

J THE PROJECT-SPECIFIC DEFCONs THAT APPLY TO THIS CONTRACT ARE.

DEFCON 624 (Edn 11/13)
DEF STAN 07-085

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The Schedules that apply to this Contract are:

- Schedule 7 — ~~Export Licence (i.a.w. clause A17.g)~~
- Schedule 8 — ~~Acceptance Procedure (i.a.w. condition K9)~~
- Schedule 9 Hazardous Articles, Materials or Substances Supplied Under the Contract:
Data Requirements
- Schedule 10 Timber and Wood-Derived Products Supplied under the Contract: Data
Requirements

MOD Core+ Conditions for the Supply of Services: Contract No: CB/BFG/0112

K Special Conditions of Contract

K1. Certificate of Conformity

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

b. ~~The Contractor shall consider the CofC to be a record in accordance with condition A23 (Contractor's Records).~~

c. ~~The Information provided on the CofC shall include:~~

~~(1) Contractor's name and address;~~

~~(2) Contractor unique CofC number;~~

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

~~(4) details of any approved concessions;~~

~~(5) acquirer name and organisation;~~

~~(6) Delivery address;~~

~~(7) Contract Item Number from Annex A to Schedule 2 (Schedule of Requirements for Associated Goods);~~

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

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

~~(10) quantities;~~

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

~~Exceptions or additions to the above are to be documented.~~

d. ~~Where Annex A to Schedule 2 (Schedule of Requirements for Associated Goods) 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 c. The Contractor shall ensure that this Information is available to the Authority through the supply chain, upon request in accordance with condition A23 (Contractor Records).~~

K2. Marking of Contractor Deliverables

a. The Contractor shall ensure that each Contractor Deliverable is marked clearly and indelibly:

(1) in accordance with the requirements specified in Schedule 3 (Contract Data Sheet, or if no such requirement is specified, with the MOD stock reference number, Nato Stock Number (NSN) or alternative reference number specified in Annex A to Schedule 2, (Schedule of Requirements for Associated Goods);

- (2) where the Contractor Deliverable has a limited shelf life, the marking shall include: the expiry date/date of manufacture, expressed as specified in Schedule 3 (Contract Data Sheet), or in the absence of such requirement, they shall be marked as month (letters) and year (last two figures); and
 - (3) ensure that any marking method used does not have a detrimental effect on the strength, serviceability or corrosion resistance of the Contractor Deliverables.
- b. Where it is not possible to mark a Deliverable with the required particulars, these should be included on the package in which the Deliverable is packed, in accordance with DEFCON 129.

K3. Supply of Hazardous Material or Substance in Contractor Deliverables

a. The Contractor shall establish if the Contractor Deliverables are, or contain, Dangerous Goods as defined in the regulations set out in this condition. Any that do shall be packaged for UK or worldwide shipment by all modes of transport in accordance with the following unless otherwise specified in Annex A to Schedule 2 (Schedule of Requirements for Associated Goods):

- (1) the Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO), IATA Dangerous Goods Regulations;
 - (2) the International Maritime Dangerous Goods (IMDG) Code;
 - (3) the Regulations Concerning the International Carriage of Dangerous Goods by Rail (RID); and
 - (4) the European Agreement Concerning the International Carriage of Dangerous Goods by Road (ADR).
- b. Certification markings, incorporating the UN logo, the package code and other prescribed information indicating that the package corresponds to the successfully designed type shall be marked on the Packaging in accordance with the relevant regulation.

c. As soon as possible and in any event within the period specified in Schedule 3 (Contract Data Sheet) (or if no such period is specified no later than one (1) month prior to the Delivery Date), the Contractor shall provide to the Authority's Representatives in the manner and format prescribed in Schedule 3 (Contract Data Sheet) and SC3 Core Plus Schedule "Hazardous Articles, Materials or Substances Supplied Under the Contract: Data Requirements":

- (1) a completed SC3 Core Plus Schedule "Hazardous Articles, Materials or Substances Supplied Under the Contract: Data Requirements", confirming whether or not to the best of its knowledge any of the Contractor Deliverables are Hazardous Contractor Deliverables; and
- (2) for each Hazardous Contractor Deliverable, a Safety Data Sheet containing the data set out at clause d., which shall be updated by the Contractor during the period of the Contract if it becomes aware of any new relevant data.

d. Safety Data Sheets, if required under clause c., shall be provided in accordance with the REACH Regulations (EC) No 1907/2006 and any additional information required by the Health and Safety at Work etc Act 1974 and shall contain:

- (1) Information required by the Chemicals (Hazardous Information and Packaging for Supply) (CHIP) Regulations 2009 and/or the Classification, Labelling and Packaging (CLP) Regulation 1272/2008 (whichever is applicable) or any replacement thereof;
- (2) where the Hazardous Contractor Deliverable is, contains or embodies a Radioactive substance as defined in the Ionising Radiation Regulations SI 1999/3232,

details of the activity, substance and form (including any isotope);

(3) where the Hazardous Contractor Deliverable has magnetic properties, details of the magnetic flux density at a defined distance, for the condition in which it is packed; and

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

e. The Contractor shall retain its own copies of the Safety Data Sheets provided to the Authority in accordance with clause d. for four (4) years after the end of the Contract and shall make them available to the Authority's Representatives on request.

f. Nothing in this Condition reduces or limits any statutory or legal obligation of the Authority or the Contractor.

K4. 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 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 complies with the requirements of clauses a. or 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 c, the Contractor may satisfy these requirements by giving details of the previous notification and confirming the Evidence remains valid and satisfy the provisions of clauses a. and b.

f. The Contractor shall maintain records of all Timber and Wood-Derived Products Delivered to and accepted by the Authority, in accordance with condition A23.

g. Notwithstanding clause 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 clauses a. and 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 b.

i. The statistical reporting requirement at clause 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 A2.

j. The Contractor shall provide to the Authority, a completed SC3 Core Plus Schedule "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 an Framework Agreement, or at such other frequency as stated in the Contract. The Contractor shall send all completed Schedules (as described in this clause j.), including nil returns where appropriate, to the Authority's Representative (Commercial) identified in the Appendix to Contract.

k. SC3 Core Plus Schedule "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 A2.

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

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

K5. Rejection

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

b. Rejection of any of the Contractor Deliverables under clause a. shall take place by the time limit for rejection specified in Schedule 3 (Contract Data Sheet), or if no such period is specified within 20 (twenty) Business Days.

K6. 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 shown therein and in the explanatory notes, the appropriate coloured copy of MOD Form 640, or a Delivery note;

(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 for Associated Goods) by the Delivery Date between the hours agreed by the Parties;

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

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

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

(3) ensure that each consignment of the Contractor Deliverables is accompanied by, (as specified in Schedule 3 (Contract Data Sheet)), a DEFFORM 129J in accordance with the instructions shown therein and in the explanatory notes, the appropriate coloured copy of MOD Form 640, or a Delivery note;

(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 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 c.

K7. Self to Self Delivery

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

K8. Acceptance

a. Acceptance of the Contractor Deliverables shall occur in accordance with any acceptance procedure specified in SC3 Core Plus Schedule "Acceptance Procedure". If no acceptance procedure is so specified acceptance shall occur when either:

- (1) the Authority does 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 K5 .b has elapsed.

K9. Packaging and Labelling (excluding Contractor Deliverables containing Munitions)

a. The Contractor shall pack or have packed the Contractor Deliverables:

- (1) in accordance with any requirements specified in Annex A to Schedule 2, (Schedule of Requirements for Associated Goods) (which if represented by packing codes shall be interpreted by reference to DEFFORM 96 and DEF STAN 81-041 (Part 1));
- (2) to ensure that each Deliverable may be transported in an undamaged and serviceable condition.

b. The Contractor shall ensure that each package containing the Contractor Deliverables is labelled to include:

- (1) the name and address of the Consignor and Consignee as specified in Schedule 3 (Contract Data Sheet) including:
 - (a) the Delivery destination / address if not of the Consignee;
 - (b) the transit destination / address (for aggregation/disaggregation, onward shipment etc.);
- (2) the DEFFORM 129J in accordance with the instructions shown therein and in the explanatory notes, or the serial number of the MOD Form 640;
- (3) the description and quantity of the Contractor Deliverables enclosed;
- (4) the full 13 digit NATO Stock Number (NSN) where the UK is registered as a user of it, or, where the requirement does not have an NSN, with the alternative reference number specified in Annex A to Schedule 2, (Schedule of Requirements for Associated Goods);
- (5) the makers part, catalogue, serial or batch number as appropriate;
- (6) the Contract number (call off order numbers if Framework or as appropriate);
- (7) any statutory Hazard markings and any handling markings, including the mass of any package which exceeds 3kg;

- (8) the Packaging level (Military J, N or P, special H, Commercial A etc.) as specified in Annex A to Schedule 2, (Schedule of Requirements for Associated Goods);
- (9) where applicable, any particulars which cannot be marked on each Contractor Deliverable in accordance with clause K2.b;
- (10) any additional markings specified in Annex A to Schedule 2, (Schedule of Requirements for Associated Goods);
- (11) the Primary Packaged Quantity (PPQ) (if Trade Packaging); and
- (12) if Trade Packaging to be marked in blue "TRADE PACKAGE" or if Export Trade Packaging to be marked in black "EXPORT TRADE PACKAGING".

Where UK Military or NATO Packaging is required, labelling of the Contractor Deliverables shall be in accordance with DEF STAN 81-041 (Part 6) and clause b.

- c. Bar code markings shall be applied to the external surface of each package and to each PPQ package within. The minimum information shall include; the full 13 digit NSN, Denomination of Quantity (D of Q) see DEFFORM 96, actual quantity in package, Serial Number and/or batch number, if applicable. The bar code symbology used shall meet the requirements of STANAG 4329. Code 39 shall be the default symbology for the Packaging marking application. Requirements for positioning bar codes are defined in DEF STAN 81-041 (Part 6).
- d. Where the Contractor Deliverables are, or contain Dangerous Goods within the meaning of the regulations set out in clauses K3.a and K3.b, the Packaging level is always Trade or Export Trade Packaging not Military Level as noted in DEF STAN 81-041 (All Parts).
- e. Where UK Military or NATO Packaging is required, the Contractor shall meet the requirements as specified in Annex A to Schedule 2, (Schedule of Requirements for Associated Goods). The Contractor Deliverables shall be contained in packages which comply with the requirements of DEF STAN 81-041 (parts 1, 2 and 5) and be capable of meeting the appropriate test requirements of DEF STAN 81-041 (part 3).
- f. Where there is requirement to design UK Military or NATO level Packaging, the work shall be undertaken by a company which is registered and certified to Military Packaging Accreditation Scheme (MPAS), (ISO 9001 based), or which is able to demonstrate that its quality systems and Military package design expertise are of an equivalent standard. Military Level Packages shall be designed to comply with the relevant requirements of DEF STAN 81-041; testing to DEF STAN 81-041 (Part 3) or DEF STAN 00-035. Packaging designs shall be prepared on a Services Packaging Instruction Sheet (SPIS), in accordance with DEF STAN 81-041 (Part 4).
- g. New designs shall not be made where there is an existing SPIS or one that may be easily modified to be in accordance with the contract requirements, (see clause f.). Application should be made to the Project Team (PT) or other access point for a search to establish the SPIS status using DEFFORM 129a (Application for Packaging Designs and Authorisation for Package Design Work); media format as per clause j.
- h. Where there is a usable Standard Family Specification (SFS), it shall be used in place of a SPIS design.
- i. SPIS designs are maintained on a central Master Packaging Database (MPD), the SPIS Index (SPIN), held on the MOD design repository or other authorised secure servers, for monitoring by the MOD and review by MPAS certified contractors and the MOD.
- j. All SPIS, new or modified (and associated documentation) shall on completion be provided for uploading on to SPIN in the agreed electronic format which shall be Adobe "PDF" compatible with Adobe Acrobat version 5. Any other format shall be agreed between the Packaging Design Authority (PDA) and MOD and must be compatible with access to SPIN.
- k. Production of Military Level Packaging; where it is necessary to use a SPIS design the

Packaging manufacturer should also be a registered contractor as stated in clause g. The manufacturer is responsible for confirming that the design is suitable.

l. Minor alterations/updates and similar to existing designs may be carried out by MPAS Certificated designers, all major/significant changes and new designs need to be authorised by the Authority's Representative (Project Manager) (unless that power is delegated to a Prime or MPAS Registered company).

m. Intellectual Property Rights (IPR); the MOD shall retain the rights to the SPIS designs or to copy or use any information relating to them, if otherwise specified.

n. Where applicable one of the following procedures for the production of new or modified SPIS designs shall be applied:

(1) If the Contractor is the PDA, they shall:

(a) on receipt of instructions received from the Authority's Representative, (Project Manager), prepare the required package design in accordance with DEF STAN 81-041;

(b) where the Contractor is certified they shall, on completion of any design work, provide the Authority's Representative (Project Manager) 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 certified organisation, they shall obtain approval for their design from a certified organisation before proceeding, then continue with sub-clause n.(1)(b) of this condition.

(2) Where the Packaging contractor is not the PDA and is un-certified, they shall not produce, modify, or update etc SPIS Designs. They shall obtain current SPIS design(s) from SPIN or a certified organisation before proceeding with manufacture of Packaging. To allow designs to be provided in ample time, they shall apply for SPIS information as soon as practicable after receipt of Contract or order.

(3) Where the Contractor is un-certified and has been given authority to produce, modify, and update SPIS Designs by contract, they shall obtain approval for their design from a certified organisation before proceeding, then continue with sub-clause n (1)(b) of this condition.

(4) Where the Contractor is not a PDA but is certified; follow sub-clauses n (1)(a) and (b) of this condition.

The Contractor shall note that all documents supplied as SPIS designs shall be considered as Contract Data Requirement.

o. The Contractor shall comply with the requirements for the design of Military Packaging as follows:

(1) Where there is a requirement to design UK Military or NATO Level Packaging, the work shall be undertaken by a certified organisation, or one that although non-certified is able to demonstrate that its Quality Systems and Military Package Design expertise are of an equivalent standard.

The certification scheme (MPAS) detail is available from:

DES IMOC SCP Packaging
MOD Abbey Wood
Bristol, BS34 8JH
Tel. +44(0)30679-35353

(2) Military Level packages shall be designed to comply with the relevant requirements of DEF STAN 81-041, testing to DEF STAN 81-041 (Part 3) or DEF STAN 00-035. Packaging designs shall be prepared on a Services Packaging Instruction Sheet (SPIS), in accordance with DEF STAN 81-041 (Part 4);

(3) all Packaging contractors on receipt of a requirement shall search SPIN or apply for a search of SPIN to establish the SPIS status (using DEFFORM 129a 'Application for Packaging Designs or their Status', media format as per clause g.);

(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 Standard Family Specification (SFS), it shall be used in place of a SPIS design unless otherwise stated in this Contract. When an SFS is used or replaces a SPIS design, the Contractor shall upload this information as with SPIS, see clause f;

(6) all SPIS, new or modified (and associated documentation) shall on completion be provided for uploading on to SPIN in the agreed electronic format;

(7) the default electronic media format of a SPIS shall be Adobe "PDF" compatible with SPIN requirements;

(8) manufacture of Military Level Packaging; where it is necessary to use a SPIS design then the packaging manufacturer should also be a certified contractor as per clause a. The Packaging manufacturer is responsible for confirming that the design is suitable.

p. The Authority shall retain all Intellectual Property Rights (IPR) relating to the designs unless otherwise agreed in writing.

q. If special jigs, tooling etc., are required for the production of Military Packaging, the Contractor shall obtain written approval from the Authority's Representative (Commercial) before providing them.

K10. Overseas Expenditure

a. ~~The Contractor shall report, in writing, to the Authority details of any direct Overseas expenditure valued over £1 million likely to be incurred in the execution of the Contract immediately the possibility is known if such details were not furnished at the time of tendering. The details to be provided are as follows:~~

- ~~(1) Contract No;~~
- ~~(2) country in which subcontract placed/to be placed;~~
- ~~(3) name, division and full postal address of Subcontractor;~~
- ~~(4) value of subcontract as applicable to main Contract;~~
- ~~(5) date placed / to be placed.~~

b. ~~If no overseas orders valued over £1 million are to be placed, or are placed, the Contractor shall advise the Authority to this effect.~~

c. ~~For the purpose of clauses a. and b. Overseas expenditure comprises only those direct payments made by the Contractor to:~~

- ~~(1) Overseas firms; and~~

~~(2) — UK firms, including UK branches or subsidiaries of Overseas firms,~~

~~for the supply of finished or semi-finished manufactured products imported directly into the UK by the Contractor or by such UK firms.~~

~~d. — The Contractor shall submit any information required by clause a. to the Authority's Representative (Commercial).~~

K11. Import Licence

If, in the performance of the Contract, the Contractor needs to import materiel into the UK for which an import licence is required, the responsibility for applying for the licence shall rest with the Contractor. The Authority shall provide the Contractor with all reasonable assistance in obtaining any necessary import licence with regard to any defence or security issue that may arise.

K12. Export Licence

a. The Contractor shall notify the Authority promptly if the Contractor becomes aware that all or part of any Contractor Deliverable (including Information and software) to be delivered under the Contract is or will be subject to:

- (1) a non-UK export licence, authorisation or exemption; or
- (2) any other related transfer control,

that imposes or will impose end use, end user, re-transfer, 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 D1.

b. If requested by the Authority, the Contractor shall give the Authority a summary of every existing or expected licence and restriction referred to in clause a. and any related obligation or restriction to the extent that they place an obligation or restriction on the Authority with which the Authority must comply, including, to the extent applicable to such obligations or restrictions:

- (1) the exporting nation, including the export licence number (where known);
- (2) the Contractor Deliverables (including Information and software) affected;
- (3) the nature of the restriction and obligation;
- (4) the authorised end use and end users;
- (5) any specific restrictions on access by third parties, or by individuals based upon their nationality, to the Contractor Deliverables or to anything Delivered or used in the performance or fulfilment of the Contractor Deliverables; and
- (6) any specific restrictions on the end user or on re-transfer or re-export to third parties of the Contractor Deliverables or of anything Delivered or used in the performance or fulfilment of the Contractor Deliverables.

The Contractor shall not be required to disclose any of the provisos to a licence (or even the existence of them) to the extent that they do not relate to an obligation or constraint with which the Authority must comply.

c. When an export licence is required from a foreign government for the performance of the Contract, the Contractor shall promptly consult with the Authority on the licence requirements and, where the Contractor is the applicant for the licence:

- (1) ensure that when end use or end user restrictions, or both, apply to all or part of any Contractor Deliverable to be Delivered under the Contract, the Contractor, unless otherwise agreed with the Authority, identifies in the licence 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;

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

d. If the Information required under clauses a. and b. has been provided previously to the Authority by the Contractor, the Contractor may satisfy these requirements by giving details of the previous notification and confirming they remain valid and satisfy the provisions of clauses a. and b.

e. If the Contractor becomes aware of any changes in the Information notified previously under clauses a., b. or d. 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, the Contractor shall notify the Authority promptly of the change.

f. If the Contractor or any Subcontractor in the performance of the Contract needs to export materiel for which an export licence 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. The Authority shall provide all reasonable assistance in obtaining and maintaining any export licence from the foreign government with regard to any defence or security issue that may arise.

g. Where the Contract performance requires the export of items for which a foreign export licence is required, the Contractor shall include the dependencies for the export licence 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 an Export Licence Plan for agreement with the Authority.

h. The Authority may make a written request to the Contractor to seek a variation to the licence conditions to a foreign export licence to enable the Authority to re-export or re-transfer a licensed item or licensed information from the UK to a non-licensed third party. If the Authority makes such a request:

(1) the Contractor shall, or procure that the Contractor's Subcontractor will, 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 in accordance with the procedures of the licensing authority;

(2) the Authority shall provide sufficient Information, certification and other documentation necessary to support the application for the requested variation; and

(3) the Authority will pay the Contractor a fair and reasonable charge for this service based on the cost of providing it.

i. Where the Authority provides materiel (Information and items, including software) to enable the Contractor to perform the Contract, and that materiel is subject to a non-UK export licence or other related technology transfer control as described in the provisions of clause a.:

(1) the Authority may, or at the request of the Contractor, undertake to give the Contractor a summary of every non-UK export licence or other related technology transfer control of which it is aware that would affect the Contractor's ability to perform the Contract, including, to the extent applicable, to the Contractor's performance of the Contract:

(a) the exporting nation, including the export licence number (where known);

(b) the items or Information affected;

- (c) the nature of the restriction and obligation;
- (d) the authorised end use and end users;
- (e) any specific restrictions on access or use by third parties, or by individuals based upon their nationality, to the Items or information affected; and
- (f) any specific restrictions on re-transfer or re-export to third parties of the items or Information affected.

(2) this will not include Intellectual Property specific restrictions of the type mentioned in condition D1 (Third Party Intellectual Property – Rights and Restrictions) in relation to the Authority instead of the Contractor;

(3) the Contractor and its Subcontractors, where access by these restrictions is also authorised, shall abide by the lawful restrictions so notified by the Authority;

(4) the Contractor shall notify the Authority immediately if it is unable for whatever reason to abide by any restriction advised by the Authority to the Contractor under clause j.

j. Where restrictions are advised by the Authority to the Contractor under clause i, the Authority and the Contractor shall act promptly to mitigate their impact. If these restrictions adversely affect performance of the Contract, the restrictions shall be regarded as a change to the Specification and handled under the terms of condition A3 (Variations to Specification) and the Contract Price or Delivery schedule or both shall be adjusted as appropriate. If the Contractor is unable to perform the Contract as a result of these restrictions then the Authority shall consult with the Contractor on alternative solutions requiring amendment of the Contract under condition A2 (Amendments to Contract) and A3 (Variations to Specification) and may terminate the Contract if no alternative solution satisfies the essential terms of the Contract. Termination under these circumstances will be under the terms of condition A22 (Termination for Convenience).

k. Without prejudice to United Kingdom Government's position on the validity of any claim by a foreign government to extra-territoriality, the Authority undertakes to provide the Contractor with all reasonable assistance to facilitate the granting an export licence by a foreign Government in respect of performance of the Contract.

K13. ~~Key Performance Indicators and Performance Management~~

~~The Contractor's performance of the Contract shall be monitored and measured using the agreed Key Performance indicators (KPIs) within Section L of this Contract.~~

K14. ~~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. Where necessary the Authority may issue (or having issued, cancel) a Diversion Order for urgent Delivery of the Contractor Deliverables identified in it:~~

~~(1) where a Diversion Order is issued the Contractor Deliverables are to be Delivered by the quickest means available, unless otherwise directed;~~

~~(2) a Diversion Order which is beyond the scope of the Contract is to be returned immediately to the Authority's Representative (Commercial) with an appropriate explanation;~~

~~(3) if the terms of the Diversion Order are unclear, the Contractor shall contact the Authority's Representative who issued it immediately for clarification or further instruction, copying the Authority's Representative (Commercial) in on all correspondence;~~

~~(4) — the Contractor shall be entitled to any additional Delivery and Packaging costs generated in complying with the Diversion Order or cancellation thereof, claims for which are to be submitted by the Contractor to the Authority's Representative (Commercial) together with appropriate receipts and shall be priced and agreed in writing as an amendment to the Contract in accordance with condition A2. The Contractor shall not delay complying with the Diversion Order whilst awaiting agreement of any additional Delivery and Packaging costs.~~

K15. Copyright

- a. This Condition shall apply to all copyright works generated under the Contract, or delivered to the Authority under the provisions of the Contract, except that it shall not apply to copyright works consisting of technical data and software where such rights are granted elsewhere in the Contract.
- b. The Contractor shall use all reasonable endeavours to ensure that copyright in any work generated under the Contract shall be the property of and vest in the Contractor, subject to the rights of third parties in pre-existing works.
- c. The Contractor agrees not to publish any copyright work generated under the Contract without the consent in writing of the Authority. The Authority will not normally raise objection to publication unless delay or limited publication only is considered necessary in the national interest. The Authority will review, upon request by the Contractor, any such restriction on publication.
- d. The Authority shall have, in respect of any copyright work to which this Condition applies, a free licence:
- (1) to copy the work and to circulate and use the work or any copy thereof within any United Kingdom Government Department (which term includes the United Kingdom Armed Forces) provided that no part of the work nor any copy thereof shall, except with the prior written permission of the Contractor or pursuant to clauses b., c. or d. of this condition, be made available to any third party;
 - (2) to issue the work or any part of the work or any copy of the work or any part thereof to any contractor or agent for the purpose of use only in connection with a contract for the United Kingdom Government for the study, management, evaluation, and/or assessment of the work, provided that any such contractor or agent shall be placed under an obligation which restricts disclosure and use of such work to the said purpose;
 - (3) to issue the work or any part of the work or any copy of the work or any part thereof to the government of a nation who is a member of the EU or NATO or bodies forming part of said groupings, to the Governments of Australia, New Zealand and Japan or such other government(s) of nation(s) prescribed in the Contract, for information only, in pursuance of information exchange arrangements for defence purposes, provided that the recipient government is placed under an obligation not to use such work for other than information purposes or disclose it to a third party;
 - (4) to issue the work or any part of the work or any copy of the work or any part thereof to another supplier or potential supplier to the United Kingdom Government for the purpose of use only under a contract, or tendering for a proposed contract, for a United Kingdom Government purpose, provided that the supplier or potential supplier is placed under an obligation which restricts disclosure and use of such work to the said purposes.

Provided that, subject to any pre-existing rights of the Authority, clauses c. and d. shall only apply to the work or any part of the work or any copy of the work or any part thereof if such work or part thereof is generated under the Contract. Clauses c. and d. shall apply to all works or part thereof unless otherwise marked by the Contractor in accordance with clause f. below.

- e. As soon as it becomes aware that any copyright work or part thereof Delivered or proposed to be Delivered is a work subject to special conditions or any third party rights known to the Contractor, or is a work or part thereof not generated under the Contract, the Contractor

shall inform the Authority and upon Delivery shall appropriately mark such work or part thereof to identify the same and indicate the relevant conditions or rights.

f. The Contractor may mark or include in any copyright work to which this Condition applies a copyright notice provided that such copyright notice acknowledges the Authority's rights under this Condition. Any such notice shall be perpetuated in any copies of such work made by the Authority or any other United Kingdom Government Department or its agents or contractors.

g. This Condition shall constitute an "agreement to the contrary" for the purposes of Section 48 of the Copyright, Design and Patents Act 1988.

h. In this Condition "copyright work" shall be understood to include any works, data or other materials in which a database right subsists.

K16. Limitation of Contractor's Liability

a. ~~The Contractor's liability under, or in relation to, the contract shall be limited in respect of the risks as set out in Schedule 3.~~

b. ~~The Authority has agreed the limitations(s) to the Contractor's liability, as set out at Schedule 3, based on the risk assessment and proposed risk mitigation activities provided by the Contractor and set out at Schedule [X] of the contract.~~

c. ~~Nothing in this condition shall exclude or limit the Contractor's liability in respect of the following:~~

a. ~~Any liability arising under or by reason of the Contractor's indemnities granted to the Authority set out in DEFCONS 91 and 638 (SC3) or condition D1, as applicable;~~

b. ~~Death or personal injury;~~

c. ~~Fraud or fraudulent misrepresentation;~~

d. ~~Wilful misconduct.~~

Schedule 7 – Export Licence (i.a.w. clause A17.g) for Contract No: CB/BFG/0112

~~Condition to be included in relevant subcontracts~~

~~Export Licence~~

~~1. In this Condition the following words and expressions shall have the meanings set respectively against them:~~

- ~~a. “Agreement” means this subcontract;~~
- ~~b. “Authority” means the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland;~~
- ~~c. “Contract” means Contract No [insert MOD Contract No] between the Authority and the Contractor;~~
- ~~d. “Contractor” means [insert name of prime contractor];~~
- ~~e. “First Party” means [insert name of purchaser];~~
- ~~f. “Second Party” means [insert name of supplier].~~

~~2. In this Condition, “foreign” and “Overseas” shall be understood from the position of the Authority and be regarded as “non-UK”.~~

~~3. The Second Party shall notify the First Party promptly if the Second Party becomes aware that all or part of any article or service (including information and software) to be delivered under the Agreement is or will be subject to a non-UK export licence, authorisation or exemption or any other related transfer control that imposes or will impose end use, end user, re-export or re-transfer or re-export restrictions, or restrictions on disclosure to individuals based upon nationality, affecting the Authority, the Contractor or both. This does not include the Intellectual Property specific restrictions of the type referred to in condition D1 (Third Party Intellectual Property Rights and Restrictions) of the First Party’s Conditions of Contract.~~

~~4. If requested by the First Party, the Second Party shall give the First Party a summary of every existing or expected licence and restriction referred to in clause 3 and any related obligation or restriction to the extent that they place an obligation or restriction upon the First Party or the Authority with which the First Party or the Authority must comply, including to the extent applicable to such obligations or restrictions:~~

- ~~a. the exporting nation, including the export licence number (where known);~~
- ~~b. the article or service (including software and information) affected;~~
- ~~c. the nature of the restriction and obligation;~~
- ~~d. the authorised end use and end users and other parties;~~
- ~~e. any specific restrictions on access by third parties, or by individuals based upon their nationality, to the articles or to anything Delivered or used in the performance or fulfilment of the services; and~~
- ~~f. any specific restrictions on re-transfer or re-export of the articles or of anything Delivered or used in the performance or fulfilment of the services.~~

~~The Second Party shall not be required to disclose any of the provisos to a licence (or even the existence of them) to the extent that they do not relate to an obligation or constraint with which the First Party or the Authority must comply.~~

5. When an export licence is required from a foreign government for the performance of the Agreement, the Second Party shall promptly consult with the First Party on the licence requirements and, where the Second Party is the applicant for the licence:

a. ensure that when end use or end user restrictions, or both, apply to all or part of any Article or Service to be Delivered under the Contract, the Second Party, unless otherwise agreed with the Authority, identifies in the licence application:

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

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

b. include in the submission for the licence a statement that "information on the status of processing this licence application may be shared with the [insert name of the Contractor] and the Ministry of Defence of the United Kingdom";

c. include in the submission the information that the First Party (and any intermediary parties in the supply chain, as applicable) and the Contractor will be recipients and users of the items, including information, for the performance of the Contract.

6. If the information required under clauses 3 and 4 has been provided previously to the First Party by the Second Party, the Second Party may satisfy these requirements by giving details of the previous notification and confirming they remain valid and satisfy the provisions of clauses 3 and 4.

7. If the Second Party becomes aware of any changes in the information notified previously under clause 3, 4 or 6 that would affect the Contractor's or 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, the Second Party shall notify the First Party promptly of the change.

8. If the Second Party or any subcontractor in the performance of the Agreement needs to export materiel for which an export licence from a foreign government is required, the responsibility for instituting expeditious action to apply for and obtain the licence shall rest with the Second Party or that subcontractor. The First Party will liaise with his purchaser to enable the Authority to provide all reasonable assistance in obtaining and maintaining any export licence from the foreign government with regards to any defence or security issue that may arise.

9. Where the Agreement performance requires the export of items for which a foreign export licence is required, the Second Party shall include the dependencies for the export licence application, grant and maintenance in the Agreement risk register and in the risk management plan for the Agreement, with appropriate review points. Where there is no requirement under the Agreement for a risk management plan the Second Party shall submit an Export Licence Plan for agreement with the First Party.

10. The Authority may make a written request to the Contractor to seek a variation to the licence conditions to a foreign export licence to enable the Authority to re-export or re-transfer a licensed item or licensed information from the UK to a non-licensed third party. If the Authority makes such a request that is transmitted to the Second Party by the First Party, the Second Party shall, or procure that the Second Party's subcontractor will, expeditiously consider whether or not there is a reason why it should object to making the request and, where it has no such objection, file an application to seek a variation of the applicable export licence in accordance with the procedures of the licensing authority. The First Party shall provide information, certification and other documentation necessary to support the application for the requested variation that it has received. A fair and reasonable charge for this service based on the cost of providing it will be borne by the Authority.

11. Where the Second Party subcontracts work under the Agreement, which is likely to be subject to foreign export control, the Second Party shall use reasonable endeavours to incorporate in each subcontract the same terms as set out in these clauses 1-14. Where it is not practicable to include these said terms, the Second Party shall report that fact and the circumstances to the First Party.

12. — Where the First Party provides material (information and items, including software) to enable the Second Party to perform the Agreement, and that material is subject to a non-UK export licence or other related technology transfer control as described in clause 3:

a. — the First Party may, or at the request of the Second Party, undertake to, give the Second Party a summary of every non-UK export licence or other related technology transfer control of which it is aware that would affect the Second Party's ability to perform the Agreement including, to the extent applicable to the Second Party's performance of the Agreement:

(1) — the exporting nation, including the export licence number (where known);

(2) — the items or information affected;

(3) — the nature of the restriction and obligation;

(4) — the authorised end use and end users;

(5) — any specific restrictions on access or use by third parties, or by individuals based upon their nationality, to the items or information affected; and

(6) — any specific restrictions on re-transfer or re-export to third parties of the items or information affected.

b. — This will not include Intellectual Property specific restrictions of the type mentioned in condition D1 (Third Party Intellectual Property — Rights and Restrictions) in relation to the First Party's Conditions of Contract instead of the Contractor.

c. — The Second Party and its subcontractors, where access by these restrictions is also authorised, shall abide by the lawful restrictions so notified by the First Party.

d. — The Second Party shall notify the First Party immediately if it is unable for whatever reason to abide by any restriction advised by the First Party to the Second Party under clause 12.

13. — Where restrictions are advised by the First Party to the Second Party under clause 12, the First Party and the Second Party shall act promptly to mitigate their impact. If these restrictions adversely affect performance of the Agreement by the Second Party, then the First Party shall consult with the Second Party on alternative solutions and the terms of the Agreement shall be amended to give effect to the agreed solution. If no alternative solution satisfying the essential terms of the Agreement is agreed by the Parties then the First Party shall have the right to terminate the Agreement. Termination under these circumstances will be in accordance with the principles of condition A22 (Termination for Convenience) of the First Party's Conditions of Contract.

14. — Without prejudice to United Kingdom Government's position on the validity of any claim by a foreign government to extra-territoriality, the Authority has undertaken to provide the Second Party with all reasonable assistance to facilitate the granting an export licence by a foreign Government in respect of performance of the Agreement.

Schedule 8 Acceptance Procedure for Contract No: CB/BFG/0112

NOT USED

**Schedule 9 - Hazardous Articles, Materials or Substances Supplied under the
Contract: Data Requirements**

**Hazardous Articles, 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 Articles, 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 the SC3 Core Plus condition "Supply of Hazardous Material or Substance in Contractor Deliverables".

Contractor's Signature:

Name:

Job Title:

Date:

* check box () as appropriate

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 (MTR)
Hazel Building Level 1, #H019
MOD Abbey Wood (North)
Bristol BS34 8QW

Schedule 10 - Timber and Wood - Derived Products Supplied under the Contract: Data Requirements

Contract No: CB/BFG/0112

The following information is provided in respect of SC3 Core Plus condition "Timber and Wood-Derived Products":

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