

SSRO

Single Source
Regulations Office

**Indicative contract terms (for RFI purposes only)
for the provision of:**

- **Support and development of DefCARS**
- **An IT managed service and security operations centre**

This **AGREEMENT** is made on

BETWEEN

(1) **SINGLE SOURCE REGULATIONS OFFICE** of G51/G52, 100 Parliament Street, London SW1A 2BQ; and

(2)

WHEREAS:

- A. The SSRO has carried out an open competition in accordance with the Procurement Act 2023 to appoint a contractor to provide the Services more particularly set out in the Specification.
- B. The SSRO has selected the Contractor, and the Contractor has agreed, to provide the Services always in accordance with this Contract.

NOW IT IS HEREBY AGREED as follows:

1. Definitions and interpretation

- 1.1 The Contract shall be interpreted in accordance with the definitions in Schedule 1.
- 1.2 If the context allows, any words in the singular in the Contract also include the plural and vice versa.
- 1.3 References in the Contract to any person shall include natural persons and partnerships, firms, incorporated bodies, other legal persons.
- 1.4 References in the Contract to a person shall include their personal representatives, successors, permitted assigns and transferees.
- 1.5 References in the Contract to any statute, enactment, order, regulation or other similar instrument is a reference to the statute, enactment, order, regulation or instrument as amended or re-enacted.
- 1.6 Headings are included in the Contract for ease of reference only and shall not affect its interpretation or construction.
- 1.7 Reference to a clause in the Contract is a reference to the whole of that clause unless stated otherwise.

2. Commencement and duration of contract

- 2.1 The Contract shall take effect from the date of the Contract.
- 2.2 The Contractor shall provide the Services from the Commencement Date.
- 2.3 The Contract shall continue for the Contract Period, being X years from the Commencement Date unless:
 - (a) terminated earlier in accordance with the provisions of the Contract or by operation of statute or common law; or
 - (b) extended in accordance with this clause.

- 2.4 The Contract Period may be extended by written agreement between the Parties on no more than X occasion(s) and each for no longer than X.
- 2.5 If the Parties agree to extend the contract under this clause the price payable in respect of the extended period shall be the price quoted in the Contractor's Tender.

3. Capacity

- 3.1 Each Party warrants and represents that it has full capacity and authority and all necessary consents to enter into and perform the Contract and that the Contract is executed by a duly authorised representative.

4. Services

- 4.1 The Contractor shall provide the Services, meet the Key Performance Indicators, and meet any performance dates and other requirements for the Services in the Specification or an authorisation under clause 6 (Change control procedure) or otherwise notified by the SSRO to the Contractor.
- 4.2 The Contractor shall provide the Services in the manner stated in the Contractor's Tender, except to the extent this conflicts with any performance dates and other requirements for the Services in the Specification or an authorisation under clause 6 or otherwise notified by the SSRO to the Contractor.
- 4.3 In providing the Services, the Contractor shall:
- (a) co-operate with the SSRO in all matters relating to the Services and comply with the SSRO's instructions;
 - (b) perform the Services with all reasonable care, skill and diligence, according to Good Industry Practice;
 - (c) allocate suitably skilled and experienced employees in sufficient number to discharge the Contractor's obligations under the Contract;
 - (d) ensure that the Services conform with the Specification or an authorisation under clause 6 and the SSRO's instructions and that the Deliverables are fit for any purpose expressly or impliedly made known to the Contractor by the SSRO;
 - (e) provide and maintain all equipment, tools and other items required to provide the Services;
 - (f) use and maintain the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to the SSRO will be free for defects in workmanship, installation and design;
 - (g) maintain complete and accurate records of the time spent and materials used by the Contractor in providing the Services, including the price of the materials, and allow the SSRO to inspect such records at reasonable times on request;
 - (h) obtain and at all times maintain all necessary licences and consents, and comply with all applicable Laws and regulations;
 - (i) comply with all applicable Laws, enactments, orders, regulations and other similar instruments as amended from time to time; and

- (j) observe all health and safety rules and regulations and any other security requirements that apply at the SSRO's premises.

- 4.4 The Contractor shall ensure that all Staff supplying the Services shall do so with all due skill, care and diligence and shall possess such qualifications, skills and experience as are necessary for the proper supply of the Services.
- 4.5 The Contractor shall make adjustments to the Services in response to any reasonable request from the SSRO.
- 4.6 The Contractor shall notify the SSRO as soon as it becomes aware of an event occurring or which it believes is likely to occur which will cause material delay to or materially impede the performance of the Services or any part thereof and the Contractor shall take all necessary steps consistent with good practice to minimise the delay to the SSRO.
- 4.7 The Contractor shall provide the Services and comply with the terms of the Contract in such a way so as not to cause any undue injury or damage to the image or reputation of the SSRO.

5. Additional Development

- 5.1 The SSRO may give approval for Additional Development of DefCARS in accordance with the procedure in clause 6 (Change control procedure for Development).
- 5.2 The SSRO does not guarantee any level or volume of Additional Development and the SSRO shall be under no obligation whatsoever to offer the Contractor a minimum level of Additional Development.

6. Change control procedure for Development

- 6.1 The Contractor shall not carry out any Development unless and until the SSRO has provided approval in writing in accordance with this clause.
- 6.2 Any Development carried out without obtaining the prior written consent of the SSRO shall not be chargeable to the SSRO and shall not form part of the Contract Price.

- 6.3 The SSRO may give written approval for Development of DefCARS in accordance with the following procedure:
- (a) The SSRO may notify any required Development in writing to the Contractor.
 - (b) The Contractor shall respond in writing within a reasonable period, setting out the Contractor's proposal for the specified Development, including any required quotation.
 - (c) The Contractor's quotation shall be prepared on a basis that does not exceed any of the prices or rates specified in the Contractor's Pricing Schedule.
 - (d) The SSRO shall notify the Contractor in writing if it approves the carrying out of any Development.
- 6.4 The Contractor shall maintain a Change Control Mechanism in an accessible form that may be inspected by the SSRO.
- 6.5 The Change Control Mechanism maintained by the Contractor shall include facility to operate and record the procedure provided in this clause.
- 6.6 The Contractor shall meet the Testing Requirements and provide the SSRO with such information, access and support as reasonably required to enable the SSRO to decide whether a Development may be released into the live DefCARS system.
- 6.7 The Contractor shall only release a Development into the live DefCARS system when it has been accepted by the SSRO in writing and only at a date and time directed by the SSRO.

7. Warranties and representations

- 7.1 The Contractor warrants and represents that:
- (a) it owns, has obtained or is able to obtain valid licences for all Intellectual Property Rights that are necessary for the performance of the Contract;
 - (b) it shall use all reasonable endeavours to prevent viruses and malware accessing systems owned by, under the control of, or used by the SSRO through its own access to these systems;
 - (c) it has not committed and will not commit or agree to commit a Prohibited Act;
 - (d) it has notified the SSRO in the Contractor's Tender of any Professional Misconduct that it has committed and will not commit or agree to commit any further Professional Misconduct;
 - (e) at the Commencement Date, it has notified the SSRO in writing of any social security, tax avoidance, evasion or non-compliance or associated litigation it is involved in;
 - (f) it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under the Contract;
 - (g) no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or any of its assets which will or might have a material adverse effect on its ability to perform its obligations under the Contract;
 - (h) no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Contractor or for its

dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Contractor's assets or revenue;

- (i) at the Commencement Date, all information, statements and representations in the Contractor's Tender are accurate and not misleading, save as may have been specifically notified to the SSRO in writing before execution of the Contract.

7.2 The Contractor warrants that in the three years prior to the date of the Contract:

- (a) it has conducted all financial accounting and reporting activities in compliance in all material respects with the generally accepted accounting principles that apply to it in any country where it files accounts;
- (b) it has been in full compliance with all applicable securities and tax Laws and regulations in the jurisdiction in which it is established; and
- (c) it has not done or omitted to do anything which could have a material adverse effect on its assets, financial condition or position as an ongoing business concern or its ability to fulfil its obligations under the Contract.

8. Standards and quality

8.1 The Contractor shall at all times comply with the Quality Standards, and where applicable, subject only to clause 8.2, shall maintain accreditation with the relevant Quality Standards authorisation body.

8.2 The Contractor shall:

- (a) hold and maintain ISO27001 certification;
- (b) unless otherwise notified by the SSRO, obtain Cyber Essentials Plus certification within six months of the Commencement Date; and
- (c) ensure that the scope of the ISO27001 and Cyber Essentials Plus certifications include DefCARS and the assets used for its delivery and management.

8.3 To the extent that the standard of Services has not been specified in the Contract, the Contractor shall agree the relevant standard of the Services with the SSRO prior to the supply of the Services and, in any event, the Contractor shall perform its obligations under the Contract in accordance with the Law and Good Industry Practice.

9. Business continuity and disaster recovery

9.1 The Contractor shall meet the requirements of the Specification in relation to business continuity and data recovery.

9.2 The Contractor shall have and maintain a business continuity and disaster recovery plan in accordance with the Specification.

9.3 The Contractor shall implement the procedures in its business continuity and disaster recovery plan as required to deliver the Services.

9.4 The Contractor shall immediately inform the SSRO of any actual or potential industrial action, whether such action be by the Contractor Personnel or others, which affects or might affect the Contractor's ability at any time to perform its obligations under the Contract.

- 9.5 In the event of industrial action by the Contractor Personnel, the Contractor shall seek the SSRO's prior written approval to its proposals for the continuance of the supply of the Services in accordance with its obligations under the Contract.
- 9.6 If the Contractor's proposals referred to in clause 9.5 are considered insufficient or unacceptable by the SSRO, acting reasonably, then the SSRO may terminate the Contract for Material Breach.

10. Contract Price

- 10.1 The SSRO shall pay to the Contractor the Contract Price in accordance with this clause, subject to the Contractor complying with its obligations under the Contract.
- 10.2 The Contract Price shall be the full and exclusive remuneration of the Contractor for delivery of the Services. The Contract Price shall not include value added tax (VAT). The Contract Price shall be deemed to include all fees, charges, disbursements, costs, expenses and other associated expenditure incurred in providing the Services, including all materials and utility costs.
- 10.3 The Contractor shall not charge the SSRO for time spent responding to a request for a Variation or proposed Development, opening a matter, preparing invoices, processing payment, managing or training staff, or on administrative or secretarial work.
- 10.4 In the event that the cost to the Contractor of performing its obligations under the Contract increases or decreases as a result of a change of Law, clause 34 (Change of Law) shall apply.

11. Payment

- 11.1 The Contractor shall submit a monthly invoice for payment for such of the Services as have been delivered.
- 11.2 The Contractor shall submit invoices that are valid for VAT purposes and clearly state the amount of VAT. The SSRO will pay the Contractor such VAT as is chargeable on the delivery and supply of the Services.
- 11.3 The Contractor shall submit with each invoice a detailed breakdown of the Services to which the invoice relates. Each invoice shall include:
- (a) the purchase order number provided by the SSRO;
 - (b) for daily rate matters:
 - (i) the daily charge out rate;
 - (ii) a detailed breakdown of time spent per activity, per day and per fee earner; and
 - (iii) a running total of fees accrued to date on each matter included in that bill;
 - (c) for fixed fee matters:
 - (i) full details of the matter; and
 - (ii) the fee charged, including any apportionment; and
 - (d) a breakdown of any disbursements which the SSRO has agreed to pay.

- 11.4 If requested by the SSRO, the Contractor shall provide additional documentation to substantiate an invoice.
- 11.5 The SSRO shall pay undisputed sums to the Contractor within 30 days of receipt of a valid invoice.
- 11.6 If the Contractor enters into a sub-contract it must ensure that a provision is included in each sub-contract specifying that payment must be made to the sub-contractor within 30 days of receipt of a valid invoice.
- 11.7 The Contractor shall not submit invoices more than 31 days after completing the work to which it relates.
- 11.8 The Contractor must not suspend the supply of the Services for failure by the SSRO to pay undisputed sums of money, unless the Contractor is entitled to terminate this Contract under clause 17.
- 11.9 If an invoice is disputed, the SSRO shall pay the undisputed amount. The SSRO shall return the invoice within ten Working Days of receipt of the invoice with a statement of proposed amendments and the reason for any non-payment. The Contractor shall notify the SSRO within ten Working Days of receipt of the returned invoice if it accepts the amendments and, if so, shall provide a valid replacement invoice with the response.

12. Remedies and set-off

- 12.1 The Contractor agrees that any breach of clauses 4 and 7 shall be remedied as a matter of urgency at no additional cost to the SSRO.
- 12.2 If the Contractor owes money to the SSRO, the SSRO may deduct that sum from the Contract Price.
- 12.3 In the event that the Contractor fails due to its default to fulfil an obligation by the date specified in the Contract (or such incidental documents created during the Contract Period, including but not exclusively court orders) for such fulfilment, the Contractor shall, at the request of the SSRO and without prejudice to the SSRO's other rights and remedies, arrange all such additional resources as are necessary to fulfil the said obligation as early as practicable thereafter and at no additional charge to the SSRO.
- 12.4 In the event that any obligation of the Contractor specified in the Contract is delayed as a result of a default by the SSRO, then:
 - (a) the date associated with the relevant obligation as specified in the Contract (and the dates similarly associated with any subsequent obligations specified in the Contract) shall be amended by a period of time equal to the period of delay resulting from such SSRO's default (or such other period as the parties may agree in writing); and
 - (b) both parties shall use all reasonable endeavours to mitigate the impact of such delay and to recover any resultant delay to the performance of the Services.

- 12.5 The Contractor accepts that the SSRO shall have the right after consultation with the Contractor to require the removal of any person from involvement in the performance of the Services if in the SSRO's reasonable opinion the performance or conduct of such person is or has been unsatisfactory or if it shall not be in the public interest for the person to work on the Contract.
- 12.6 The Contractor shall indemnify the SSRO on demand against any liability arising from the Contractor's failure to account for or to pay any VAT on payments made to the Contractor under this Contract. The Contractor must pay all sums to the SSRO at least five Working Days before the date on which the tax or other liability is payable by the SSRO.

13. Remedies cumulative

- 13.1 Except as otherwise expressly provided by the Contract, all remedies available to either Party for breach of the Contract are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

14. Performance

- 14.1 Without prejudice to clause 4.1, the Contractor shall provide the Services in accordance with the Service Levels.
- 14.2 The Contractor shall deliver a monthly report to the SSRO, in writing, providing the Management Information for the previous month.
- 14.3 The Contractor shall attend Service Review Meetings, such meeting to be held either remotely or at the SSRO's offices (as directed by the SSRO).
- 14.4 Upon completion of any of the Services, or at the end of any Stage (where applicable) the Contractor shall notify the SSRO that the services are, or the relevant Stage is, complete.
- 14.5 Upon notification of the completion of any services or Stage, the SSRO will review the performance of the services the subject of the notification.
- 14.6 Notwithstanding any other legal right of the SSRO (either as stated in the Contract or otherwise), where a review identifies that any part of the Services has not been provided in accordance with the Contract, then the SSRO may require either:
- (a) the Contractor to re-perform such Services until they are completed in accordance with the Contract, entirely at the Contractor's risk and expense; or
 - (b) a reduction in any sum owing to the Contractor in such amount as is proportionate to the level which the performed Services failed to meet the requirements of the Contract.
- 14.7 The SSRO shall set a reasonable timescale for any re-performance required under this clause. The notification and review provisions of this clause shall apply to such re-performance.

15. Intellectual property rights

- 15.1 Unless otherwise specified in this Contract a Party will not acquire any right, title or interest in or to the Intellectual Property Rights of the other Party or its licensors.
- 15.2 Not used.
- 15.3 The SSRO grants the Contractor a worldwide, royalty-free, perpetual, non-exclusive licence to use the Code subject to the provisions of this clause.
- 15.4 The licence granted by the SSRO to the Contractor to use the Code does not include developments to the Code made by or on behalf of the SSRO after the Contractor has transferred the Code to the SSRO or its nominated supplier pursuant to clause 20.1.
- 15.5 Not used.
- 15.6 Not used.
- 15.7 The Contractor shall obtain the grant of any third-party Intellectual Property Rights needed to provide the Services.
- 15.8 The Contractor shall, on written demand, fully indemnify the SSRO for all losses that it may incur at any time from any claim of infringement or alleged infringement of a third party's Intellectual Property Rights because of the:
- (a) rights granted to the SSRO under this Contract;
 - (b) Contractor's performance of the Services; or
 - (c) use by the SSRO of the Services.
- 15.9 If a claim is made alleging infringement of a third party's Intellectual Property Rights, or if such a claim is likely to be made, the Contractor shall immediately notify the SSRO in writing and shall at its own expense, after written approval from the SSRO, either:
- (a) modify the relevant part of the Services without reducing its functionality or performance;
 - (b) substitute Services of equivalent functionality and performance, to avoid the alleged infringement, provided there is no additional cost or burden to the SSRO; or
 - (c) buy a licence to use and supply the Services which are the subject of the alleged infringement, on terms acceptable to the SSRO.
- 15.10 Clause 15.9 shall not apply if the claim is due to use by the Contractor of data or other material provided by the SSRO that the Contractor is not required to verify under this Contract.
- 15.11 The SSRO may terminate this Contract for Material Breach if the Contractor does not comply with clauses 15.7 to 15.9 and shall, on demand, refund the SSRO all money paid for the affected Services.

16. Inspection and audit

- 16.1 The Contractor shall maintain records of its activities in providing the Services under the Contract.

16.2 The Contractor shall, on reasonable notice, provide the SSRO with:

- (a) access to the records, including the computer or other systems on which they are held;
- (b) a copy of the Code;
- (c) access to all data in DefCARS, and
- (d) copies of any records the SSRO requires.

16.3 The Contractor shall, on reasonable notice, provide the SSRO with access to any site used to provide the Services.

16.4 The SSRO may make such examination or inspection of the records or any site, as is necessary to satisfy itself that the Contractor has performed, and is continuing to perform, the Services in accordance with the Contract.

17. Termination

17.1 The SSRO may terminate the Contract at any time, by giving notice in writing to the Contractor, if:

- (a) the Contractor breaches its obligations under the Contract and the breach cannot, in the reasonable opinion of the SSRO, be remedied;
- (b) the Contractor commits a Material Breach of the Contract and fails to remedy the breach within seven days of receipt of notice in writing of the breach;
- (c) there is a Service Threatening Event;
- (d) the SSRO considers that the contract was awarded, or modified, in material breach of the Procurement Act 2023 or regulations made under it;
- (e) since the contract was awarded, the Contractor has become an excluded or excludable supplier (including by reference to an associated person) within the meaning of the Procurement Act 2023; or
- (f) a sub-contractor (other than an associated person) of the Contractor is an excluded or excludable supplier within the meaning of the Procurement Act 2023.

but, prior to termination on the grounds set out in sub-clauses (d) to (f), the SSRO shall first:

- i. notify the Contractor of its intention to terminate;
- ii. specify which of the grounds apply and why it has decided to terminate the contract; and
- iii. give the Contractor reasonable opportunity to respond to the SSRO on whether a termination ground applies and its decision to terminate.

17.2 For the avoidance of doubt, the allowance by the Contractor of a Service Threatening Event constitutes a Material Breach of the Contract.

- 17.3 The SSRO may terminate the Contract for any reason whatsoever by giving six months' written notice to the Contractor. The Contractor's obligation to provide the Services shall end on the date given in the notice.
- 17.4 The Parties agree that the SSRO's right to terminate the Contract by giving six months' written notice is reasonable considering the nature of the Services being provided.
- 17.5 If the SSRO fails to pay the Contractor undisputed sums of money when due, the Contractor shall notify the SSRO and allow ten Working Days for the SSRO to pay the undisputed sum. If the SSRO does not pay the undisputed sums within ten Working Days of the notice, the Contractor may terminate the Contract by giving six months' notice in writing to the SSRO.

18. Consequences of termination

- 18.1 If a notice has been served to terminate the Contract, the Contractor must continue to provide the Services until the date given in the notice.
- 18.2 The rights and obligations of the Parties will cease on the Termination Date, except the following, which shall not be affected:
- (a) any rights, remedies or obligations accrued before the Termination Date;
 - (b) the right of either Party to recover any amount outstanding at the Termination Date;
 - (c) the continuing rights, remedies or obligations of the SSRO or the Contractor under clauses 11 (Payment), 12 (Remedies and set-off), 13 (Remedies cumulative), 15 (Intellectual property rights), 17 (Consequences of termination), 24 (Confidentiality), 25 (Publicity), 26 (Data Protection), 27 (Security), 28 (Insurance) and 40 (Waiver);
 - (d) any other provision of the Contract which expressly or by implication is in force after expiry or termination of the Contract.
- 18.3 All licences, leases and authorisations granted by the SSRO to the Contractor (except the ongoing licence to use the Code specified in clause 15) shall cease at the Termination Date, without the need for the SSRO to serve notice unless the Contract states otherwise.

19. Exit plan

- 19.1 The Contractor shall provide an Exit Plan to the SSRO within three months of being awarded the Contract.
- 19.2 The Contractor shall make such amendments to the Exit Plan as may reasonably be required by the SSRO during the Contract Period.
- 19.3 The Contractor shall follow the Exit Plan when requested to do so by the SSRO and, if requested, shall assist the SSRO in migrating the Services to a replacement contractor.
- 19.4 If requested to do so by the SSRO, the Contractor shall:
- (a) review the Exit Plan in the final year of the Contract Period;
 - (b) incorporate the SSRO's reasonable requirements; and
 - (c) provide the SSRO with a revised Exit Plan for approval within ten Working Days of the request.

19.5 If the Contract is terminated for a Contractor breach or a Service Threatening Event, the Contractor shall not be entitled to payment for complying with the Exit Plan.

20. Handover

20.1 Within ten Working Days after the Termination Date, the Contractor shall:

- (a) return all SSRO Data to the SSRO or provide it to a person nominated by the SSRO, in accordance with the SSRO's reasonable requirements;
- (b) provide to the SSRO or a person nominated by the SSRO the Code, which shall be current at the time of transfer and incorporate all developments;
- (c) provide to the SSRO such other information as it may reasonably request;
- (d) return the Documentation to the SSRO and any materials created under the Contract if the Intellectual Property Rights are owned by the SSRO;
- (e) securely destroy copies of the SSRO Data following written instructions from the SSRO, which may be given up to 12 months after the Termination Date, unless required by law and provide written confirmation to the SSRO that it no longer holds any SSRO Data.

20.2 On the Termination Date, or promptly after that date, each Party shall return all of the other Party's Confidential Information and confirm this has been done, unless there is a legal requirement to keep it or this Contract states otherwise.

20.3 The Contractor shall, on reasonable notice at any point during the Contract Period, provide the SSRO with such Procurement-related Information as it may reasonably request.

20.4 The Contractor shall provide Procurement-related Information that is accurate and complete in all material respects and at a level of detail must be sufficient to reasonably enable a third party to prepare an informed offer for replacement services and not be unfairly disadvantaged compared to the Contractor in the SSRO's procurement process.

20.5 This clause operates in addition to the requirements of Schedule 2 in relation to Protected Data.

21. TUPE

21.1 The Contractor shall comply with its obligations under the TUPE Regulations.

21.2 If requested by the SSRO, the Contractor shall provide the TUPE Staff Information to the SSRO by the earlier of the following dates:

- (a) six months before the end of the Contract Period, or
- (b) within 28 days of the SSRO's request, if the SSRO has given notice to terminate the Contract.

21.3 The Contractor shall provide the SSRO with TUPE Staff Information that is accurate and complete.

21.4 The Contractor shall notify the SSRO of any change to the TUPE Staff Information provided to the SSRO as soon as reasonably possible after the change occurs.

- 21.5 The SSRO may provide the TUPE Staff Information to any prospective replacement supplier.
- 21.6 The Contractor shall not change any of the following in the last 12 months of the Contract Period, except in the ordinary course of business:
- (a) the identity and number of staff assigned to the Services;
 - (b) the terms and conditions of staff assigned to the Services; or
 - (c) the proportion any staff-member's time assigned to the Services.
- 21.7 The Contractor shall permit any staff identified in the TUPE Staff Information and their representatives to communicate with and meet any prospective replacement supplier.
- 21.8 The Contractor shall indemnify the SSRO for any loss arising from:
- (a) failure by the Contractor to comply with the TUPE Regulations or this clause;
 - (b) any claim by an employee or person claiming to be an employee (or their employee representative) of the Contractor that arises or is alleged to arise from any act or omission of the Contractor in breach of the TUPE Regulations or this clause.

22. Information requests

- 22.1 The Contractor shall use all reasonable endeavours, at the Contractor's expense, to assist the SSRO to comply with its legal obligations to disclose and publish Information.
- 22.2 The Contractor acknowledges that:
- (a) The SSRO may be obliged by Law to disclose and publish Information, including in response to a Request for Information.
 - (b) It is the sole responsibility of the SSRO to decide whether it is required by Law to disclose and publish Information.
 - (c) The SSRO may disclose and publish Information in accordance with a legal obligation without consulting the Contractor or contrary to the views of the Contractor.
 - (d) The classification of Information as confidential or commercially sensitive within the Contract is not determinative of whether the SSRO is required by Law to disclose or publish the Information.
 - (e) The SSRO may be required to disclose and publish the Contractor's Tender.
- 22.3 If the Contractor receives a Request for Information, the Contractor shall:
- (a) notify the SSRO promptly in writing of the Request for Information; and
 - (b) transmit the request to the SSRO within two Working Days of its receipt.
- 22.4 In relation to any Request for Information, the Contractor shall provide the following to the SSRO within five Working Days of being notified of the request:
- (a) such of the Information held by the Contractor as is covered by the Request for Information; and
 - (b) the Contractor's representations concerning disclosure of that Information.

22.5 The Contractor shall not respond directly to any Request for Information.

23. Transparency

23.1 The SSRO may make all or part of the Contract publicly available, subject to any redactions made at the SSRO's discretion by applying relevant exemptions under the Freedom of Information Act 2000.

23.2 The Contractor shall notify the SSRO promptly in writing of any of the Information that it considers to be confidential or commercially sensitive and shall:

- (a) identify the affected Information;
- (b) explain the potential implications of disclosing the affected Information and any public interest considerations favouring non-disclosure; and
- (c) estimate the period of time for which the affected Information shall remain confidential or commercially sensitive.

23.3 Before making the Contract publicly available, the SSRO shall consider any notification that has been provided by the Contractor.

24. Confidentiality

24.1 Unless disclosure is expressly permitted by this Contract, each Party shall:

- (a) treat the other Party's Confidential Information as confidential and safeguard it accordingly;
- (b) not disclose the other Party's Confidential Information without that Party's written consent;
- (c) not use any of the other Party's Confidential Information otherwise than for the purpose of this Contract; and
- (d) not copy any of the other Party's Confidential Information except to the extent necessary for the purpose of exercising its rights of use and disclosure under this Contract.

24.2 The Contractor shall take all necessary precautions to ensure that the SSRO's Confidential Information is:

- (a) only disclosed to its employees and sub-contractors to the extent necessary for the performance of this Contract; and
- (b) is treated in confidence by its employees and sub-contractors and not disclosed, except with prior written consent, nor used otherwise than for the purpose of providing the Services.

24.3 Each Party shall ensure that its employees are aware of the arrangements for discharging its obligations under this clause and shall take such steps as may be reasonably practical to enforce such arrangements.

24.4 A Party shall not be in breach of this clause for disclosing only such of the Information in respect of which it can demonstrate the following:

- (a) The Information was or has become published or publicly available for use otherwise than in breach of any provision of this Contract or any other agreement between the Parties.
- (b) The Information was already known to it (without restrictions on disclosure or use) prior to it receiving it under or in connection with this Contract.
- (c) The Information was received without restriction on further disclosure from a third party who lawfully acquired it and who is itself under no obligation restricting its disclosure.
- (d) The same Information was derived or developed independently without access to the other Party's Confidential Information.
- (e) The Information is disclosed solely or to the extent necessary to comply with a statutory obligation or a judicial or ministerial requirement. 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 the confidentiality of the Information.
- (f) The Information is disclosed on a Confidential Basis to a professional adviser.
- (g) The Information is disclosed to the UK Parliament, Scottish Parliament or Welsh or Northern Ireland Assemblies, including their committees.
- (h) The Information is disclosed on a Confidential Basis to a proposed transferee, assignee, or successor in title of the SSRO.

24.5 The Contractor shall inform the SSRO immediately of any disclosure of the SSRO's Confidential Information.

24.6 The Contractor shall take all necessary steps to recover any Information disclosed in breach of this clause.

24.7 A breach by the Contractor of clause 24.1 or 24.2 is a Material Breach of the Contract.

25. Publicity

25.1 The Contractor shall not, and shall take all necessary steps to ensure that the Contractor's employees, agents and or sub-contractors do not, without prior written approval from the SSRO:

- (a) communicate with, or provide information to any representatives of the press, television, radio or other media on any matter concerning or arising out of the Contract; or
- (b) publish any material concerning or arising out of the Contract.

25.2 Prior to giving its consent to any publicity under this clause, the SSRO may require material to be included in the communication or publication to represent the SSRO's views.

- 25.3 The Contractor shall not, by any act or omission, cause damage to the SSRO's reputation.
- 25.4 A breach of this clause that causes adverse publicity to the SSRO or damages the SSRO's reputation is a Material Breach.

26. Data Protection

- 26.1 The parties shall comply with Schedule 2, which sets out requirements for Data Protection.

27. Security

- 27.1 The Contractor shall take all reasonable steps to ensure that all its employees engaged on any work in connection with the Contract ("Employees") have notice that the following shall apply to them and will continue so to apply after the completion or termination of the Contract:
- (a) Schedule 5 to the Defence Reform Act 2014; and
 - (b) the Official Secrets Acts 1911-1989.
- 27.2 If directed by the SSRO, the Contractor shall ensure that its Employees shall sign a statement acknowledging that, both during the term of the Contract and after its completion or termination, he or she is bound by:
- (a) Schedule 5 to the Defence Reform Act 2014; and
 - (b) the Official Secrets Acts 1911-1989; and
 - (c) where applicable, by any other legislation.
- 27.3 The Contractor shall comply with Schedule 3: Security Conditions in relation to Sensitive Information.
- 27.4 If the Contractor proposes to make a sub-contract which will involve the disclosure of Sensitive Information to the sub-contractor, the Contractor shall:
- (a) incorporate into the sub-contract such secrecy and security obligations as the SSRO shall direct;
 - (b) inform the SSRO immediately after the Contractor becomes aware of any breach by the sub-contractor of any secrecy or security obligation and, if requested to do so by the SSRO, terminate the sub-contract.
- 27.5 The Contractor shall, and shall procure that its sub-contractors shall:
- (a) without prejudice to clauses 4.1 and 8.1, comply with the Security and Technical Requirements;
 - (b) having regard to the state of technological development, implement and maintain all appropriate technical and organisational security measures to discharge its obligations under this clause in accordance with Good Industry Practice, provided always that where there is a conflict between the Contractor's obligations under clause 1.1(1)(a) above and this clause 1.1(1)(b) the Contractor shall notify the SSRO as soon as it becomes aware of the conflict and the SSRO shall determine which standard or measure shall take precedence;

- (c) comply with all Security Instructions notified to it by the SSRO as soon as reasonably practicable;
- (d) notify the SSRO immediately in writing as soon as they know or believe that a Security Incident has or may have taken place, providing full details of the circumstances of the incident and any mitigation measures already taken or intended to be taken;
- (e) investigate any Security Incidents fully and promptly and co-operate with the SSRO and its agents and representatives to take all steps to mitigate the impact of the Security Incident and minimise the likelihood of any further similar Security Incidents. For the avoidance of doubt, this shall include complying with any reasonable technical or organisational security measures deemed appropriate by the SSRO in the circumstances and taking into account the Security and Technical Requirements; and
- (f) if the SSRO gives approval to the Contractor to make a sub-contract:
 - (i) incorporate into the sub-contract provisions equivalent to this clause; and
 - (ii) inform the SSRO immediately after the Contractor becomes aware of any breach by the sub-contractor of any security obligation and, if requested to do so by the SSRO, terminate the sub-contract.
- (g) keep and maintain, and shall ensure that any sub-contractor shall keep and maintain, until three years after termination or expiry of the Contract copies of all documents required to demonstrate compliance with this clause.

27.6 A breach by the Contractor of this clause is a Material Breach of the Contract and the SSRO shall be entitled to recover from the Contractor any other loss sustained in consequence of any breach of this clause.

28. Liability and insurance

28.1 Neither Party shall be liable to the other Party for any:

- (a) indirect, special or consequential loss;
- (b) loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).

28.2 The Contractor shall take out and maintain with a reputable insurance company on generally available commercially acceptable terms the following insurances:

- (a) Public liability insurance to a minimum value of two million pounds for each and every claim or series of claims arising out of one event;
- (b) Employer's liability insurance to a minimum value of five million pounds for each and every claim or series of claims arising out of one event; and
- (c) Professional indemnity insurance to a minimum value of two million pounds for each and every claim or series of claims arising out of one event.

28.3 From time to time when reasonably requested by the SSRO the Contractor shall send to the SSRO proof of payment of the premiums in respect of the insurance and a copy of the policy schedule and any other reasonable information for the SSRO to satisfy itself that the insurances are in effect.

28.4 The Contractor shall ensure that:

- (a) sub-contractors hold public liability insurance of the same amounts that the Contractor would be legally liable to pay as damages, to a minimum of two million pounds for each and every claim or series of claims arising out of one event;
- (b) the sub-contractors' public liability insurance contains an 'indemnity to principals' clause for the SSRO's benefit;
- (c) all agents and professional consultants involved in the Services hold professional indemnity insurance to a minimum indemnity of two million pounds for each and every claim or series of claims arising out of one event;
- (d) for three years after the Termination Date, all agents and professional consultants involved in the Services hold employer's liability insurance (except where exempt under Law) to a minimum indemnity of five million pounds for each and every claim or series of claims arising out of one event.

28.5 If requested by the SSRO, the Contractor shall obtain additional insurance policies, or extend existing policies.

28.6 The Contractor shall not do or omit to do anything that would destroy or impair the legal validity of the insurance.

28.7 The Contractor shall notify the SSRO as soon as possible if any insurance policies have been, or are due to be, cancelled, suspended, ended or not renewed.

28.8 The Contractor shall be liable for the payment of any premiums, which it will pay promptly, and any excess or deductibles. The Contractor may not recover these amounts from the SSRO.

29. Health and safety

29.1 The Contractor shall comply with the Health and Safety Requirements and shall ensure that its employees, agents, sub-contractors and any other person acting on behalf of the Contractor also comply.

29.2 The Contractor shall make its health and safety policy statement (as required by the Health and Safety at Work etc Act 1974) available to the SSRO on request.

30. SSRO and third-party premises

30.1 Where the Contractor enters onto premises for the purposes of delivering the Services, the Contractor shall abide by all reasonable instructions of the person or persons in charge of such premises.

30.2 Where the Contractor enters onto premises for the purposes of delivering the Services, the Contractor shall:

- (a) comply with security requirements and not do anything to weaken security;
- (b) comply with health and safety measures;
- (c) comply with requirements for the conduct of personnel;
- (d) notify any incident that causes or may cause damage to property or personal injury.

- 30.3 The Contractor shall be responsible for the health and safety of its own employees, agents and sub-contractors when present at premises of the SSRO or any third-party and for ensuring compliance with this clause.

31. Bribery, fraud and corruption

- 31.1 The Contractor shall not commit or engage in any Prohibited Act.
- 31.2 The Contractor shall use all reasonable endeavours and have reasonable business structures in place to safeguard against any Prohibited Act.
- 31.3 The Contractor shall notify the SSRO immediately on discovering any instance of a suspected Prohibited Act.
- 31.4 If, in the reasonable opinion of the SSRO, the Contractor or any of its employees, officers, sub-contractors or agents has committed or is committing any Prohibited Act or is otherwise bringing the SSRO into disrepute, the SSRO may give notice in writing:
- (a) outlining the conduct of concern;
 - (b) seeking an explanation for the conduct; and
 - (c) specifying its intention to terminate the Contract.
- 31.5 The Contractor shall respond in writing to the SSRO within 14 days of receipt of a notice under this clause.
- 31.6 The SSRO may terminate the Contract immediately if:
- (a) the Contractor fails to respond within 14 days; or
 - (b) the Contractor provides an explanation, but the SSRO remains reasonably of the opinion that the Contractor or any of its employees, officers, sub-contractors or agents has committed or is committing any Prohibited Act or is otherwise bringing the SSRO into disrepute.

32. Conflict of interest

- 32.1 The Contractor acknowledges and agrees that the avoidance of Conflicts of Interest is of critical importance to the SSRO. The Contractor shall at all times comply with this clause 32 (and in the event of a conflict or incompatibility between the two, this clause 32 shall prevail).
- 32.2 During the Contract Period the Contractor shall at all times act in the best interests of the SSRO and shall at no time subordinate or otherwise undermine the SSRO's interests to the advantage of its own interests or those of any third party.
- 32.3 For the avoidance of doubt, the Contractor acknowledges and agrees that it would constitute a Conflict of Interest for the Contractor to be, or propose to be, a defence contractor within the meaning of Part 2 of the Defence Reform Act 2014, or for the Contractor (or the Contractor's staff) to have, or to propose to have, business, professional, personal, or other interests with such a defence contractor.
- 32.4 The Contractor must take action to ensure that no Conflict of Interest arises.

- 32.5 The Contractor shall immediately notify the SSRO upon becoming aware of a Conflict of Interest and shall within one Working Day of becoming aware of the Conflict of Interest provide notification to the SSRO in writing.
- 32.6 A notification given under clause 32.5 shall contain, as a minimum, the following information:
- (a) the nature of the Conflict of Interest;
 - (b) the identities of all parties involved in the Conflict of Interest, including individuals;
 - (c) any representations made by the Contractor or any of those other parties; and
 - (d) detailed account of how the Contractor proposes to deal with the Conflict of Interest, including mitigation of the risk and impact on the SSRO.
- 32.7 The Contractor shall take all necessary measures to remove or avoid any Conflict of Interest. The Contractor shall provide evidence to the SSRO to demonstrate the measures that it has taken and shall comply with any request for information by the SSRO in relation to a notified Conflict of Interest.
- 32.8 The SSRO may, without prejudice to any other rights or remedies, terminate this Contract immediately for a Material Default by giving notice in writing to the Contractor, or take any steps it thinks are necessary, where there is or may be a Conflict of Interest.

33. Force majeure

- 33.1 Neither Party shall be liable to the other Party for any delay or failure to perform its obligations under the Contract where such delay or failure is due to Force Majeure.
- 33.2 A Party shall promptly (on becoming aware of the same) notify the other Party of any circumstances beyond its reasonable control that may affect the first Party's ability to perform its obligations under the Contract.
- 33.3 Each Party shall use all reasonable endeavours to continue to perform its obligations under the Contract and to mitigate the effects of Force Majeure.
- 33.4 If a Force Majeure event prevents a Party from performing its obligations under the Contract for more than 60 consecutive Working Days, the other Party may terminate the Contract with immediate effect by notice in writing.

34. Change of Law

- 34.1 The Contractor shall neither be relieved of its obligations to supply the Services in accordance with the provisions of the Contract nor be entitled to an increase in the Contract Price as the result of:
- (a) a General Change in Law; or
 - (b) a Specific Change in Law where the effect of that Specific Change in Law on the Services is known at the Commencement Date.
- 34.2 If a Specific Change in Law occurs during the Contract Period (other than those referred to in clause 34.1), the Contractor shall notify the SSRO of the likely effects of that change, including:

- (a) whether any modification is required to the Services, the Contract Price or the Contract; and
- (b) whether any relief from compliance with the Contractor's obligations is required, including any obligation to achieve any milestones or to meet any service level requirements at any time.

34.3 As soon as practicable after any notification in accordance with clause 34.2 the Parties shall discuss and attempt to agree the matters referred to in that clause and any ways in which the Contractor can mitigate the effect of the Specific Change of Law, including:

- (a) providing evidence that the Contractor has minimised any increase in costs or maximised any reduction in costs, including in respect of the costs of its sub-contractors;
- (b) demonstrating that a foreseeable Specific Change in Law had been taken into account by the Contractor before it occurred;
- (c) giving evidence as to how the Specific Change in Law has affected the cost of providing the Services; and
- (d) demonstrating that any expenditure that has been avoided has been taken into account in amending the Contract Price.

34.4 Any increase in the Contract Price or relief from the Contractor's obligations agreed by the parties pursuant to this clause shall be implemented in accordance with clause 42 (Variation).

35. Transfer and sub-contracting

35.1 Except as provided in this clause, the Contractor shall not assign, sub-contract or in any other way dispose of the Contract or any part of it without the SSRO's prior written approval.

35.2 The Contractor shall provide the SSRO with such details of the proposed assignee, transferee or sub-contractor as the SSRO may reasonably require.

35.3 The SSRO may give its approval under this clause subject to such conditions as the SSRO in its sole discretion may consider reasonable or necessary to protect its interests. The Contractor shall comply with those conditions in respect of the assignment, sub-contract or disposal.

35.4 If the SSRO gives approval to sub-contract, the Contractor shall make it a term of any sub-contract that:

- (a) the employment of the sub-contractor under the sub-contract shall terminate immediately upon the termination of (for whatsoever reason) the Contract; and
- (b) the sub-contractor's services are being provided for the benefit of the SSRO and accordingly, unless the sub-contractor shall have provided a warranty to the SSRO in a form approved by the SSRO Officer, the SSRO shall be entitled to enforce the terms of the sub-contract against the sub-contractor pursuant to section 1 of the Contracts (Rights of Third Parties) Act 1999.

35.5 Sub-contracting any part of the Contract shall not relieve the Contractor of any of its obligations or duties under the Contract.

- 35.6 The Contractor shall be responsible for the acts and omissions of its sub-contractors as though they are its own.
- 35.7 Where the SSRO has consented to the placing of sub-contracts, copies of each sub-contract shall, at the request of the SSRO, be sent by the Contractor to the SSRO as soon as reasonably practicable.
- 35.8 Notwithstanding clause 35.1, 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 this Contract (including any interest which the SSRO incurs). Any assignment under this clause 35.8 shall be subject to:
- (a) reduction of any sums in respect of which the SSRO exercises a right of recovery;
 - (b) all related rights of the SSRO under the contract in relation to the recovery of sums due but unpaid; and
 - (c) the SSRO receiving notification under both clauses 35.9 and 35.10.
- 35.9 If the Contractor assigns the right to receive the Contract Price, the Contractor or the Assignee shall notify the SSRO in writing of the assignment and the date upon which the assignment becomes effective.
- 35.10 The Contractor shall ensure that the Assignee notifies the SSRO of the Assignee's contact information and bank account details to which the SSRO shall make payment.
- 35.11 The provisions of clause 11 (Payment) shall continue to apply in all other respects after the assignment and shall not be amended without the SSRO's prior written approval.
- 35.12 The SSRO may assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof to:
- (a) any Contracting Authority; or
 - (b) any other body established by the Crown or under statute in order substantially to perform any of the functions that had previously been performed by the SSRO,
- provided that any such assignment, novation or other disposal shall not increase the burden of the Contractor's obligations under the Contract.
- 35.13 Any change in the legal status of the SSRO such that it ceases to be a Contracting Authority shall not, subject to clause 35.12, affect the validity of the Contract. In such circumstances, the Contract shall bind and inure to the benefit of any successor body to the SSRO.
- 35.14 The SSRO may disclose to any Assignee any of the Contractor's Confidential Information that relates to the performance of the Contractor's obligations under the Contract. In such circumstances the SSRO shall authorise the Assignee to use such Confidential Information only for purposes relating to the performance of the Contractor's obligations under the Contract and for no other purpose and shall take all reasonable steps to ensure that the Assignee gives a confidentiality undertaking in relation to such Confidential Information.
- 35.15 Each Party shall at its own cost and expense carry out, or use all reasonable endeavours to ensure the carrying out of, whatever further actions (including the execution of further documents) the other Party reasonably requires from time to time for the purpose of giving that other Party the full benefit of the provisions of the Contract.
- 35.16 A breach by the Contractor of clause 35.1 is a Material Breach.

36. Third party rights

- 36.1 A person who is not a Party to the Contract shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of both Parties. This clause does not affect any right or remedy of any person which exists or is available apart from the Contracts (Rights of Third Parties) Act 1999 and does not apply to the Crown.

37. Equality and diversity

- 37.1 The Contractor shall have an equality and diversity policy to promote compliance with Equality Legislation and shall operate in accordance with that policy.
- 37.2 The Contractor shall keep its equality and diversity policy under review and provide the SSRO with an amended version of the policy following any amendment.
- 37.3 The Contractor shall comply with any request for information by the SSRO to enable the SSRO to comply with its obligations under Equality Legislation.

38. Dispute resolution

- 38.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Contract within 20 Working Days of either Party notifying the other of the dispute and such efforts shall involve the escalation of the dispute to the chief operating officer (or equivalent) of each Party.
- 38.2 If the dispute cannot be resolved by the Parties pursuant to clause 38.1, the Parties shall refer it to mediation pursuant to the procedure set out in clause 38.3 unless:
- (a) the SSRO considers that the dispute is not suitable for resolution by mediation; or
 - (b) the Contractor does not agree to mediation.
- 38.3 The procedure for mediation and consequential provisions relating to mediation is as follows:
- (a) A neutral adviser or mediator (the “Mediator”) shall be chosen by agreement between the Parties or, if they are unable to agree upon a Mediator within 10 Working Days after a request by one Party to the other or if the Mediator agreed upon is unable or unwilling to act, either Party shall within 10 Working Days from the date of the proposal to appoint a Mediator or within 10 Working Days of notice to either Party that he is unable or unwilling to act, apply to the Centre for Effective Dispute Resolution (CEDR) to appoint a Mediator.
 - (b) The Parties shall within 10 Working Days of the appointment of the Mediator meet with the Mediator to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations to be held. If considered appropriate, the Parties may at any stage seek assistance from the Centre for Effective Dispute Resolution (CEDR) to provide guidance on a suitable procedure.
 - (c) Unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings.
 - (d) If the Parties reach agreement on the resolution of the dispute, the agreement shall be recorded in writing and shall be binding on the Parties once it is signed by their duly authorised representatives.

- (e) If the Parties fail to reach agreement in the structured negotiations within 60 Working Days of the Mediator being appointed, or such longer period as may be agreed by the Parties, then any dispute or difference between them may be referred to the courts unless the dispute is referred to arbitration pursuant to the procedures set out in this clause.

38.4 The obligations of the Parties under the Contract shall not cease, or be suspended or delayed by the reference of a dispute to mediation (or arbitration) and the Contractor shall comply fully with the requirements of the Contract at all times.

38.5 Nothing in this clause shall prevent the Parties from seeking from any court of competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other Party to do any act.

38.6 The Parties shall not institute court proceedings until the procedures set out in clauses 38.1 to 38.3 are followed.

38.7 If the Contractor intends to commence court proceedings, it shall serve written notice on the SSRO of its intentions.

38.8 A dispute may be referred to arbitration in the following circumstances:

- (a) The SSRO may at any time before court proceedings are commenced, serve a notice on the Contractor requiring the dispute to be referred to and resolved by arbitration.
- (b) The SSRO shall have 21 days following receipt of a notice from the Contractor of its intention to commence court proceedings to serve a reply on the Contractor requiring the dispute to be referred to and resolved by arbitration.
- (c) The Contractor may request by notice in writing to the SSRO that any dispute be referred and resolved by arbitration, to which the SSRO may consent as it sees fit.

38.9 If any arbitration proceedings are commenced:

- (a) the arbitration shall be governed by the provisions of the Arbitration Act 1996;
- (b) the SSRO shall give a written notice of arbitration to the Contractor (the "Arbitration Notice") stating: that the dispute is referred to arbitration; and providing details of the issues to be resolved;
- (c) the London Court of International Arbitration ("LCIA") procedural rules in force at the date that the dispute was referred to arbitration shall be applied and are deemed to be incorporated by reference to the Contract and the decision of the arbitrator shall be binding on the Parties in the absence of any material failure to comply with such rules;
- (d) the tribunal shall consist of a sole arbitrator to be agreed by the Parties;
- (e) if the Parties fail to agree the appointment of the arbitrator within 10 days of the Arbitration Notice being issued by the SSRO or if the person appointed is unable or unwilling to act, the arbitrator shall be appointed by the LCIA;
- (f) the arbitration proceedings shall take place in London and in the English language; and
- (g) the arbitration proceedings shall be governed by, and interpreted in accordance with, English Law.

39. Law and jurisdiction

- 39.1 Subject to the provisions of clause 38, the SSRO and the Contractor accept the exclusive jurisdiction of the English courts and agree that the Contract and all non-contractual obligations and other matters arising from or connected with it are to be governed and construed according to English Law.

40. Waiver

- 40.1 The failure of either Party to insist upon strict performance of any provision of the Contract, or the failure of either Party to exercise, or any delay in exercising, any right or remedy shall not constitute a waiver of that right or remedy and shall not cause a diminution of the obligations established by the Contract.
- 40.2 No waiver shall be effective unless it is expressly stated to be a waiver and notice is given in writing to the other Party.
- 40.3 A waiver of any right or remedy arising from a breach of the Contract shall not constitute a waiver of any right or remedy arising from any other or subsequent breach of the Contract.
- 40.4 Where a Party has expressly waived its rights under the Contract in respect of any occurrence such waiver shall not be deemed to be effective in respect of any subsequent occurrence.

41. Notices

- 41.1 Any notice or other communication which is to be given by either Party to the other shall be given by letter (sent by hand, first class post, recorded delivery or special delivery), or by electronic mail (confirmed in either case by letter).
- 41.2 A notice shall be sent to the address for service in this clause or such other address for service as has been notified in accordance with this clause.
- 41.3 Provided the relevant communication is not returned as undelivered, the notice or communication shall be deemed to have been given two Working Days after the day on which the letter was posted, or four hours, in the case of electronic mail or sooner where the other Party acknowledges receipt of such letter or item of electronic mail.
- 41.4 For the purposes of clause 41.2, the address of each Party shall be:

For the SSRO:

Address: G51/G52, 100 Parliament Street, London, SW1A 2BQ

For the attention of: Chief Regulatory Officer

Email: joanne.watts@ssro.gov.uk

For the Contractor:

Address:

For the attention of:

Email:

Either Party may change its address for service by serving a notice in accordance with this clause.

42. Variation

42.1 The SSRO may request a variation to the Services, provided that such variation does not amount to a material change.

42.2 A Variation may only be agreed in writing between the parties in accordance with the following procedure:

- (a) The SSRO may request a Variation by notifying the Contractor in writing of the "Variation" and giving the Contractor sufficient information to assess the extent of the Variation and consider whether any change to the Contract Price is required to implement the Variation.
- (b) The SSRO shall specify a time limit within which the Contractor shall respond to the request for a Variation. Such time limits shall be reasonable having regard to the nature of the Variation.
- (c) The Contractor shall respond in writing within the specified time limit, setting out the Contractor's proposal and any change to the Contract Price.
- (d) If the SSRO accepts the Contractor's proposal and quotation it may in writing authorise the Contractor to carry out the Variation.

42.3 The Contractor shall not carry out any Variation unless and until the SSRO has provided authority in writing.

42.4 Any Variation carried out without obtaining the prior written consent of the SSRO shall not be chargeable to the SSRO and shall not form part of the Contract Price.

42.5 If the Contractor is unable to accept a Variation to the Specification or where the Parties are unable to agree a change to the Contract Price, the SSRO may;

- (a) allow the Contractor to fulfil its obligations under the Contract without the Variation;
- (b) terminate the Contract with immediate effect, except where the Contractor has already delivered all or part of the Services or where the Contractor can show evidence of substantial work being carried out to fulfil the requirements of the Specification; and in such case the Parties shall attempt to agree upon a resolution to the matter. Where a resolution cannot be reached, the matter shall be dealt with under the Dispute Resolution procedure detailed at clause 38.

43. Approvals

43.1 Approvals or agreements to be given by a Party should not be unreasonably withheld or delayed.

44. Entire agreement

44.1 The Contract constitutes the entire agreement between the Parties in respect of the matters dealt with in the Contract.

- 44.2 The Contract supersedes all prior negotiations between the Parties and all representations and undertakings made by one Party to the other, whether written or oral, except that this clause shall not exclude liability in respect of any Prohibited Act.
- 44.3 In the event of, and only to the extent of, any conflict between the clauses of the Contract, any document referred to in those clauses and the Schedules, the conflict shall be resolved in accordance with the following order of precedence:
- (a) the clauses of the Contract;
 - (b) Schedule 4 (the Specification);
 - (c) Schedule 2 (Data Protection);
 - (d) Schedule 3 (Security Conditions);
 - (e) the remaining Schedules; and
 - (f) any other document referred to in the clauses of the Contract.

45. Severability

- 45.1 If any provision of the Contract is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions of the Contract shall continue in full force and effect as if the Contract had been executed with the invalid, illegal or unenforceable provision eliminated.

46. Counterparts

- 46.1 This Contract may be executed in counterparts, each of which when executed and delivered shall constitute an original but all counterparts together shall constitute one and the same instrument.

47. Schedules

- 47.1 Schedule 1: Definitions
- 47.2 Schedule 2: Data protection requirements
- 47.3 Schedule 3: Security conditions
- 47.4 Schedule 4: Specification
- 47.5 Schedule 5: Contractor's tender

Signed by the SINGLE SOURCE
REGULATIONS OFFICE under the hand of:

(Authorised Officer)

Signed by two authorised persons for and on
behalf of the Contractor

Signature

.....

Print name

.....

Signature

.....

Print name

DRAFT

Schedule 1: Definitions

The terms used in the left-hand column of the table below shall have the meanings given in the right-hand column.

Additional Development	Development of DefCARS other than Routine Development, as described in section X of the Specification and approved in accordance with clauses 5 and 6 of the Contract.
Applicable Law	The Data Protection Laws and any other UK law relating to processing of the Protected Data.
Bribery	<p>Includes any of the following in relation to the Contract:</p> <ul style="list-style-type: none"> • Offering or giving a financial or other advantage to any person as an inducement or reward to them to perform improperly a public function or business activity or knowing or believing the acceptance in itself would constitute improper performance. • Requesting or accepting an advantage or reward: (i) intending personally or through another to perform improperly a public function or business activity; or (ii) when the request or acceptance would constitute improper performance of a public function or business activity; or (iii) showing or forbearing to show favour or disfavour to any person in relation to the Contract or any other contract with the SSRO. • Improperly performing a public function of business activity in anticipation of receiving an advantage. • Bribing another person to obtain or retain business or an advantage in the conduct of business. • Any offence under the Bribery Act 2010.
Change Control Mechanism	<p>The system referred to in the Specification that the Contractor is required to maintain for:</p> <ul style="list-style-type: none"> • logging details about system issues and improvements in DefCARS; • monitoring progress in dealing with system issues and improvements and testing modifications to DefCARS; and • sign-off by the SSRO of modifications prior to implementation.
Code	The DefCARS software code.
Commencement Date	XXX, or such later date as may be notified in writing by the SSRO.
Complaint	A complaint made by a Data Subject.

Confidential Basis	Disclosure to a third-party subject to a confidentiality agreement or arrangement containing the same requirements for confidentiality as apply to the Party under this Contract.
Confidential Information	<p>Any information which has been designated as confidential by either Party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person, trade secrets, Intellectual Property Rights and know-how of either Party, information classified official sensitive or higher information to which Schedule 5 of the Defence Reform Act 2014 applies, and all Protected Data and Sensitive Personal Data. Confidential Information shall not include information which:</p> <ul style="list-style-type: none"> • was public knowledge at the time of disclosure (otherwise than by breach of the Contract); • was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party; • is received from a third party (who lawfully acquired it) without restriction as to its disclosure, or • is independently developed without access to the Confidential Information.
Conflict of Interest	<p>Either:</p> <ul style="list-style-type: none"> (a) an actual or potential conflict between the financial or personal duties of the Contractor or the Contractor's Employees and the duties owed to the SSRO under this Contract, in the reasonable opinion of the SSRO; or (b) an actual or potential conflict between the interests of the SSRO and the interests of the Contractor or any third party (including any of the Contractor's suppliers).
Contract	This agreement to provide support and development services to the SSRO's DefCARS system, and an IT managed services and security operations centre.
Contract Period	The period described in clause 2.
Contract Price	<p>The price, exclusive of any applicable VAT, payable to the Contractor by the SSRO under the Contract, as set out in the Contractor's Price Schedule, for the full and proper performance by the Contractor of its obligations under the Contract. The Contract Price shall include:</p> <ul style="list-style-type: none"> • the price of Additional Development approved under clause 6 (Change control procedure for Development);

	<ul style="list-style-type: none"> the on-boarding and off-boarding costs specified in the Contractor's Pricing Schedule, but only if there is a change of supplier following the Termination Date.
Contracting Authority	The State, a regional or local authority, a body governed by public law, an association formed by one or more such authorities or one or more such bodies governed by public law, and includes central government authorities, but not His Majesty in his private capacity.
Contractor	
Contractor Personnel	The Contractor's employees, agents and representatives.
Contractor's Price Schedule	The price schedule submitted by the Contractor with the Contractor's Tender.
Contractor's Tender	The documents submitted by the Contractor in response to the advertised opportunity for award of the Contract, included as Schedule 5: Contractor's Tender.
Core Services	The provision and support of DefCARS in accordance with the Specification, not including the Additional Development.
Data Controller	Has the meaning given to it by the Data Protection Act 2018.
Data Processor	Has the meaning given to it by the Data Protection Act 2018.
Data Protection Laws	All applicable UK law relating to the processing of personal data and privacy, including but not limited to the UK GDPR, and the Data Protection Act 2018 to the extent that it relates to the processing of personal data and privacy; and, to the extent applicable, the data protection or privacy laws of any other country.
Data Subject	An individual who is the subject of Protected Data.
Data Subject Request	A request by a Data Subject pursuant to Data Protection Laws.
DefCARS	The Defence Contracts and Reporting System described in the Specification.
Defence Contractors	Contractors who submit data to DefCARS.
Deliverable	Any product, tangible or intangible, resulting from the performance of the Services.
Development	Routine Development and Additional Development of DefCARS.
DPA 2018	The Data Protection Act 2018
Equality Legislation	The Equality Act 2010, the Human Rights Act 1998 and all other anti-discrimination legislation from time to time in force including all relevant regulations and statutory codes of practice.

Data Protection Laws	The UK GDPR and the Data Protection Act 2018 as amended, replaced or superseded from time to time.
Exit Plan	<p>A plan setting out how the Contractor will achieve an orderly transition of the Services to the SSRO or a replacement supplier at expiry or termination of the Contract and ensure continuity of the Services, including:</p> <ul style="list-style-type: none"> • details of timescales, activities and roles and responsibilities of the Parties; • the transfer of any technical information, instructions, manuals and code reasonably required to enable a smooth migration from the Contractor; • the strategy for exportation and migration of the Services from the Contractor to the SSRO or a replacement supplier; • the transfer of Intellectual Property Rights and other SSRO customisations, configurations and databases to the SSRO or a replacement contractor; • the testing and assurance strategy for exported SSRO Data; • any actions required to comply with the TUPE Regulations; and • any other activities and information reasonably required to ensure continuity of service and an orderly transition.
Force Majeure	An unavoidable event, that is beyond the reasonable control of a Party and makes it impossible for the Party to perform its obligations under the Contract.
Foundation Grade	Has the meaning ascribed by the government's Commercial Product Assurance scheme.
GDPR	General Data Protection Regulation.
General Change in Law	A change in Law which comes into effect after the Commencement Date, where the change is of a general legislative nature (including taxation or duties of any sort affecting the Contractor) or which would affect or relate to a comparable supply of services of the same or a similar nature to the supply of the Services.
Good Industry Practice	Standards, practices, methods and procedures conforming to the Law and the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking under the same or similar circumstances.
Professional Misconduct	<p>Includes:</p> <ul style="list-style-type: none"> • breach of environmental obligations;

	<ul style="list-style-type: none"> • breach of social obligations; • breach of labour law obligations; • distortion of competition; • significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract with a contracting entity, or a prior concession contract, which led to early termination of that prior contract, damages or other comparable sanctions; • failure to comply with annual reporting requirements under section 54 of the Modern Slavery Act 2015; and • other professional misconduct within the meaning of Schedule 7 of the Procurement Act 2023.
Health and Safety Requirements	<p>Include the following:</p> <ul style="list-style-type: none"> • all legislation relating to health and safety at work; • all specific requirements relating to health and safety contained in the Contract; and • any reasonable instructions the SSRO may give to the Contractor in relation to health and safety.
HMRC	HM Revenue and Customs.
Information	Information or data recorded in any form and held by either Party under or in connection with the Contract, including information provided in the tender or negotiations that preceded the award of the Contract.
Intellectual Property Rights	Any patent, know how, trade mark or name, service mark, copyright, moral right, rights in designs, rights in commercial or technical information, rights in domain names and website addresses, rights in databases, rights in confidential information, trade secrets, or any other intellectual property rights, whether registered or unregistered and including applications for the grant of any such rights and all rights or forms of protection having equivalent or similar effect anywhere in the world.
Industry Security Notice	An official document issued by the MOD which provides instructions, guidance or other information relating to security.
International Organisation	An organisation and its subordinate bodies governed by public international law, or any other body which is set up by, or on the basis of, an agreement between two or more countries.
Law	Any applicable Act of Parliament, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements or any Regulatory Body of which the Contractor is bound to comply.

Management Information	Includes details of the Contractor's: <ul style="list-style-type: none"> • performance against the Service Levels; • Change Control Mechanism; and • progress in dealing with system issues and improvements.
Material Breach	A breach of a kind that has been expressly identified as a material breach in this Contract and any other single serious breach of the Contract or persistent failure to perform as required under the Contract.
MOD	The Ministry of Defence.
Party	Either the SSRO or the Contractor, as the context allows.
Parties	Both the SSRO and the Contractor.
Personal Data Breach	A breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure, or access to, Protected Data transmitted, stored, or otherwise processed.
Pricing Schedule	The Contractor's Pricing Schedule included in the Contractor's Tender.
Processing Instructions	The SSRO's instructions for the processing of Protected Data by the Contractor, documented in the Contract, which may be updated from time to time by agreement of the Parties.
Procurement-related Information	Information and data about the Services to enable the SSRO to understand how the Services have been provided and run a fair competition for a new supplier, including information on: <ul style="list-style-type: none"> • volumes; • usage; • technical aspects; • service performance; and • staffing.
Prohibited Act	Any of the following: <ul style="list-style-type: none"> • participation in a criminal organisation; • Bribery; • fraud; • misapplication of funds • serious misrepresentation; • terrorist offences or offences linked to terrorist activities; • money laundering or terrorist financing; • unlawful use of child labour;

	<ul style="list-style-type: none"> other forms of trafficking in human beings.
Protected Data	Any personal data within the meaning of the Data Protection Act 2018 processed by the Data Processor on behalf of the Data Controller in performing the Services.
Quality Standards	The quality standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardization or other reputable or equivalent body, (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Contractor would reasonably and ordinarily be expected to comply with, and includes any quality standards referenced in the Specification.
Regulatory Body	Those government departments and regulatory, statutory and other entities, committees, ombudsmen and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in the Contract or any other affairs of the SSRO.
Request for Information	A request for Information made under the Freedom of Information Act 2000, the Environmental Information Regulations 2004, the Data Protection Act 2018 or an equivalent or similar request.
Routine Development	Development of DefCARS, as described in section X of the Specification and approved in accordance with clause 6 (Change control procedure for Development).
Security Incident	<p>An event, act or omission which gives rise or may give rise to:</p> <ul style="list-style-type: none"> unauthorised access to DefCARS; disruption or change of the operation (including but not limited to takeover of control) of DefCARS); destruction, damage, deletion or the change of Information residing in an information system or electronic communications network; removal or limiting the possibility to use Information residing in an information system or electronic communications network; or the appropriation, publication, dissemination or any other use of non-public Information by persons unauthorised to do so.
Security Instructions	Instructions contained in any relevant Industry Security Notice or specific security instructions relating to this Contract issued by the SSRO to the Contractor.
Security and Technical Requirements	The requirements for ensuring the security of DefCARS as set out in section X of the Specification.

Sensitive Information	Information to which Schedule 5 of the Defence Reform Act 2014 applies and OFFICIAL-SENSITIVE information within the meaning of the Government Security Classifications.
Service Levels	The requirements for the levels at which the Services are provided, as set out in the Specification, in any authorisation under clause 6 (Change control procedure for Development), or in the Contractor's Tender.
Service Review Meetings	Monthly meetings held between the Contractor and the SSRO to review and discuss the performance of the Contract.
Service Threatening Event	<p>The occurrence of any of the following:</p> <ul style="list-style-type: none"> • The Contractor suspends or threatens to suspend, or ceases or threatens to cease, all or a substantial part of the Contractor's business. • The Contractor (or a partner of the Contractor) suspends or threatens to suspend payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed by legislation to be unable to pay its debts or as having no reasonable prospect of doing so. • The Contractor is bankrupt or the subject of a bankruptcy petition. • The Contractor enters into negotiations for, or makes, a voluntary agreement with its creditors to compromise, reschedule or arrange repayment of outstanding sums. • A petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Contractor. • An administrator and or administrative receiver is appointed to manage the affairs of the Contractor, or an application is made to a court for the same. • A person becomes entitled to appoint a receiver over the assets of the Contractor or a receiver is appointed over the assets of the Contractor. • A creditor or other entitled person attaches or takes possession of the whole or any part of the Contractor's assets, or a distress, execution, sequestration or other such process is levied, enforced or sued against the Contractor's assets and such process is not discharged within 14 days. • Any event occurs, or proceeding is taken with respect to the Contractor in any jurisdiction that has an effect equivalent or similar to (b) to (h) above. • The Contractor's business is taken over in whole or in part either by sale of a controlling interest in the share capital of the Contractor or by a sale of the assets relevant to the part of the Contractor's business that is performing the Contract.

Services	The Core Services and any Additional Development.
Single Source Regulatory Framework	The scheme of regulation established by Part 2 of the Defence Reform Act 2014 and the Single Source Contract Regulations 2014.
Specific Change in Law	A change in Law which comes into effect after the Commencement Date that relates specifically to the business of the SSRO, and which would not affect a comparable supply of services of the same or a similar nature to the supply of the Services.
Specification	The document included at Schedule 4: Specification.
SSRO	The Single Source Regulations Office.
SSRO Data	All data supplied to the Contractor by the SSRO, Defence Contractors or the MOD, all data held in or forming part of DefCARS; and associated metadata.
Stage	A defined section or component of the Services as stated in the Specification, an authorisation under clause 6 (Change control procedure for Development) or any agreed variation.
Statutory Reports	The reports provided under the Single Source Regulatory Framework.
Supervisory Authority	An independent public authority responsible for monitoring the application of the Data Protection Laws in the United Kingdom.
Termination Date	<p>The date on which this Contract ends, which will be the earlier of the following:</p> <ul style="list-style-type: none"> • the date on which the Contract Period ends; • the date specified in a notice given to terminate the Contract; • the date on which a notice given to terminate the Contract takes effect.
Testing Requirements	The procedure and requirements for testing Developments and for user acceptance of Developments provided in the Specification.
TUPE Regulations	The Transfer of Undertakings (Protection of Employment) Regulations 2006.
TUPE Staff Information	<p>The total number of staff assigned to any organised grouping of employees situated in Great Britain which has as its principal purpose the carrying out of the Services and for each person identified the following details:</p> <ul style="list-style-type: none"> • activities performed; • age; • start date;

	<ul style="list-style-type: none"> • place of work; • notice period; • redundancy payment entitlement; • salary, benefits and pension entitlements; • employment status; • identity of employer; • working arrangements; • outstanding liabilities; • sickness absence; • copies of all relevant employment contracts and related documents; • all employee liability information required under regulation 11 of the TUPE Regulations; and • information reasonably requested by the SSRO.
UK GDPR	Regulation (EU) 2016/679 of the European Parliament and of the Council of 27th April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018
Variation	A change to the Services requested by the SSRO under clause 42.
Working Days	Any day other than a Saturday, Sunday or public holiday in England and Wales.

SCHEDULE 2 – Data Protection

1. Data Processor and Data Controller

- 1.1 The Parties agree that for the purposes of Data Protection Legislation, the SSRO is the Data Controller and the Contractor is the Data Processor.
- 1.2 The Data Processor shall comply with all Data Protection Legislation in connection with the processing of Personal Data, the Services and the exercise and performance of the Contract.
- 1.3 The Data Processor shall not by any act or omission cause the Data Controller (or any other person) to be in breach of any Data Protection Legislation.
- 1.4 The Data Controller shall comply with all Data Protection Legislation in respect of the performance of its obligations under this Contract.

2. Instructions and details of processing

- 2.1 The only processing that the Data Processor is authorised to do is listed in Annex A to this Schedule 2 by the Data Controller and may not be determined by the Data Processor. The term “processing” and any associated terms are to be read in accordance with Article 4 of the UK GDPR.
- 2.2 The Data Processor shall notify the Data Controller immediately if it considers that any of the Data Controller’s instructions infringe Data Protection Legislation.
- 2.3 The Data Processor shall, in relation to any Personal Data processed in connection with its obligations under this Contract:
 - (a) process that Personal Data only in accordance with Annex A to this Schedule 2, unless the Data Processor is required to do otherwise by Law. If it is so required the Data Processor shall promptly notify the Data Controller before processing the Personal Data unless prohibited by Law; and
 - (b) ensure that it has in place Protective Measures, which are appropriate to protect against a Data Loss Event, which the Data Controller may reasonably reject. In the event of the Data Controller reasonably rejecting Protective Measures put in place by the Data Processor, the Data Processor must propose alternative Protective Measures to the satisfaction of the Data Controller. Failure to reject shall not amount to approval by the Data Controller of the adequacy of the Protective Measures. Protective Measures must take account of the:
 - (i) nature of the data to be protected;
 - (ii) harm that might result from the Data Loss Event;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;
 - (c) ensure that:

- (i) the Data Processor's Employees do not process Personal Data except in accordance with this Contract (and in particular Annex A to this Schedule 2); and
- (ii) it takes all reasonable steps to ensure the reliability and integrity of any Data Processor's Employees who have access to the Personal Data and ensure that they:
 - 1. are aware of and comply with the Data Processor's duties under this paragraph 2.3;
 - 2. are subject to appropriate confidentiality undertakings with the Data Processor or any Data Sub-processor;
 - 3. are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Data Controller or as otherwise permitted by this Contract; and
 - 4. have undergone adequate training in the use, care, protection and handling of Personal Data;
- (d) not transfer Personal Data outside of the UK unless the prior written consent of the Data Controller has been obtained and the following conditions are fulfilled:
 - (i) the destination country has been recognised as adequate by the UK government in accordance with Article 45 of the UK GDPR or section 74 of the DPA 2018;
 - (ii) the Data Controller or the Data Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with Article 46 of the UK GDPR or section 75 of the DPA 2018) as determined by the Data Controller;
 - (iii) the Data Subject has enforceable rights and effective remedies;
 - (iv) the Data Processor complies with its obligations under Data Protection Legislation by providing an appropriate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Data Controller in meeting its obligations); and
 - (v) the Data Processor complies with any reasonable instructions notified to it in advance by the Data Controller with respect to the processing of the Personal Data;
- (e) at the written direction of the Data Controller, delete or return Personal Data (and any copies of it) to the Data Controller on termination or expiry of the Contract (whichever occurs first) unless the Data Processor is required by Law to retain the Personal Data.

Technical and organisational measures

- 2.4 The Data Processor shall provide all reasonable assistance to the Data Controller in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Data Controller, include:
- (a) a systematic description of the envisaged processing operations and the purpose of the processing;
 - (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;

- (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
- (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

2.5 The Data Processor shall ensure that access to Personal Data is limited to the authorised persons who need access to it to supply the Services.

3. Assistance with the SSRO's compliance and Data Subject rights

3.1 Subject to paragraph 4.2, the Data Processor shall notify the Data Controller immediately if it:

- (a) receives a Data Subject Request (or purported Data Subject Request);
- (b) receives a request to rectify, block or erase any Personal Data;
- (c) receives any other request, complain or communication relating to either Party's obligations under Data Protection Legislation;
- (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract;
- (e) receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
- (f) becomes aware of a Data Loss Event.

3.2 The Data Processor's obligation to notify under paragraph 4.1 shall include the provision of further information to the Data Controller, as details become available.

3.3 Taking into account the nature of the processing, the Data Processor shall provide the Data Controller with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under paragraph 4.1 (and insofar as possible within the timescales required by the Data Controller) including but not limited to promptly providing:

- (a) the Data Controller with full details and copies of the complaint, communication or request;
- (b) such assistance as is reasonably requested by the Data Controller to enable the Data Controller to comply with a Data Subject Request within the relevant timescales set out in Data Protection Legislation;
- (c) the Data Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
- (d) assistance as requested by the Data Controller following any Data Loss Event; and
- (e) assistance as requested by the Data Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Data Controller with the Information Commissioner's Office.

Information, records, audit arrangements and the Data Protection Officer

3.4 The Data Processor shall maintain complete and accurate records and information to demonstrate its compliance with paragraph 4. This requirement does not apply where the Data Processor employs fewer than 250 Employees, unless:

- (a) the Data Controller determines that the processing is not occasional;
- (b) the Data Controller determines the processing includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; or
- (c) the Data Controller determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.

3.5 The Data Processor shall allow for audits of its Data Processing activity by the Data Controller or the Data Controller's designated auditor.

3.6 Each Party shall designate its own Data Protection Officer if required by the Data Protection Legislation.

Data Sub-processing

3.7 Before allowing any Data Sub-processor to process any Personal Data related to this Contract, the Data Processor must:

- (a) notify the Data Controller in writing of the intended Data Sub-processor and processing;
- (b) obtain the written consent of the Data Controller;
- (c) enter into a written agreement with the Data Sub-processor which gives effect to the terms set out in this Schedule 2 such that they apply to the Data Sub-processor; and
- (d) provide the Data Controller with such information regarding the Data Sub-processor as the Data Controller may reasonably require.

3.8 The Processor shall remain fully liable for all acts or omissions of any of its Data Sub-processors.

Information Commissioner Office guidance

3.9 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Data Controller may upon giving not less than 30 working days' notice to the Data Processor amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.

Deletion or return of Personal Data and copies

3.10 The Data Processor shall (and shall ensure that all persons acting on its behalf, including any Data Sub-processor, and any Employee shall) without delay (and in any event within three days), at the Data Controller's written direction, either securely delete (to the extent that it is technologically able to do so) or securely return all the Personal Data to the Data Controller in such form as the Data Controller reasonably requests on termination or expiry of the Contract (whichever occurs first) unless the Data Processor is required by Law to retain the Personal Data.

Rights and remedies

3.11 Unless otherwise expressly stated in this Contract:

- (a) the Data Processor's obligations and the Data Controller's rights and remedies under this Schedule are cumulative with, and additional to, any other provisions of this Contract; and
- (b) nothing in this Contract relieves the Data Processor of any responsibilities or liabilities under any Data Protection Legislation.

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ANNEX A – Schedule of Processing, Personal Data and Data Subjects

This Annex shall be completed by the Data Controller, who may take account of the view of the Data Processor. However, the final decision as to the content of this Annex shall be with the Data Controller at its absolute discretion.

1. The contact details of the Data Controller's Data Protection Officer are: Ruaidhri Magee, Human Resources Manager, SSRO G51/G52, 100 Parliament Street, London SW1A 2BQ ruaidhri.magee@ssro.gov.uk.

The contact details of the Data Processor's Data Protection Officer are: XX

2. The Data Processor shall comply with any further written instructions with respect to processing by the Data Controller.
3. Any such further instructions shall be incorporated into this Annex.

Description	Details
Identify of the Data Controller and Data Processor	The Parties acknowledge that for the purposes of Data Protection Legislation, the SSRO is the Data Controller and the Contractor is the Data Processor in accordance with paragraph 1.1 of Schedule 2.
Subject matter of the processing	The processing is needed in order to ensure that the Data Processor can effectively deliver the Services under the Contract.
Duration of the processing	For the Contract Period, or as otherwise required by law.
Nature and purposes of the processing	This may involve the processing of Personal Data by the Data Processor on behalf of the Data Controller as part of the provision of the Services, including Personal Data relating to those Categories of Data Subject listed below.
Types of Personal Data	Name, job title, telephone number, email address, IP addressed, system activity.

Categories of Data Subject	<p>Employees (including temporary or agency staff) and Committee members of the Data Controller.</p> <p>Employees and agents of the Ministry of Defence.</p> <p>Employees and agents of defence contractors subject to the requirements of the Defence Reform Act 2014 and Single Source Contract Regulations 2014.</p>
International transfers and legal gateway	<p>Personal Data may only be stored or accessed from the UK.</p> <p>The Processor shall not transfer Personal Data outside of the UK, or access Personal Data from outside of the UK, unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:</p> <ul style="list-style-type: none"> (i) the destination country has been recognised as adequate by the UK government in accordance with Article 45 UK GDPR or section 74 of the DPA 2018; (ii) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with UK GDPR Article 46 or section 75 DPA 2018) as determined by the Controller; (iii) the Data Subject has enforceable rights and effective legal remedies; (iv) the Processor complies with its obligations under Data Protection Legislation by providing an appropriate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and (v) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data.
Plan for return and destruction of the data once the processing is complete	<p>The Data Processor shall (and shall ensure that all persons acting on its behalf, including any Data Sub-processor, and any Employee shall) without delay (and in any event within three days), at the Data Controller's written direction, either securely delete (to the extent that it is technologically able to do so) or securely return all the Personal Data to the Data Controller in such form as the Data Controller reasonably requests on termination or expiry of the Contract (whichever occurs first) unless the Data Processor is required by Law to retain the Personal Data.</p>

Schedule 3: Security Conditions

1. Interpretation

- 1.1 In these Security Conditions, the following capitalised terms have the meanings ascribed to them below –

“Foundation Grade product” has the meaning ascribed by the CESG Commercial Product Assurance scheme, which is available at:

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

“Sensitive Information” means:

- (a) Information to which Schedule 5 of the Defence Reform Act 2014 applies; and
- (b) OFFICIAL-SENSITIVE information within the meaning of the Government Security Classifications.

“SSRO” means the Single Source Regulations Office.

2. Security grading

- 2.1 The SSRO shall in writing to the Contractor identify the information furnished to the Contractor, or developed by the Contractor, under the Contract, which is Sensitive Information.
- 2.2 The Contractor shall mark all OFFICIAL-SENSITIVE documents which it originates or copies during the Contract clearly with the OFFICIAL-SENSITIVE classification.
- 2.3 The Contractor shall include a suffix in electronic file names to indicate the OFFICIAL-SENSITIVE classification and any relevant DESCRIPTOR. The following indicates the appropriate suffix for the OFFICIAL-SENSITIVE classification and core descriptors –

Classification and descriptor	Suffix
OFFICIAL SENSITIVE	-OS
OFFICIAL SENSITIVE COMMERCIAL	-OSC
OFFICIAL SENSITIVE LOCSEN	-OSL
OFFICIAL SENSITIVE PERSONAL	-OSP

3. Defence Reform Act 2014 and Official Secrets Acts

- 3.1 The Contractor's attention is drawn to the following –
- (a) The provisions of Part 2 of the Defence Reform Act 2014, Schedule 5 to that Act, and the Single Source Contract Regulations 2014, particularly Regulation 56.
 - (b) The provisions of the Official Secrets Acts 1911 to 1989 in general, and to the provisions of Section 5 of the Official Secrets Act 1911 (as amended by the Act of 1989) in particular.

- 3.2 The Contractor shall take all reasonable steps to make sure that all individuals employed on any work in connection with the Contract (including sub-contractors) have notice that these statutory provisions, or any others provided by the SSRO, apply to them and shall continue so to apply after the completion or earlier termination of the Contract.

4. Protection of Sensitive Information

- 4.1 The Contractor shall protect Sensitive Information provided to it or generated by it in accordance with the requirements detailed in this Security Condition and any other conditions that may be specified by the SSRO. The Contractor shall take all reasonable steps to prevent the loss or compromise of the information or from deliberate or opportunist attack.
- 4.2 Sensitive Information shall be protected in a manner to avoid unauthorised access. The Contractor shall take all reasonable steps to prevent the loss or compromise of the information or from deliberate or opportunist attack.
- 4.3 All Sensitive Information not held electronically, including documents, media and other material shall be physically secured to prevent unauthorised access. When not in use Sensitive Information shall be stored under lock and key. As a minimum, when not in use, Sensitive Information shall be stored in a lockable room, cabinets, drawers or safe and the keys/combinations are themselves to be subject to a level of physical security and control.
- 4.4 Disclosure of OFFICIAL-SENSITIVE information shall be strictly in accordance with the "need to know" principle as set out in the Government Security Classifications. Except with the written consent of the SSRO, the Contractor shall not disclose any of the classified aspects of the Contract specified in writing by the SSRO, other than to a person directly employed by the Contractor.
- 4.5 Access to Sensitive Information shall be confined to those individuals who have a "need-to-know" and whose access is essential for the purpose of his or her duties.
- 4.6 The Contractor shall ensure that all individuals having access to OFFICIAL-SENSITIVE information have undergone basic recruitment checks. The Contractor shall apply the requirements of HMG Baseline Personnel Security Standard (BPSS) for all individuals having access to OFFICIAL-SENSITIVE information. Further details and the full requirements of the BPSS can be found at the GOV.UK website at:
<https://www.gov.uk/government/publications/government-baseline-personnel-security-standard>

5. Hard Copy Distribution of Information

- 5.1 Documents containing Sensitive Information shall be distributed, both within and outside the Contractor's premises in such a way as to make sure that no unauthorised person has access. It may be sent by ordinary post or Commercial Couriers in two envelopes, one inside the other. The words OFFICIAL-SENSITIVE shall not appear on the outer envelope and shall not be visible on examination of the outer envelope. The outer envelope shall bear a stamp or details that clearly indicate the full address of the office from which it was sent.
- 5.2 Advice on the distribution of OFFICIAL-SENSITIVE documents abroad or any other general advice including the distribution of OFFICIAL-SENSITIVE hardware shall be sought from the SSRO.

6. Electronic Communication, Telephony and Facsimile Services

- 6.1 Sensitive Information shall normally be transmitted over the internet encrypted using a Foundation Grade product or equivalent.

- 6.2 Exceptionally, in urgent cases, Sensitive Information may be emailed unencrypted over the internet only where there is a strong business need to do so and only with the prior approval of the SSRO.
- 6.3 Sensitive Information 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 SSRO shall require. Such limitations, including any regarding publication, further circulation or other handling instructions shall be clearly identified in the email sent with the material.
- 6.4 Sensitive Information may be discussed on fixed and mobile types of telephone within the UK, but not with (or within earshot of) unauthorised persons.
- 6.5 Sensitive Information may be faxed to UK recipients, provided that the recipient has been notified and is waiting to receive the fax.

7. Use of Information Systems

- 7.1 The detailed functions that must be provided by an IT system to satisfy the minimum requirements described below cannot be described here; it is for the implementers to identify possible means of attack and ensure proportionate security mitigations are applied to prevent a successful attack.
- 7.2 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.
- 7.3 The following describes the minimum security requirements for processing and accessing Sensitive Information on IT systems.

Access

- 7.4 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. Administrators should not conduct “standard” User functions using their privileged accounts.

Identification and Authentication (ID&A).

- 7.5 All systems shall have the following functionality: (1) Up-to-date lists of authorised users. (2) Positive identification of all users at the start of each processing session.

Passwords.

- 7.6 Passwords are part of most ID&A, Security Measures. Passwords shall be “strong” using an appropriate method to achieve this, for example including numeric and “special” characters (if permitted by the system) as well as alphabetic characters.

Internal Access Control.

- 7.7 All systems shall have internal Access Controls to prevent unauthorised users from accessing or modifying the data.

Data Transmission.

- 7.8 Unless the SSRO authorises otherwise, Sensitive Information shall be transmitted or accessed electronically (e.g. point to point computer links) via a public network like the Internet, using a Foundation Grade product or equivalent for encryption.

Security Accounting and Audit.

- 7.9 Security relevant events fall into two categories, namely legitimate events and violations.

7.10 The following events shall always be recorded:

- (a) All log on attempts whether successful or failed.
- (b) Log off (including time out where applicable).
- (c) The creation, deletion or alteration of access rights and privileges.
- (d) The creation, deletion or alteration of passwords.

7.11 For each of the events listed above, the following information is to be recorded:

- (a) Type of event,
- (b) User ID,
- (c) Date & Time, and
- (d) Device ID.

7.12 The accounting records shall have a facility to provide the System Manager with a hard copy of all or selected activity. There shall also 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 shall be protected by physical means when not in use i.e. locked away or the hard drive removed and locked away.

Integrity & Availability.

7.13 The following supporting measures shall be implemented:

- (a) Provide general protection against normally foreseeable accidents/mishaps and known recurrent problems (e.g. viruses and power supply variations)
- (b) Defined Business Contingency Plan
- (c) Data backup with local storage
- (d) Anti-Virus Software (Implementation, with updates, of an acceptable industry standard Anti-virus software)
- (e) Operating systems, applications and firmware should be supported
- (f) Patching of Operating Systems and Applications used shall be in line with the manufacturers recommended schedule. If patches cannot be applied an understanding of the resulting risk will be documented.

Logon Banners

7.14 Wherever possible, a "Logon Banner" shall 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".

Unattended Terminals

7.15 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.

Internet Connections.

- 7.16 Computer systems shall not be connected direct to the Internet or “untrusted” systems unless protected by a firewall (a software based personal firewall is the minimum) which is acceptable to the SSRO’s Senior Information Risk Officer.

Disposal

- 7.17 Before IT storage media (e.g. disks) are disposed of, an erasure product shall be used to overwrite the data. This is a more thorough process than deletion of files, which does not remove the data.

8. Laptops

- 8.1 Laptops holding any supplied or contractor generated Sensitive Information are to be encrypted using a Foundation Grade product or equivalent. For the avoidance of doubt, the use of Bitlocker is acceptable provided that it is configured to the National Cyber Security Centre guidelines.
- 8.2 Unencrypted laptops not on a secure site are to be recalled and only used or stored in an appropriately secure location until further notice or until approved full encryption is installed. Where the encryption policy cannot be met, a Risk Balance Case that fully explains why the policy cannot be complied with and the mitigation plan, which should explain any limitations on the use of the system, is to be submitted to the SSRO for consideration.
- 8.3 Unencrypted laptops and drives containing personal data or Sensitive Information are not to be taken outside of secure sites. For the avoidance of doubt the term “drives” includes all removable, recordable media (e.g. memory sticks, compact flash, recordable optical media (e.g. CDs and DVDs), floppy discs and external hard drives.
- 8.4 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.
- 8.5 Portable Communication and Information Systems (CIS) devices 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.

9. Loss and Incident Reporting

- 9.1 The Contractor shall immediately report any loss or other compromise of Sensitive Information to the SSRO.
- 9.2 Any security incident involving Sensitive Information shall be immediately reported to The SSRO.

10. Sub-Contracts

- 10.1 When sub-contracting to a sub-contractor located in the UK the Contractor shall ensure that these Security Conditions shall be incorporated within the sub-contract document.

11. Destruction

- 11.1 As soon as no longer required, Sensitive Information shall be destroyed in such a way as to make reconstitution unlikely, for example, by burning, shredding or tearing into small pieces.
- 11.2 Advice shall be sought from the SSRO when information cannot be destroyed or, unless already authorised by the SSRO, when its retention is considered by the Contractor to be necessary or desirable. Unwanted Sensitive Information which cannot be destroyed in such a way shall be returned to the SSRO.

12. Guidance

- 12.1 Advice regarding the interpretation of the above requirements should be sought from the SSRO.

13. Audit

- 13.1 Where considered necessary by the SSRO, the Contractor shall provide evidence of compliance with these Security Conditions.

Schedule 4: Specification

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Schedule 5: Contractor's Tender

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