

Schedule 6

Contract Change Procedure

1 Permitted Change/No Change

- 1.1 A Change may be requested via a Contract Change Proposal to vary this Contract at any time in accordance with clause 76 and this Schedule 6 of the Contract.
- 1.2 Any failure by the Contractor to achieve the successful completion of any of its obligations in accordance with this Contract resulting in any additional work being required to be carried out by the Contractor to achieve successful completion of its obligations shall not be an Authority Change for the purposes of this Schedule 6 (*Contract Change Procedure*).

2 Contract Conforming

- 2.1 If the Authority confirms a Contract Change Proposal provided in accordance with paragraph 8.1.1 (*Confirmation or Withdrawal of Authority Notice*) or approves a Contractor Change Notice in accordance with paragraph 11 (*Contractor Changes*):
 - 2.1.1 the Parties shall enter into any documents [including, but not limited to, a deed of variation]¹ (and/or take such further steps) to amend this Contract which are necessary to give effect to the Authority Change and/or Contractor Change; and/or
 - 2.1.2 the Contractor shall commence the implementation of the relevant Change as soon as reasonably practicable following due completion of such [deed of variation] or to the timescale expressly set out in [such deed].
- 2.2 Unless the Parties otherwise agree, all Changes shall be requested, approved or rejected using the forms attached at Annex A to Annex C this Schedule 6 (*Contract Change Procedure*)

3 Right to propose Authority Changes

- 3.1 If the Authority requires an Authority Change, it must serve a notice on the Contractor in accordance with paragraph 4.1 (*Authority Change Notice*).
- 3.2 The Authority may require Changes at any time during the Contract Period and for any reason.
- 3.3 The Contractor shall be entitled to refuse an Authority Change which:
 - 3.3.1 requires any material activity required to perform the Contractor Deliverables to be performed in a way that infringes any Legislation;
 - 3.3.2 would materially and adversely affect the Contractor's ability to perform the Contractor Deliverables (except those Contractor Deliverables which have been specified as requiring to be amended in the Authority Change Notice)

¹ Requirement to enter into a deed of variation will be subject to the manner of execution of this Contract and/or other requirements of the Authority.

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in a manner not compensated pursuant to this Schedule 6 (*Contract Change Procedure*);

- 3.3.3 would materially and adversely affect the health and safety of any person;
- 3.3.4 would, if implemented, materially and adversely change the nature of this Contract (including its risk profile) in a manner not compensated pursuant to this Schedule 6 (*Contract Change Procedure*); or
- 3.3.5 the Authority does not have the legal power or capacity to require implementation of such Authority Change,

provided always that, notwithstanding the foregoing provisions of this paragraph 3.3 and/or any other provision of this Contract, the Contractor shall have no right to object to any Authority Change to give effect to the exercise of any Option.

4 Authority Change Notice

4.1 The Authority Change Notice shall:

- 4.1.1 set out the proposed change required in reasonable detail to enable the Contractor to calculate and provide the Contractor Change Proposal in accordance with paragraph 5.1.1 (*Contractor's Change Proposal*); and
- 4.1.2 require the Contractor to provide to the Authority, within fifteen (15) Working Days of receipt of the Authority Change Notice, either:
 - (i) confirmation as to when an estimate of the likely effects of the proposed change will be provided to the Authority and the Contractor shall use all reasonable endeavours to obtain all relevant information as is required to provide the estimate of the likely effects of the proposed change expeditiously; or
 - (ii) an estimate of the likely effects of the proposed change setting out the information referred to in paragraph 5 (*Contractor Change Proposal*) below,

and (unless the Parties agree otherwise) the Authority Change Notice shall be in the form attached at Annex A to this Schedule 6 (*Contract Change Procedure*).

5 Contractor Change Proposal

5.1 As soon as practicable and in any event:

- 5.1.1 within fifteen (15) Working Days after having received the Authority Change Notice, or on or before the date agreed for the production of a Contract Change Proposal in the circumstances referred to in paragraph 4.1.2(i) (*Authority Change Notice*), the Contractor shall deliver to the Authority the Contractor Change Proposal. The Contractor Change Proposal shall be in the form attached at Annex B to this Schedule 6 (*Contract Change Procedure*) unless the Authority (acting reasonably) requires the information to be in a different format.

5.2 The Contractor Change Proposal shall include the opinion of the Contractor on:

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- 5.2.1 whether relief from compliance with obligations is required, including the obligations of the Contractor to meet any relevant part of **Error! Reference source not found.** (*Statement of Requirements*)
- 5.2.2 any impact on the provision of the Contractor's obligations under the Contract, including whether the proposed change is in contravention of paragraph 3 (*Right to propose Authority Changes*);
- 5.2.3 any amendment required to this Contract and/or any ancillary documentation as a result of the proposed Authority Change including, where a new and/or amended *Acceptance Procedure* is required as a result of the implementation of the proposed Authority Change, details of the proposed new and/or amended *Acceptance Procedure* for the review, approval, assurance and/or Acceptance of the Proposed Additional Contractor Deliverables) and containing an equivalent level of detail which is described in **Error! Reference source not found.** (*Acceptance Procedure*) as at the Effective Date;
- 5.2.4 any amendment required to the Contract Price and/or the Milestone Payment Plan; including detailed breakdown of any costs which result from the proposed Authority Change;
- 5.2.5 any additional Necessary Consents which are required (and/or any existing Necessary Consents which are required to be amended) in each case, to give effect to the relevant Authority Change;
- 5.2.6 the proposed method of certification of implementation of the Authority Change and/or the certification of any operational aspects of the Contractor's obligations under this Contract required by the proposed Authority Change; and
- 5.2.7 such other information as the Authority may reasonably require.

6 **Discussion**

- 6.1 As soon as practicable after the Authority receives the Contractor Change Proposal, the Parties shall discuss and agree the issues set out in the Contractor Change Proposal, including, if required by the Authority, the Contractor:
 - 6.1.1 providing evidence that the Contractor has used reasonable endeavours (including (where practicable) the use of competitive quotes) to minimise any increase in costs and maximise any reduction in costs;
 - 6.1.2 demonstrating how any requirement for the proposed Change is being considered and developed in a cost-effective manner; and
 - 6.1.3 demonstrating that any costs arising as the result of the Change that have been avoided, (i.e. those which were anticipated to be incurred but which has been avoided or reduced by the Authority Change concerned), have been taken into account in the amount or adjustment it has proposed under paragraph 5.2.4 (*Contractor's Change Proposal*).
- 6.2 In such discussions the Authority may modify the Authority Change Notice. The Contractor shall, as soon as practicable, and in any event not more than ten (10)

Working Days after receipt of such modification, notify the Authority of any consequential changes to the Contractor Change Proposal.

7 Disputes

- 7.1 If the Parties cannot agree on the contents of the Contractor Change Proposal, then the Dispute will be determined in accordance with the Dispute Resolution Procedure.

8 Confirmation or Withdrawal of Authority Notice

- 8.1 As soon as reasonably practicable after the contents of the Contractor Change Proposal have been agreed or otherwise determined pursuant to the Dispute Resolution Procedure, the Authority's Representative shall:

8.1.1 confirm in writing to the Contractor that the Contractor Change Proposal (or the Contractor Change Proposal as may have been changed in accordance with paragraph 6.2 (*Discussion*)) is approved and the Parties shall enter into any documents which are necessary to give effect to the change as contemplated in paragraph 2 of this Schedule 6 (*Contact Change Procedure*); or

8.1.2 withdraw the Authority Change Notice, and the Contractor shall not be entitled to any payment or compensation for or in respect of the preparation of the proposed change.

9 Failure to Confirm Authority Change

- 9.1 Subject to paragraph 9.2, if the Authority does not confirm the Contract Change Proposal (as may have been changed in accordance with paragraph 6.2 (*Discussion*)) within twenty (20) Working Days of:

9.1.1 the contents of the Contract Change Proposal having been agreed in accordance with paragraph 6 (*Discussion*) (or any later date contained within the Contract Change Proposal which extends the period for which that Contract Change Proposal remains valid beyond such twenty (20) Working Day period); or

9.1.2 following any determination pursuant to paragraph 7 (*Disputes*),

the Authority Change Notice shall be deemed to have been withdrawn.

- 9.2 The Authority Change Notice shall not be deemed to have been withdrawn in accordance with paragraph 9.1 if the Authority notifies the Contractor otherwise in writing prior to the expiry of the period referred to in paragraph 9.1 (or any extended period notified by the Authority in accordance with this paragraph (as the case may be)) of a later date by which the Authority intends to confirm whether it should proceed with such Change.

10 Adjustment to the Contract Price

- 10.1 Not Used

11 Contractor Changes

- 11.1 If the Contractor wishes to introduce a change to this Contract, it must serve a Contractor Change Notice on the Authority in the form of Appendix 3.
- 11.2 The Contractor Change Notice must:
- 11.2.1 set out the proposed change to the Contractor's obligations under this Contract and/or any other proposed changes in reasonable detail to enable the Authority to evaluate it in full;
 - 11.2.2 specify the Contractor's reasons for proposing the change and the impact on the Contractor Deliverables and/or any other matters including, where there is any impact on the Acceptance Procedure, (as applicable) for the review, approval, assurance and/or Acceptance of the Proposed Additional Contractor Deliverables, which is described in **Error! Reference source not found.** (*Acceptance Procedure*) as at the Effective Date;
 - 11.2.3 request the Authority to consult with the Contractor with a view to deciding whether to agree to the change and, if so, what consequential changes the Authority requires as a result;
 - 11.2.4 identify any implications of the change to this Contract;
 - 11.2.5 indicate, in particular, whether a variation to the Contract Price and/or Milestone Payment Plan is proposed (and, if so, give a detailed cost estimate of such proposed change) and any other information which the Contractor considers relevant which would be required to be set out in an Authority Change Notice and/or the Contract Change Proposal (as if the Contractor Change Notice was responding to an Authority Change Notice); and
 - 11.2.6 indicate if there are any dates by which a decision by the Authority is critical.
- 11.3 The Authority shall evaluate the Contractor Change Notice taking into account all relevant issues, including whether:
- 11.3.1 a change to the Contract Price (and Milestone Payment Plan and/or other any Annexes detailed within Schedule 5 *Pricing and Payment*) will occur;
 - 11.3.2 the change affects the quality of the Contractor Deliverables or the likelihood of successful delivery of the Contractor Deliverables and/or any other impact on the Contractor and/or the Authority;
 - 11.3.3 the change will interfere with the relationship of the Authority with Third Parties and/or interfere with the wider business and/or activities of the Authority (including the Authority's procurements (existing or in the future, and whether or not in contemplation of the Parties at the Effective Date)) in connection with the Contractor Deliverables, the LE TacCIS Equipment Portfolio and/or the MORPHEUS Programme and how the Authority may wish to use and exploit the same;
 - 11.3.4 the change will interfere with or affect any of the Authority's statutory duties;

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- 11.3.5 the financial, technical and/or operational strength of the Contractor is sufficient to perform the changed Contractor Deliverables; or
- 11.3.6 the change materially affects the risk or costs to which the Authority is exposed and/or impacts on other procurements and/or business strategies of the Authority.
- 11.4 Within ten (10) Working Days after receiving the Contractor Change Notice, the Parties shall meet and discuss the matters referred to in it. During their discussions, the Authority may propose modifications to and/or confirm or reject the Contractor Change Notice.
- 11.5 If the Authority's Representative wishes to proceed with the Contractor Change Notice (with or without modification), the Authority's Representative shall confirm such intention by notice in writing to the Contractor and the Parties shall enter into any documents which are necessary to give effect to the change as contemplated in paragraph 2 of this Schedule 6 (*Contract Change Procedure*).
- 11.6 If the Authority rejects the Contractor Change Notice, it shall give its reasons for such a rejection (provided that nothing in this paragraph 11.6 shall affect the Authority's right to reject such Contractor Change in its absolute discretion) and the Contractor shall not be entitled to any payment and/or compensation for or in respect of the relevant Contractor Change Notice.
- 11.7 Unless the Authority's acceptance specifically agrees to an increase in the Contract Price and/or Milestone Payment Plan there shall be no increase in the Contract Price and/or Milestone Payment Plan as a result of a Change proposed by the Contractor.
- 11.8 If the change set out in the Contractor Change Notice causes or will cause the Contractor's costs to decrease, then the Contract Price (and Milestone Payment Plan and/or other any Annexes detailed within Schedule 5 Pricing and Payment) shall be adjusted to reflect the decrease in costs.

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ANNEX A

AUTHORITY CHANGE NOTICE FORM - NOTIFICATION OF PROPOSED AUTHORITY CHANGE

To:	From:	Date:
	Originator:	
	Email	Tel
BATCIS Reference No: <i>[Insert relevant reference]</i>		

1. The Authority has a requirement for the following proposed Change:

Contract No: BATCM/0322 Is it urgent?: Yes/No

CHANGE LOCATION:	LOCATION P.O.C.	LOCATION CONTACT TEL:
<u>BACKGROUND</u> <u>DETAILED CHANGE REQUIREMENT:</u> <u>DELIVERABLES REQUIRED</u> <u>TIMESCALES</u>		
REQUESTED START DATE:	REQUIRED COMPLETION DATE:	

The Contractor is requested to assess this Change requirement and submit a Change Form 2 with a Firm Price quotation, to the originator of this Change. A **full breakdown** of the quoted Firm Price with evidence is to be submitted to the Authority. As a minimum these will need to be in accordance with Schedule 6(Contract *Change Procedure*) and shall include:

- (1) Number of Man-Hours required to complete the Change:
 - (a) broken down by activity e.g. travel, task, etc.; and
 - (b) grades employed.
- (2) Risk (if any) – substantiated by evidence.
- (3) Contingencies (if any) – substantiated by evidence;

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- (4) The matters identified in paragraph 5 of Schedule 6 (Contract *Change Procedure*)

Initiated by the Authority:

Post Title:

Name:

Date:

Signed:

Commercial Endorsement By:

Post Title:

Name:

Date:

Signed:

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ANNEX B

CONTRACTOR CHANGE PROPOSAL FORM

To:	From:	Date:
	Originator:	
	Email:	Tel:
BATCIS Reference No: [<i>Insert relevant reference</i>]		

1. The Contractor acknowledges this proposed Change and has assigned the following reference number:

Contractor Reference No:

2. A Contract Change Proposal is attached for this proposed Change (as may have been amended in discussions between the Contractor and the Authority) and containing all relevant information arising from the proposed Change (including the matters identified in paragraph 5 of Schedule 6 (*Contract Change Procedure*)).

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The Contractor agrees to be bound by the terms of the attached Contract Change : Proposal (subject to entry into a deed of variation and any other required documents as referred to in Clause 76 of the Contract (*Amendments to Contract*)) and confirms and acknowledges that following the entry into such deed all the other terms and conditions of the Contract will remain unchanged.

Name:

Post Title:

Date:

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Signed by an authorised representative on behalf of the Contractor

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ANNEX 3

**CONTRACTOR CHANGE NOTICE FORM – PROPOSAL OF CHANGE, CONTRACT
CHANGE PROPOSAL AND JUSTIFICATION**

To:	From:	Date:
	Originator:	
	Email:	Tel:
BATCIS Reference No: [Insert reference number]		

1. The Contractor proposes the following Change and has assigned the following reference number:

Contractor Reference No:

2. A Contract Change Proposal is attached for this proposed Change (as may have been amended in discussions between the Contractor and the Authority) and containing all relevant information arising from the proposed Change (including the matters identified in paragraph 5 of Schedule 6 (*Contract Change Procedure*)).

The Contractor agrees to be bound by the terms of the attached Contract Change Proposal (subject to entry into a deed of variation and any other required documents as referred to in Clause 76 of the Contract (*Amendments to Contract*)) and confirms and acknowledges that following the entry into such deed all the other terms and conditions of the Contract will remain unchanged.

Name:

Post Title:

Date:

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**Signed by an authorised representative on
behalf of the Contractor**

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