



Ministry of Defence

Dismounted Close Combat Team

Contract No: 701577419

For:

**Procurement and Support of an
Armalite Rifle (AR) platform
Alternative Individual Weapon (AIW) System for the
Army Special Operations Brigade (ASOB)**

**Between the Secretary of State for Defence of
the United Kingdom of Great Britain and
Northern Ireland**

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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

- a. 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

- a. 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.c, the Contract shall be considered as a contract made in England and subject to English Law.
- b. Subject to clause 4.c 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.c 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 0, 4.a and 4.b 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 3939.a shall be amended to read:

“In the event that the dispute or claim is not resolved pursuant to clause 3939 the dispute shall be referred to arbitration. Unless otherwise agreed in writing by the Parties, the arbitration and this clause 3939.a 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 - 45.o, 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 0 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 0. 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 39 (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

- a. Any reference to the Authority in respect of:
 - (1) the giving of consent;
 - (2) the delivering of any Notices; or
 - (3) the doing of any other thing that may reasonably be undertaken by an individual acting on behalf of the Authority,
 shall be deemed to be references to the Authority's Representatives in accordance with this Condition 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

- a. 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

- a. 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. Subject to clause 12.a but notwithstanding Condition 13 (Disclosure of Information), the Contractor understands that the Authority may publish the Transparency Information to the general public. The Contractor shall assist and cooperate with the Authority to enable the Authority to publish the Transparency Information.
- b. Before publishing the Transparency Information to the general public in accordance with clause 12, the Authority shall redact any Information that would be exempt from disclosure if it was the subject of a request for Information under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004, and any Information which has been acknowledged by the Authority at Schedule 5 (Contractor's Commercially Sensitive Information).
- c. The Authority may consult with the Contractor before redacting any Information from the Transparency Information in accordance with clause 12.a. The Contractor acknowledges and accepts that their representations on redactions during consultation may not be determinative and that the decision whether to redact Information is a matter in which the Authority shall exercise its own discretion, subject always to the provisions of the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.
- d. For the avoidance of doubt, nothing in this Condition 12 shall affect the Contractor's rights at law.

13. Disclosure of Information

- a. Subject to clauses 0 to 13.h 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 and 0 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, 0, 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 0, 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

- a. 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.a, 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

- 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 0. 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.c the Contractor shall be entitled to request the Authority to consider making a payment representing any commitments, liabilities or expenditure incurred by the Contractor in connection with the Contract up to the point of termination. Such commitments, liabilities or expenditure shall be reasonably and properly chargeable by the Contractor, and shall otherwise represent an unavoidable loss by the Contractor by reason of the termination of the Contract. Any payment under this clause 15.d 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

- a. 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.a. 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.h to 22.k. 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.h to 0.
- 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 0 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 SEOC SCP-SptEng-Pkg
MOD Abbey Wood
Bristol,
BS34 8JH

Tel. +44(0)30679-35353

DESSEOCSCP-SptEng-PKg@mod.uk
 - (b) The MPAS Documentation is also available on the DStan website.
- (2) MLP shall be designed to comply with the relevant requirements of Def Stan 81-041, and be capable of meeting the appropriate test requirements of Def Stan 81-041 (Part 3). Packaging designs shall be prepared on a SPIS, in accordance with Def Stan 81-041 (Part 4).
- (3) The Contractor shall ensure a search of the SPIS index (the 'SPIN') is carried out to establish the SPIS status of each requirement (using DEFFORM 129a 'Application for Packaging Designs or their Status').
- (4) New designs shall not be made where there is an existing usable SPIS, or one that may be easily modified.
- (5) Where there is a usable SFS, it shall be used in place of a SPIS design unless otherwise stated by the Contract. When an SFS is used or replaces a SPIS design, the Contractor shall upload this information on to SPIN in Adobe PDF.
- (6) All SPIS, new or modified (and associated documentation), shall, on completion, be uploaded by the Contractor on to SPIN. The format shall be Adobe PDF.
- (7) Where it is necessary to use an existing SPIS design, the Contractor shall ensure the Packaging manufacturer is a registered organisation in accordance with clause 22.f 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(5) 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:
 - a. a list of all SPIS which have been prepared or revised against the Contract; and
 - b. 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)(a).
- (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)(a).
- (4) Where the Contractor or their Subcontractor is not a PDA but is registered, they shall follow clauses 22.g(1) and 22.g(1)(a).

- 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.k.
 - (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.g 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.(1) and 23.b.(1), any information arising from the provisions of clauses 23.d, 23.e and 0 and the completed Schedule 6, shall be sent directly to the Authority's Representative (Commercial) as soon as practicable, and no later than one (1) month prior to the Contract delivery date, unless otherwise stated in Schedule 3 (Contract Data Sheet). In addition, so that the safety information can reach users without delay, a copy shall be sent preferably as an email with attachment(s) in Adobe PDF or MS WORD format, or, if only hardcopy is available, to the addresses below:
 - (1) Hard copies to be sent to:

Hazardous Stores Information System (HSIS)
 Department of Safety & Environment, Quality and Technology (DS & EQT)
 Spruce 2C, #1260,
 MOD Abbey Wood (South)
 Bristol
 BS34 8JH
 - (2) Emails to be sent to:

DESTECH-QSEPEnv-HSISMulti@mod.gov.uk

- 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, 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 or 0 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 0, 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 or 0 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 0, 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 or 0, 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 0.
- i. The statistical reporting requirement at clause 0 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) 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).

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.a; 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 0.

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 29.29.a 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 0 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 Materiel 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

- a. 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.d or 0 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 or 32.k(1), 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 0 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 0.
- 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 0 or 32.l 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 0 or 32.l 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 20 Business 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 20 Business 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.q, 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 0 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.m or 32.o 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 0, termination under clause 32.s will be in accordance with Condition 42 (Material Breach) and the provisions of clause 0 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.j, 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.r or 32.s 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.p or 32.t, 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 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 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.b 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 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.
- k. Where authorisation is given by the Authority under clause 33.d, 33.e or 33.f, 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 – 33.l(3) 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(2), 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 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.a 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 10 (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.e;
 - (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 0 and 37.c(1).
- 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, 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 and 37.a(1); 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 and 37.a(1).

- 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 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(1) 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 to 38.b(3).

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 39.39 the dispute shall be referred to arbitration. Unless otherwise agreed in writing by the Parties, the arbitration and this clause 39.39.a 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 0 to 40.a(13) 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(1) and 41.b(2) 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.a):
 - (1) The Authority shall take over from the Contractor at a fair and reasonable price all unused and undamaged material 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 material 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 material; 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 material 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 0 below and to the Contractor's compliance with any direction given by the Authority in clause 41.a 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 to 0 except that:
 - (1) the name of the Contractor shall be substituted for the Authority except in clause 41.c;
 - (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 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

- a. 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.

Additional Conditions**44. The project specific DEFCONS and DEFCON SC variants that apply to the Contract are:**

- a. DEFCON 15 (Edn 06/21) (SC2) - Design Rights And Rights To Use Design Information
- b. DEFCON 16 (Edn 06/21) - Repair and Maintenance.
- c. DEFCON 21 (Edn 06/21) – Retention of Records
- d. DEFCON 23 (Edn 06/21) (SC2) - Special Jigs, Tooling and Test Equipment.
- e. DEFCON 76 (Edn 06/21) (SC2) - Contractor's Personnel at Government Establishments.
- f. DEFCON 82 (Edn 06/21) (SC2) - Special Procedure for Initial Spares.
- g. DEFCON 90 (Edn 06/21) – Copyright.
- h. DEFCON 117 (Edn 11/17) (SC2) - Supply of Information for NATO Codification and Defence Inventory Introduction.
- i. DEFCON 550 (Edn 02/14) - Child Labour and Employment Law
- j. DEFCON 601 (Edn 03/15) (SC2) Redundant Material
- k. DEFCON 605 (Edn 11/17) (SC2) – Financial Reports
- l. DEFCON 611 (Edn 02/16) (SC2) - Issued Property.
- m. DEFCON 612 (Edn 06/21) – Loss of or Damage to the Articles.
- n. DEFCON 620 (Edn 08/21) – Contract Change Control Procedure
- o. DEFCON 624 (Edn 11/17) (SC2) – Use of Asbestos
- p. DEFCON 637 (Edn 05/17) - Defect Investigation and Liability.
- q. DEFCON 643 (Edn 11/17)(SC2) – Price Fixing
- r. DEFCON 647 (Edn 05/21) (SC2) – Financial Management Information
- s. DEFCON 649 (Edn 11/17) (SC2) - Vesting.
- t. DEFCON 658 (Edn 11/17) (SC2) – Cyber.

Note: for the purposes of DEFCON 658 - Cyber, the Cyber Risk Profile is detailed at Schedule 15 to the terms and condition of this contract.

- u. DEFCON 660 (Edn 12/15) - Official-Sensitive Security Requirements.
- v. DEFCON 678 (Edn 09/19) – SME Spend Data Collection
- w. DEFCON 670 (Edn 11/17) (SC2) - Tax Compliance.
- x. DEFCON 675 (Edn 03/21)- Advertising Subcontracts (DSPCR 2011 Only).
- y. DEFCON 694 (Edn 07/21) (SC2) Accounting For Property of the Authority

45. The special Conditions that apply to the Contract are:**a. Integrated Logistic Support**

- (1) The Contractor is required to provide updated versions of all the ILS documentation provided in accordance with Schedule 2 – Schedule of Requirements on an annual basis where any information contained within the document previously provided has changed.

- (2) Where no changes have occurred to the information within the document, an updated document is not required to be delivered to the Authority.
- (3) All updates throughout the life of the contract are at Nil cost to the Authority.

b. IFRS16 (International Financial Regulation Standards)

- (1) The Contractor must notify the Authority as soon as reasonably possible, if at any point during the term of the contract there is a need for them to acquire an asset(s), or hire equipment, machinery or buildings/floor space (for example) as defined by IFRS16, in order to fulfil the obligations and deliverable(s) of the contract.

c. Cyber Security

- (1) The Authority requires the Contractor to maintain Cyber Essentials Certification in relation to this requirement for the duration of the Contract in conjunction with DEFCON 658, DEFSTAN 05-138, and will be measured as a Deliverable on the Contract against the relevant line item within Schedule 2 – Schedule of Requirements.

d. Additional Buys

- (1) The Contractor hereby grants to the Authority the irrevocable option to procure additional Systems and spares as detailed in Schedule 13 – Additional Buys in accordance with the Terms and Conditions set out in the Contract, it being agreed that the Authority has no obligation to procure any additional buys.
- (2) Should the Authority decide to exercise any of these options then it will do so by servicing a Purchase order through CP&F and a Demand Order Form (Schedule 25 by e-mail to the Contractor) stating the quantity, delivery date and price using the information within Schedule 13 – Additional Buys applicable at the time the Purchase Order is raised.
- (3) The Authority has no obligation to exercise the above options.
- (4) The Authority shall not be liable for any advance commitment that the Contractor may enter in to in the pursuance of the Options referred to.

e. Safety

- (1) The contractor shall ensure that the Equipment is safe to operate and maintain and that the requirements stipulated in the Contract for the safety of the Equipment are met in full. In performing the Contract, the Contractor shall comply with his statutory duties and obligations relating to safety and shall be responsible for ensuring that none of the Contract requirements cause him to be in breach of any statutory duty or obligation relating to safety.
- (2) If after the contract is made, it appears that any specification or other Contract Condition agreed between the Authority and the Contractor may render the Contractor in breach of any statutory duty or obligation relating to safety, he shall immediately draw the fact to the Authority's attention.
- (3) The Authority may, without any prejudice to any of its rights under the Contract, require the Contractor to vary each such Condition at his own expense in a manner acceptable to the Authority and which will not render the Contractor in breach of any statutory duty or obligation relating to safety. Nothing in the Contract, or in any other document created or signed on behalf of the Authority in connection with it, shall constitute a written undertaking for the purposes of Section 6(8) of the Health and Safety at Work Act 1974 relieving the Contractor of any of his duties under section 6 of the Act.
- (4) The Authority shall be entitled to reject the Equipment if any of the safety requirements set out in the contract are not met in full. The Contractor shall provide access to records, including Sub-contractor records, for Contract purposes, to enable the MOD-appointed Independent Safety Auditor to carry out safety audits and other assessment activities to meet MOD safety requirements.

f. Repairs

(1) Supply of Articles and Parts for use in repair

- (a) All spares and replacement parts supplied by the Contractor shall be at least to the original equipment manufacturers current specification and are to be purchased from approved suppliers.
- (b) Articles must not be removed from the premises to which they have been allocated without the prior approval of the Supply Chain Manager, except where it is necessary for the performance of sub-contracted work.

(2) Builds and Specification Standard

- (a) The Contractor shall carry out the work specified in the Schedule of Requirements SOR (Schedule 2) in accordance with the Terms and Conditions of the Contract.

- (b) All Articles repaired shall be returned to the Authority configured in accordance with the Complete Equipment Schedule (CES) as contained within the Equipment Breakdown Structure (EBS) at Schedule 18.

(3) Beyond Economic Repair (BER)

- (a) The Contractor shall promptly submit to the Authority's Supply Chain Manager full details of any article considered Beyond Economic Repair. The Contractor shall then await further instructions from the Authority and if it is decided that the should be repaired, the Contractor shall be authorised by the Authority accordingly.
- (b) An article shall be BER if the costs of repair exceed 75% of its current purchase value.
- (c) Should any article be found to be BER, the Authority shall confirm if the Article is to be returned complete to the depot or authorise its destruction.
- (d) Disposal costs will be in accordance with Schedule 11 - Repair Process and Price Menu.

(4) Repair and Delivery of Items

- (a) All Repair work to be carried out under Schedule 2 – Schedule of Requirements shall be authorised and conducted in accordance with this condition and Schedule 11 - Repair Process and Price Menu.
- (b) Systems for repair shall be issued to the Contractor as Issued Property in accordance with DEFCON 611.
- (c) The Contractor shall be responsible for the inspection and repair of the articles arising from non-warranty accident, misuse or negligence on the part of the Authority. The Contractor and Authority will follow the repair procedures as laid out in Schedule 11 - Repair Process and Price Menu.
- (d) All articles returned to the contractor shall undergo an initial inspection. The repair report shall take no longer than 14 days. All activity shall be included in the repair report, including the level of repair (high, medium, or low) in accordance with Schedule 11 - Repair Process and Price Menu. The Repair Report shall be used for the basis of claiming, in accordance with the prices in Schedule 11 - Repair Process and Price Menu. The Contractor will seek written approval from the Supply Chain Manager to proceed with the repair.
- (e) The Contractor shall maintain records of the failure causes of returned items and in accordance with AQAP 2110 (NATO Quality Assurance Requirements for Design Development and Production) failure causes shall be evaluated for recurring defects. A Corrective Action Report will be provided to the MOD for recurring failures. If any defect proves to be common to the system design or manufacturing process, the Contractor shall modify all systems that have already been supplied to the Authority and all future systems to be supplied. Such modifications shall be at no cost to the Authority. Turn-around times for any modifications shall be agreed with the Authority.

(5) Testing

- (a) The Authority reserves the right to test all repaired Articles. All testing shall be in accordance with that by the relevant specification.

g. Warranty

(1) General

- (a) The Parts and Labour Warranty shall guarantee each Article against failure under the terms stated below, for Twelve (12) months. The period of Warranty for each Article shall commence from the date on which the Article is issued from MOD Donnington to the User Unit or 12 (twelve) months after the Contractor's delivery of the Article to MOD Donnington, whichever is sooner. This Warranty is given to the Authority or its authorised representative, hereinafter referred to as the Authority. The Warranty provides full parts and labour coverage for design, workmanship or material failure of any part of the Article supplied as original equipment.
- (b) The Contractor undertakes that the Articles supplied against the Contract including all components supplied thereon by the Contractor as original equipment will be free from defect in design, materials and workmanship under normal use and service. The Contractor's obligations under this Warranty being limited to repairing or replacing any component or assembly, which proves to be defective. The Warranty provides full parts and

labour cover against any failure of any part of the Article supplies as original equipment.

(2) Exclusions

- (a) This Warranty shall not apply in respect of damage caused by:
 - a. Any use or maintenance of the Article not in accordance with the instructions described in the Technical documentation and training provided by the Contractor;
 - b. Any use or maintenance of the Article performed by non-authorised personnel;
 - c. War and peacekeeping operations resulting in battle damage;
 - d. Misuse or neglect; and
 - e. Any alterations, modifications or attachments made to the Article without the Contractor's approval

(3) The Contractor shall not be liable under this Warranty to carry out:

- (a) Normal maintenance services and adjustments; and
- (b) Repairs to remedy fair wear and tear to any component.

(4) Applicable Countries

- (a) The Parts and Labour Warranty applies worldwide

(5) Warranty Repairs

- (a) Articles for repair are to be submitted to the Contractor once the repair has been verified as an acceptable warranty claim. The dismantling and/or refitting of parts to return the Article to a serviceable condition shall be carried out by the Contractor at no charge to the Authority. This is to include any necessary cleaning, testing and certification required by the repair.
- (b) An Article or part present to a Contractor for Warranty work shall be accompanied by Schedule 11 Annex A (Repair Request Form) with a completed part A indicating that the repair is a warranty repair. The Repair Request Form shall be submitted to the Contractor within 90 (ninety) days of the warranty event.
- (c) The Contractor shall complete the warranty work within the turnaround times specified in Schedule 11 - Repair Process and Price Menu for the appropriate level of repair.
- (d) In the event that warranty is disputed or rejected by the Contractor, the matter shall be resolved between the Contractor and the Dismounted Close Combat (DCC) Team. The Contractor shall inform the Project Manager of such disputes in writing within 24 (Twenty-four) hours of the dispute being identified.
- (e) Any Warranty defect identified by the Authority in material or workmanship must be communicated to the Contractor within 90 (ninety) days after date of recorded failure. During operational deployment reasonable endeavors will be made by the Authority to communicate warranty information within 90 (ninety) days of the recorded failure.

(6) Replaced Part Warranty

- (a) Should any component fail within the Warranty Period as a result of a manufacturing or material defect, the Contractor shall undertake, at no cost to the Authority, to repair or replace the component free of charge.
- (b) Any part replaced by the Contractor free of charge to the Authority under this Warranty, or any approved repairs, shall be guaranteed for 12 (Twelve) months from the date that the replacement part is fitted in the Article.

(7) Maintenance

- (a) Where the Authority carried out routine maintenance or servicing, this will not invalidate the Warranty provided that the maintenance procedures comply with the Technical Manuals and relevant training provided by the Contractor.

(8) Warranty Liability

- (a) Liability under this Warranty is limited, at the discretion of the Contractor, to the replacement or repair free of charge of such parts that are judged to be defective under the terms of this

Warranty provided that:

- a. Such defects are repaired by the Contractor; and
 - b. Articles have been stored in accordance with the Contractor's recommended maintenance procedures; and
 - c. All work is carried out in accordance with Technical Documentation & Training provided by the Contractor and generally accepted engineering practices;
 - d. Only parts approved by the Contractor have been used to repair and maintain the Article, except where common items have been fitted that are the same or equivalent technical specification as the original Contractor-supplied part and have been NATO codified as such;
 - e. Any identity numbers, marks, warning or operating labels have not been altered, displaced or removed unless with the Contractors consent.
- (b) The Contractor shall not be responsible for the quality of any work carried out in the Authority's workshop except that the Contractor remains responsible for the quality of spares and the completeness and accuracy of the Technical Documentation as supplied to the Authority.
 - (c) For Warranty repairs carried out in the Authority's workshops replaced warranty parts become the property of the Contractor after a claim is accepted. Parts replaced by the Authority will be held for 90 (ninety) days for inspection by the Contractor, after which the Authority may dispose of these parts and the cost of such disposal will be charged to the Contractor.

(9) General Provisions

- (a) Any dispute hereunder shall be dealt with in accordance with condition 39 – Dispute Resolution.
- (b) This Warranty shall be governed by and construed in accordance with the laws of England.
- (c) This Warranty shall be entirely without prejudice to the Authority's rights and remedies under the Contract or otherwise including (without limitation) rights and remedies relating to terms and conditions implied by law.

h. Tasking Services Support

- (1) Tasking Services Support is task structured and the Contractor shall submit Firm Price Quotations for each task, using the Tasking pro-forma at Annex A to Schedule 12 – Tasking Services utilising the agreed rates in Schedule 12 – Tasking Services.

i. Delivery Process for deliveries to LCS Managed Depots

- (1) The Contractor and or any of its subcontractors shall comply with the requirements set out in the Logistics Commodities Services Transformation Authority Managed Material Supplier Manual known as the "LCST Supplier Manual" in respect of all goods which are:
 - (a) supplied by the Contractor or any of its subcontractors under this contract; and
 - (b) which are to be delivered to depots which are managed and/or operated by Leidos Europe Ltd or its subcontractors pursuant to the Logistics Commodities and Services (Transformation) contract (Contract No. [LCST/0001]) ("LCS(T) Managed Depots").

j. Modern Slavery

- (1) The Supplier shall, and procure that each of its Sub-Contractors shall, comply with:
 - (a) the Modern Slavery Act 2015; and
 - (b) the Authority's anti-slavery policy as provided to the Supplier from time to time.
- (2) The Supplier shall:
 - (a) implement due diligence procedures for its Sub-Contractors and other participants in its supply chains, to ensure that there is no slavery or trafficking in its supply chains;
 - (b) respond promptly to all slavery and trafficking due diligence questionnaires issued to it by

the Authority from time to time and shall ensure that its responses to all such questionnaires are complete and accurate;

- (c) prepare and deliver to the Authority each year, an annual slavery and trafficking report setting out the steps it has taken to ensure that slavery and trafficking is not taking place in any of its supply chains or in any part of its business;
- (d) maintain a complete set of records to trace the supply chain of all Services provided to the Authority regarding the Contract; and
- (e) implement a system of training for its employees to ensure compliance with the Slavery Act.

(3) The Supplier represents, warrants and undertakes throughout the Term that:

- (a) it conducts its business in a manner consistent with all applicable laws, regulations and codes including the Slavery Act and all analogous legislation in place in any part of the world;
- (b) its responses to all slavery and trafficking due diligence questionnaires issued to it by the Authority from time to time are complete and accurate; and
- (c) neither the Supplier nor any of its Sub-Contractors, nor any other persons associated with it:
- (d) has been convicted of any offence involving slavery and trafficking; or
- (e) has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence regarding slavery and trafficking.

(4) The Supplier shall notify the Authority as soon as it becomes aware of:

- (a) any breach, or potential breach, of the Anti-Slavery Policy; or
- (b) any actual or suspected slavery or trafficking in a supply chain which relates to the Contract.

(5) If the Supplier notifies the Authority pursuant to paragraph 46.15.4 of this condition, it shall respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to audit any books, records and/or any other relevant documentation in accordance with the Contract.

(6) If the Supplier is in Default under paragraphs 46.j.(3).b or 46.j.(3).c of this condition the Authority may by notice:

- (a) require the Supplier to remove from performance of the Contract any Sub-Contractor, Staff or other persons associated with it whose acts or omissions have caused the Default; or
- (b) immediately terminate the Contract.

k. Limitations on Liability

Unlimited liabilities

(1) Neither Party limits its liability for:

- (a) death or personal injury caused by its negligence, or that of its employees, agents or sub-contractors (as applicable);
- (b) fraud or fraudulent misrepresentation by it or its employees;
- (c) 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
- (d) any liability to the extent it cannot be limited or excluded by law.

(2) The financial caps on the Contractor's liability set out in Clause 45.k.(4) below shall not apply to the following:

- (a) for any indemnity given by the Contractor to the Authority under this Contract;
- (b) the Contractor's indemnity in relation to DEFCON 91 (Intellectual Property in Software) and condition 33 (Third Party IP – Rights and Restrictions);
- (c) the Contractor's indemnity in relation to TUPE;
- (d) breach by the Contractor of DEFCON 532B and Data Protection Legislation.

- (3) The financial caps on the Authority's liability set out in Clause 45.k.(5) below shall not apply to the following:
- (a) for any indemnity given by the Authority to the Contractor under this Contract, including but not limited to condition 42; and
 - (b) the indemnity given by the Authority in relation to TUPE shall be unlimited.

Financial limits

- (4) Subject to Clauses 45.k.(1) and 45.k.(2) and to the maximum extent permitted by Law:
- (a) 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:
 - a. in respect of DEFCON 76 (SC2) REDACTED in aggregate;
 - b. in respect of condition 43b REDACTED in aggregate;
 - c. in respect of DEFCON 611 (SC2) REDACTED aggregate; and
 - d. in respect of condition 28d £ REDACTED in aggregate;
 - (b) without limiting Clause 45.k.(4)a. and subject always to Clauses 45.k.(1), 45.k.(2), 45.k.(3) and 45.k.(4)(c), the Contractor's total liability throughout the Term in respect of all other liabilities whether in contract, in tort (including negligence), arising under warranty, under statute or otherwise under or in connection with this Contract shall be £ Unlimited in aggregate.
 - (c) 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 45.k.(4)(a) and 45.k.(4)(b) 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 45.k.(4)(a) and 45.k.(4)(b) of this Contract.
- (5) Subject to Clauses 45.k.(1), 45.k.(3), 45.k.(3)(c) and 45.k.(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.
- (6) Clause 45.k.(5) shall not exclude or limit the Contractor's right under this Contract to claim for the Charges.

Consequential loss

- (7) Subject to Clauses 45.k.(1), 45.k.(2) and 45.k.(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:
- (a) indirect loss or damage;
 - (b) special loss or damage;
 - (c) consequential loss or damage;
 - (d) loss of profits (whether direct or indirect);
 - (e) loss of turnover (whether direct or indirect);
 - (f) loss of business opportunities (whether direct or indirect); or 45.k.(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.

- (8) The provisions of Clause 45.k.(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:
- (a) any additional operational and administrative costs and expenses arising from the Contractor's Default, including any costs paid or payable by the Authority:
 - a. to any third party;
 - b. for putting in place workarounds for the Contractor Deliverables and other deliverables that are reliant on the Contractor Deliverables; and

- c. relating to time spent by or on behalf of the Authority in dealing with the consequences of the Default;
- (b) any or all wasted expenditure and losses incurred by the Authority arising from the Contractor's Default, including wasted management time;
- (c) 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);
- (d) 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;
- (e) damage to the Authority's physical property and tangible assets, including damage under DEFCONs 76 (SC2) and 611 (SC2);
- (f) 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;
- (g) 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);
- (h) 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
- (i) 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

- (9) If any limitation or provision contained or expressly referred to in this Clause 45.k. is held to be invalid under any Law, it will be deemed to be omitted to that extent, and if any Party becomes liable for loss or damage to which that limitation or provision applied, that liability will be subject to the remaining limitations and provisions set out in this Clause 45.k.

Third party claims or losses

- (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:
 - (a) 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
 - (b) 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

- (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.

I. Codification

- (1) Notwithstanding DEFCON 117 SC2 (Edn 11/17) the Contractor is wholly responsible for the NATO codification processes in providing the NATO Stock Numbers (NSNs) for the Line Items/Articles in the Schedule of Requirements (SOR) from the UK National Codification Bureau (UKNCB). In addition, the Contractor is to note that without an NSN, deliveries of any SOR Items will not be accepted to any location under this Contract and the Authority shall not be responsible for any delays that are incurred as a result.

m. DEFCON 630 (Edn 02/18) Framework Agreements

Definitions

- (1) In this Condition:
- (a) "Framework Agreement" means an agreement or other arrangement between the Authority or the Authority and one or more other contracting authorities, and one or more contractors that establishes the terms (in particular the terms as to price and, where appropriate, quantity) under which the contractor(s) will enter into one or more contracts with the Authority in the period during which the Framework Agreement applies.
 - (b) "Authorised Demander" means the person(s) authorised by the Authority to place orders or tasks being the person(s) listed in the Framework Agreement.

Standing Offer

- (2) In consideration for the payment of the sum of £1 (one pound) by the Authority to the Contractor(s), the Contractor(s) shall not for the duration of the Framework Agreement withdraw from or amend in any way the standing offers contained in the Framework Agreement except by agreement in accordance with DEFCON 503.

Duration Period

- (3) The duration period of this Framework Agreement was stated in the Contract Notice and shall start from the date that the Framework Agreement entered into force. This period, shall be the period in which Contractor Deliverables may be ordered and / or tasks authorised by the Authority under the Framework Agreement. The fulfilment of such orders or tasks may take place after the end of the duration period in accordance with the terms of the orders or tasks.

Estimated Quantities

- (4) Where applicable, the quantities referred to in the Schedule of Requirements (SOR) are estimates only. The Authority may order less than the estimated quantities and shall not be bound to place orders or tasks for any of the Contractor Deliverables referred to in the SOR. The Authority shall not be bound to accept or pay for any Contractor deliverables other than those actually ordered and / or authorised under the terms of the Framework Agreement.

Alternative Sourcing of Contractor Deliverables

- (5) The Contractor(s) accept that, subject to the Authority having necessary rights, the Authority has the right to award contracts separate from this Framework Agreement for any or all of the Contractor Deliverables listed in the SOR during the period of the Framework Agreement.

Orders or Tasks (Contracts) for Contractor Deliverables placed or awarded under the Framework Agreement

- (6) A Contract for the Contractor Deliverables shall only be created when either the Authorised Demander(s) places an order for each requirement (Schedule 25), communicating an unqualified acceptance of the Contractor's standing offer or when the Contractor communicates its unqualified acceptance to the Authority for any tasks awarded by the Authorised Demander(s) under the Framework Agreement by the means specified in the Framework Agreement.
- (7) Where the Framework Agreement does not specify the means by which the Authority will place orders and / or award tasks (contracts) under the Framework Agreement, the Authority will comply with:
- (a) the procedures for the award of contracts set out at Regulation 20 of the Defence and Security Public Contracts Regulations (DSPCR) 2011 or any successor, where applicable;
 - (b) the procedures for the award of contracts set out at Regulation 33 of the Public Contracts Regulations (PCR) 2015 or any successor, where applicable; or
 - (c) if the PCR and DSPCR do not apply, the principles of non-discrimination and equal treatment for any Contractor party to the Framework Agreement subject to any essential security measures that the Authority may adopt under Article 346 Treaty on the Functioning of the European Union.
- (8) Occasionally, and subject to the agreement of both parties to the Framework Agreement, an order or task may contain specific terms or conditions additional to those contained in the Framework Agreement or which are at variance to those contained in the Framework Agreement.
- (9) The order or task shall expressly reference the Framework Agreement, and shall be in the format specified in the Framework Agreement.
- (10) The Contractor shall deliver the Contractor Deliverables within the times specified in the Framework Agreement or as otherwise agreed between the parties in accordance with the provisions of the Framework Agreement. If it becomes obvious that the Contractor Deliverables will not be delivered within the specified timescale, the Contractor shall immediately notify the Authority of the cause of the delay together with a forecast delivery date. Such information shall be supplied without prejudice to the Authority's rights under the Framework Agreement.

- (11) In the event that the Authority agrees to a revised delivery date it shall immediately issue an amendment to the applicable order in accordance with the provisions of Clause 6.
- (12) All correspondence issued by the Contractor shall be directed to the addressee specified in the Framework Agreement or, if no addressee is specified, to the project manager, equipment support manager or project team leader named in the DEFFORM 111 appended to the Framework Agreement. In each case a copy shall be sent to the applicable commercial officer.
- (13) The Contractor shall either accept or reject an order or task within the period specified in the Framework Agreement or, if no period is specified in the Framework Agreement, within ten business days.
- (14) Where an order or task has been rejected by the Contractor, the Contractor shall specify in writing the reason for the rejection.
- (15) Each order or task issued by the Authority and each quotation, order, task acceptance and rejection issued by the Contractor shall be issued in the manner specified in the Framework Agreement.

n. UK Official and UK Official-Sensitive Contractual Security Conditions.

- (1) In addition to the requirements of DEFCON 660 (Edn 12/15) Official-Sensitive Security Requirements, the UK Official and UK Official-Sensitive Contractual Security Conditions that apply to this contract are detailed at Schedule 23.
- (2) The Security Aspects Letter at Schedule 24 details the Security Classification of the various aspects associated with this contract.

o. Insurance

- (1) The contractor must hold the minimum level of insurance required by law for the duration of the contract.
- (2) In the United Kingdom the current statutory insurances are Employers Liability Insurance and Motor Third Party Liability Insurance.
- (3) Where a Contractor seeks to limit their financial liability under Head Of Loss DEFCON 76 – Contractor's Personnel at Government Establishments the contractor must confirm the existence of, scope and level of any relevant Public Liability insurance, Products Liability Insurance and / or Property Damage Insurance held by the contractor.
- (4) Where the contractor intends to mitigate against the risks associated with the Heads Of Loss, the contractor must provide details of any insurance provisions they intend to use.

46. The processes that apply to the Contract are:

- a. Tasking Services Process (Schedule 12)
- b. Repair Process (Schedule 11)
- c. Framework Demand Order Form (Schedule 25)

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 Authority's Representative(s)	means the Secretary of State for Defence acting on behalf of the Crown; shall be those person(s) defined in Schedule 3 (Contract Data Sheet) who will act as the Authority's Representative(s) in connection with the Contract. Where the term "Authority's Representative(s)" in the Conditions is immediately followed by a functional description in brackets, the appropriate Authority's Representative(s) shall be the designated person(s) for the purposes of condition 8;
Business Day	means 09:00 to 17:00 Monday to Friday, excluding public and statutory holidays;
Central Government Body	a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics: <ul style="list-style-type: none">a. Government Department;b. Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);c. Non-Ministerial Department; or 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 described in Def Stan 81-041 (Part 1)
Conditions Consignee	means the terms and conditions set out in this document; means that part of the Authority identified in Schedule 3 (Contract Data Sheet) to whom the Contractor Deliverables are to be Delivered or on whose behalf they are to be Collected at the address specified in Schedule 3 (Contract Data Sheet) or such other part of the Authority as may be instructed by the Authority by means of a Diversion Order;
Consignor	means the name and address specified in Schedule 3 (Contract Data Sheet) from whom the Contractor Deliverables will be dispatched or Collected;
Contract	means the Contract including its Schedules and any amendments agreed by the Parties in accordance with condition 6 (Amendments to Contract);
Contract Price	means the amount set out in Schedule 2 (Schedule of Requirements) to be paid (inclusive of Packaging and exclusive of any applicable VAT) by the Authority to the Contractor, for the full and proper performance by the Contractor of its obligations under the Contract.
Contractor	means the person who, by the Contract, undertakes to supply the Contractor Deliverables, for the Authority as is provided by the Contract. Where the Contractor is an individual or a partnership, the expression shall include the personal representatives of the individual or of the partners, as the case may be, and the expression shall also include any person to whom the benefit of the Contract may be assigned by the Contractor with the consent of the Authority;
Contractor Commercially Sensitive Information	means the Information listed in the completed Schedule 5 (Contractor's Commercially Sensitive Information Form), which is Information notified by the Contractor to the Authority, which is acknowledged by the Authority as being commercially sensitive;

Contractor Deliverables	means the goods and/or the services, including Packaging (and Certificate(s) of Conformity and supplied in accordance with any QA requirements if specified) which the Contractor is required to provide under the Contract;
Control	<p>means the power of a person to secure that the affairs of the Contractor are conducted in accordance with the wishes of that person:</p> <ul style="list-style-type: none">a. by means of the holding of shares, or the possession of voting powers in, or in relation to, the Contractor; orb. by virtue of any powers conferred by the constitutional or corporate documents, or any other document, regulating the Contractor; <p>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;</p>
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	<p>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:</p> <ul style="list-style-type: none">a. Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009 (CDG) (as amended 2011);b. European Agreement Concerning the International Carriage of Dangerous Goods by Road (ADR);c. Regulations Concerning the International Carriage of Dangerous Goods by Rail (RID);d. International Maritime Dangerous Goods (IMDG) Code;e. International Civil Aviation Organisation (ICAO) Technical Instructions for the Safe Transport of Dangerous Goods by Air;f. International Air Transport Association (IATA) Dangerous Goods Regulations.
DBS Finance	means Defence Business Services Finance, at the address stated in Schedule 3 (Contract Data Sheet);
DEFFORM	means the MOD DEFFORM series which can be found at https://www.aof.mod.uk ;
DEF STAN	means Defence Standards which can be accessed at https://www.dstan.mod.uk ;
Deliver	means hand over the Contractor Deliverables to the Consignee. This shall include unloading, and any other specific arrangements, agreed in accordance with condition 28 and Delivered and Delivery shall be construed accordingly;
Delivery Date	means the date as specified in Schedule 2 (Schedule of Requirements) on which the Contractor Deliverables or the relevant portion of them are to be Delivered or made available for Collection;
Denomination of Quantity (D of Q)	means the quantity or measure by which an item of material is managed;
Design Right(s)	has the meaning ascribed to it by Section 213 of the Copyright, Designs and Patents Act 1988;
Diversion Order	means the Authority's written instruction (typically given by MOD Form 199) for urgent Delivery of specified quantities of Contractor Deliverables to a Consignee other than the Consignee stated in Schedule 3 (Contract Data Sheet);
Effective Date of Contract	means the date specified on the Authority's acceptance letter;

Evidence	means either: a. an invoice or delivery note from the timber supplier or Subcontractor to the Contractor specifying that the product supplied to the Authority is FSC or PEFC certified; or b. other robust Evidence of sustainability or FLEGT licensed origin, as advised by CPET;
Firm Price	means a price (excluding VAT) which is not subject to variation;
FLEGT	means the Forest Law Enforcement, Governance and Trade initiative by the European Union to use the power of timber-consuming countries to reduce the extent of illegal logging;
Government Furnished Assets (GFA)	is a generic term for any MOD asset such as equipment, information or resources issued or made available to the Contractor in connection with the Contract by or on behalf of the Authority;
Hazardous Contractor Deliverable	means a Contractor Deliverable or a component of a Contractor Deliverable that is itself a hazardous material or substance or that may in the course of its use, maintenance, disposal, or in the event of an accident, release one or more hazardous materials or substances and each material or substance that may be so released;
Independent Verification	means that an evaluation is undertaken and reported by an individual or body whose organisation, systems and procedures conform to "ISO Guide 65:1996 (EN 45011:1998) General requirements for bodies operating product certification systems or equivalent", and who is accredited to audit against forest management standards by a body whose organisation, systems and procedures conform to "ISO 17011: 2004 General Requirements for Providing Assessment and Accreditation of Conformity Assessment Bodies or equivalent";
Information	means any Information in any written or other tangible form disclosed to one Party by or on behalf of the other Party under or in connection with the Contract;
Issued Property	means any item of Government Furnished Assets (GFA), including any materiel issued or otherwise furnished to the Contractor in connection with the Contract by or on behalf of the Authority;
Legal and Sustainable	means production and process methods, also referred to as timber production standards, as defined by the document titled "UK Government Timber Production Policy: Definition of legal and sustainable for timber procurement". The edition current on the day the Contract documents are issued by the Authority shall apply;
Legislation	means in relation to the United Kingdom any Act of Parliament, any subordinate legislation within the meaning of section 21 of the Interpretation Act 1978, any exercise of Royal Prerogative or any enforceable community right within the meaning of Section 2 of the European Communities Act 1972;
Military Level Packaging (MLP)	means Packaging that provides enhanced protection in accordance with Def Stan 81-041 (Part 1), beyond that which Commercial Packaging normally provides for the military supply chain;
Military Packager Approval Scheme (MPAS)	is a MOD sponsored scheme to certify military Packaging designers and register organisations, as capable of producing acceptable Services Packaging Instruction Sheet (SPIS) designs in accordance with Defence Standard (Def Stan) 81-041 (Part 4);
Military Packaging Level (MPL)	shall have the meaning described in Def Stan 81-041 (Part 1);
MPAS Registered Organisation	is a packaging organisation having one or more MPAS Certificated Designers capable of Military Level designs. A company capable of both Military Level and commercial Packaging designs including MOD labelling requirements;
MPAS Certificated Designer	shall mean an experienced Packaging designer trained and certified to MPAS requirements;

NATO	means the North Atlantic Treaty Organisation which is an inter-governmental military alliance based on the North Atlantic Treaty which was signed on 4 April 1949;
Notices	shall mean all Notices, orders, or other forms of communication required to be given in writing under or in connection with the Contract;
Overseas	shall mean non UK or foreign;
Packaging	Verb. The operations involved in the preparation of materiel for; transportation, handling, storage and Delivery to the user; Noun. The materials and components used for the preparation of the Contractor Deliverables for transportation and storage in accordance with the Contract;
Packaging Design Authority (PDA)	shall mean the organisation that is responsible for the original design of the Packaging except where transferred by agreement. The PDA shall be identified in the Contract, see Annex A to Schedule 3 (Appendix – Addresses and Other Information), Box 3;
Parties	means the Contractor and the Authority, and Party shall be construed accordingly;
Primary Packaging Quantity(PPQ)	means the quantity of an item of material to be contained in an individual package, which has been selected as being the most suitable for issue(s) to the ultimate user, as described in Def Stan 81-041 (Part 1);
Recycled Timber	means recovered wood that prior to being supplied to the Authority had an end use as a standalone object or as part of a structure. Recycled Timber covers: a. pre-consumer reclaimed wood and wood fibre and industrial by-products; b. post-consumer reclaimed wood and wood fibre, and driftwood; c. reclaimed timber abandoned or confiscated at least ten years previously; it excludes sawmill co-products;
Safety Data Sheet	has the meaning as defined in the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) Regulations 2007 (as amended);
Schedule of Requirements	means Schedule 2 (Schedule of Requirements), which identifies, either directly or by reference, Contractor Deliverables to be provided, the quantities and dates involved and the price or pricing terms in relation to each Contractor Deliverable;
Short-Rotation Coppice	means a specific management regime whereby the poles of trees are cut every one to two years and which is aimed at producing biomass for energy. It is exempt from the UK Government timber procurement policy. For avoidance of doubt, Short-Rotation Coppice is not conventional coppice, which is subject to the timber policy;
Specification	means the description of the Contractor Deliverables, including any specifications, drawings, samples and / or patterns, referred to in Schedule 2 (Schedule of Requirements);
STANAG 4329	means the publication NATO Standard Bar Code Symbolologies which can be sourced at https://www.dstan.mod.uk/faqs.html ;
Subcontractor	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;
Timber and Wood-Derived Products	means timber (including Recycled Timber and Virgin Timber but excluding Short-Rotation Coppice) and any products that contain wood or wood fibre derived from those timbers. Such products range from solid wood to those where the manufacturing processes obscure the wood element;
Transparency Information	means the content of this Contract in its entirety, including from time to time agreed changes to the Contract, and details of any payments made by the Authority to the Contractor under the Contract;
Virgin Timber	means Timber and Wood-Derived Products that do not include Recycled Timber.

SOR Item Number	Bill of Materials / Manufacturer Part Number	Manufacturer Product Code	MOD NATO Stock Number	Description	Consignee Address Code (full address is detailed in DEFFORM 96)	Packaging Requirements inc. PPQ and DofQ (as detailed in DEFFORM 96)	Delivery Date to the Authority (UK Location)	Denomination of Quantity	Total Quantity	Currency	Firm Price Each (Excluding VAT)	Total Price (Excluding VAT)

Contract DATA Sheet

General Conditions
Condition 2 – Duration of Contract: The Contract expiry date shall be: 31 March 2027
Condition 4 – Governing Law: 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:
Condition 8 – Authority's Representatives: The Authority's Representatives for the Contract are as follows: Commercial: Project Manager:
Condition 19 – Notices: Notices served under the Contract shall be sent to the following address: Authority: DCC, STSP, NH3, Cedar 2a #3260, ABW, Bristol, BS34 8JH (as per DEFFORM 111) Contractor: TBC Notices can be sent by electronic mail? Yes
Condition 20.a – Progress Meetings: The Contractor shall be required to attend the following meetings: As per Schedule 9 - Project Statement of Work
Condition 20.b – Progress Reports: The Contractor is required to submit the following Reports: As per Schedule 9 - Project Statement of Work Reports shall be Delivered to the following address: See Box 2 of DEFFORM 111

Supply of Contractor Deliverables**Condition 21 – Quality Assurance:**

Is a Deliverable Quality Plan required for this Contract? No

Other Quality Assurance Requirements:

AQAP 2131 - NATO Quality Assurance Requirements for Final Inspection. Edition C Version 1

DEFSTAN 05-061 Pt 1 - Quality Assurance Procedural Requirements - Concessions Issue 6

DEFSTAN 05-061 Pt 4 - Quality Assurance Procedural Requirements - Contractor Working Parties Issue 3

DEFSTAN 05-135 - Avoidance of Counterfeit materiel

DEFCON 602 B - Quality Assurance (Without Deliverable Quality Plan)

Certificate of Conformity

A Certificate of Conformity template for use under this contract is attached at Schedule 16 - Certificate of Conformity

Condition 22 – Marking of Contractor Deliverables:

Special Marking requirements: In accordance with Schedule 10 – NATO Codification

Condition 24 - Supply of Data for Hazardous Contractor Deliverables, Materials and Substances:

A completed Schedule 6 (Hazardous Contractor Deliverables, Materials or Substance Statement), and if applicable, Safety Data Sheet(s) are to be provided by e-mail with attachments in Adobe PDF or MS WORD format to:

a) The Authority's Representative (Commercial)

b) DCC Safety Manager:

to be Delivered by the following date: Tender Return

Condition 25 – Timber and Wood-Derived Products:

A completed Schedule 7 (Timber and Wood-Derived Products Supplied under the Contract: Data Requirements) is to be provided by e-mail with attachments in Adobe PDF or MS WORD format to the Authority's Representative (Commercial)

to be Delivered by the following date: Tender Return

Condition 26 – Certificate of Conformity:

Is a Certificate of Conformity required for this Contract? Yes

Applicable to Schedule 2A Line Items: 7, 8, 9 and 10

Applicable to Schedule 2B Line Items TBC

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

Applicable to Schedule 2A Line Items: 7, 8, 9 and 10

Applicable to Schedule 2B Line Items TBC

Condition 28.b – Delivery by the Contractor:

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

Applicable to Schedule 2A - Schedule of Requirements - All line Items.

Applicable to Schedule 2B - Schedule of Requirements - TBC.

Special Delivery Instructions: Not Applicable

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

Condition 28.c - Collection by the Authority:

The following Line Items are to be Collected by the Authority: Not Applicable

Special Delivery Instructions: Not Applicable

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

Consignor details (in accordance with 28.c.(4)): Not Applicable

Consignee details (in accordance with condition 23): Not Applicable

Condition 30 – Rejection:

The default time limit for rejection of the Contractor Deliverables is thirty (30) Business days unless otherwise specified here:

N/A

Condition 32 – Self-to-Self Delivery:

Self-to-Self Delivery required? No

If required, Delivery address applicable: Not Applicable

Pricing and Payment
Condition 35 – Contract Price: All Prices detailed in all Schedules shall be FIRM and stated in British Pounds (Sterling) and exclude VAT for the duration of the contract.
Termination
Condition 42 – Termination for Convenience: The Notice period for terminating the Contract shall be twenty (20) Business days unless otherwise specified here: N/A
Other Addresses and Other Information <i>(forms and publications addresses and official use information)</i>
See Annex A to Schedule 3 (DEFFORM 111)

Appendix - Addresses and Other Information

1. Commercial Officer

Name:

Address:

Email:



8. Public Accounting Authority

1. Returns under DEFCON 694 (or SC equivalent) should be sent to DBS Finance ADMT – Assets In Industry 1, Level 4 Piccadilly Gate, Store Street, Manchester, M1 2WD
☎ 44 (0) 161 233 5397

2. For all other enquiries contact DES Fin FA-AMET Policy, Level 4 Piccadilly Gate, Store Street, Manchester, M1 2WD
☎ 44 (0) 161 233 5394

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

Name:

Address

Email:



9. Consignment Instructions

The items are to be consigned as follows:

Request from the Project Manager as detailed in Box 2

3. Packaging Design Authority

Organisation & point of contact:

Request from the Project Manager as detailed in Box 2

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



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

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

Air Freight Centre

IMPORTS ☎ 030 679 81113 / 81114 Fax 0117 913 8943

EXPORTS ☎ 030 679 81113 / 81114 Fax 0117 913 8943

Surface Freight Centre

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

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

B. JSCS

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

JSCS Fax No. 01869 256837

Users requiring an account to use the MOD Freight Collection Service should contact DESWATERGUARD-ICS-Support@mod.gov.uk in the first instance.

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

Branch/Name: As detailed in Box 2



(b) U.I.N.

11. The Invoice Paying Authority

Ministry of Defence

☎ 0151-242-2000

DBS Finance

Walker House, Exchange Flags

Fax: 0151-242-2809

Liverpool, L2 3YL

Website is:

<https://www.gov.uk/government/organisations/ministry-of-defence/about/procurement#invoice-processing>

5. Drawings/Specifications are available from

Not Applicable

6. Intentionally Blank

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

7. Quality Assurance Representative:

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].

* 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.

SCHEDULE 4 CONTRACT CHANGE CONTROL PROCEDURE

1. Authority Changes

Subject always to Condition 6 (Amendments to Contract), the Authority shall be entitled, acting reasonably, to require changes to the Contractor Deliverables (a "Change") in accordance with this Schedule 4.

2. Notice of Change

- a. If the Authority requires a Change, it shall serve a Notice (an "Authority Notice of Change") on the Contractor.
- b. The Authority Notice of Change shall set out the change required to the Contractor Deliverables in sufficient detail to enable the Contractor to provide a written proposal (a "Contractor Change Proposal") in accordance with clause 3 below.

3. Contractor Change Proposal

- a. As soon as practicable, and in any event within fifteen (15) Business Days (or such other period as the Parties may agree) after having received the Authority Notice of Change, the Contractor shall deliver to the Authority a Contractor Change Proposal.
- b. The Contractor Change Proposal shall include:
 1. the effect of the Change on the Contractor's obligations under the Contract;
 2. a detailed breakdown of any costs which result from the Change;
 3. the programme for implementing the Change;
 4. any amendment required to this Contract as a result of the Change, including, where appropriate, to the Contract Price; and
 5. such other information as the Authority may reasonably require.
- c. The price for any Change shall be based on the prices (including all rates) already agreed for the Contract and shall include, without double recovery, only such charges that are fairly and properly attributable to the Change.

4. Contractor Change Proposal – Process and Implementation

- a. As soon as practicable after the Authority receives a Contractor Change Proposal, the Authority shall:
 1. evaluate the Contractor Change Proposal;
 2. where necessary, discuss with the Contractor any issues arising and following such discussions the Authority may modify the Authority Notice of Change and the Contractor shall as soon as practicable, and in any event not more than ten (10) Business Days (or such other period as the Parties may agree) after receipt of such modification, submit an amended Contractor Change Proposal.

- b. As soon as practicable after the Authority has evaluated the Contractor Change Proposal (amended as necessary) the Authority shall:
 - 1. indicate its acceptance of the Change Proposal by issuing an amendment to the Contract in accordance with Condition 6 (Amendments to Contract); or
 - 2. serve a Notice on the Contractor rejecting the Contractor Change Proposal and withdrawing (where issued) the Authority Notice of Change.
- c. If the Authority rejects the Change Proposal, it shall not be obliged to give its reasons for such rejection.
- d. The Authority shall not be liable to the Contractor for any additional work undertaken or expense incurred unless a Contractor Change Proposal has been accepted in accordance with Clause 4b.(1) above.

5. Contractor Changes

If the Contractor wishes to propose a Change, it shall serve a Contractor Change Proposal on the Authority, which shall include all the information required by Clause 3b above, and the process at Clause 4 above shall apply.

REDACTED IN FULL

REDACTED IN FULL

SCHEDULE 7

Timber and Wood Derived Products Supplied under the Contract

The following information is provided in respect of condition 24 (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

SCHEDULE 8 Acceptance Procedure (Stage 1)

The contractual deliverables required under the Project and Engineering Statement of Work (Schedule 9) and the Integrated Logistics Support Schedule 10 - Statement of Work (Stage 1) to this contract are detailed in the table below.

Deliverable Reports:

For each report, the following information as a minimum must appear on the front cover: -

1. Document Title
2. Document Reference Number
3. Document Version Number
4. Name of the Contractor's representative.
5. Position of the Contractor's representative.
6. Signature of the Contractor's representative.
7. Date Signed by the Contractor's representative.
8. Name of the Authority's representative.
9. Position of the Authority's representative.
10. Signature of the Authority's representative.
11. Date Signed by the Authority's representative.

Any disclaimer placed on the document by the Contractor must ensure the Authority has the rights under the contract in accordance with DEFCON 90 Copyright to use the information for any Government purpose.

Until such time the Authority signs the document, it will be considered undelivered and not accepted by the Authority. Upon signature and date by the Authority's representative, the document shall be considered delivered and accepted by the Authority under the contract.

A copy of the document signed by both the Contractor and the Authority must then be sent to the Authority's Commercial Officer as detailed in DEFFORM 111 – Annex A to Schedule 3 of the contract.

Delivery of Hardware:

SYSTEM ACCEPTANCE (SA) PROCESS

The process of SA enables the Authority to provide documented evidence that the system is ready to be delivered and fielded to the User in order to meet Initial Operating Capability (IOC).

The SA process comprises the Contractor deliverables detailed in Schedule 2A - Schedule of Requirements (Stage 1) to the contract.

At contract award the contracted Level of Performance (LoP) for each System Requirement (SR) shall be stated within the Statement of Engineering and Technical Requirement (Schedule 19).

Following contract award at System Acceptance, FAT Evidence is a critical aspect of bringing the capability into service. The Contractor may be requested to provide additional evidence where insufficient evidence was provided at the tendering stage to support compliance against the Contracted Level of Performance (LoP) as stated in the STR (Schedule 19).

The Authority reserves the right to conduct First Article Inspection of one or more completed systems from the initial production quantity at the manufacturing facility.

Factory Acceptance Inspection - Production: Prior to the shipment of first batch of Systems, the Authority reserves the right to conduct one or more full inspections of the systems produced at the manufacturing facility. In the event that this inspection is unsatisfactory, the Authority reserves the right to reject the delivery under the relevant Milestone or Schedule 2A – Schedule of Requirements (Stage 1) deliverable either wholly or in part.

The Authority reserves the right to conduct further inspections on any subsequent shipments should this be considered necessary by the Authority.

To Note:

The Contractor shall seek from the Authority prior to delivery from the manufacturer, how the Authority intends to conduct the First Article Inspection, Factory Acceptance Inspection due to Government restrictions on travel in relation to COVID-19.

Table 1 – Schedule of Requirements Acceptance

SOR Item Number	Description	Acceptance Criteria
1	ILS - ID:1 Delivery of a Train the Trainer Training Package (Operator and Maintainer) (In accordance with Schedule 10 - ILS SOW - Stage 1)	Acceptance by the MOD ILS Manager that the requirement has been produced in accordance with Schedule 10 - ILS Statement of Work (Stage 1) and has been delivered in accordance with Schedule 2A - Schedule of Requirements (Stage 1).
2	ILS - ID:2 Delivery of Technical Publications - AESPs (In accordance with Schedule 10 - ILS SOW - Stage 1)	Acceptance by the MOD ILS Manager that the requirement has been produced in accordance with Schedule 10 - ILS Statement of Work (Stage 1) and has been delivered in accordance with Schedule 2A - Schedule of Requirements (Stage 1).
3	ILS - ID:3 Delivery of NATO Codification Data (In accordance with Schedule 10 - ILS SOW - Stage 1)	Acceptance by the MOD ILS Manager that the requirement has been produced in accordance with Schedule 10 - ILS Statement of Work (Stage 1) and has been delivered in accordance with Schedule 2A - Schedule of Requirements (Stage 1).
4	ILS - ID:4 Delivery of the Supply Support Report (In accordance with Schedule 10 - ILS SOW - Stage 1)	Acceptance by the MOD ILS Manager that the requirement has been produced in accordance with Schedule 10 - ILS Statement of Work (Stage 1) and has been delivered in accordance with Schedule 2A - Schedule of Requirements (Stage 1).
5	Delivery of Level 1 and 2 Spares Pack as per Schedule 14 - Spares pack	Acceptance by the MOD Project Manager that the Delivery of the Spares Pack in accordance with Schedule 2A (Schedule of Requirements) conform with Schedule 18A and 18B - Equipment Breakdown Structure, Schedule 19 - Statement of Technical Requirement and the System Acceptance (SA) Process detailed above.

SOR Item Number	Description	Acceptance Criteria
6	Delivery of the Cyber Security Certification	Acceptance by the MOD Project Manager that the requirement has been produced and delivered in accordance with the Terms and Conditions of this contract.
7	Delivery of a 5.56mm Armalite Rifle (AR Platform) optimised for use with L15A2, a 62gr 5.56x45 NATO ball round, equivalent to SS109. (Rifle System comprising of a Rifle and a detachable Signature Reduction System)	Acceptance by the MOD Project Manager that any units purchased are delivered in accordance with Schedule 2A - Schedule of Requirements (Stage 1) conform with Schedule 18A - Equipment Breakdown Structure (Rifle and Suppressor), Schedule 19 (Statement of Technical Requirement) and the System Acceptance (SA) Process detailed above.
8	Delivery of an Optic System that complements the Rifle and is ballistically matched to the stated ammunition nature and supplied barrel length.	Acceptance by the MOD Project Manager that any units purchased are delivered in accordance with Schedule 2A - Schedule of Requirements (Stage 1) conform with Schedule 18B - Equipment Breakdown Structure (Optic), Schedule 19 (Statement of Technical Requirement) and the System Acceptance (SA) Process detailed above.
9	Future Purchase Options for Weapon Systems and Spares	Acceptance by the MOD Project Manager that any additional units purchased are delivered in accordance with Schedule 13 - Additional Buys (Stage 1) conform with Schedule 18A or 18B (Equipment Breakdown Structure), Schedule 19 (Statement of Technical Requirement) and the System Acceptance (SA) Process detailed above.
10	Tasking Services from Contract Award	Acceptance by the MOD Project Manager that all work detailed on the agreed Tasking form has been completed.

REDACTED IN FULL

REDACTED IN FULL

SCHEDULE 11 – REPAIR REQUEST FORM

Part A: REPAIR REQUEST - to be completed by the Authority.

1.) Repair Demanding Authority: Inventory Manager SCM Mgr
Telephone: +44 (0) 30 679 80239

2.) Name: Signed: Date:

Contract Number: 701577419 Repair Order Number:

3.) Serial Number:

4.) NSN/ Description:

5.) Description of fault where known:
.....

6.) Collection and Return Delivery Point: B54 MOD Donnington, Telford, Shropshire, UK

=====

Part. B: REPAIR RESPONSE - to be completed by the Contractor.

7.) Date item received

8.) Timescale:..... days for turnaround (In accordance with Turnaround times in Schedule 11)

9.) Expected Return Date.....

10.) Warranty (delete as appropriate)

a.) Warranty

b.) Non-Warranty

11.) The Repair Quotation (delete as appropriate):

a.) Multiple repair total cost (Ex-VAT) with report and quote submitted for SCM approval.

b.) Repair falls under Warranty – no cost.

c.) Item beyond economic repair / complete replacement required.

12.) Total cost of repair/replacement: £.....(Ex-VAT)

13.) Return date to B54 MOD Donnington, Telford, Shropshire, UK

Name: Signed: Date:

Part C: REPAIR REQUEST AUTHORISATION - to be completed by the Authority's SCM Mgr.

14.) a.) I hereby confirm my acceptance of your firm price quotation for the completion of

Repair Request Number and request you to proceed.

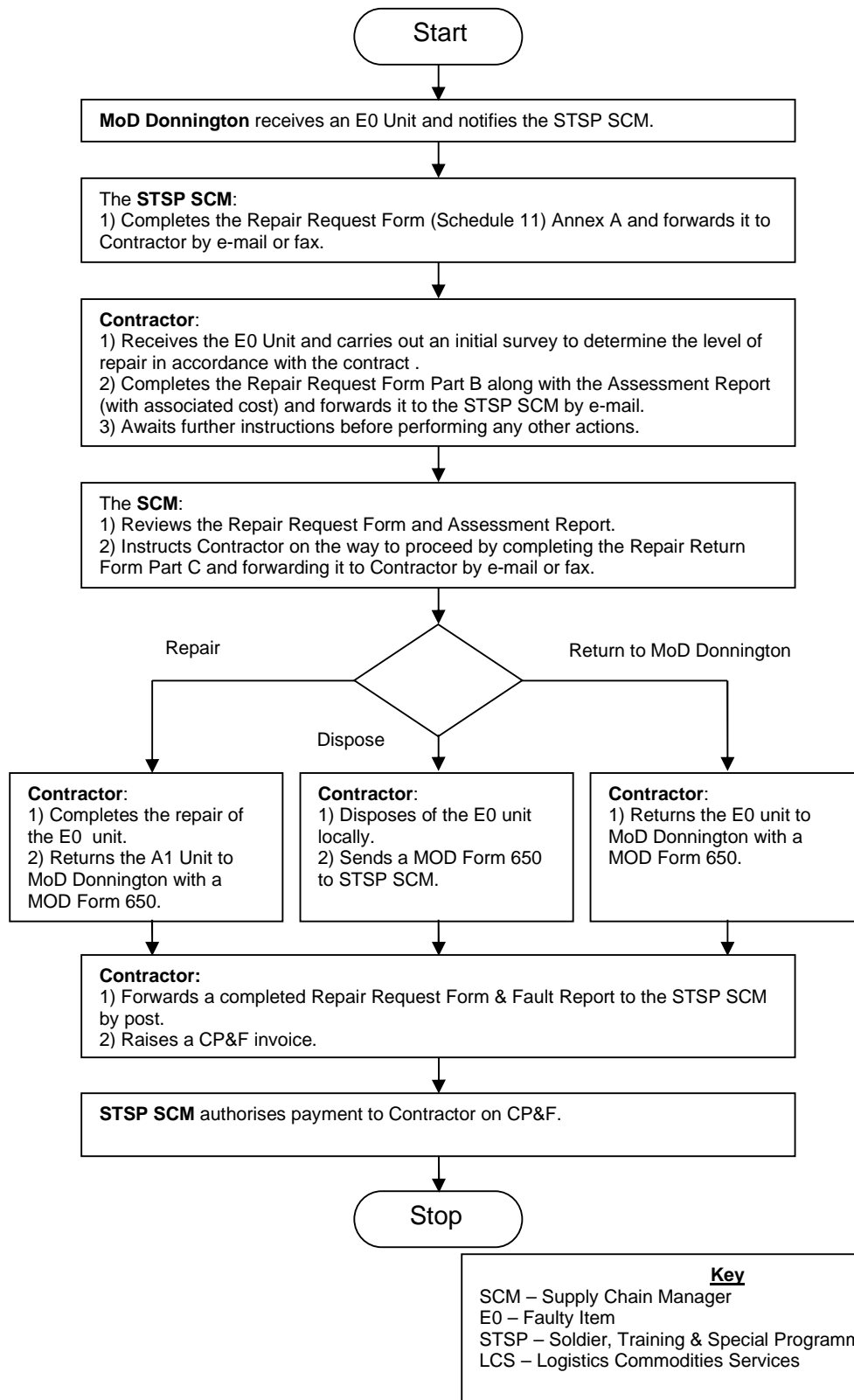
Firm Price quotation £ (Ex-VAT) Completion Date:

b.) I do not wish you to proceed with the Repair Request Number.....and request you follow the return procedures for the Repair Item to be sent back to B54 MOD (Donnington)

c.) I do not wish you to proceed with the Repair Request Number.....and request you dispose of the Repair Item.

d.) Additional Instructions for disposal:

Name: Signed: Date:

Repair Flow Chart

Official

Annex B to
Schedule 11 to
Contract Number. 701577419

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Official

SCHEDULE 12 – Tasking Services

FRAMEWORK AGREEMENT – STAGE 1

1. The Contractor shall carry out all Tasking Services activity in accordance with the pricing information detailed in this schedule.
2. The Authority may raise a Task activity on the Contractor at any time during the period of the Contract, to modify or repair the delivered system and / or associated information from the original design specification.

Areas of possible Task activity may include (but not limited to):

- (i) Software Modification
 - (ii) Hardware Modification
 - (iii) Amendments / Additions to Complete Equipment Schedule (including top level configuration documentation)
 - (iv) Technical Documentation Amendments
 - (v) Review / Update of Safety Documentation
 - (vi) Repair of Weapon System (Rifle and Suppressor)
3. All Task requests will be managed in accordance with the process flow chart shown at figure 1 below and managed through the Tasking Form at Annex A of this document.
 4. The Contractors response shall include a breakdown of costs to include labour and material costs for every aspect of the tasking, where subcontractors are utilised, these shall be broken down accordingly.
 5. Labour rates shall be taken from the cost table shown at table 1.

FIRM LABOUR COST

Year	Employee Grade	Firm Labour Cost £ (Ex VAT) / Hr
1 st April 2022 – 31 st March 2023	Tenderer to Complete	Tenderer to Complete
	Tenderer to Complete	Tenderer to Complete
	Tenderer to Complete	Tenderer to Complete
1 st April 2023 – 31 st March 2024	Tenderer to Complete	Tenderer to Complete
	Tenderer to Complete	Tenderer to Complete
	Tenderer to Complete	Tenderer to Complete
1 st April 2024 – 31 st March 2025	Tenderer to Complete	Tenderer to Complete
	Tenderer to Complete	Tenderer to Complete
	Tenderer to Complete	Tenderer to Complete
1 st April 2025 – 31 st March 2026	Tenderer to Complete	Tenderer to Complete
	Tenderer to Complete	Tenderer to Complete
	Tenderer to Complete	Tenderer to Complete
1 st April 2026 – 31 st March 2027	Tenderer to Complete	Tenderer to Complete
	Tenderer to Complete	Tenderer to Complete
	Tenderer to Complete	Tenderer to Complete

Table 1. Tasking Labour Costs

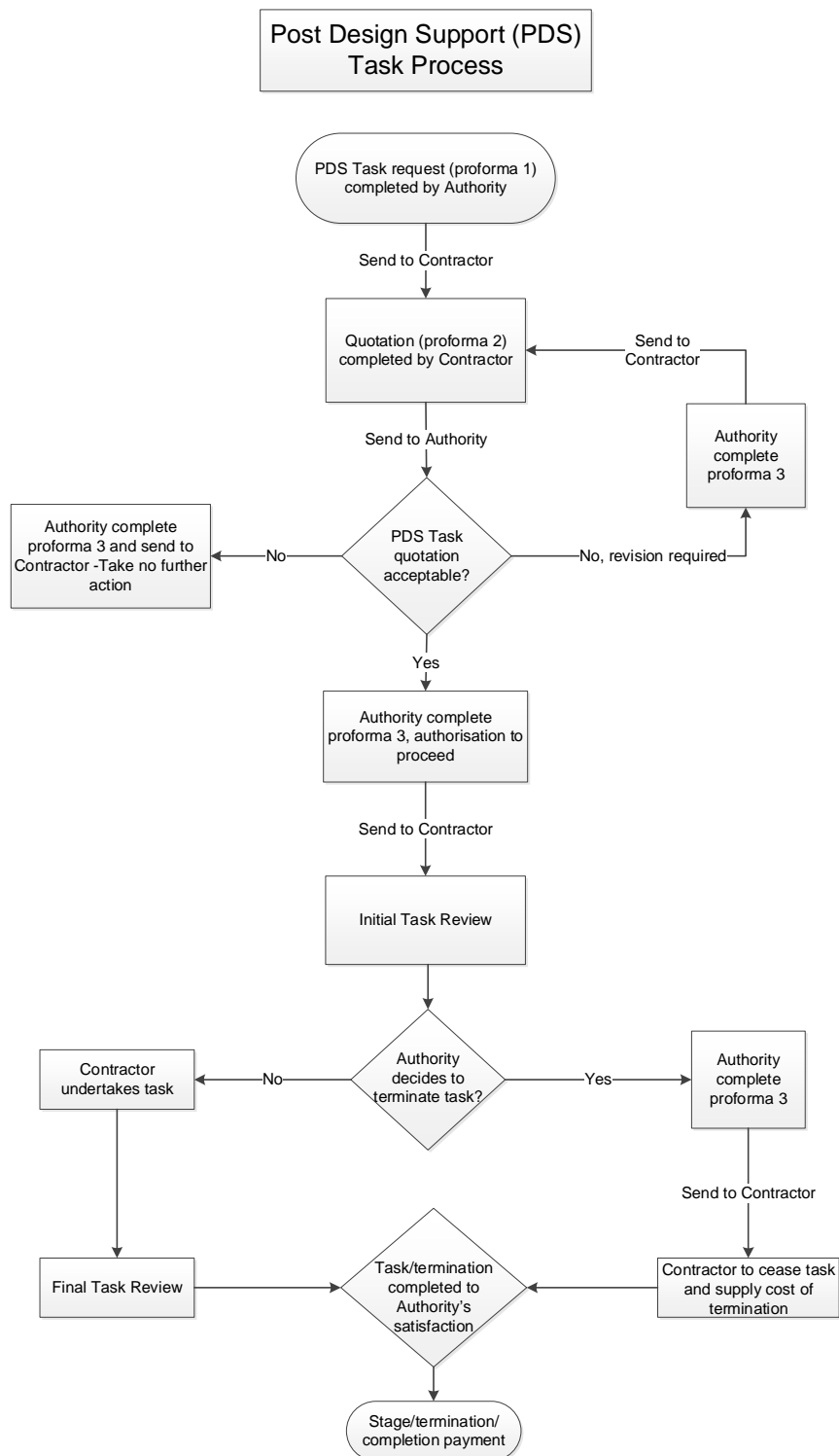


Figure.1 – Tasking Flow Chart

Schedule 12 - Tasking Forms

SUPPORT/REPAIR SERVICES TASKING PROFORMA PART 1

REQUEST FOR A TIME/COST QUOTATION

To:	From: DE&S MOD Abbey Wood South STSP-DCC-Lethality NH3 Cedar 2A #3260 Bristol BS34 8JH
-----	---

CONTRACT NUMBER:	TASK REFERENCE NO:
AUTHORITY'S PRIORITY/DATE REQUIRED:	EQUIPMENT(S) CONCERNED:

You are requested to provide a Time and Cost Quotation for the Task detailed below. This shall be submitted to the named authorisers of this form as stated below using Tasking Proforma Part 2.

TASK TITLE:	
TASK DESCRIPTION: (Include applicable DEFSTANs, AQAPs, ISO & Delivery Address/UIN)	
ITEMS TO BE ISSUED UNDER CONTRACT LOAN TERMS/GFE: (if applicable)	

RISK REGISTER REQUIRED:	<input type="checkbox"/> YES <input type="checkbox"/> NO
UPDATED SAFETY CASE REQUIRED:	<input type="checkbox"/> YES <input type="checkbox"/> NO

SECURITY CLASSIFICATION:	OFFICIAL
HANDLING INSTRUCTION:	Not to be shared outside MOD

OPERATIONS MANAGER AUTHORISATION		COMMERCIAL OFFICER AUTHORISATION	
DATE:		DATE:	
SIGNED:		SIGNED:	
NAME:		NAME:	

SUPPORT/REPAIR SERVICES TASKING PROFORMA PART 2

TIME/COST QUOTATION

To:	DE&S MOD Abbey Wood South STSP-DCC-Lethality NH3 Cedar 2A #3260 Bristol BS34 8JH	From:	
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CONTRACT NUMBER:	TASK REFERENCE NO:
AUTHORITY'S PRIORITY/DATE REQUIRED:	EQUIPMENT(S) CONCERNED & TASK DESCRIPTION:

A time/cost quotation is provided below. On the basis of current programme planning the resources defined are available for the period shown in accordance with the task outline/description in Tasking Proforma Part 1 without conflict with existing commitments and your task can be undertaken.

PROPOSED START DATE:	
PROPOSED COMPLETION DATE:	

Direct Labour (FIRM man hour rates exclusive of profit & overheads, to include a breakdown of grade(s) and hours (to be attached)).	£
Materials/Subsistence (breakdown to be attached).	£
Bought Out Parts (breakdown to be attached).	£
Sub-Contracted Work (breakdown to be attached).	£
Materials Handling	£
General & Admin @	£
Overheads @	£
Profit @	£
Total FIRM Price	£
Exchange Rate Used (if applicable)	

SIGNED: (Director or nominee)	
NAME:	
DATE:	

SUPPORT/REPAIR SERVICES TASKING PROFORMA PART 3

CUSTOMER AUTHORISATION/CANCELLATION

To:	From:	DE&S MOD Abbey Wood South STSP-DCC-Lethality NH3 Cedar 2A #3260 Bristol BS34 8JH
-----	-------	---

CONTRACT NUMBER:	TASK REFERENCE NO:
UIN:	BRIEF TASK DESCRIPTION:
AGREED PRIORITY/DATE REQUIRED:	EQUIPMENT(S) CONCERNED:

Following submission of Tasking Proforma Part 2, the Authority requests the following:

Please proceed with the work to the FIRM Price and completion date quoted in Tasking Proforma Part 2.	
Please provide a revised time/cost quotation on Tasking Proforma Part 2.	
Please take no further action on this Task.	
Please terminate all work on this Task and supply the cost of termination on Tasking Proforma Part 2.	

Is any GFE being issued to the Contractor with this Task	<input type="checkbox"/> Yes <input type="checkbox"/> No
Has a GFE Loan Form been completed & sent to SCM	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

As the Operations Manager I am content that all the elements which make up the FIRM Price quotation submitted to the Authority by the Contractor within Tasking Proforma Part 2 for this particular task is commensurate with the work involved.

NAME:	NAME:
POSITION: Operations Manager.	POSITION: Commercial Officer.
SIGNED:	SIGNED:
DATE:	DATE:

NAME:	VALUE OF THIS TASK:
POSITION: Cost Controller.	£ (Ex-VAT)
SIGNED:	
DATE:	

Added to CP&F

Firm Prices The Period 1st April 2022 to 31st March 2023

Item Number	Bill of Materials / Manufacturer Part Number	Manufacturer Product Code	MOD NATO Stock Number	Description	Delivery Lead Time to the Authority	Denomination of Quantity	Currency	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)

Firm Prices The Period 1st April 2023 to 31st March 2024

Item Number	Bill of Materials / Manufacturer Part Number	Manufacturer Product Code	MOD NATO Stock Number	Description	Delivery Lead Time to the Authority	Denomination of Quantity	Currency	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)

Firm Prices The Period 1st April 2024 to 31st March 2025

Item Number	Bill of Materials / Manufacturer Part Number	Manufacturer Product Code	MOD NATO Stock Number	Description	Delivery Lead Time to the Authority	Denomination of Quantity	Currency	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)

Firm Prices The Period 1st April 2025 to 31st March 2026

Item Number	Bill of Materials / Manufacturer Part Number	Manufacturer Product Code	MOD NATO Stock Number	Description	Delivery Lead Time to the Authority	Denomination of Quantity	Currency	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)

Firm Prices The Period 1st April 2026 to 31st March 2027

Item Number	Bill of Materials / Manufacturer Part Number	Manufacturer Product Code	MOD NATO Stock Number	Description	Delivery Lead Time to the Authority	Denomination of Quantity	Currency	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)

Firm Prices The Period 1st April 2022 to 31st March 2023

Item Number	Bill of Materials / Manufacturer Part Number	Manufacturer Product Code	MOD NATO Stock Number	Description	Delivery Lead Time to the Authority	Denomination of Quantity	Currency	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)

Firm Prices The Period 1st April 2023 to 31st March 2024

Item Number	Bill of Materials / Manufacturer Part Number	Manufacturer Product Code	MOD NATO Stock Number	Description	Delivery Lead Time to the Authority	Denomination of Quantity	Currency	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)

Firm Prices The Period 1st April 2024 to 31st March 2025

Item Number	Bill of Materials / Manufacturer Part Number	Manufacturer Product Code	MOD NATO Stock Number	Description	Delivery Lead Time to the Authority	Denomination of Quantity	Currency	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)

Firm Prices The Period 1st April 2025 to 31st March 2026

Item Number	Bill of Materials / Manufacturer Part Number	Manufacturer Product Code	MOD NATO Stock Number	Description	Delivery Lead Time to the Authority	Denomination of Quantity	Currency	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)

Firm Prices The Period 1st April 2026 to 31st March 2027

Item Number	Bill of Materials / Manufacturer Part Number	Manufacturer Product Code	MOD NATO Stock Number	Description	Delivery Lead Time to the Authority	Denomination of Quantity	Currency	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)	Banded Quantity	Firm Price Each (Ex VAT)

Spares Pack

Item Number	Bill of Materials / Manufacturer Part Number	Manufacturer Product Code	MOD NATO Stock Number	Description	Denomination of Quantity	Currency	Quantity	Firm Price Each (Ex VAT)	Total Firm Price Each (Ex VAT)

Spares Pack

Item Number	Bill of Materials / Manufacturer Part Number	Manufacturer Product Code	MOD NATO Stock Number	Description	Denomination of Quantity	Currency	Quantity	Firm Price Each (Ex VAT)	Total Firm Price Each (Ex VAT)
								Total Price	

Note: Tenderer to Insert additional rows or Delete unused rows

PROJECT: Army Special Operations Brigade (ASOB) System

Cyber Security

The Cyber Risk Level for the Army Special Operations Brigade (ASOB) System has been assessed as a **Very Low** risk project. The associated Risk Assessment Reference (RAR or RA) is: **RAR-469463400**

DE&S have included DEFCON 658 (SC2) as part of the ITT process. This DEFCON is intended to protect MOD Identifiable Information transferred during the life of the contract and sometimes post contract. MOD Identifiable Information is defined in DEFCON 658 (SC2) as "All Electronic Information which is attributed to or could identify an existing or proposed MOD capability, defence activities or personnel and which the MOD requires to be protected against loss, misuse, corruption, alteration and unauthorised disclosure."

Tenderers should complete the SAQ by either using the supporting PDF document on the Defence Sourcing Portal (DSP) for this ITT or using the online SAQ Form from the weblink below (preferred).

Online SAQ available from:

<https://forms.office.com/Pages/ResponsePage.aspx?id=7WB3vINZS0iuldChbfoJ5Tv4OR9pb0BHial1Ag-WKXVUOfk3Sk9SS0JDQ0FRWjhYNDhTVIdHUDJaNy4u>

The completed SAQ must be uploaded within the Commercial Envelope on DSP AND emailed to the DCCP Team at the following email address: ISSDes-DCPP@mod.gov.uk

NOTE: Tenderers should allow a minimum of two working days for the DCCP team to respond with their SAQ result for inclusion in their Tender response.

Def Stan 05-138 (appendix 1) provides further advice and specific guidance on classifications. If the SAQ response is not accepted as sufficient by the online tool, then tenderers should show how they intend to achieve compliance by completing a Cyber Implementation Plan.

Suppliers intending to sub-contract part of a Ministry of Defence contract will also be required to complete a Risk Assessment for the sub-contract(s), and sub-contractors will be required to complete an SAQ in response to it.

You can find further information on Cyber Security by clicking [here](#) or by searching for DCCP on GOV.UK.

Please click this link to register with the online tool and complete your questionnaire:

<https://suppliercyberprotection.service.xgov.uk/>.

Supplier Assurance Questionnaire (SAQ) for a contract with a Very Low Cyber Risk Profile

How to use this form

The Supplier Assurance Questionnaire (SAQ) is part of the Cyber Security Model.

You will need to:

- complete the SAQ to give information about yourself, your organisation and the measures you have in place to protect against cyber threats
- submit the completed SAQ to the DCPD team (ISSDes-DCPD@mod.gov.uk)
- check the email you receive from the DCPD team – this will confirm whether you are compliant with the contract's Cyber Risk Profile, and should arrive within 2 working days
- keep copies of the completed SAQ and the email you receive from the DCPD team and attach them when you submit your tender response

Check whether you are compliant with the contract's Cyber Risk Profile before you submit the SAQ

For each of the Cyber Risk Profile questions, asterisks show the compliant answers. If you give an answer that is not compliant, you must answer an extra question before the declaration at the end of the form.

Context and contract details

All suppliers must answer these questions.

Your name

Your email address

Your organisation's Dun & Bradstreet D-U-N-S number

If you do not have one, you can request one for free on Dun & Bradstreet's website at <https://www.dnb.co.uk/duns-number/lookup/request-a-duns-number.html>

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

Which statement best describes your organisation? Tick all the boxes that apply.

- ☐ My organisation is an SME (small or medium-sized enterprise)
- ☐ I am a sole trader
- ☐ My organisation works from multiple locations
- ☐ My organisation has locations outside of the UK

Risk Assessment Reference (RAR) for the contract

R	A	R	—									
---	---	---	---	--	--	--	--	--	--	--	--	--

Contract name

--

Contract description

--

Check which sections you need to complete

Answer the following question to check which parts of the form you need to complete.

In support of this contract only, please indicate whether MOD Identifiable Information is, or will be, processed on MOD accredited ICT systems. Choose one option only.

☐ The ICT systems have no accreditation

You must:

- answer all the questions in the form
- agree to the declaration at the end of the form

☐ The ICT systems have MOD accreditation to process OFFICIAL or OFFICIAL-SENSITIVE information

You do not need to answer the questions for the Very Low Cyber Risk Profile. You must:

- agree to the declaration at the end of the form
- add the DART (Defence Assurance Risk Tool) name and/or ID below

☐ The ICT systems are accredited to process SECRET or TOP SECRET information

You do not need to answer the questions for the Very Low Cyber Risk Profile. You must:

- agree to the declaration at the end of the form
- add the DART (Defence Assurance Risk Tool) name and/or ID below

If your ICT system(s) is accredited, enter the DART name and/or ID

Dart name

Dart ID

Very Low Cyber Risk Profile

VL01 Does your organisation have Cyber Essentials certification that covers the scope required for all aspects of the contract, and do you commit to maintaining this standard for the duration of the contract? Choose one option only.

- ☐ No
- ☐ No, but we have a plan to put this in place by the point of contract award
- ☐ *Yes (add the details below and skip question VL01a)

Certification body

Certification number

VL01a If you do not have Cyber Essentials certification, do you have an equivalent standard that you would like to claim as an alternative? Choose one option only.

- ☐ No
- ☐ Yes

If you are not compliant with the Cyber Risk Profile for the contract

For each of the Cyber Risk Profile questions, asterisks show the compliant answers. If you give an answer that is not compliant, you must answer the question below.

When will compliance be achieved? Choose one option only.

- ☐ Before contract commencement
- ☐ Not before contract commencement, but we will provide a Cyber Implementation Plan (CIP)
- ☐ We will be unable to achieve compliance

Declaration

All suppliers must read this information and tick the box to confirm agreement before submitting a Supplier Assurance Questionnaire.

- I have authority to complete the Supplier Assurance Questionnaire
 - The answers provided have been verified with all appropriate personnel and are believed to be true and accurate in all respects
 - All information which should reasonably have been shared has been included in the responses to the questions
 - Should any of the information on which the responses to this Supplier Assurance Questionnaire are based change, my company undertakes to notify the Ministry of Defence as soon as is reasonably practicable
 - My company acknowledges that the Ministry of Defence reserves the right to audit the responses provided at any time
- ☐ For and on behalf of my company, I confirm the above statements

Carefully check that you have responded to every relevant question before you submit your SAQ.

You will need to attach copies of your completed SAQ and the email you receive from the DCPD team when you submit your tender response.

Certificate of Conformity			1. Contractor's Unique CoC Serial No.	
2. Contractor's Name and Address:			3. Contract Number:	
			4. Contract Amendment Number:	
			5. Details of Approved Concessions:	
6. Acquirer Name and Address:			7. Deliver Address:	
8. Contract Item Number	9. Product Description and/or Part Number	10. Quantity	11. Shipment Document Numbers	12. Undelivered Quantity
13. Traceability Information reference DEFCON 627 (check the N/A box to indicate no traceability requirements) a) Sub-contract/order number: b) Specification/drawing number including issue: N/A c) Identification marks and/or serial number(s): <input type="checkbox"/> d) Material cast number: e) Batch and/or lot number: f) Test and/or inspection report(s): g) Incoming release note number/reference:				
• Other Remarks or Comments: (e.g. Cure Date. Shelf Life)				
• Contractor's Statement of Quality: It is certified that apart from the concessions noted in block #5 above, the products listed above conform in all respects to the contract requirements				
Date:	Name and Post Title:		Signature:	

THIS DEED OF GUARANTEE AND INDEMNITY GIVEN BY A PARENT COMPANY IN RESPECT OF A SUBSIDIARY

is made the [] day of [] 2020

BETWEEN:

(1) [Insert the name of the name of the Guarantor] [[a company incorporated in England and Wales with number [] whose registered office is at []] **or** [a company incorporated under the laws of [insert country] registered in [insert country] with number [] at [insert place of registration] whose principal office is at []] (“the **Guarantor**”); in favour of

(2) THE SECRETARY OF STATE FOR DEFENCE (“the **Authority**”)

WHEREAS:

(A) The Authority proposes to award contract number **701577419** (“the **Contract**”) to _____, company registration number _____ whose registered office is _____ (“the **Contractor**”).

(B) It is a condition precedent of the Authority entering into the Contract with the Contractor that the Guarantor must first execute and deliver this Deed of Guarantee and Indemnity to the Authority.

Now in consideration of the Authority entering into the Contract, the Guarantor hereby irrevocably and unconditionally agrees with the Authority as follows:

1. The Guarantor shall provide all resources and facilities whether financial or otherwise to enable the Contractor duly to fulfil its obligations in and arising from the Contract subsisting between the Authority and the Contractor at the date of this deed or which shall be entered into at any time after the date of this deed between the Authority and the Contractor (the ‘**Indemnified Obligations**’);

2. If:

- a) the Contractor shall fail in any respect duly to perform and observe, or shall otherwise be in breach of, any of the Indemnified Obligations; or
- b) any of the Indemnified Obligations are or become void, voidable, unenforceable or otherwise ineffective; or
- c) the Contract is terminated owing to a breach or an event of default on the part of the Contractor; or
- d) a receiver, administrative receiver, administrator, liquidator or similar officer is appointed over any or all of the Contractor's undertaking or assets;

then, forthwith on demand from the Authority the Guarantor shall, as a primary obligation, indemnify the Authority against all losses, claims, liabilities, damages, expenses and costs which may be incurred, met or suffered by the Authority and which arise from or in connection with (whether directly or indirectly) any such matters save that, subject to the other provisions of this deed, the liability of the Guarantor under this clause shall not exceed the liability of the Contractor to the Authority under the Contract.

3. The Guarantor irrevocably and unconditionally undertakes that all sums received or recovered by the Authority:
- a) by way of dividend, composition or payment arising from the liquidation, bankruptcy or otherwise of the Contractor may be taken and applied by the Authority in part satisfaction of the losses, claims, liabilities, damages, expenses and costs referred to in paragraph 2 above, and the Guarantor's obligations under this deed shall stand good in respect of the balance;
 - b) under this deed, may be credited to a suspense account and held in such account for so long as the Authority thinks fit pending the application of such monies towards the payment of the Indemnified Obligations;
 - c) from the Contractor in respect of any of the Indemnified Obligations, may be applied by the Authority in any manner and in any order towards any debts owed by the Contractor to the Authority (whether or not relating to the Indemnified Obligations) as the Authority may determine (notwithstanding any appropriation or purported appropriation by any person);
4. The Guarantor shall have no right to be subrogated to the Authority and shall not make any claim against the Contractor (unless instructed so to do by the Authority, in which event the Guarantor shall make such a claim) in respect of the Guarantor's performance under this deed, until the Authority has received payment in full of its claim against the Contractor;
5. This deed shall not be affected by any insolvency (including, without limitation, winding up, administration, receivership or administrative receivership), amalgamation, reconstruction, change of name, ownership, control or status or any legal limitation relating to, by or of the Contractor or any other person or, where the Contractor is a partnership, by any change in the partners;
6. The Guarantor shall not be discharged or released from its obligations under this deed:
- a) by any arrangement or agreement made between the Authority and the Contractor or a receiver, administrative receiver, administrator, liquidator or similar officer of the Contractor: or
 - b) by any renegotiation, substitution, alteration, amendment or variation (however fundamental) and whether or not to the Guarantor's disadvantage, to or of, the obligations imposed upon the Contractor or any other person; or
 - c) by any forbearance granted by the Authority to the Contractor or any other person as to payment, time, performance or otherwise; or
 - d) by any release or variation (however fundamental) of, any invalidity in, or any failure to take, perfect or enforce any other indemnity, guarantee or security in respect of the obligations to which this deed relates; or
 - e) by any other matter or thing which but for this provision might exonerate the Guarantor and this notwithstanding that such arrangement, agreement, renegotiation, substitution, alteration, amendment, variation, forbearance, matter or thing may have been made, granted or happened without the Guarantor's knowledge or assent;
7. No failure to exercise or any delay in exercising on the Authority's part any right or remedy under this deed or under the Contract or any other agreement shall operate as a waiver of such right or remedy;

8. Any certificate or determination by the Authority of the amount due under this deed or under the Contract shall be, in the absence of manifest error, conclusive evidence of the matters to which it relates;

9. No settlement or discharge between the Authority and the Guarantor or the Contractor shall be effective if any payment to the Authority in respect of the Contractor's or the Guarantor's obligations to the Authority is avoided or reduced by virtue of any provisions or enactments relating to bankruptcy, insolvency, liquidation or similar laws of general application from time to time and if such payment is so avoided or reduced, the Authority shall be entitled to recover from the Guarantor the amount of such payment as if such settlement or discharge had not occurred;

10. The Authority shall not be obliged, before exercising any of its rights under this deed, to take any action against, or make any demand from, the Contractor or any other person;

11. The Guarantor's obligations under this deed are continuing obligations and shall not be considered satisfied, settled or terminated by the Authority giving any approvals, or taking delivery of any goods, or accepting any performance under the contract and no single, cumulative or partial exercise by the Authority of any right or remedy under or arising from this deed shall prevent any further exercise;

12. All payments under this deed shall be made without set-off, counter-claim or other deduction;

13. The Guarantor shall be bound by all court judgments or arbitration awards relating to the contract or any dispute or matter between the Authority and the Contractor;

14. This deed shall be governed by and construed in accordance with English law. The parties irrevocably submit to English jurisdiction to the exclusion of all foreign jurisdiction, save that foreign jurisdictions may apply solely for the purposes of giving effect to this paragraph and for the enforcement of any judgment, order or award given under English jurisdiction.

[The following clause should only be used where the Guarantor is a company incorporated outside of England and Wales]

15. The Guarantor irrevocably appoints Messrs [insert name and address of firm of Solicitors in England or Wales], Solicitors as its agents to accept on its behalf service of all process and other documents of whatever description to be served on the Guarantor in connection with this Deed or any related matter.

Delivered as a deed on the date of this document.

Executed as a deed by [insert corporate name].

in the presence of Director

..... Director or Company Secretary

Appendix 1 to DEFFORM 24 (Edn 10/14)

Explanatory Notes

1. These explanatory notes are to assist in the completion of the DEFFORM 24 and should not be included in your completed Deed of Guarantee and Indemnity.
2. DEFFORM 24 is a Deed of Guarantee and Indemnity given by a Parent Company in respect of a Subsidiary. It is designed to cover a specific single contract entered into with the MOD by the subsidiary. The purpose of obtaining a Parent Company guarantee and indemnity is to ensure that the company is in a position to be able to execute the contract properly and, failing that, the MOD is reimbursed for any extra expenditure it may incur in making arrangements to have the contract completed elsewhere.
3. Where the company is able to offer a guarantee and indemnity from a parent (holding) company, commercial officers should ensure that they seek the guarantee and indemnity from the ultimate parent (holding) company in the group, rather than an intermediate parent (holding) company, or any other intermediate parent (holding) company where such exists. In such cases the MOD will wish to be satisfied as to the parent (holding) company's ability to provide the cover required, having regard to its financial resources and prospects. You should always ask Cost Assurance and Analysis Service - Industry Analysis (CAAS IA) to advise on this. Where the proposed contract is large, this may entail the holding company agreeing to a separate assessment by CAAS IA. In order to assure consistency throughout the MOD only this DEFFORM can be used as a Deed of Guarantee and Indemnity being given by a Parent Company.

Guidance On Completion

4. The specimen wording of the DEFFORM should be suitable for most circumstances and should not be changed at the request of a Guarantor. You must seek Central Legal Services – Commercial Law (CLS-CL) advice if the Guarantor requests a revision to the template DEFFORM or if the proposed Guarantor is a company registered outside England and Wales. In the latter case, you will need to seek legal advice to confirm both that the proposed Guarantor has power (under its own corporate rules and the laws of its home country) to enter into the deed and that it has executed the deed in a manner that makes it legally binding on the Guarantor.

Introductory Paragraph

5. Insert the contractor's name and, if applicable, registration number of the contractor (unless the contractor is a UK partnership or an overseas company it will be shown on the company letterhead) and the contract / tender details and dates and edit as appropriate.

Paragraph 1

6. Covers the Guarantor's obligations to the MOD to provide all resources and facilities (financial or otherwise) to enable the contractor to meet its obligations under the contract.

Paragraph 2

7. Covers the circumstances under which the guarantee and indemnity may be activated. This also requires the Guarantor to indemnify the MOD on demand against all losses and costs which the MOD has incurred as a result of these circumstances. However, the MOD cannot claim more under this paragraph from the Guarantor than they could claim from the

Appendix 1 to DEFFORM 24 (Edn 10/14)

contractor under the contract. If the contract contains a Limitation of Contractor's Liability, this will automatically apply to the indemnity under paragraph 2 of DEFFORM 24.

Paragraph 3

8. Covers the way in which any sums received by the MOD from either the contractor and / or the Guarantor may be used.

Paragraph 4

9. Covers the essential requirement of subrogation (the substitution in law of one party for another as the creditor). This will normally ensure that the Guarantor fulfils its obligations to the MOD before it takes any action to recover any claims of its own from the contractor. However, it also provides for the Guarantor to claim its right of subrogation if instructed to do so by the MOD, if that avenue would mean that it is able to recover money from a contractor in liquidation, which would then enable the Guarantor to meet the MOD claim.

Paragraph 5

10. Maintains the validity of this guarantee and indemnity even if the contractor changes its name, status and even ownership or control etc.

Paragraph 6

11. Prevents the Guarantor from subsequently avoiding its responsibilities even if there have been any amendments to the underlying contract.

Paragraph 7

12. Safeguards the MOD in the event of the MOD's failure or delay to call on the guarantee and indemnity.

Paragraph 8

13. The MOD may self-certify the amount of any demand for payment under the guarantee and indemnity. The Guarantor may only challenge this in cases of "manifest error".

Paragraph 9

14. Covers the scenario where the MOD may have received payment in settlement of a dispute but that payment then becomes void (e.g. if the payee soon thereafter becomes insolvent). The Guarantor still remains liable for the amount of the voided payment.

Paragraph 10

15. Confirms that MOD may seek recompense from the Guarantor without first having to attempt to make recovery from the contractor.

Paragraph 11

16. Confirms that the MOD taking delivery of goods, accepting performance under the contract or making any claim under the deed, does not relieve the Guarantor from its ongoing liability under the deed. This is to prevent accidental waiver of the MOD's rights.

Paragraph 12

Appendix 1 to DEFFORM 24 (Edn 10/14)

17. This is self explanatory.

Paragraph 13

18. Prevents the Guarantor from claiming that it may not be bound by an arbitrator's decision against a contractor, which could force the MOD to litigate the same point a second time with the possibility that a different court may reach a different conclusion.

Paragraph 14

19. Confirms that English law applies to the indemnity, no matter which national law may apply to any contract. Also, if the contractor is not subject to English law, the MOD may use the contractor's national law in order to enforce any claim that may be agreed.

Paragraph 15

20. Delete this clause if the Guarantor is an English company (i.e. a company incorporated in England or Wales). If the Guarantor is a foreign company, then the paragraph should be retained. In either case you should delete the introductory words in bold.

Execution

Insert the full corporate name of the Guarantor in the execution clause, where indicated. For the deed to be effective it is essential that it is signed by two directors of the Guarantor or by one director and the company secretary. It is now not strictly necessary for the Guarantor to apply its corporate seal - although the MOD may request it.

**EQUIPMENT BREAKDOWN STRUCTURE
FOR THE WEAPON SYSTEM INCLUDING SUPPRESSORE**

{ Armalite Rifle (AR) platform Alternative Individual Weapon (AIW) System and Suppressor
image – Contractor to Provide}

This schedule shall include both CES and Spares equipment items for the Weapon System and Suppressor

Item No.	NSN (If Applicable)	Manufacturers Part Number	Description	Image	D of Q	PPQ	Dimension	Weight

**EQUIPMENT BREAKDOWN STRUCTURE
FOR THE OPTIC**

{Optic System that complements the Rifle and is ballistically matched to the stated ammunition nature and supplied barrel length - image – Contractor to Provide}

This schedule shall include both CES and Spares equipment items for the Optic System

Item No.	NSN (If Applicable)	Manufacturers Part Number	Description	Image	D of Q	PPQ	Dimension	Weight

This Schedule is not currently used.

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GUIDANCE FOR COMPLETION OF DEFORM 528

For the purposes of this form no prioritisation of importance is implied in the ordering of the following sections.

For the purposes of this form “**Materiel**” means any Materiel (including hardware, information, software and/or services) which is regulated by any Export Control Regulations (e.g. International Traffic in Arms Regulations (ITAR), the Export Administration Regulations (EAR), etc.).

For the purposes of this form “**Data**” means the information required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance, or modification of controlled articles. This includes information in the form of blueprints, drawings, plans, instructions, diagrams, photographs, etc. It may take forms such as models, formulae, tables, engineering designs and specifications, manuals and instructions written or recorded on other media or devices such as disk, tape, or read-only memories.

For the purposes of this form “**Service**” means the intangible products such as training, technical support or provision of expertise.

For the purposes of this form “**Part Number**” means the part number of the Materiel that is being supplied under the Contract.

PAGE 1

1a - 1f Provide full correspondence name and address of the supplying organisation.

PAGE 2

SECTION 1

For the purposes of this section of the form, each line item of Materiel listed should be at the level that is or will be managed and transacted within the MOD inventory system.

1a to 1i Identify to the best of your knowledge and belief the part number and NATO or National Stock Number (NSN), Manufacturer Name & Address, CAGE/NCAGE Code (NATO Commercial & Government Entity Code identifier), Country of Origin and Security Classification (Security Policy Framework on Gov.uk).

SECTION 2 - Complete this section if the Materiel is subject to US Trade Controls Regulations

2a Indicate whether the Materiel includes US components, parts, accessories, attachments, systems, software, content or is based on, or derived from or manufactured pursuant to, export controlled technical data, technology, defence services or software.

2b - 2c Enter whether the Materiel exported / transferred is listed on US Munitions List (USML) and if so provide the USML Category Number. This information is covered under defense articles 22 U.S.C. 2778 of the Arms Export Control Act (§120.6), technical data (§120.10), software (§120.45(f)) and defense services (§120.9). (Guidance is available on the US Directorate of Defense Trade Controls website at <http://www.pmdtc.state.gov>).

For MOD personnel MOD Policy and Guidance on the application of the ITAR regulations within the MOD can be found in 2015DIN04-074 or further support, advice and guidance can be obtained by contacting the DE&S International Relations Group Email: DESIRG-2-AsstHD@mod.uk, Tel: 0117 91 30271 or Email: DESIRG-2d@mod.uk, Tel: 030 679 80868.

For Contractor personnel, they should contact their Business Export Compliance Teams for further guidance.

2d Include all references of any applicable authorisations that accompany the Materiel and provide copies to the extent available to you.

2e - 2f Enter whether the Materiel exported / transferred is listed on the Commerce Control List (CCL) and if so provide the Export Control Classification Number (ECCN) listed on the CCL – EAR Part 774, including Materiel that falls into the catch-all categories in the CCL (guidance is available on the Bureau of Industry and Security, US Department of Commerce website at <http://www.bis.doc.gov>). Further support, advice and guidance of the application of the EAR regulations within the MOD can be obtained by contacting the DE&S International Relations Group Email: DESIRG-2-AsstHD@mod.uk, Tel: 0117 91 30271 or Email: DESIRG-2d@mod.uk, Tel: 030 679 80868.

2g Indicate whether the Materiel being supplied under EAR is authorised for export to the UK.

2h Details of the EAR Exceptions used.

SECTION 3 - Complete this section if the Materiel is subject to other countries Trade Controls Regulations

3a Indicate whether the Materiel being supplied is not of UK or USA origin, or is it based on, or derived from or manufactured pursuant to, export controlled technical data, technology, defence services or software.

3b Include all references of any applicable authorisations that accompany the Materiel and provide copies to the extent available to you.

SECTION 4 - Complete this section if the Materiel is subject to UK Trade Controls Regulations

4a Indicate whether the Materiel being supplied is derived from or manufactured pursuant to, export controlled technical data, technology, defence services or software for Military use.

4b - 4c Indicate whether the Materiel is listed on the UK Munitions List (UKML) and provide the reference UKML Number .

4d 4e Indicate whether the Materiel being supplied is listed of the UK/EU Dual Use List and if so provide the reference Dual Use Number.

4f Indicate whether the Materiel or Service being supplied is listed as 'No Authorisation Required'.

SECTION 5 - Complete this section if there is an End-Use / End-User Certificate requirement

5a - 5c Indicate whether the Materiel being supplied requires an End-User Certification or Transfer Authority and if so (or being obtained) include copies to the extent available to you.

PAGE 2 - Cell reference descriptors

2a - Does the Materiel originate in USA or contain any US sourced article or technology or have any US Person content contribution, including software?

2b - USML Listed?

2c - USML Category Number:

2d - If answered Yes to 2a and 2b, please provide export authorisation reference, confirmation it is held or the duration to obtain it and provide a copy of the authorisation supplied by the OEM to the extent available to you (for each asset):

2e - CCL Listed?

2f - CCL ECCN:

2g - If answered Yes to 2e is a export authorisation required to export the Materiel to the UK?

2h - Exceptions used:

3a - For Materiel not of UK or USA origin, is an export authorisation required to move the Materiel to the U.K. from the country of origin?

3b - If answered Yes to 3a, please provide export authorisation reference, confirmation it is held or the duration to obtain it and provide a copy of the authorisation supplied by the OEM to the extent available to you (for each asset).

4a - Is the Materiel designed or modified for military use?

4b - UKML Listed?

4c - UKML category number:

4d - Is the Materiel UK/EU Dual Use Listed?

4e - UK/EU Dual Use Number:

4f - Is your product rated as "No authorisation Required"?

5a - For Materiel to be provided by a Contractor to MOD - Is an End-User Certificate required? If Yes MOD to provide.

5b - For Materiel to be provided by MOD to a Contractor - Is re-transfer authority required? If Yes MOD to obtain and the Contractor to provide all reasonable assistance (e.g. DSP-83, TAA).

5c - If answered Yes to 5a or 5b, please provide end-use certificate or re-transfer authority reference(s), confirmation it is held or the duration to obtain it and provide a copy of the authorisation held to the extent available to you (for each asset).

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**Import and
Export Control Information**

Contract No.	
1a: Supplier Name	
1b: Address	
1c: City/State	
1d: Post/Zip Code	
1e: Country	
1f: CAGE/NCAGE	

The recipient of the Materiel will require the information below for each item of Materiel supplied . Please record the information for all Contractor Deliverables. Assistance to complete the form will be provided by text prompts in certain cells and can also be found on the Guidance for Completion of Form page. Please use one row per Contractor Deliverable.

Please sign declaration on third tab and return with submission										US Trade Controls Applicable								Country Trade Controls Applicable		UK Trade Controls Applicable						End Use Certificate if required yes, attach			Line Item
Line item	Product Name 1a	Description 1b	Part Number 1c	NSN Part Number 1d	Manufacturer 1e	Address 1f	CAGE/NCAGE 1g	Country of Origin 1h	Security Classification 1i	2a	2b	2c	2d	2e	2f	2g	2h	3a	3b	4a	4b	4c	4d	4e	4f	5a	5b	5c	
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Declaration

I certify that the information provided on this DEFFORM 528 is true, complete and accurate to the best of my knowledge. If there is any change that effects the control classification as described on this Form or I become aware of anything that causes the response to no longer be true, complete and accurate, or if any inaccuracies are identified, I will inform the other party in writing as soon as I become aware of such change.

Printed name	
Position or Job Title Held in Company / MOD	
Address	
E-Mail	
Telephone number	
Signed (Duly authorised person)	
Date of signature	

Please print off this Declaration Sheet and provide a signed copy with your Tender submission

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CONTRACT DATA REQUIREMENT

1. <u>ITT/Contract Number</u> 701577419	2. <u>CDR Number</u> ONE	3. <u>Data Category</u> Maintenance / Repair / Reconditioning / Replacement Technical Information	4. <u>Contract Delivery Date</u> As specified in Schedule 2 - the Schedule of Requirements
5. <u>Equipment/Equipment Subsystem Description</u> Rifle System comprising of a Rifle and a detachable Signature Reduction System and An Optic System that complements the Rifle and is ballistically matched to the stated ammunition nature and supplied barrel length.		6. <u>General Description of Data Deliverable</u> 1. Maintenance, Overhaul & Calibration Information Pack e.g. <ul style="list-style-type: none"> - Inspection Procedures - Calibration procedures - Scheduled maintenance procedures - Unscheduled maintenance procedures Maintenance Level 1, 2 & 4 Technical Data <p>To enable the Authority or its potential contractors to maintain the Articles or any part thereof in a safe and serviceable operating condition.</p> 2. Repair Information Pack e.g. <ul style="list-style-type: none"> - Inspection / Fault diagnosis / Standard Serviceability testing procedures - Repair procedures - Safety procedures - Handling and storage procedures - Fault and Repair Records / Log Cards Maintenance Level 1, 2 & 4 <p>Technical Data to enable the Authority or its potential contractors to safely return the Articles or any part thereof to a serviceable and safe operating condition.</p> 3. Replacement / Supplier Pack e.g. <ul style="list-style-type: none"> - Part Numbers / NATO Stock Numbers (NSNs) - Supplier catalogue e.g. CAGE codes etc. - Turn-around time records <p>Technical Data to enable the Authority or its potential contractors to identify, for the Articles or any part thereof, suppliers of replacement parts and or to identify component part obsolescence risk.</p> 4. Operations Pack <p>Technical Data to enable the Authority or its potential contractors to safely operate and dispose of the Article(s) or any part thereof.</p>	
7. <u>Purpose for which data is required</u> <p>To enable Maintenance and Repair activities to be undertaken by the Authority or the Authority's designated contractor.</p> <p>To enable Competitive tendering by the Authority for Maintenance or Repair or Replacement tasks.</p>		8. <u>Intellectual Property Rights</u> <p>a. <u>Applicable DEFCONs</u></p> <p>DEFCON 16, DEFCON 21 and DEFCON 90</p> <p>b. <u>Special IP Conditions</u></p>	
9. <u>Update/Further Submission Requirements</u> Annually			
10. <u>Medium of Delivery</u> Electronic		11. <u>Number of Copies</u> One (1)	

CONTRACT DATA REQUIREMENT

1. <u>ITT/Contract Number</u> 701577419	2. <u>CDR Number</u> Two	3. <u>Data Category</u> Integrated Logistic Support	4. <u>Contract Delivery Date</u> As specified in Schedule 2 - the Schedule of Requirements
5. <u>Equipment/Equipment Subsystem Description</u> Rifle System comprising of a Rifle and a detachable Signature Reduction System and An Optic System that complements the Rifle and is ballistically matched to the stated ammunition nature and supplied barrel length.		6. <u>General Description of Data Deliverable</u> 1. Training Package - Training courses. - Quick Reference User Guides. - Training pack handout/slides. 2. Technical Publications - Army Equipment Support Publication format, Def Stan 00-601 Pt 4. 3. Supply Support Report (SSR) - Initial Provisioning List. - Spares ranging and scaling modelling information. - Special Supply information. - Denomination of Quantity (DofQ). - In Store maintenance instructions. - Disposal Technical Information. 4. NATO Codification Data - NATO Codification information, (as required by Def Con 117). 5 Equipment Breakdown Structure (EBS) - A record of the Equipment breakdown structure to include the Complete Equipment Schedule and Maintenance Significant Items.	
7. <u>Purpose for which data is required</u> Required by the Authority to: - Comply with Integrated Logistic Support requirements for MOD projects, as defined in Def Stan 00-600. - Assure development of an, effective, efficient and economic support solution. - Enable the equipment to be effectively operated and maintained through life. - Support cost effective decision making and disposal at end of life.		8. <u>Intellectual Property Rights</u> a. <u>Applicable DEFCON</u> DEFCON 90 b. <u>Special IP Conditions</u> <u>None</u>	
9. <u>Update/Further Submission Requirements</u> As defined in Schedule 2, Schedule of Requirements.			
10. <u>Medium of Delivery</u> Electronic.		11. <u>Number of Copies</u> As required by Schedule 2, Schedule of Requirements.	

Schedule 23

UK OFFICIAL AND UK OFFICIAL-SENSITIVE CONTRACTUAL SECURITY CONDITIONS

Purpose

1. This document provides guidance for Contractors where classified material provided to or generated by the Contractor is graded UK OFFICIAL or UK OFFICIAL-SENSITIVE. Where the measures requested below cannot be achieved or are not fully understood, further advice should be sought from the UK Designated Security Authority (Email: SPODSR-IIPCSy@mod.gov.uk)

Definitions

2. The term "*Authority*" for the purposes of this Schedule means the HMG Contracting Authority.
3. The term "*Classified Material*" for the purposes of this Schedule means classified information and assets.

Security Grading

4. The SENSITIVE caveat is used to denote UK OFFICIAL material that is of a particular sensitivity and where there is a need to reinforce the 'need to know'. The Security Aspects Letter, issued by the Authority shall define the UK OFFICIAL-SENSITIVE material that is provided to the Contractor, or which is to be developed by it, under this Contract. The Contractor shall mark all UK OFFICIAL and UK OFFICIAL-SENSITIVE documents which it originates or copies during the Contract with the applicable security grading.

Security Conditions

5. The Contractor shall take all reasonable steps to adhere to the provisions specified in the Contract or listed in this Annex. The Contractor shall make sure that all individuals employed on any work in connection with the Contract have notice that these provisions apply to them and shall continue so to apply after the completion or earlier termination of the Contract. The Authority must state the data retention periods to allow the Contractor to produce a data management policy. If you are a Contractor located in the UK your attention is also drawn to the provisions of the Official Secrets Acts 1911 to 1989 in general, and to the provisions of Section 2 of the Official Secrets Act 1911 (as amended by the Act of 1989) in particular.

Protection of UK OFFICIAL and UK OFFICIAL-SENSITIVE Classified Material

6. The Contractor shall protect UK OFFICIAL and UK OFFICIAL-SENSITIVE material provided to or generated by it in accordance with the requirements detailed in this Security Condition and any other conditions that may be specified by the Authority. The Contractor shall take all reasonable steps to prevent the loss or compromise of classified material whether accidentally or from deliberate or opportunist attack.
7. Once the Contract has been awarded, where Contractors are required to store or process UK MOD classified information electronically, they are required to register the IT system onto the Defence Assurance Risk Tool (DART). Details on the registration process can be found in the 'Industry Security Notices (ISN)' on Gov.UK website. ISNs 2017/01, 04 and 06, Defence Condition 658 and Defence Standard 05-138 details the DART registration, IT security accreditation processes, risk assessment/management and Cyber security requirements which can be found in the following links:

<https://www.gov.uk/government/publications/industry-security-notices-isns>

<http://dstan.gateway.isg-r.r.mil.uk/standards/defstans/05/138/000002000.pdf>

<https://www.gov.uk/government/publications/defence-condition-658-cyber-flow-down>

8. All UK classified material including documents, media and other assets must be physically secured to prevent unauthorised access. When not in use UK OFFICIAL and UK OFFICIAL-SENSITIVE material shall be handled with care to prevent loss or inappropriate access. As a minimum UK OFFICIAL-SENSITIVE material shall be stored under lock and key and shall be placed in a lockable room, cabinets, drawers or safe and the keys/combinations shall be subject to a level of control.
9. Disclosure of UK OFFICIAL and UK OFFICIAL-SENSITIVE material must be strictly controlled in accordance with the *"need to know"* principle. Except with the written consent of the Authority, the Contractor shall not disclose the Contract or any provision thereof to any person other than to a person directly employed by the Contractor or sub-Contractor.
10. Except with the consent in writing of the Authority the Contractor shall not make use of the Contract or any information issued or provided by or on behalf of the Authority otherwise than for the purpose of the Contract, and, same as provided for in paragraph 8 above, the Contractor shall not make use of any article or part thereof similar to the articles for any other purpose.
11. Subject to any intellectual property rights of third parties, nothing in this Security Condition shall restrict the Contractor from using any specifications, plans, drawings and other documents generated outside of this Contract.
12. Any samples, patterns, specifications, plans, drawings or any other documents issued by or on behalf of the Authority for the purposes of the Contract remain the property of the Authority and must be returned on completion of the Contract or, if directed by the Authority, destroyed in accordance with paragraph 34.

Access

13. Access to UK OFFICIAL and UK OFFICIAL-SENSITIVE material shall be confined to those individuals who have a *"need-to-know"*, have been made aware of the requirement to protect the information and whose access is essential for the purpose of their duties.
14. The Contractor shall ensure that all individuals requiring access to UK OFFICIAL-SENSITIVE information have undergone basic recruitment checks. This should include establishing proof of identity; confirming that they satisfy all legal requirements for employment by the Contractor; and verification of their employment record. Criminal record checks should also be undertaken where permissible under national/local laws and regulations. This is in keeping with the core principles set out in the UK Government (HMG) Baseline Personnel Security Standard (BPSS) which can be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/714002/HMG_Baseline_Personnel_Security_Standard_-_May_2018.pdf

Hard Copy Distribution

15. UK OFFICIAL and UK OFFICIAL-SENSITIVE documents may be distributed, both within and outside Contractor premises in such a way as to make sure that no unauthorised person has access. It may be sent by ordinary post in a single envelope. The words UK OFFICIAL or UK OFFICIAL-SENSITIVE

must not appear on the envelope. The envelope must bear a stamp or marking that clearly indicates the full address of the office from which it was sent. Commercial Couriers may be used.

16. Advice on the distribution of UK OFFICIAL-SENSITIVE documents abroad or any other general advice including the distribution of UK OFFICIAL-SENSITIVE shall be sought from the Authority.

Electronic Communication and Telephony and Facsimile Services

17. UK OFFICIAL information may be emailed unencrypted over the internet. UK OFFICIAL-SENSITIVE information shall normally only be transmitted over the internet encrypted using either a National Cyber Security Centre (NCSC) Commercial Product Assurance (CPA) cryptographic product or a UK MOD approved cryptographic technique such as Transmission Layer Security (TLS). In the case of TLS both the sender and recipient organisations must have TLS enabled. Details of the required TLS implementation are available at:

<https://www.ncsc.gov.uk/guidance/tls-external-facing-services>

Details of the CPA scheme are available at:

<https://www.ncsc.gov.uk/scheme/commercial-product-assurance-cpa>

18. Exceptionally, in urgent cases UK OFFICIAL-SENSITIVE information may be emailed unencrypted over the internet where there is a strong business need to do so, but only with the prior approval of the Authority. However, it shall only be sent when it is known that the recipient has been made aware of and can comply with the requirements of these Security Conditions and subject to any explicit limitations that the Authority require. Such limitations including any regarding publication, further circulation or other handling instructions shall be clearly identified in the email sent with the material.
19. UK OFFICIAL information may be discussed on fixed and mobile telephones with persons located both within the country of the Contractor and overseas. UK OFFICIAL-SENSITIVE information may be discussed on fixed and mobile telephones only where there is a strong business need to do so and only with the prior approval of the Authority.
20. UK OFFICIAL information may be faxed to recipients located both within the country of the Contractor and overseas, however UK OFFICIAL-SENSITIVE information may be transmitted only where there is a strong business case to do so and only with the prior approval of the Authority.

Use of Information Systems

21. The detailed functions that must be provided by an IT system to satisfy the minimum requirements cannot all be described here in specific detail; it is for the implementers to identify possible means of attack and ensure proportionate security mitigations are applied to prevent a successful attack.
22. The Contractor should ensure **10 Steps to Cyber Security** (Link below) is applied in a proportionate manner for each IT and communications system storing, processing or generating UK OFFICIAL or UK OFFICIAL-SENSITIVE information. The Contractor should ensure competent personnel apply 10 Steps to Cyber Security.
- <https://www.ncsc.gov.uk/guidance/10-steps-cyber-security>.
23. As a general rule, any communication path between an unauthorised user and the data can be used to carry out an attack on the system or be used to compromise or ex-filtrate data.

24. Within the framework of the 10 Steps to Cyber Security, the following describes the minimum security requirements for processing and accessing UK OFFICIAL-SENSITIVE information on IT systems.

- a. Access. Physical access to all hardware elements of the IT system is to be strictly controlled. The principle of “*least privilege*” will be applied to System Administrators. Users of the IT System (Administrators) should not conduct ‘standard’ User functions using their privileged accounts.
- b. Identification and Authentication (ID&A). All systems are to have the following functionality:
 - i. Up-to-date lists of authorised users.
 - ii. Positive identification of all users at the start of each processing session.
- c. Passwords. Passwords are part of most ID&A security measures. Passwords are to be “*strong*” using an appropriate method to achieve this, e.g. including numeric and “*special*” characters (if permitted by the system) as well as alphabetic characters.
- d. Internal Access Control. All systems are to have internal Access Controls to prevent unauthorised users from accessing or modifying the data.
- e. Data Transmission. Unless the Authority authorises otherwise, UK OFFICIAL-SENSITIVE information may only be transmitted or accessed electronically (e.g. point to point computer links) via a public network like the Internet, using a CPA product or equivalent as described in paragraph 16 above.
- f. Security Accounting and Audit. Security relevant events fall into two categories, namely legitimate events and violations.
 - i. The following events shall always be recorded:
 1. All log on attempts whether successful or failed,
 2. Log off (including time out where applicable),
 3. The creation, deletion or alteration of access rights and privileges,
 4. The creation, deletion or alteration of passwords.
 - ii. For each of the events listed above, the following information is to be recorded:
 1. Type of event,
 2. User ID,
 3. Date & Time,
 4. Device ID.

The accounting records are to have a facility to provide the System Manager with a hard copy of all or selected activity. There also must be a facility for the records to be printed in an easily readable form. All security records are to be inaccessible to users without a need to know. If the operating system is unable to provide this then the equipment must be protected by physical means when not in use i.e. locked away or the hard drive removed and locked away.

- g. Integrity & Availability. The following supporting measures are to be implemented:
 - i. Provide general protection against normally foreseeable accidents/mishaps and known recurrent problems (e.g. viruses and power supply variations),
 - ii. Defined Business Contingency Plan,

- iii. Data backup with local storage,
 - iv. Anti-Virus Software (Implementation, with updates, of an acceptable industry standard Anti-virus software),
 - v. Operating systems, applications and firmware should be supported,
 - vi. Patching of Operating Systems and Applications used are to be in line with the manufacturers recommended schedule. If patches cannot be applied an understanding of the resulting risk will be documented.
- h. Logon Banners. Wherever possible, a “Logon Banner” will be provided to summarise the requirements for access to a system which may be needed to institute legal action in case of any breach occurring. A suggested format for the text (depending on national legal requirements) could be:
- “Unauthorised access to this computer system may constitute a criminal offence”*
- i. Unattended Terminals. Users are to be automatically logged off the system if their terminals have been inactive for some predetermined period of time, or systems must activate a password protected screen saver after 15 minutes of inactivity, to prevent an attacker making use of an unattended terminal.
 - j. Internet Connections. Computer systems must not be connected direct to the Internet or “un-trusted” systems unless protected by a firewall (a software based personal firewall is the minimum but risk assessment and management must be used to identify whether this is sufficient).
 - k. Disposal. Before IT storage media (e.g. disks) are disposed of, an erasure product must be used to overwrite the data. This is a more thorough process than deletion of files, which does not remove the data.

Laptops

- 25. Laptops holding any UK OFFICIAL-SENSITIVE information shall be encrypted using a CPA product or equivalent as described in paragraph 16 above.
- 26. Unencrypted laptops and drives containing personal data are not to be taken outside of secure sites¹. For the avoidance of doubt the term “drives” includes all removable, recordable media e.g. memory sticks, compact flash, recordable optical media (CDs and DVDs), floppy discs and external hard drives.
- 27. Any token, touch memory device or password(s) associated with the encryption package is to be kept separate from the machine whenever the machine is not in use, left unattended or in transit.
- 28. Portable CIS devices holding the Authorities’ data are not to be left unattended in any public location. They are not to be left unattended in any motor vehicles either in view or in the boot or luggage compartment at any time. When the vehicle is being driven the CIS is to be secured out of sight in the glove compartment, boot or luggage compartment as appropriate to deter opportunist theft.

¹ Secure Sites are defined as either Government premises or a secured office on the contractor premises.

Loss and Incident Reporting

29. The Contractor shall immediately report any loss or otherwise compromise of any OFFICIAL or OFFICIAL-SENSITIVE material to the Authority. In addition any loss or otherwise compromise of any UK MOD owned, processed or UK MOD Contractor generated UK OFFICIAL or UK OFFICIAL-SENSITIVE material is to be immediately reported to the UK MOD Defence Industry Warning, Advice and Reporting Point (WARP), within the Joint Security Co-ordination Centre (JSyCC) below. This will assist the JSyCC in formulating a formal information security reporting process and the management of any associated risks, impact analysis and upward reporting to the UK MOD's Chief Information Officer (CIO) and, as appropriate, the Contractor concerned. The UK MOD WARP will also advise the Contractor what further action is required to be undertaken.

JSyCC WARP Contact Details

Email: DefenceWARP@mod.gov.uk (OFFICIAL with no NTK restrictions)

RLI Email: defencewarp@modnet.rli.uk (MULTIUSER)

Telephone (Office hours): +44 (0) 30 6770 2185

JSyCC Out of hours Duty Officer: +44 (0) 7768 558863

Mail: JSyCC Defence Industry WARP

X007 Bazalgette Pavilion,

RAF Wyton, HUNTINGDON, Cambridgeshire, PE28 2EA.

30. Reporting instructions for any security incidents involving MOD classified material can be found in Industry Security Notice 2017/03 as may be subsequently updated at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/651683/ISN_2017-03 - Reporting of Security Incidents.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/651683/ISN_2017-03_-_Reporting_of_Security_Incidents.pdf)

Sub-Contracts

31. Where the Contractor wishes to sub-contract any elements of a Contract to sub-Contractors within its own country or to Contractors located in the UK such sub-contracts will be notified to the Contracting Authority. The Contractor shall ensure that these Security Conditions are incorporated within the sub-contract document.
32. The prior approval of the Authority shall be obtained should the Contractor wish to sub-contract any UK OFFICIAL-SENSITIVE elements of the Contract to a sub-Contractor facility located in another (third party) country. The first page of Appendix 5 (MOD Form 1686 (F1686) of the GovS 007 Security Contractual Process chapter is to be used for seeking such approval. The MOD Form 1686 can be found at Appendix 5 at:
- https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/710891/2018_May_Contractual_process.pdf
33. If the sub-contract is approved, the Contractor will flow down the Security Conditions in line with paragraph 30 above to the sub-Contractor. Contractors located overseas may seek further advice and/or assistance from the Authority with regards the completion of F1686.

Publicity Material

34. Contractors wishing to release any publicity material or display assets that arises from a Contract to which these Security Conditions apply must seek the prior approval of the Authority. Publicity material includes open publication in the Contractor's publicity literature or website or through the media; displays at exhibitions in any country; lectures or symposia; scientific or technical papers, or any other occasion where members of the general public may have access to the information even if organised or sponsored by the UK Government

Physical Destruction

35. As soon as no longer required, UK OFFICIAL and UK OFFICIAL-SENSITIVE material shall be destroyed in such a way as to make reconstitution very difficult or impossible, for example, by burning, shredding or tearing into small pieces. Advice shall be sought from the Authority when information/material cannot be destroyed or, unless already authorised by the Authority, when its retention is considered by the Contractor to be necessary or desirable. Unwanted UK OFFICIAL-SENSITIVE information/material which cannot be destroyed in such a way shall be returned to the Authority.

Interpretation/Guidance

36. Advice regarding the interpretation of the above requirements should be sought from the Authority.
37. Further requirements, advice and guidance for the protection of UK classified information at the level of UK OFFICIAL-SENSITIVE may be found in Industry Security Notices at:

<https://www.gov.uk/government/publications/industry-security-notices-isns>

Audit

38. Where considered necessary by the Authority the Contractor shall provide evidence of compliance with this Security Condition and/or permit the inspection of the Contractors processes and facilities by representatives of the Contractors' National/Designated Security Authorities or the Authority to ensure compliance with these requirements.

OFFICIAL-SENSITIVE



Defence Equipment and Support

STSP DCC Lethality
NH3 Cedar 2a #3260
MOD Abbey Wood
Bristol BS34 8JH



Our Reference: ASOB/SAL

Date: 23 June 2021

ARMY SPECIAL OPERATIONS BRIGADE (ASOB) SYSTEM – SECURITY CLASSIFICATION GUIDANCE

REDACTED IN FULL

Schedule 25 - Demand Order Form

MINISTRY OF DEFENCE									
Order for supply of materiel off running or demand order contract									
Contract No:		Date:		Demand Order No: DO-		RAC:		UIN:	
Contractor:						Consignee:			
NOTICE TO CONTRACTOR: This order authorises you to supply the Materiel scheduled below in accordance with the Terms and Conditions of the above-mentioned Contract. Please sign, date and return a copy to the Demanding Authority as acknowledgement of the requirements stated therein. Contract and Order Numbers should be quoted in any correspondence.									
Item No	NSN/MPN	Description	Packaging	D of Q	Delivery Date	Total Qty	Unit Price £ FIRM Ex VAT	Total Price £ FIRM Ex VAT	
TOTAL Order Value Ex VAT £									
Commercial Authorisation									
Name:			Signature:			Date:			
Contractor Acceptance									
Name:			Signature:			Date:			