contract.
- f. Without prejudice to any other right or remedy, the Authority reserves the right to set off any amount owing at any time from the Contractor to the Authority against any amount payable by the Authority to the Contractor under the Contract or under any other contract with the Authority, or with any other Government Department.

### **36. 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 their business activities at the time of any supply, and the circumstances of any supply are such that the Contractor is liable to pay the tax due to HM Revenue and Customs (HMRC), the Authority shall pay to the Contractor in addition to the Contract Price (or any other sum due to the Contractor) a sum equal to the output VAT chargeable on the tax value of the supply of Contractor Deliverables, and all other payments under the Contract according to the law at the relevant tax point.
- c. The Contractor is responsible for the determination of VAT liability. The Contractor shall consult their Client Relationship Manager or the HMRC Enquiries Desk (and not the Authority's Representative (Commercial)) in cases of doubt. The Contractor shall notify the Authority's Representative (Commercial) of the Authority's VAT liability under the Contract, and any changes to it, within twenty (20) Business Days of becoming aware the liability is other than at the standard rate of VAT. In the event of any doubt about the applicability of the tax in such cases, the Authority may require the Contractor to obtain, and pass to the Authority, a formal ruling from HMRC. The Contractor shall comply promptly with any such

requirement. Where the Contractor obtains a ruling from HMRC, they shall supply a copy to the Authority within three (3) Business Days of receiving that ruling unless they propose to challenge the ruling. Where the Contractor challenges the ruling they shall supply to the Authority a copy of any final decisions issued by HMRC on completion of the challenge within three (3) Business Days of receiving the decision.

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

e. Where Contractor Deliverables are deemed to be supplied to the Authority outside the UK, the Contractor may be required by the laws of the country where the supply takes place to register there for 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 39 (Dispute Resolution).

g. Should HMRC decide that the Contractor has incorrectly determined the VAT liability, in accordance with clause 36.b above, the Authority will pay the VAT assessed by HMRC. In the event that HMRC so determines, the Contractor shall pay any interest charged on any assessment or penalties or both directly to HMRC. Such interest or penalties or both shall not be recoverable from the Authority under the Contract or any other contract. The Contractor shall supply the Authority with a copy of all correspondence between HMRC and the Contractor's advisors regarding the VAT assessment within three (3) Business Days of a written request from the Authority for such correspondence.

### **37. 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 37 shall be subject to:

- (1) reduction of any sums in respect of which the Authority exercises its right of recovery under clause 35.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 37.b and 37.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 37.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 37.a.(1) and 37.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 37.a.(1) and 37.a.(2).
- d. The provisions of Condition 35 (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.

### **38.Subcontracting and Prompt Payment**

- a. Subcontracting any part of the Contract shall not relieve the Contractor of any of the Contractor's obligations, duties or liabilities under the Contract.
  - b. Where the Contractor enters into a subcontract, they shall cause a term to be included in such subcontract:
    - (1) providing that where the Subcontractor submits an invoice to the Contractor, the Contractor will consider and verify that invoice in a timely fashion;
    - (2) providing that the Contractor shall pay the Subcontractor any sums due under such an invoice no later than a period of thirty (30) days from the date on which the Contractor has determined that the invoice is valid and undisputed;
    - (3) providing that where the Contractor fails to comply with clause 38.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 38.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 38.b.(1) to 38.b.(4).
- Termination

### **39.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 39.a the dispute shall be referred to arbitration. Unless otherwise agreed in writing by the Parties, the arbitration and this clause 39.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.

### **40. Termination for Insolvency or Corrupt Gifts**

#### **Insolvency:**

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

Where the Contractor is an individual or a firm:

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



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

Where the Contractor is a company registered other than in England, events occur or are carried out which, within the jurisdiction to which they are subject, are similar in nature or effect to those specified in clauses 40.a.(9) to 40.a.(14) inclusive above.

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

Corrupt Gifts:

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

- (1) offer, promise or give to any Crown servant any gift or financial or other advantage of any kind as an inducement or reward;
  - (a) for doing or not doing (or for having done or not having done) any act in relation to the obtaining or execution of this or any other Contract with the Crown; or
  - (b) for showing or not showing favour or disfavour to any person in relation to this or any other Contract with the Crown.

- (2) enter into this or any other Contract with the Crown in connection with which commission has been paid or has been agreed to be paid by them or on their behalf, or to their knowledge, unless before the Contract is made particulars of any such commission and of the terms and conditions of any such agreement for the payment thereof have been disclosed in writing to the Authority.
- d. If the Contractor, their employees, agents or any Subcontractor (or anyone acting on their behalf or any of their employees) does any of the prohibited acts or commits any offence under the Bribery Act 2010 with or without the knowledge or authority of the Contractor in relation to this Contract or any other contract with the Crown, the Authority shall be entitled:
- (1) to terminate the Contract and recover from the Contractor the amount of any loss resulting from the termination;
  - (2) to recover from the Contractor the amount or value of any such gift, consideration or commission; and
  - (3) to recover from the Contractor any other loss sustained in consequence of any breach of this Condition, where the Contract has not been terminated.
- e. In exercising its rights or remedies under this Condition, the Authority shall:
- (1) act in a reasonable and proportionate manner having regard to such matters as the gravity of, and the identity of the person performing, the prohibited act;
  - (2) give all due consideration, where appropriate, to action other than termination of the Contract, including (without being limited to):
    - (a) requiring the Contractor to procure the termination of a subcontract where the prohibited act is that of a Subcontractor or anyone acting on their behalf;
    - (b) requiring the Contractor to procure the dismissal of an employee (whether their own or that of a Subcontractor or anyone acting on their behalf) where the prohibited act is that of such employee.
- f. Recovery action taken against any person in Her Majesty's service shall be without prejudice to any recovery action taken against the Contractor pursuant to this Condition.

#### **41. 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 41.b.(2) and 41.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 41.b):
- (1) The Authority shall take over from the Contractor at a fair and reasonable price all

unused and undamaged materiel and any Contractor Deliverables in the course of manufacture that are:

- (a) in the possession of the Contractor at the date of termination; and
- (b) provided by or supplied to the Contractor for the performance of the Contract,

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

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

- (a) all such unused and undamaged materiel; and
- (b) Contractor Deliverables in the course of manufacture,

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

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

d. The Authority shall (subject to clause 41.e below and to the Contractor's compliance with any direction given by the Authority in clause 41.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 41.a to 41.e except that:

- (1) the name of the Contractor shall be substituted for the Authority except in clause 41.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 41.

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

## **42.Material Breach**

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

b. Where the Authority has terminated the Contract under clause 42.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.

#### **43. 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 514A**

DEFCON 514A (Edn. 03/16) - Failure of Performance under Research and Development Contracts

**DEFCON 532A (SC2)**

DEFCON 532A (SC2) (Edn. 08/20) – Protection of Personal Data (Where Personal Data is not being processed on behalf of the Authority)

**DEFCON 602B**

DEFCON 602B (Edn. 12/06) - Quality Assurance (Without Deliverable Quality Plan)

**DEFCON 627**

DEFCON 627 (Edn. 11/21) - Quality Assurance - Requirement for a Certificate of Conformity

**DEFCON 637**

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

**DEFCON 647 (SC2)**

DEFCON 647 (SC2) (Edn. 05/21) - Financial Management Information

**DEFCON 658 (SC2)**

DEFCON 658 (SC2) (Edn.09/21) - 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 659A**

DEFCON 659A (Edn. 09/21) - Security Measures

**DEFCON 660**

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

**DEFCON 694 (SC2)**

DEFCON 694 (SC2) (Edn. 07/21) - Accounting For Property of the Authority

## **General Conditions**

### **Third Party IPR Authorisation**

#### **AUTHORISATION BY 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 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.

## **Intellectual Property Rights**

### **DEFCON 705**

DEFCON 705 (Edn. 06/21) - Intellectual Property Rights - Research and Technology

## Payment Terms

### Payment Terms

1. The Authority shall, subject to the following provisions of this condition, make to the contractor advances against the price(s) payable for Items 1-4 ('interim payments') in accordance with the Stage Payment Scheme set out in Schedule 9 of the contract.
2. The contractor shall be entitled to interim payments, to be claimed in accordance with condition 36 for each stage under the Stage Payment Scheme, provided that:
  - a. the contractor has completed all work comprised in the stage for which the interim payment is sought in accordance with Annex A to 702596452;
  - b. all previous stages have been completed, unless the parties expressly agree otherwise; and
  - c. the contractor shall have complied with all its contractual obligations which enable the Authority to monitor the contractor's contractual performance, including but not limited to those obligations related to the provision of information to the Authority.
3. Notwithstanding Clause 2 above, the Authority shall not be obliged to make an interim payment to the contractor if it has reasonable cause to believe that the contractor will be unlikely to render complete performance of its obligations in respect of items 1 to 4 of the contract.
4. Where the Authority intends to rely on Clause 3 above as the basis for rejecting any claim for an interim payment which the contractor may make in accordance with condition 29 Acceptance, the Authority shall give to the contractor notice in writing of its intention together with reasons and justification for the rejection.
5. The Authority shall without prejudice to any other right / remedy of either party be entitled to recover in full all interim payments made under the contract where:
  - a. the contract, or the part of the contract under which Items 1 to 4 are to be provided, is terminated otherwise than in accordance with Condition 41 (Termination for Convenience), or expires by reason of passing of time; and
  - b. the contractor has failed to complete performance of Items 1 to 4
6. Payment of an interim payment by the Authority under Condition 36 shall not, unless expressly stated to do so, constitute:
  - a. acceptance by the Authority of any contractual deliverable;
  - b. a representation by the Authority that the contractor has complied with any contractual obligations; or
  - c. a waiver of the Authority's right to subsequently claim that the conditions for payment of that interim payment were not satisfied.
7. Schedule 9 includes all contractual options in accordance with this condition, if an option is not activated, the Firm Price of the Stage Payment will be reduced to the level displayed within the stage payment schedule.



**Special Indemnity Conditions**

Not used.

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

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

#### **46.1. LIMITATIONS ON LIABILITY**

##### **Definitions**

46.1.1 In this Condition 46.1 the following words and expressions shall have the meanings given to them, except where the context requires a different meaning:

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

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

(1) UK GDPR;

(2) DPA 2018; and

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

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

‘DPA 2018’ means the Data Protection Act 2018;

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

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

“Term” means the period commencing on [the commencement date / the date on which this Contract is signed / the date on which this Contract takes effect] and ending [on the expiry of x years /on x date] or on earlier termination of this Contract.

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

##### **Unlimited liabilities**

46.1.2 Neither Party limits its liability for:

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

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

- 1.3.1 for any indemnity given by the Contractor to the Authority under this Contract, including but not limited to:
  - 1.3.1.1 the Contractor's indemnity in relation to DEFCON 91 (Intellectual Property in Software) and Condition 33 (Third Party IP – Rights and Restrictions);
  - 1.3.1.2 the Contractor's indemnity in relation to TUPE at Schedule [(TUPE)];
- 1.3.2 for any indemnity given by the Authority to the Contractor under this Contract, including but not limited to:
  - 1.3.2.1 the Authority's indemnity under DEFCON 514A (Failure of Performance under Research and Development Contracts);
  - 1.3.2.2 the Authority's indemnity in relation to TUPE under Schedule [(TUPE)];
- 1.3.3 breach by the Contractor of DEFCON 532A (SC2) and Data Protection Legislation; and
- 1.3.4 to the extent it arises as a result of a Default by either Party, any fine or penalty incurred by the other Party pursuant to Law and any costs incurred by such other Party in defending any proceedings which result in such fine or penalty.
- 1.3.5 For the avoidance of doubt any payments due from either of the Parties to the other in accordance with DEFCON 811 (SC2) or the Defence Reform Act 2014 and/or the Single Source Contract Regulations 2014, as amended from time to time, shall not be excluded or limited under the provisions of Clauses 1.4 and/or 1.5 below.

**Financial limits**

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

- 1.4.1 [throughout the Term] the Contractor's total liability in respect of losses that are caused by Defaults of the Contractor shall in no event exceed:
  - 1.4.1.1 in respect of DEFCON 76 (SC2) [£ fifty thousand pounds] (£50,000) in aggregate;
  - 1.4.1.2 in respect of Condition 42b [£ seven hundred thousand, thirty seven thousand and fifty eight pounds] (£737,958) in aggregate;
  - 1.4.1.3 in respect of DEFCON 611 (SC2) [£ zero pounds] (£0) in aggregate; and

1.4.1.4 in respect of condition 27d [£ zero pounds] (£0) in aggregate;

1.4.2 without limiting Clause 1.4.1 and subject always to Clauses 1.2, 1.3 and 1.4.3, the Contractor's total liability throughout the Term in respect of all other liabilities (but excluding any Service Credits paid or payable in accordance with [ insert cross reference to service credit/performance provisions ] and [insert cross reference to any other relevant provisions], whether in contract, in tort (including negligence), arising under warranty, under statute or otherwise under or in connection with this Contract shall be [£ pounds] (£[ ]) in aggregate.

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

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

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

### **Consequential loss**

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

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

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

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

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

- 1.8.1.1 to any third party;
- 1.8.1.2 for putting in place workarounds for the Contractor Deliverables and

other deliverables that are reliant on the Contractor Deliverables; and

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

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

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

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

1.8.5 damage to the Authority's physical property and tangible assets, including damage under 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 Condition [1] is held to be invalid under any Law, it will be deemed to be omitted to that extent, and if any Party becomes liable for loss or damage to which that limitation or provision applied, that liability will be subject to the remaining limitations and provisions set out in this Condition [1].

## **Third party claims or losses**

1.10 Without prejudice to any other rights or remedies the Authority may have under this Contract (including but not limited to any indemnity claim under DEFCONs 91 and Condition 33 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.

#### **Technical Reports**

##### **46.2 Technical Reports**

46.2.1 In accordance with DEFCON 705 the contractor shall deliver limited and full rights version of all reports generated during the performance of the contract to the Authority.

#### **Change in Personnel**

##### **46.3 Change in Personnel**

46.3.1 The Contractor shall not terminate the appointment of any of the Personnel specified at Schedule 10 list of the key personnel to this Contract, or appoint any new member, or replacement for any, of those Personnel without prior discussion with the Contract Project Manager and commercial representative.

46.3.2 As soon as the Contractor becomes aware of a possible change to Contract Personnel, however arising, the Contractor shall notify the Authority's Commercial Branch in writing and find a suitable person to perform the role of the member of Personnel who is being replaced and to avoid any vacancy in such role.

#### **Options**

##### **46.4 OPTIONS**

46.4.1. The option prices detailed within Schedule 9 to this contract are firm prices not subject to variation.

46.4.2. In addition to the Item 1 at Schedule 2 - Schedule of Requirements for Contract, the Contractor hereby grants to the Authority the following irrevocable options to purchase in accordance with the Annex A Schedule of Requirements of this contract and as referenced in Schedule 2 Schedule of Requirements, it being agreed that the Authority has no obligation to exercise such options.

a. Option 1: Work Package 2 listed at Item 2 of Schedule 2 - Schedule of Requirements for Contract provided that the Authority notifies the Contractor that the option will be exercised by no later than 30 calendar days than when notice is provided to the contractor.

b. Option 2: Work package 3 at Item 3 of Schedule 2 - Schedule of Requirements for Contract provided that the Authority notifies the Contractor that the option will be exercised by no later than 30 calendar days than when notice is provided to the contractor.

c. Option 3: Work Package 4 at Item 3 of Schedule 2 - Schedule of Requirements for Contract provided that the Authority notifies the Contractor that the option will be exercised by no later than 30 calendar days than when notice is provided to the contractor.

46.4.3. The Authority shall have the right to exercise the options within the Contract Period or within such further period as corresponds to the aggregate of any period(s):

- a. of delay in the delivery programme whether constituting any breach of the Contract or resulting from any force majeure event or,
- b. for the duration of which the Authority is prevented from exercising any such option due to any other breach of the Contract by the Contractor.

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

## **Project Financial Management Reports**

### **46.5 Project Financial Management Reports**

46.5.1. The Contractor Shall deliver Project Financial Management reports to the Authority in accordance with 4.2.5 within the Statement of the Requirements at Annex A to Schedule 2.

46.5.2. The Contractor shall ensure that the reports use the instructions and template at Table 1 and Appendix 1 of Table 1 of this Condition 46.3.

**Table 1 – Project Financial Management Reporting Template Instructions**

<b>Financial Management Reports to be Provided by Suppliers</b>		
1		<b>Provision of Information</b>
	a	1st Report to be provided within 20 working days of the Effective Date of the contract.
	b	Report to be provided as stated in the contract on UK MOD working day 3 or by exception thereafter.
	c	Requirement does not substitute or replace any requirements under EVM, DEFCON 694 (GFA) or any other DEFCON, providing that delivery of that information is linked to key performance indicators and cash payments to the supplier.
	d	Financial Information to be provided VAT Exclusive.
	e	All reports to be endorsed by the contractor representative, recognising that accruals are estimates, but confirming that the report reflects their judgement of the activity on the contract
2		<b>Contract Summary Information</b>
	a	Contract Number.
	b	Contract Title.
	c	Supplier Name.
	e	Original Contract Price Excluding VAT (at contract start date).
	f	Revised Contract Price (to reflect any agreed contract amendments) Excluding VAT.
	g	Nature of Pricing - e.g firm, fixed, target cost incentive fee.
	h	Currency.
	i	Report Date.
3		<b>Information to be Provided</b>
	a	Minimum granularity is contract schedule lines. [May be extended to reflect, for example, KPI, Milestones, Activities, Items, NSNs.] It is noted that in some circumstances contract schedule lines may not be appropriate (e.g. commodity items) and may need to be grouped.
	b	Inventory information (if applicable) to separately identify service charge and purchases of inventory [required for all on-Statement of Financial Position, Off System Inventory CLS arrangements].
	c	Description.
	d	Value (Ex VAT) - contractual value of the activity.
	e	Progress % work completed on the activity as at report date.
4		<b>Financial Profile</b> - The report is to collect information on actual and planned accruals: that is the contractual value of work undertaken (earned value of work) within a period, for which the MOD will be [was] liable to pay. It includes work undertaken by sub-contractors. It includes work completed and invoiced. The total value of work [to be] completed is expected to be comparable to the contract price. If a fixed or firm price has been agreed for the contract then the value of work should be assessed on this basis.
	a	Prior Years: Work completed (value to sales) in previous financial years.
	b	Earned Value: Work completed (value to sales) in month - this is the value of work done (accrued/earned value) during that calendar month.
	c	Earned Value: Cumulative Work Completed (value to sales) - this is the value of work done



		(accrued/earned value) on the activity to date.
	d	MOD Current Financial Year monthly - this will be a mix of actual completed to the end of the current period and forecast beyond that date.
	e	After the Current Financial Year an annual estimate by MOD Financial Year (Apr XX to Mar XY) until contract end date - Forecast periods show the expected work to be undertaken during each period on the activities in the contract. Insert additional years as required.

**Appendix 1 to Table 1 – Example Project Financial Management Reporting Template**

Contract No:	xxxxx	Description:	xxxxxx	Supplier:	xxxxxx	Original Contract price:	xxxxxxx	Report Date:	02-Jul-22
					x	(Ex VAT)		Currency:	£ UK Sterling
						Revised Contract price:			

## Financial Management Report (Work Completion Plan)

xxx	<b>Nature of Pricing:</b>	e.g. firm/max
-----	---------------------------	---------------

[illegible]

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Total Work Complete														
------------------------	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Contractor representative:

This document is an estimate of the price of the work completed on this contract, and is based on my best judgement reflecting the information available to me.

Name: Signature:

Position: Date:

**47 The processes that apply to this Contract are**

Not used

**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

**AQAP 2310**

NATO Quality Management System Requirements for Aviation, Space and Defence Suppliers.

Edition B Version 1

## **Earned Value Management**

### **Earned Value Management Requirements**

#### **1. Planning, Scheduling and Budgeting**

1.1. Level 5 Contractors are not required to produce a detailed master schedule but shall provide a single page plan that reflects the scope of work and time frame required to complete delivery to the Authority. A table of milestones based on payment milestones may be agreeable with the Authority.

#### **2. Analysis and Reporting**

2.2. The Contractor shall provide an in-year spending forecast and shall indicate to the Authority within five days if at any time the Contractor expects that the funds required to complete the contract will exceed the agreed contract value. Additionally, if the funds required within any fiscal year are expected to exceed the amount authorised by the Authority, the Contractor shall notify the Authority within no more than five days.

## 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's Representative(s)

shall be those person(s) defined in Schedule 3 (Contract Data Sheet) who will act as the Authority's Representative(s) in connection with the Contract. Where the term "Authority's Representative(s)" in the Conditions is immediately followed by a functional description in brackets, the appropriate Authority's Representative(s) shall be the designated person(s) for the purposes of Condition 7;

#### Business Day

means 09:00 to 17:00 Monday to Friday, excluding public and statutory holidays;

#### Central Government Body

a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics:

- a. Government Department;
- b. Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);
- c. Non-Ministerial Department; or
- d. Executive Agency;

#### Collect

means pick up the Contractor Deliverables from the Consignor. This shall include loading, and any other specific arrangements, agreed in accordance with Clause 28.c and Collected and Collection shall be construed accordingly;

#### Commercial Packaging

means commercial Packaging for military use as

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	described in Def Stan 81-041 (Part 1)
<b>Conditions</b>	means the terms and conditions set out in this document;
<b>Consignee</b>	means that part of the Authority identified in Schedule 3 (Contract Data Sheet) to whom the Contractor Deliverables are to be Delivered or on whose behalf they are to be Collected at the address specified in Schedule 3 (Contract Data Sheet) or such other part of the Authority as may be instructed by the Authority by means of a Diversion Order;
<b>Consignor</b>	means the name and address specified in Schedule 3 (Contract Data Sheet) from whom the Contractor Deliverables will be dispatched or Collected;
<b>Contract</b>	means the Contract including its Schedules and any amendments agreed by the Parties in accordance with condition 6 ( Formal Amendments to the Contract);
<b>Contract Price</b>	means the amount set out in Schedule 2 (Schedule of Requirements) to be paid (inclusive of Packaging and exclusive of any applicable VAT) by the Authority to the Contractor, for the full and proper performance by the Contractor of its obligations under the Contract.
<b>Contractor</b>	means the person who, by the Contract, undertakes to supply the Contractor Deliverables, for the Authority as is provided by the Contract. Where the Contractor is an individual or a partnership, the expression shall include the personal representatives of the individual or of the partners, as the case may be, and the expression shall also include any person to whom the benefit of the Contract may be assigned by the Contractor with the consent of the Authority;
<b>Contractor Deliverables</b>	means the goods and/or the services, including Packaging (and Certificate(s) of Conformity and supplied in accordance with any QA requirements if specified) which the Contractor is required to provide under the Contract;
<b>Control</b>	means the power of a person to secure that the affairs of the Contractor are conducted in accordance with the wishes of that person: a. by means of the holding of shares, or the possession of voting powers in, or in relation to,



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the Contractor; or

b. by virtue of any powers conferred by the constitutional or corporate documents, or any other document, regulating the Contractor; and a change of Control occurs if a person who Controls the Contractor ceases to do so or if another person acquires Control of the Contractor;

### 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>;

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<b>DEF STAN</b>	means Defence Standards which can be accessed at <a href="https://www.dstan.mod.uk">https://www.dstan.mod.uk</a> ;
<b>Deliver</b>	means hand over the Contractor Deliverables to the Consignee. This shall include unloading, and any other specific arrangements, agreed in accordance with Condition 28 and Delivered and Delivery shall be construed accordingly;
<b>DeliveryDate</b>	means the date as specified in Schedule 2 (Schedule of Requirements) on which the Contractor Deliverables or the relevant portion of them are to be Delivered or made available for Collection;
<b>Denomination of Quantity (D of Q)</b>	means the quantity or measure by which an item of material is managed;
<b>Design Right(s)</b>	has the meaning ascribed to it by Section 213 of the Copyright, Designs and Patents Act 1988;
<b>Diversion Order</b>	means the Authority's written instruction (typically given by MOD Form 199) for urgent Delivery of specified quantities of Contractor Deliverables to a Consignee other than the Consignee stated in Schedule 3 (Contract Data Sheet);
<b>EffectiveDate of Contract</b>	means the date upon which both Parties have signed the Contract;
<b>Evidence</b>	means either: <ul style="list-style-type: none"><li>a. an invoice or delivery note from the timber supplier or Subcontractor to the Contractor specifying that the product supplied to the Authority is FSC or PEFC certified; or</li><li>b. other robust Evidence of sustainability or FLEGT licensed origin, as advised by CPET;</li></ul>
<b>Firm Price</b>	means a price (excluding VAT) which is not subject to variation;
<b>FLEGT</b>	means the Forest Law Enforcement, Governance and Trade initiative by the European Union to use the power of timber-consuming countries to reduce the extent of illegal logging;
<b>Government Furnished Assets (GFA)</b>	is a generic term for any MOD asset such as equipment, information or resources issued or

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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, or any exercise of Royal Prerogative;

### **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;

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### **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

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issue(s) to the ultimate user, as described in Def Stan 81-041 (Part 1);

### **Publishable Performance Information**

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

### **Recycled Timber**

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;

### **Sensitive Information**

means the Information listed in the completed Schedule 5 (Contractor's Sensitive Information), which is Information notified by the Contractor to the Authority, which is acknowledged by the Authority as being sensitive, at the point at which the Contract is entered into or amended (as relevant) and remains sensitive information at the time of publication;

### **Short-Rotation Coppice**

means a specific management regime whereby the poles of trees are cut every one to two years and which is aimed at producing biomass for energy. It is exempt from the UK Government timber procurement policy. For avoidance of doubt, Short-Rotation Coppice is not conventional coppice, which is subject to the timber policy;

<b>Specification</b>	means the description of the Contractor Deliverables, including any specifications, drawings, samples and / or patterns, and shall include any document or item which, individually or collectively is referred to in Schedule 2 (Schedule of Requirements). The Specification forms part of the Contract and all Contractor Deliverables to be supplied by the Contractor under the Contract shall conform in all respects with the Specification;
<b>STANAG4329</b>	means the publication NATO Standard Bar Code Symbolologies which can be sourced at <a href="https://www.dstan.mod.uk/faqs.html">https://www.dstan.mod.uk/faqs.html</a> ;
<b>Subcontractor</b>	means any subcontractor engaged by the Contractor or by any other subcontractor of the Contractor at any level of subcontracting to provide Contractor Deliverables wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Contract and 'Subcontract' shall be interpreted accordingly;
<b>Timber and Wood-Derived Products</b>	means timber (including Recycled Timber and Virgin Timber but excluding Short-Rotation Coppice) and any products that contain wood or wood fibre derived from those timbers. Such products range from solid wood to those where the manufacturing processes obscure the wood element;
<b>TransparencyInformation</b>	means the content of this Contract in its entirety, including from time to time agreed changes to the Contract, except for (i) any Information which is exempt from disclosure in accordance with the provisions of the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004 (EIR), which shall be determined by the Authority, and (ii) any Sensitive Information;
<b>Virgin Timber</b>	means Timber and Wood-Derived Products that do not include Recycled Timber.

**Annex to Schedule 1**

**Additional Definitions of Contract law. Conditions 44 - 46 (Additional Conditions)**

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Schedule 2 - Schedule of Requirements

Item No.	Item Details	Total Qty	Price (£) Ex VAT	
			Per Item	Total Inc. packaging and Delivery**
1	<b>Specification</b> PNT Data Merging Final Demonstration Report Limited and Full Rights Versions	1	£TBC	£TBC
	<b>Delivery Date</b> 31 <sup>st</sup> March 2023			
	<b>MOD Stock Ref. No.</b> N/A			
	<b>Packaging requirements inc. PPQ and DofQ *</b> N/A			
2	<b>Specification</b> PNT Data Merging Final Demonstration Report Limited and Full Rights Versions updated with further evidenced based on option 1 SOR reference 4.3 Option 1 – Work Package 2	1	£TBC	£TBC
	<b>Delivery Date</b> 31 <sup>st</sup> March 2023			
	<b>MOD Stock Ref. No.</b> N/A			
	<b>Packaging requirements inc. PPQ and DofQ *</b> N/A			
3	<b>Specification</b> PNT Data Merging Final Demonstration Report Limited and Full Rights Versions updated with further evidenced based	1	£TBC	£TBC



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Item No.	Item Details	Total Qty	Price (£) Ex VAT	
	on option 1 SOR reference 4.3 Option 2 – Work Package 3			
	<b>Delivery Date</b> 31 <sup>st</sup> March 2023			
	<b>MOD Stock Ref. No.</b> N/A			
	<b>Packaging requirements inc. PPQ and DofQ *</b> N/A			
4	<b>Specification</b> PNT Data Merging Final Demonstration Report Limited and Full Rights Versions updated with further evidenced based on option 1 SOR reference 4.3 Option 3 – Work Package 4	1	£TBC	£TBC
	<b>Delivery Date</b> 31 <sup>st</sup> March 2023			
	<b>MOD Stock Ref. No.</b> N/A			
	<b>Packaging requirements inc. PPQ and DofQ *</b> N/A			

**Total Price**

\*as detailed in DEFFORM 96

**\*\*and Delivery if specified in Schedule 3  
(Contract Data Sheet)**

£TBC

**ALTERNATIVE NAVIGATION DATA MERGING**

**STATEMENT OF REQUIREMENT**

8 April 22

## **1 Introduction**

This Statement of Requirement covers the contractor's minimum activities for a proposed Data Merging technology de-risking activity. The Alternative Navigation (Alt Nav) programme aims to develop global, 24/7 and all-weather precise Position, Navigation and Timing (PNT) information in military operational environments, including where Global Navigation Satellite System (GNSS) measurements are either degraded or completely unavailable. The Alt Nav programme will aid a wide range of MoD land, air and maritime equipment and platforms (applications) working in all operational environments.

## **2 Alt Nav Programme Background**

The Alt Nav programme consists of two projects:

### **2.1 Alt Nav Technologies**

Further development of PNT sensor technologies identified by Defence Science and Technology Laboratory (Dstl), which are at varying levels of maturity, to Technology Readiness Level (TRL) 6 within 7 months. Contractors will undertake technical de-risking and demonstration activities for potential solutions. The three technology themes under contract for Concept phase studies are:

- Resilient Timing (Clocks)
- Signals of Opportunity (SOO)
- Visual Navigation (VN)

Subject to funding approval, a new competition will be run at the start of the Assessment Phase to develop technologies to TRL 8, where other non-GNSS PNT technologies may be considered.

### **2.2 Alt Nav Data Merging**

Activities to help de-risk and inform the integration of Alt Nav sensor technologies with existing MoD PNT systems to improve resilience to GNSS signal interference. To investigate and produce prototype system designs that achieve cost-effective integration between existing PNT technologies in use on the applications and the new Alt Nav sensor technologies.

## **3 Alt Nav Programme Aims, Objectives and Benefits**

### 3.1 Aims

The overall aim of the Alt Nav programme is to develop a capability which enables UK forces to effectively utilise alternative sources of PNT data to supplement or substitute for a degraded or denied GNSS source.

Multi-Sensor data fusion is a well-established technological discipline, but it is experiencing renewed interest as the range, nature, and characteristics of PNT data sources diversifies and the subject of PNT Assuredness matures. These developments bring new and challenging dimensions to the Data Merging task. The de-risking activities of this immediate integration/insertion task need to proceed in a synergistic manner with the wider initiatives in this field.

The long-term aim of the Alt Nav programme is that there will be a catalogue of non-GNSS PNT technologies characterised and readily available, together with credible application integration system solutions of sufficient maturity to satisfy the portfolio of Defence needs for Assured PNT for both in the near-term and for future existing and new platforms.

### 3.2 Objectives

The Strategic objectives of the Alt Nav Programme are:

- a. Acceptable size, weight and power matched to the application.
- b. Low unit production costs.
- c. Low through life costs.
- d. Readily available information and facilities to support integration by application platforms.
- e. Where practical, free from overseas export restrictions.
- f. An open-architecture approach with Government controlled non-proprietary interfaces.
- g. The ability to be used in a range of PNT system configurations through modular design.
- h. Designed for capability updates through life.

## 4 Data Merging Work Package (WP) Scope

### 4.1 Scope

The Data Merging task will proceed in parallel with the Alt Nav technologies development activities. To this end, the activities of the Data Merging task are divided into Core and Optional work packages to manage the availability and maturity of data.

One of the first tasks for all DE&S Alt Nav Project's PNT sensor Technology Concept Phase studies was the definition of the Interface Control Documents (ICDs) which are required to allow them to supply their data to a Data Merging capability in a System of Systems design.

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The UK joins other nations in following a Systems of Systems approach to mitigate over-reliance on GNSS for PNT data. It is widely recognised that an open-architecture approach with Government controlled, non-proprietary interfaces will help diversify solutions and better enable interoperability. NATO's Science and Technology Organisation NATO STO are, through their Sensors and Electronics Technology panel, running an Exploratory Team SET-309 on NATO PNT Open System Architecture & Standards to Ensure PNT in NAVWAR Environments. The US plan to share their All-Source Position and Navigation (ASPN) interface with the group.

To gather evidence for the Outline Business Case for the Alt Nav programme, the MoD team has engaged their Engineering Delivery Partner (EDP) to survey a sample of in-service applications across all of the operational domains to determine: reliance on GNSS, how degradation or denial might impact mission success, system design architectures (including existing interfaces), application-specific PNT requirements and Domain Business Processes that must be followed to achieve the installation of new equipment onto the platforms. The Data Merging task will proceed in parallel with the EDP work and should exploit the EDP-generated information as it becomes available.

GNSS are currently MoD's de-facto technological solution to meet Users' PNT requirements however, some applications already benefit from additional sensors. This situation is unlikely to change in the near to mid-term. Therefore, the Alt Nav sensor technologies are expected to contribute to the calculation of the PNT solution alongside GNSS receivers and other sources of information in a PNT System of Systems. The most likely configurations for existing applications will be:

- a. Configuration 1 - A GNSS receiver alone. Note that modern GNSS receivers commonly offer the ability to function in several modes:
  - i) using only signals from satellites
  - ii) using signals from satellites plus data from other sources.
- b. Configuration 2 – A collection of navigation related technologies with data blending and distribution as a separate function distinct from the GNSS receiver.
- c. Configuration 3 – An embedded GPS receiver within an Inertial Navigation System implementing loose or tight coupling.

Deliverables that the contractors shall supply are detailed in Section 5 Table 2.

A list of GFx including Alt Nav technology supplier draft ICDs, SET 309 artefacts and EDP deliverables can be found in Annex A.

Please note: While MoD is the customer for this information, it should be anticipated that observations and recommendations will be passed on to other developers in industry under MoD contracts.

Security classification of the project is detailed in the Security Aspects Letter (SAL) at Annex B to Schedule 2.

## **4.2 Core Activities - Work Package 1.0**

### **4.2.1 WP 1.1 - Architecture Studies**

The contractor shall use their knowledge and experience to formulate and document architecture descriptions of a wide and diverse range of distinct in-service PNT systems. Once these are agreed with the Authority, the contractor shall develop and document a set of Alt-Nav technology insertion/merging options for each of the PNT system architectures, with associated information on: strengths, weaknesses, limitations, risks, complexity and relative cost. The contractor shall then seek agreement from the Authority as to which insertion options to take forward to the next stage (WP1.3).

Example configurations have been outlined in the scope and illustrative examples of integration configurations are provided in Annex G, Figure 1.

#### 4.2.2 WP 1.2 - Interface Development

The Data Merging contractors shall engage with the NATO SET-309 Task Group to de-risk interoperability with other Alt Nav initiatives across the NATO nations. The Data Merging contractors shall engage with the contractors that are developing the Alt Nav PNT data sources to develop and refine the definitions of their data interfaces, to enable and refine the data merging task.

#### 4.2.3 WP 1.3 - Technology De-risking

Using the architectural study outputs in WP1.1, and information gleaned from WP1.2, the contractor shall mature the data merging technology through the TRL's building towards or achieving TRL 6 including a demonstration of this maturity.

The Authority expects the demonstration of Data Merging maturity to be achieved through the development, documentation and demonstration of real-time emulations of the whole PNT system (legacy plus Alt Nav) using representative ICDs of in-service PNT devices (e.g., INS GPS) where possible and chosen in conjunction with the Authority and draft Alt Nav Technology ICDs (see WP1.2). These emulations should incorporate representative data rates and latencies as well as a representative spread of simulated PNT sub-system (in particular Alt Nav) errors – from best to worst performance. Emulations should, for lower TRL demonstrations be software based with Higher TRL demonstrations being hardware in the loop – with data flowing across genuine data interfaces between physically separate hardware units.

A key consideration for the fusion of data within the data merging architectures is the 'assuredness' of the PNT data throughout. The contractor shall seek advice on 'assuredness' from the Authority. The Authority acknowledges that use of existing PNT data interfaces will constrain the extent of PNT assuredness, but it is essential that every reasonable attempt is made to avoid misleading PNT data from corrupting the main platform PNT solution(s). As an aid to this, statistically valid estimated uncertainty and system health meta data should be passed to any data fusion element of the data merging system with every single Alt-Nav technology measurement.

The integration development effort is to explore the value of mathematical models implemented in software to simulate the measurement outputs from Alt-Nav technologies, both for demonstration purposes and in due course as a method of checking that the Alt Nav PNT data source system is operating within normal parameters. Should the PNT solution stray outside normal behaviour, its contribution should be excluded.

In the early stages this de-risking activity process will include mathematical analysis, modelling, algorithm development and simulation. The contractor shall produce a generic system behaviour model.

#### **4.2.4 WP 1.4 - Requirements Setting**

The contractor shall provide information to the Authority to help define System requirements from the Data Merging Function framed as:

- a. Key User Requirements (KURs).
- b. Entries for the System Requirement Document (SRD).

Provided with the SRD of a Generic GNSS Rx, what refinements would be needed to describe the functions of the Data Merging process.

#### **4.2.5 WP 1.5 - Project Management**

The contractor shall identify a list of activities to be undertaken and provide a Project Management Plan in a format compatible with MS Office, against which progress can be assessed. This should include (but is not limited to):

- a. Regular update briefings / meetings with the authority team.
- b. Regular contact (at least weekly) with the authority Project Manager.
- c. Identification of risks, mitigations, issues and efficient early flagging of problems arising.
- d. Identification of assumptions and dependencies.
- e. Provision of timely monthly evidence of progress to support Authority Accruals processes (percentage progress against all milestones and associated financial value of work completed as a minimum).
- f. Proposed strategies for managing engagement with key stakeholders (i.e., EDP, DSTL, other Alt Nav suppliers (as appropriate), platform POCs).
- g. Proposed reporting formats (both document and presentational).

### **4.3 Option 1 - Work Package 2**

The Core Tasks establish generic Data Merging designs. Optional Task 1 builds on this activity by adding the findings of the EDP tasks. The intention is to broaden and deepen the activities described in the Core Tasks, guided by the platform specific information determined by the EDP contractors.

#### **4.3.1 WP 2.1 - Architecture Studies**

The contractor shall utilise EDP outputs described in Table 1 to develop a detailed determination of the architectural design and the circumstances that could affect the integration/insertion schema for introducing Alt Nav capability to the representative platforms.

For each distinct, genuine platform PNT architecture provided by the EDP, the contractor shall adapt the most similar generic data merging option from WP1 and demonstrate the validity of that option via software and hardware in the loop emulations of the complete PNT system architecture. The contractor shall, as part of their report include how the EDP GFx was used to mature their designs for a cost effective, generic design for each proposed architectural integration configuration of Alt Nav PNT systems with justification arguments for each.

**Table 1 EDP Outputs**

<b>WP 1.2 Establish the application's requirements and constraints.</b>	Determine how the applications consume PNT data (Use Cases) and the required characteristics of the data in the Use Case.	WP 1.0 report will include: <ul style="list-style-type: none"> <li>• A 'chopped-down', platform specific Geospatial and Temporal Reference Standards<sup>2</sup> style collection of information for each platform Use Case.</li> <li>• PNT related MoDAF/ToGAF views that are used by the capability applications.</li> <li>• Identify the interfaces and record the extant interface specifications.</li> <li>• An assessment of the need for a data-fusion engine or whether existing elements of the design might have the capacity to achieve this.</li> <li>• Identify any note-worthy physical constraints associated with the system design (security, access, available installation space etc).</li> <li>• Identify the environmental envelops.</li> </ul>
<b>WP1.3 Determination of platform sensors useful to Alt Nav</b>	Determination of the sensors that exist on the list of down-selected platforms that provide potentially useful information to the Alt Nav function.	WP 1.0 report will include: <ul style="list-style-type: none"> <li>• A list of sensors installed on each platform together with characteristics and ICDs</li> </ul>

#### 4.3.2 WP 2.2 - Technology De-risking

In the light of the information supplied by the EDP contractors, the Contractor shall:

- a. Review the development and demonstration activities of real-time data integration techniques.
- b. Identify, report and accommodate any implications of the application interfaces at the ICD level, on the prototype demonstrator system(s).

#### 4.3.3 WP 2.3 - Requirements Setting

Considering developments arising from the EDP GFx, the Contractor shall refine information provided to the Authority to help define system requirements from the Data Merging function framed as:

- c. Key User Requirements (KURs)
- d. Entries for the System Requirement Document (SRD)

#### 4.4 Option 2 – Work Package 3

Optional Task 2 builds on core activity by adopting SET-309 principles to de-risk interoperability with other Alt Nav initiatives across the NATO nations. The intention is to broaden and deepen the activities described in the Core Tasks, guided by the activities of the SET-309 panel.

##### 4.4.1 WP 3.1 - Technology De-risking

The contractor shall review the development and demonstration activities of real-time data integration/insertion techniques in the light of the information gleaned from involvement in SET-309. The contractor shall identify, report and accommodate any implications of these developments on the prototype demonstrator system(s).

##### 4.4.2 WP 3.2 - Requirements Setting

Considering developments arising from the SET-309 ICDs, the Contractor shall refine information provided to the Authority to help define User requirements from the Data Merging function framed as:

- e. Key User Requirements (KURs).
- f. Entries for the System Requirement Document (SRD).

#### 4.5 Option 3 – Work Package 4

Optional Task 3 builds on core activity by adding emerging ICD definitions from the Alt Nav PNT data sources. The intention is to broaden and deepen the activities described in the Core Tasks, guided by the ICD definition/refinement outputs produced by the Alt Nav PNT data sources contractors.

##### 4.5.1 WP 4.1 - Interface Development

The Data Merging contractors shall engage with the contractors of the Alt Nav PNT Data Source refined ICDs (see Annex A) to:

- a. Develop and refine the definitions of their data interfaces.
- b. Enable and refine the data merging task, bearing in mind MoD's PNT Assuredness characteristics referenced in the Assured PNT Framework.

##### 4.5.2 WP 4.2 - Technology De-risking

In light of emerging Alt Nav PNT data source ICDs referenced in Annex A as 'refined ICDs', the Contractor Shall:

- a. Review the development and demonstration activities of real-time data integration techniques in light of emerging Alt Nav PNT data source ICDs.
- b. Identify, report and accommodate any implications of these developments on the prototype demonstrator system(s).

The contractor shall progress their demonstration activities of data integration/insertion techniques towards TRL 6 using the more representative data supplied by the Alt Nav Data Source Contractors as data sets alongside the ICDs. Additionally, other programmes within MOD are seeking to collect coherent Alt Nav data sets.



#### 4.5.3 WP 4.3 - Requirements Setting

Considering the developments arising from the Alt Nav supplier refined ICDs the Contractor shall refine information provided to the Authority to help define User requirements from the Data Merging function, framed as:

- a. Key User Requirements (KURs).
- b. Entries for the System Requirement Document (SRD).

### 5 Data Merging Deliverables

As part of the Data Merging project, the contractor is required to deliver:

**Table 2 Data Merging Deliverables**

<b>Project Phase</b>	<b>Deliverables</b>	<b>Associated Activities</b>	<b>Due Date</b>
<b>Kick-off Meeting</b>	Project Management brief - compatible with MS Office	Work Breakdown Schedule Resource plan Risk Management	Project Start + 1 month.
	Technical Brief - compatible with MS Office	Plans for architecture studies Plans for engagement with Alt Nav PNT data source suppliers and interface refinement Plans for technology de-risking and demonstrator development Plans for SET-309 engagement Plans for tests and demonstrations.  Discuss <ul style="list-style-type: none"> <li>- MoD's Assured PNT framework</li> <li>- Long-term Safety and Security requirements</li> <li>- Long-term QA requirements</li> <li>- Through Life Support</li> </ul>	
	Written Meeting Minutes - compatible with MS Office		
<b>Drum-beat meetings</b>	Project Management brief - compatible with MS Office	Progress against delivery schedule and WBS Provision of monthly % complete accruals data Resources update Risk Management update	
	Technical brief - compatible with MS Office	Progress on architecture studies Progress on engagement with Alt Nav PNT data source suppliers and interface refinement Progress technology de-risking and demonstrator development	

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		Progress on SET-309 engagement Progress on planning for/conduct of tests and demonstrations.	
	Commercial brief - compatible with MS Office	GFx Payment	
<b>Tests Demonstrations</b>	Project Management brief - compatible with MS Office	Progress against WBS Resources update Risk Management update	
	Technical brief - compatible with MS Office	Progress on Application/Exploitation Studies Progress on engagement with Alt Nav PNT data source suppliers Progress on technology development Progress on SET-309 engagement Progress on planning for/conduct of tests and demonstrations.	
	Commercial brief - compatible with MS Office	GFE Payment	
	Supplier shall demonstrate technology maturity. Provide any relevant evidence to support TRL maturity level assessment.	Demonstration of the system at up to TRL 6, to be held by the Supplier in presence of MoD and/or MoD approved SME (e.g., Dstl). Test/Trial reports	
<b>Close Out</b>	Project Management Brief - compatible with MS Office	Lessons learnt for PM activities Residual risks  Discuss - Way ahead for the programme	Deliverables due 6 weeks prior to close-out meeting
<b>Technical Report</b>	Technical report in a format compatible with MS Office to include: - Application/Exploitation (summarising the application's architectures and issues with References to the details thereof) with a section for each application including a functional description, dependencies, assumptions and limitations.	Discuss: Plans for future refinement/improvement of: <ul style="list-style-type: none"> <li>○ TRL Maturity</li> <li>○ Achieved performance</li> <li>○ Physical characteristic</li> <li>○ Assuredness characteristic</li> <li>○ Residual Technical Risks</li> </ul> <ul style="list-style-type: none"> <li>- Long-term Safety and Security requirements</li> <li>- Long-term QA requirements</li> <li>- Long-term Through Life</li> </ul>	

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	<ul style="list-style-type: none"> <li>- Detailed descriptions of insertion options</li> <li>- Sit reps related to Alt Nav PNT data source suppliers' ICDs</li> <li>- Technology Development               <ul style="list-style-type: none"> <li>o Achieved TRL Maturity</li> <li>o Achieved performance</li> <li>o Achieved physical characteristics</li> <li>o Residual Technical Risks</li> </ul> </li> <li>- Technology roadmap showing clear route to achieving TRL 8.</li> <li>- Lessons learnt from SET 309</li> <li>- Lessons learnt from Data Merging development activities</li> <li>- Risks and Issues identified</li> <li>- Draft KURs</li> <li>- Draft SRD entries</li> </ul>	Support	
	Commercial brief - compatible with MS Office	Lessons learnt for commercial activities Payment	

## 6 Annex A – GFx

### Available now:

- Existing, industry standard ICDs
  - Mil GPS - GPS ICD-153 (available from the UK GNSS PO)
  - Open Signal GNSS - [NMEA-0183](#)
  - Inertial Measurement Unit - STANAG 4572 Open System Architecture Interface to enable simulator laboratory testing of integrated INS/GPS equipment (e.g. using SPIRENT's [Sim INERTIAL](#) simulation capability (or equivalent)).
  - STANAG 4278 Method of Expressing Navigation Accuracies
- Alt Nav PNT Data Source draft ICDs
  - Teledyne Resilient Timing - [Performance & Interface requirements matrix](#)
  - Roke SOO - [Demonstrator Interface Specification](#)
  - MBDA Visual Nav - [Interim ICD](#)
  - Draft STANAG 5645 GNSS Receiver Sensor Host ICD.
- Generic GNSS Rx SRD  
Technology Road Map Template
- MoD's Assured PNT framework

### Anticipated to become available:

- EDP determined architectural diagrams and interface details.
- Alt Nav PNT Data Source refined ICDs
  - Teledyne Resilient Timing - Performance & Interface requirements matrix V1.0 (November 2022)
  - Roke SOO - Demonstrator Interface Specification V1.0 (August 2022)
  - MBDA Visual Nav – ICD V1.0 (August 2022)
  - Roke Visual Nav ICD V1.0 (August 2022)
  - Horiba Mira Visual Nav ICD V1.0 (August 2022)
  - QinetiQ SOO ICD V1.0 (July 2022)

Data sets from the Alt Nav PNT Data Source contractors from laboratory and field trials.

- STANAG 5645 GNSS Receiver Sensor Host ICD.

## 7 Annex B – Assured PNT

A set of design principles will be required to enable this evolving, 'All Source', Assured PNT concept. Assured PNT is achieved through a combination of characteristics with the required level of Assuredness determined by the nature of the application and the threats that it faces. Assuredness is made up from a range of characteristics:

- 1) Performance/Quality of Service -
  - a) Availability
  - b) Continuity
  - c) Accuracy
- 2) Security - has implemented risk management measures for:
  - a) Information security (e.g., cyber defence)
  - b) Physical security (e.g., supply chain)
  - c) Personnel security (e.g., clearance of those involved in the service/supply chain)
  - d) Safety
- 3) Robustness - each sub-system contains design measures to achieve dependability e.g:
  - a) Anti-interference (e.g., noise or dazzle)
  - b) Anti-deception
  - c) Design Assurance
- 4) Resilience - sub-systems can be combined and integrated through modularity
  - a) Source data diversification
  - b) Source data redundancy
  - c) Managed degradation and recovery
  - d) Designed to enable intelligent recovery

The characteristics described above are to be applied to:

- 1) Each part of the system that conditions the source signals.
- 2) Each source of PNT information that contributes to an application.
- 3) The higher-level functions of the application:
  - a) Data Fusion/Integration schemes
  - b) The process of directing a platform's movement from one location to another (including waypoints etc.)
  - c) The presentation of PNT information to the user.
  - d) Geospatial library data for the user (e.g., geospatial data, maps, etc)
  - e) Each part of a System of System that processes PNT information for higher-level capability purposes (tracking, situational awareness, etc).
- 4) There are design principles that enable the optimisation of performance and the coherence of technology solutions that will be available to support the Assured PNT vision over time:
  - a) Modularity and scalability of each element of the PNT System of Systems architecture
  - b) Open System architectures.

- c) Non-proprietary, government-controlled interfaces to carry source meta-data, common to all sources of PNT information.
- d) Tools such as data models should be defined in human readable, data serialization language (like ASN-1) which is not implementation specific for programming language or data transport layer.

## 8 Annex C – Key Capability Needs

Table 3 below provides an indication of Assured PNT at an enterprise level to meet Defence's mission requirements and contribution to National Security Objectives.

**Table 3 KUR's associated with Assured PNT**

KUR	Description
Timing	The capability shall provide a service that enables the accurate determination of common time.
Position	The capability shall provide a service that will enable the determination of position and orientation (absolute position, orientation relative to the horizontal plane, and derivatives thereof, in 3 dimensions).
Assuredness	The Capability for UK Defence utility shall meet the required level of Assuredness and accreditation for contested military operations.
Service Volume	The capability shall be available day and night, in all environments, in all weathers, across the entire Service Volume (up to 50,000km) and without limits on the number of users.
Readiness	PNT capability shall be available to the users within mission timelines.
Enduring Capability	The capability shall be designed for enduring operational capability at the outset with provisions for overcoming developments in the threat throughout its service life.
Interoperability	The capability shall be interoperable with UK and 'partner of choice' Defence systems.
Freedom of Action	The capability shall contribute to Freedom of Action and to Operational Advantage, through resilience and Assured access to PNT.
NavWar Coherence	The capability shall be coherent with, and support, overall Defence Navigation Warfare Operations.
Navigation	The capability shall enable the ability to navigate (plan and follow a route to a destination with 12 Degrees of Freedom (DoF)).

Table 4 below provides an indication Assured PNT at the Alt Nav end user level to meet Defence's mission requirements.

**Table 4 Key Capability Requirements associated with Assured PNT**

Key Capability Requirements	Descriptor
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24/7/365	The capability shall have the ability to operate continuously and maintain accuracy of service, system availability and system integrity at all times of day and includes both day and night operation all year round.
Low Space, Weight, Power and Cost (SWaPC)	The capability shall be low space, weight, power and cost (SWaPC).
Unlimited Number of Users	There shall be no limit on the number of users that may be accommodated and provisioned at any given time or position.
Zero Field Deployed Infrastructure	The capability shall have the ability to operate without the need to deploy any supporting infrastructure in the field of operation.
Self-Initialising	The capability shall have the ability to operate without the need to be initialised or receive data from another system.
Soft Kill	The capability shall have the ability to provide resilience and countermeasures to cyber-attack, jamming, dazzling and spoofing.
Global	The capability shall have the ability to operate across all operational regions, in all environments, on all points of the globe.
All Weather	The capability shall have the ability to operate in all weather conditions, including zero visibility.
Legal and Safety	The capability shall be legal and safe to operate, being compliant with all legal requirements and health and safety legislation.
UK Freedom of Action	The capability shall be able to operate without reliance on a single non-UK nation.
Absolute Position	The capability shall provide 2D position information based on the WGS84 standard.
Universal Time Coordinated (UTC)	The capability shall provide UTC timing information.
Interoperability	The capability shall operate in coalition with our international partners, utilising common PNT sources, datums and co-ordinate systems and ensuring our resilience to the offensive countermeasures that they may employ.
GNSS Independent	The capability shall not be reliant on GNSS.

## 9 Annex D – Guide to TRL Definitions

TRL 1	Basic principles observed and reported.
TRL 2	Technology concept and/or application formulated.
TRL 3	Analytical and experimental critical function and/or characteristic proof-of-concept.
TRL 4	Technology basic validation in a laboratory environment.
TRL 5	Technology basic validation in a relevant environment.
TRL 6	Technology model or prototype demonstration in a relevant environment.
TRL 7	Technology prototype demonstration in an operational environment.
TRL 8	Actual Technology completed and qualified through test and demonstration.
TRL 9	Actual Technology qualified through successful mission operations.



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**10 Applicable Standards that the Contractor must Adhere to**

<b>Ser</b>	<b>Standard Title</b>
1	AQAP 2110 Edition D Version 1 NATO Quality Assurance Requirements for Design Develop and Production, Certificate of Conformity in accordance with DEFCON 627
2	AQAP 2210 Edition A Version 2 – NATO Supplementary Software Quality Assurance Requirements to AQAP 2110 or AQAP 2310
3	Def Stan 00-51, Pt 1, Issue 1, Environmental Management Requirements for Defence Systems Part 1: Requirements
4	Def Stan 00-51, Pt 2, Issue 1, Environmental Management Requirements for Defence Systems Part 2: Guidance
5	Def Stan 00-056, Pt 1, Issue 7, Safety Management Requirements for Defence Systems Part 1: Requirements
6	Def Stan 00-056, Pt 2, Issue 5, Safety Management Requirements for Defence Systems Part 2: Guidance on Establishing a Means of Complying with Part 1.
7	Def Stan 00-600, Pt1, Issue3, Integrated Logistics Support requirements for MOD projects Part: 01: Integrated Logistics Support (ILS) Requirements

## 11 Annex E – Guide to Representative Platforms

This is the list of platforms chosen as a representative of their domains for the EDP outputs.

Type	Platform	Mission Type
Air	P8-A	Air Support - ISTAR
Air	Typhoon or Tempest	Air Support - Fighter
Unmanned Air	LANCA	Unmanned Air - Combat
Air	Apache	Air Support - Fighter (Rotary)
Weapon	SPEAR (Cap 5/Cap 3)	Precision Guided - Missile
Maritime	HMS Magpie	Surface vessel - Patrol/Survey
Maritime	Dreadnought or Astute	Underwater - Submarine
Maritime	REMUS	Underwater - Countermeasure
Land	AJAX	Armoured Combat
Land	Sky Sabre	Integrated Anti Weapon System
Dismounted Infantry	DSA	Portable - Situation Awareness

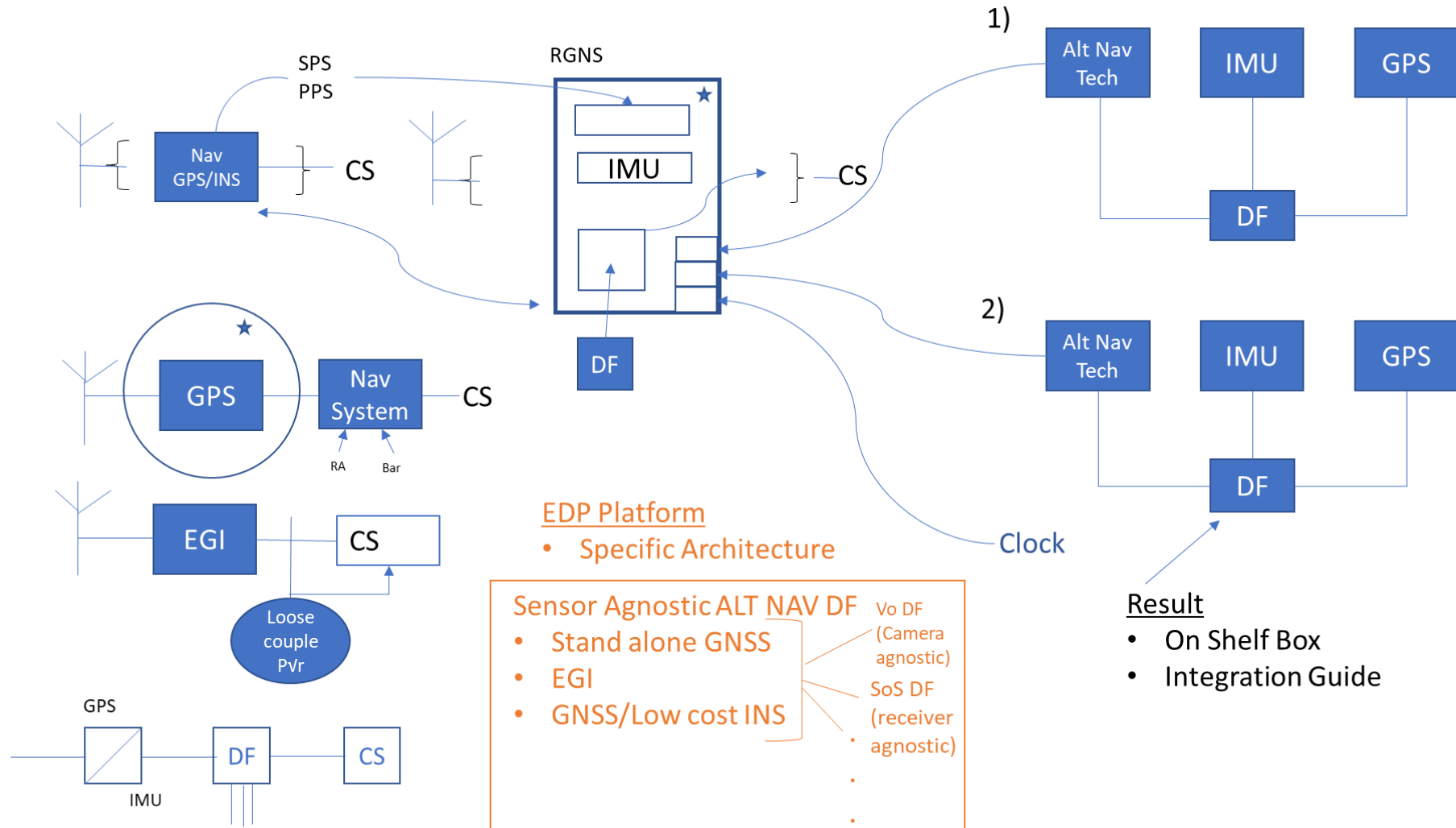
## 12 Annex F – Acronym/Abbreviation List

	Definition	Remarks
Alt Nav	Alternative Navigation	
ASPN	All-Source Position and Navigation	
DE&S	Defence, Equipment and Support	
DF	Data Fusion	
DoF	Degrees of Freedom	
Dstl	Defence, Science and Technology and Laboratory	
EDP	Engineering Delivery Partner	
EGI	Embedded GPS/INS	
GFE	Government Funded Equipment	
GNSS	Global Navigation Satellite System	
GPS	Global Positioning System	
ICD	Interface Control Document	
IMU	Inertial Measurement Unit	
INS	Inertial Navigation System	
KUR	Key User Requirement	
MoD	Ministry of Defence	
MoDAF	Ministry of Defence Architecture Framework	
NATO	North Atlantic Treaty Organization	
NATO STO	NATO Science and Technology Organisation	
NAVWAR	Navigation Warfare	
PM	Project Manager	
PNT	Position, Navigation, and Timing	
POC	Point of Contact	
QA	Quality Assurance	
SAL	Security Aspects Letter	
SET	Sensors and Electronic Technology	

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SOO	Signals of Opportunity	
SoS	System of Systems	
SRD	System Requirements Document	
TOGAF	The Open Group Architecture Framework	
TRL	Technology Readiness Level	
URD	User Requirements Document	
VN	Visual Navigation	
WBS	Work Breakdown Structure	
WP	Work Package	

## 13 Annex G – Examples of Alt Nav Integration Configurations



**Figure 1 Alt Nav Integration Configuration Illustrative Examples**

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**ANNEX B to SCHEDULE 2 – SECURITY ASPECTS LETTER**

***The information in this Annex B to Schedule 2 – Security Aspects Letter has been redacted due to the security classification.***

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***The information in this Annex B to Schedule 2 – Security Aspects Letter has been redacted due to the security classification.***

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***The information in this Annex B to Schedule 2 – Security Aspects Letter has been redacted due to the security classification.***

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**Schedule 3 - Contract Data Sheet**

<b>General Conditions</b>
<b>Condition 2 – Duration of Contract:</b>  The Contract expiry date shall be: 2023/03/31 23:59:59
<b>Condition 4 – Governing Law:</b>  Contract to be governed and construed in accordance with:  English Law  Solicitors or other persons based in England and Wales (or Scotland if Scots Law applies) irrevocably appointed for Contractors without a place of business in England (or Scotland, if Scots Law applies) in accordance with clause 4.g (if applicable) are as follows:  Not Applicable
<b>Condition 7 – Authority’s Representatives:</b>  The Authority’s Representatives for the Contract are as follows:  Commercial: Thomas Shields (as per Annex A to Schedule 3 (DEFFORM 111))  Project Manager: Maria Badel (as per Annex A to Schedule 3) (DEFFORM 111))
<b>Condition 18 – Notices:</b>  Notices served under the Contract shall be sent to the following address:  Authority: MOD Abbey Wood, Spruce 1C, Bristol, BS34 8JH (as per Annex A to Schedule 3 (DEFFORM 111))  Contractor: TBC  Notices can be sent by electronic mail? Yes
<b>Condition 19.a – Progress Meetings:</b>  The Contractor shall be required to attend the following meetings:  Monthly
<b>Condition 19.b – Progress Reports:</b>  The Contractor is required to submit the following Reports:  Monthly

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Reports shall be Delivered to the following address:

Maria.Badel100@mod.gov.uk

**Supply of Contractor Deliverables**

**Condition 20 – Quality Assurance:**

Is a Deliverable Quality Plan required for this Contract? No

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:

Please See Annex A to Schedule 2 Statement of Requirements

**Condition 21 – Marking of Contractor Deliverables:**

Special Marking requirements:

Not Applicable

**Condition 23 - 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 – [DESTech-QSEPEnv-HSISMulti@mod.gov.uk](mailto:DESTech-QSEPEnv-HSISMulti@mod.gov.uk)

to be Delivered no later than one (1) month prior to the Delivery Date for the Contract Deliverable or by the following date: 2022/08/19 00:00:00

**Condition 24 – 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: 2022/08/19 00:00:00

**Condition 25 – Certificate of Conformity:**

Is a Certificate of Conformity required for this Contract? Yes

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Applicable to Line Items: 1, 2, 3 & 4

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

No

Applicable to Line Items:

**Condition 27.b – Delivery by the Contractor:**

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

1 (Core)

2,3&4 subject to options being activated

Special Delivery Instructions:

Not Applicable

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

**Condition 27.c - Collection by the Authority:**

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

Not Applicable

Special Delivery Instructions:

Not Applicable

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

Consignor details (in accordance with Condition 27.c.(4)):

Line Items: Not Applicable Address: Not Applicable

Line Items: Not Applicable Address: Not Applicable

Consignee details (in accordance with condition 22):

Line Items: Not Applicable Address: Not Applicable

Line Items: Not Applicable Address: Not Applicable

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<p><b>Condition 29 – Rejection:</b></p> <p>The default time limit for rejection of the Contractor Deliverables is thirty (30) days unless otherwise specified here:</p> <p>The time limit for rejection shall be 30 Business Days.</p>
<p><b>Condition 31 – Self-to-Self Delivery:</b></p> <p>Self-to-Self Delivery required?    No</p> <p>If required, Delivery address applicable:</p> <p>Not Applicable</p>
<p><b>Pricing and Payment</b></p>
<p><b>Condition 34 – Contract Price:</b></p> <p>All Schedule 2 line items shall be FIRM Price other than those stated below:</p> <p>Line Items    Not Applicable</p> <p>Clause 46. Not Applicable refers</p>
<p><b>Termination</b></p>
<p><b>Condition 41 – Termination for Convenience:</b></p> <p>The Notice period for terminating the Contract shall be twenty (20) days unless otherwise specified here:</p> <p>The Notice period for termination shall be    Business Days</p>
<p><b>Other Addresses and Other Information</b> <i>(forms and publications addresses and official use information)</i></p>
<p>See Annex A to Schedule 3 (DEFFORM 111)</p>

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

**Contract No:**

**Authority Changes**

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

**Notice of Change**

3. If the Authority wishes to propose a Change or Changes, it shall serve a written notice (an "Authority Notice of Change") on the Contractor.
4. The Authority Notice of Change shall set out the Change(s) proposed by the Authority in sufficient detail to enable the Contractor to provide a written proposal (a "Contractor Change Proposal") in accordance with clauses 7 to 9 (inclusive).
5. The Contractor may only refuse to implement a Change or Changes proposed by the Authority, if such change(s):
  - a. would, if implemented, require the Contractor to deliver any Contractor Deliverables under the Contract in a manner that infringes any applicable law relevant to such delivery; and/or
  - b. would, if implemented, cause any existing consent obtained by or on behalf of the Contractor in connection with their obligations under the Contract to be revoked (or would require a new necessary consent to be obtained to implement the Change(s) which, after using reasonable efforts, the Contractor has been unable to obtain or procure and reasonably believes it will be unable to obtain or procure using reasonable efforts); and/or
  - c. would, if implemented, materially change the nature and scope of the requirement (including its risk profile) under the Contract;  
and:
  - d. the Contractor notifies the Authority within 10 (ten) Business Days (or such longer period as shall have been agreed in writing by the parties) after the date of the Authority Notice of Change that the relevant proposed Change or Changes is/are a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c providing written evidence for the Contractor's reasoning on the matter; and
  - e. further to such notification:
    - (1) either the Authority notifies the Contractor in writing that the Authority agrees, or (where the Authority (acting reasonably) notifies the Contractor that the Authority disputes the Contractor's notice under Clause 5.d) it is determined in accordance with Condition 40 (Dispute Resolution), that the relevant Change(s) is/are a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c; and
    - (2) (where the Authority either agrees or it is so determined that the relevant Change(s) is/are a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c) the Authority fails to make sufficient adjustments to the relevant

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Authority Notice of Change (and issue a revised Authority Notice of Change) to remove the Contractor's grounds for refusing to implement the relevant Change under Clauses 5.a, 5.b and/or 5.c within 10 (ten) Business Days (or such longer period as shall have been agreed in writing by the parties) after:

- i) the date on which the Authority notifies in writing the Contractor that the Authority agrees that the relevant Change(s) is/are a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c); or
  - ii) the date of such determination.
6. The Contractor shall at all times act reasonably, and shall not seek to raise unreasonable objections, in respect of any such adjustment.

**Contractor Change Proposal**

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

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

(1) the Authority has agreed with the Contractor's conclusion so notified or it is determined under Condition 40 (Dispute Resolution) that the relevant Change(s) is/are a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c and the Authority has made sufficient adjustments to the relevant Authority Notice of Change (and issued a revised Authority Notice of Change(s)) to remove the Contractor's grounds for refusing to implement the relevant Change(s) under Clauses 5.a, 5.b and/or 5.c) fifteen (15) Business Days (or such other period as the parties shall have agreed (both parties acting reasonably) having regard to the nature of the Change(s)) after the date on which the Contractor shall have received such revised Authority Notice of Change; or

(2) the Authority has disputed such conclusion and it has been determined in accordance with Condition 40 (Dispute Resolution) that the relevant Change(s) is/are not a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c) fifteen (15) Business Days (or such other period as the parties shall have agreed (both parties acting reasonably) having regard to the nature of the Change(s)) after the date of such determination,

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

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

- a. the effect of the Change(s) on the Contractor's obligations under the Contract;
- b. a detailed breakdown of any costs which result from the Change(s);
- c. the programme for implementing the Change(s);
- d. any amendment required to this Contract as a result of the Change(s), including,

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where appropriate, to the Contract Price; and

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

**Contractor Change Proposal – Process and Implementation**

- 10. As soon as practicable after the Authority receives a Contractor Change Proposal, the Authority shall:
  - a. evaluate the Contractor Change Proposal; and
  - b. where necessary, discuss with the Contractor any issues arising (and (in relation to a Change(s) proposed by the Authority) following such discussions the Authority may modify the Authority Notice of Change) and the Contractor shall as soon as practicable, and in any event not more than ten (10) Business Days (or such other period as the Parties shall have agreed in writing) after receipt of such modification, submit an amended Contractor Change Proposal.
- 11. As soon as practicable after the Authority has evaluated the Contractor Change Proposal (amended as necessary) the Authority shall:
  - a. either indicate its acceptance of the Change Proposal by issuing an amendment to the Contract in accordance with Condition 6 (Formal Amendments to the Contract), whereupon the Contractor shall promptly issue to the Authority the Contractor's DEFFORM 10B indicating their unqualified acceptance of such amendment in accordance with, and otherwise discharge their obligations under, such Condition and implement the relevant Change(s) in accordance with such proposal; or
  - b. serve Notice on the Contractor rejecting the Contractor Change Proposal and withdrawing (where issued in relation to a Change or Changes proposed by the Authority) the Authority Notice of Change (in which case such notice of change shall have no further effect).
- 12. If the Authority rejects the Contractor Change Proposal, it shall not be obliged to give its reasons for such rejection.
- 13. The Authority shall not be liable to the Contractor for any additional work undertaken or expense incurred in connection with the implementation of any Change(s), unless a Contractor Change Proposal has been accepted by the Authority in accordance with Clause 11.a and then subject only to the terms of the Contractor Change proposal so accepted.

**Contractor Changes**

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

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

**Contract No:**

Contract No:
Description of Contractor's 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:



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

**Data Requirements** for Contract No: \_\_\_\_\_

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

Contract No:

Contract Title:

Contractor:

Date of Contract:

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

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

Contractor's Signature:

Name:

Job Title:

Date:

\* check box (TT) as appropriate

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.....  
To be completed by the Authority

Domestic Management Code (DMC):

NATO Stock Number:

Contact Name:

Contact Address:

Copy to be forwarded to:

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

Emails to be sent to:

DESTECH-QSEPEnv-HSISMulti@mod.gov.uk

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

The following information is provided in respect of condition 24 (Timber and Wood-Derived Products):

<b>Schedule of Requirements item and timber product type</b>	<b>Volume of timber Delivered to the Authority with FSC, PEFC or equivalent evidence</b>	<b>Volume of timber Delivered to the Authority with other evidence</b>	<b>Volume (as Delivered to the Authority) of timber without evidence of compliance with Government Timber Procurement Policy</b>	<b>Total volume of timber Delivered to the Authority under the Contract</b>

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**Schedule 8 - Acceptance Procedure (i.a.w. condition 28)**

**Contract No:**

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**Schedule 9 - Stage Payment Plan**

Stage Payment Plan completed with values to be Submitted by Tenderer during Tender Process.

Payment no.	Description	Date	Percentage
1	Progress 1 - Kick off meeting	No later than end August 2022	2.00%
2	Progress 2 - Progress Update	No later than end Sept 2022	2.00%
3	<b>Delivery of Interim Report</b>	No later than end Oct 2022	10%
5	Progress 3 - Progress Update	No later than end Nov 2022	2.00%
6	Progress 4 - Progress Update	No later than end Dec 2022	2.00%
7	Progress 5 - Progress Update	No later than end Jan 2023	2.00%
8	<b>Delivery of Concept Demo</b>	No later than end Feb 2023	20%
9	<b>Delivery of Final Report</b>	No later than end Mar 2023	30.00%
Subtotal			70%
10	Schedule 2 Line item 2 (Option)	TBC	10%
11	Schedule 2 Line item 3 (Option)	TBC	10%
12	Schedule 2 Line item 4 (Option)	TBC	10%
Subtotal			30%
Total			<b>100%</b>

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**Schedule 10 - Contractor's Key Personnel**

To be completed during ITT.

**DEFFORM 111**

**DEFFORM 111**

**Appendix - Addresses and Other Information**

**1. Commercial Officer**

Name: Thomas Shields

Address: MOD Abbey Wood, Spruce 1C, Bristol, BS34 8JH

Email: Thomas.shields101@mod.gov.uk (( 07812 461417

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

Name: Maria Badel

Address MOD Abbey Wood, Spruce 1C, Bristol, BS34 8JH

Email: Maria.Badel100@mod.gov.uk (( 07974 600311

**3. Packaging Design Authority Organisation & point of contact:**

N/A

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

(( N/A

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

Branch/Name: N/A

((N/A

**(b) U.I.N.** N/A

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

**6. Intentionally Blank**

**7. Quality Assurance Representative:** Alex Williams

Commercial staff are reminded that all Quality Assurance requirements should be listed under the General Contract Conditions.

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

**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

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Street, Manchester, M1 2WD  
(( 44 (0) 161 233 5394

**9. Consignment Instructions** The items are to be consigned as follows: N/A

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

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

Air Freight Centre

IMPORTS (( 030 679 81113 / 81114 Fax 0117 913 8943

EXPORTS (( 030 679 81113 / 81114 Fax 0117 913 8943

Surface Freight Centre

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

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

**B. JSCS**

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

JSCS Fax No. 01869 256837

Users requiring an account to use the MOD Freight Collection Service should contact [UKStratCom-DefSp-RAMP@mod.gov.uk](mailto:UKStratCom-DefSp-RAMP@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>

**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](mailto: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.**

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