**Ministry of Defence Commercial**

**Contract reference: 700946373**

**FOR THE PROVISION OF MOD CIVILIAN OCCUPATIONAL HEALTH**

**SERVICES UTILISING CCS FRAMEWORK RM3795 LOT 2**

**CONTRACT NO 700946373 – FOR THE PROVIVION OF MOD CIVILIAN OCCUPATIONAL HEALTH SERVICES UTILISING CCS FRAMEWORK RM3795 LOT 2**

This Contract is made on (date of signature on ”Offer and Acceptance” proforma – contract acceptance)

**BETWEEN**

 (1) **SECRETARY OF STATE FOR DEFENCE**, acting by Def Comrcl-HO-BP1-2a Room 2.1.02, Level 2, Kentigern House, 65 Brown Street, Glasgow G2 8EX (“the Customer”)

**AND**

(2)  **OH ASSIST LIMITED** T/A Optima Health, Meadow Court, 2 Hayland Street, Sheffield, S9 1BY (“the Service Provider”)

1. The Service Provider shall provide the Services described in the Statement of Requirements at Schedule 2 Annex 1 in accordance with the Conditions of Contract at Schedule 1 Annex 1 and the firm prices detailed at Schedule 11.

2. The Contract shall come into effect on the 4th February 2021 and expires on 20th May 2022.

3. Payment will not be made for work performed which is deemed to be outside the scope or period of the Contract.

4. If there is a conflict between documents described in item 1, the order of precedence shall be:

1. Conditions of Contract (as detailed in Crown Commercial Services Framework RM3795 Lot 2 - entered into between the Authority and the supplier.)
2. Terms and Conditions as at Schedule 1 Annex 1
3. Statement of Requirements as at Schedule 2 Annex 1

The Schedules to Contract No 700946373 are as follows:

**Schedule 1** – Definitions of Contract

**Schedule 1 – Annex 1** - Standardised Contracting Terms and Project specific DEFCONs and DEFCON SC variants that apply to this contract

**Schedule 2** – Schedule of Requirements

**Schedule 2 – Annex 1 -** Statement of Requirements

**Schedule 2 – Annex A** – File Attachments

**Schedule 3** – Contract Data Sheet

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

**Schedule 5** – Contractor's Commercial Sensitive Information Form (i.a.w. condition 13

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

**Schedule 7** - Timber and Wood- Derived Products Supplied under the Contract

**Schedule 8** - Acceptance Procedure (i.a.w. condition 29)

**Schedule 9** – CCS Rm 3795 Call Off Terms and Conditions

**Schedule 10 –** Intentionally left blank

**Schedule 11 -** Pricing

**Schedule 12 –**  TUPE

**Schedule 13 -** Statement relating to Good Standing

**DEFFORM 111** - Appendix - Addresses and Other Information

**Deliverables**:

Deliverables Note

Supplier Contractual Deliverables

Buyer Contractual Deliverables

**Service Delivery**:

Key Performance Indicators

**Quality Assurance Conditions:**

No Specific QMS

**Schedule 1**Definitions of Contract

|  |  |
| --- | --- |
| **Articles** | means the Contractor Deliverables (goods and/or the services), including Packaging (and Certificate(s) of Conformity and supplied in accordance with any QA requirements if specified) which the Contractor is required to provide under the Contract in accordance with Schedule 2 (Schedule of Requirements), but excluding incidentals outside Schedule 2 (Schedule of Requirements) such as progress reports. (**This definition only applies when DEFCONs are added to these Conditions**); |
| **Authority** | means the Secretary of State for Defence acting on behalf of the Crown; |
| **Authority’s Representative(s)** | shall be those person(s) defined in Schedule 3 (Contract Data Sheet) who will act as the Authority’s Representative(s) in connection with the Contract. Where the term “Authority’s Representative(s)” in the Conditions is immediately followed by a functional description in brackets, the appropriate Authority’s Representative(s) shall be the designated person(s) for the purposes of condition 8; |
| **Business Day** | means 09:00 to 17:00 Monday to Friday, excluding public and statutory holidays; |
| **Central Government Body** | a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics:a. Government Department;b. Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);c. Non-Ministerial Department; orExecutive Agency; |
| **Collect** | means pick up the Contractor Deliverables from the Consignor. This shall include loading, and any other specific arrangements, agreed in accordance with clause 28.c and Collected and Collection shall be construed accordingly; |
| **Commercial Packaging** | means commercial Packaging for military use as described in Def Stan 81-041 (Part 1) |
| **Conditions** | means the terms and conditions set out in this document; |
| **Consignee** | means that part of the Authority identified in Schedule 3 (Contract Data Sheet) to whom the Contractor Deliverables are to be Delivered or on whose behalf they are to be Collected at the address specified in Schedule 3 (Contract Data Sheet) or such other part of the Authority as may be instructed by the Authority by means of a Diversion Order; |
| **Consignor** | means the name and address specified in Schedule 3 (Contract Data Sheet) from whom the Contractor Deliverables will be dispatched or Collected; |
| **Contract** | means the Contract including its Schedules and any amendments agreed by the Parties in accordance with condition 6 (Amendments to Contract); |
| **Contract Price** | means the amount set out in Schedule 2 (Schedule of Requirements) to be paid (inclusive of Packaging and exclusive of any applicable VAT) by the Authority to the Contractor, for the full and proper performance by the Contractor of its obligations under the Contract. |
| **Contractor** | means the person who, by the Contract, undertakes to supply the Contractor Deliverables, for the Authority as is provided by the Contract. Where the Contractor is an individual or a partnership, the expression shall include the personal representatives of the individual or of the partners, as the case may be, and the expression shall also include any person to whom the benefit of the Contract may be assigned by the Contractor with the consent of the Authority; |
| **Contractor Commercially Sensitive Information** | means the Information listed in the completed Schedule 5 (Contractor’s Commercially Sensitive Information Form), which is Information notified by the Contractor to the Authority, which is acknowledged by the Authority as being commercially sensitive; |
| **Contractor Deliverables** | means the goods and/or the services, including Packaging (and Certificate(s) of Conformity and supplied in accordance with any QA requirements if specified) which the Contractor is required to provide under the Contract; |
| **Control** | means the power of a person to secure that the affairs of the Contractor are conducted in accordance with the wishes of that person:a. by means of the holding of shares, or the possession of voting powers in, or in relation to, the Contractor; orb. by virtue of any powers conferred by the constitutional or corporate documents, or any other document, regulating the Contractor;and a change of Control occurs if a person who Controls the Contractor ceases to do so or if another person acquires Control of the Contractor; |
| **CPET** | means the UK Government’s Central Point of Expertise on Timber, which provides a free telephone helpline and website to support implementation of the UK Government timber procurement policy; |
| **Crown Use** | in relation to a patent means the doing of anything by virtue of Sections 55 to 57 of the Patents Act 1977 which otherwise would be an infringement of the patent and in relation to a Registered Design has the meaning given in paragraph 2A(6) of the First Schedule to the Registered Designs Act 1949;  |
| **Dangerous Goods** | means those substances, preparations and articles that are capable of posing a risk to health, safety, property or the environment which are prohibited by regulation, or classified and authorised only under the conditions prescribed by the:a. Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009 (CDG) (as amended 2011);b. European Agreement Concerning the International Carriage of Dangerous Goods by Road (ADR);c. Regulations Concerning the International Carriage of Dangerous Goods by Rail (RID);d. International Maritime Dangerous Goods (IMDG) Code;e. International Civil Aviation Organisation (ICAO) Technical Instructions for the Safe Transport of Dangerous Goods by Air;f. International Air Transport Association (IATA) Dangerous Goods Regulations. |
| **DBS Finance** | means Defence Business Services Finance, at the address stated in Schedule 3 (Contract Data Sheet); |
| **DEFFORM** | means the MOD DEFFORM series which can be found at <https://www.aof.mod.uk>; |
| **DEF STAN** | means Defence Standards which can be accessed at [https://www.dstan.mod.uk](http://www.dstan.mod.uk); |
| **Deliver** | means hand over the Contractor Deliverables to the Consignee. This shall include unloading, and any other specific arrangements, agreed in accordance with condition 28 and Delivered and Delivery shall be construed accordingly; |
| **Delivery Date** | means the date as specified in Schedule 2 (Schedule of Requirements) on which the Contractor Deliverables or the relevant portion of them are to be Delivered or made available for Collection; |
| **Denomination of Quantity (D of Q)** | means the quantity or measure by which an item of material is managed; |
| **Design Right(s)** | has the meaning ascribed to it by Section 213 of the Copyright, Designs and Patents Act 1988; |
| **Diversion Order** | means the Authority’s written instruction (typically given by MOD Form 199) for urgent Delivery of specified quantities of Contractor Deliverables to a Consignee other than the Consignee stated in Schedule 3 (Contract Data Sheet); |
| **Effective Date of Contract** | means the date specified on the Authority’s acceptance letter; |
| **Evidence** | means either:a. an invoice or delivery note from the timber supplier or Subcontractor to the Contractor specifying that the product supplied to the Authority is FSC or PEFC certified; orb. other robust Evidence of sustainability or FLEGT licensed origin, as advised by CPET; |
| **Firm Price** | means a price (excluding VAT) which is not subject to variation; |
| **FLEGT** | means the Forest Law Enforcement, Governance and Trade initiative by the European Union to use the power of timber-consuming countries to reduce the extent of illegal logging; |
| **Government Furnished Assets (GFA)** | is a generic term for any MOD asset such as equipment, information or resources issued or made available to the Contractor in connection with the Contract by or on behalf of the Authority; |
| **Hazardous Contractor Deliverable** | means a Contractor Deliverable or a component of a Contractor Deliverable that is itself a hazardous material or substance or that may in the course of its use, maintenance, disposal, or in the event of an accident, release one or more hazardous materials or substances and each material or substance that may be so released; |
| **Independent Verification** | means that an evaluation is undertaken and reported by an individual or body whose organisation, systems and procedures conform to “ISO Guide 65:1996 (EN 45011:1998) General requirements for bodies operating product certification systems or equivalent”, and who is accredited to audit against forest management standards by a body whose organisation, systems and procedures conform to “ISO 17011: 2004 General Requirements for Providing Assessment and Accreditation of Conformity Assessment Bodies or equivalent”; |
| **Information** | means any Information in any written or other tangible form disclosed to one Party by or on behalf of the other Party under or in connection with the Contract; |
| **Issued Property** | means any item of Government Furnished Assets (GFA), including any materiel issued or otherwise furnished to the Contractor in connection with the Contract by or on behalf of the Authority; |
| **Legal and Sustainable** | means production and process methods, also referred to as timber production standards, as defined by the document titled “UK Government Timber Production Policy: Definition of legal and sustainable for timber procurement". The edition current on the day the Contract documents are issued by the Authority shall apply; |
| **Legislation** | means in relation to the United Kingdom any Act of Parliament, any subordinate legislation within the meaning of section 21 of the Interpretation Act 1978, any exercise of Royal Prerogative or any enforceable community right within the meaning of Section 2 of the European Communities Act 1972; |
| **Military Level Packaging (MLP)** | means Packaging that provides enhanced protection in accordance with Def Stan 81-041 (Part 1), beyond that which Commercial Packaging normally provides for the military supply chain; |
| **Military Packager Approval Scheme (MPAS)** | is a MOD sponsored scheme to certify military Packaging designers and register organisations, as capable of producing acceptable Services Packaging Instruction Sheet (SPIS) designs in accordance with Defence Standard (Def Stan) 81-041 (Part 4); |
| **Military Packaging Level (MPL)** | shall have the meaning described in Def Stan 81-041 (Part 1); |
| **MPAS Registered Organisation** | is a packaging organisation having one or more MPAS Certificated Designers capable of Military Level designs. A company capable of both Military Level and commercial Packaging designs including MOD labelling requirements; |
| **MPAS Certificated Designer** | shall mean an experienced Packaging designer trained and certified to MPAS requirements; |
| **NATO** | means the North Atlantic Treaty Organisation which is an inter-governmental military alliance based on the North Atlantic Treaty which was signed on 4 April 1949; |
| **Notices** | shall mean all Notices, orders, or other forms of communication required to be given in writing under or in connection with the Contract; |
| **Overseas** | shall mean non UK or foreign; |
| **Packaging** | Verb. The operations involved in the preparation of materiel for; transportation, handling, storage and Delivery to the user; Noun. The materials and components used for the preparation of the Contractor Deliverables for transportation and storage in accordance with the Contract; |
| **Packaging Design Authority (PDA)** | shall mean the organisation that is responsible for the original design of the Packaging except where transferred by agreement. The PDA shall be identified in the Contract, see Annex A to Schedule 3 (Appendix – Addresses and Other Information), Box 3; |
| **Parties** | means the Contractor and the Authority, and Party shall be construed accordingly; |
| **Primary Packaging Quantity(PPQ)** | means the quantity of an item of material to be contained in an individual package, which has been selected as being the most suitable for issue(s) to the ultimate user, as described in Def Stan 81-041 (Part 1); |
| **Recycled Timber** | means recovered wood that prior to being supplied to the Authority had an end use as a standalone object or as part of a structure. Recycled Timber covers:a. pre-consumer reclaimed wood and wood fibre and industrial by-products; b. post-consumer reclaimed wood and wood fibre, and driftwood; c. reclaimed timber abandoned or confiscated at least ten years previously;it excludes sawmill co-products; |
| **Safety Data Sheet** | has the meaning as defined in the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) Regulations 2007 (as amended); |
| **Schedule of Requirements** | means Schedule 2 (Schedule of Requirements), which identifies, either directly or by reference, Contractor Deliverables to be provided, the quantities and dates involved and the price or pricing terms in relation to each Contractor Deliverable; |
| **Short-Rotation Coppice** | means a specific management regime whereby the poles of trees are cut every one to two years and which is aimed at producing biomass for energy. It is exempt from the UK Government timber procurement policy. For avoidance of doubt, Short-Rotation Coppice is not conventional coppice, which is subject to the timber policy; |
| **Specification** | means the description of the Contractor Deliverables, including any specifications, drawings, samples and / or patterns, referred to in Schedule 2 (Schedule of Requirements); |
| **STANAG4329** | means the publication NATO Standard Bar Code Symbologies which can be sourced at [https://www.dstan.mod.uk/faqs.html](http://www.dstan.mod.uk/faqs.html); |
| **Subcontractor** | means any subcontractor engaged by the Contractor or by any other subcontractor of the Contractor at any level of subcontracting to provide Contractor Deliverables wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Contract and ‘Subcontract’ shall be interpreted accordingly; |
| **Timber and Wood-Derived Products** | means timber (including Recycled Timber and Virgin Timber but excluding Short-Rotation Coppice) and any products that contain wood or wood fibre derived from those timbers. Such products range from solid wood to those where the manufacturing processes obscure the wood element; |
| **Transparency Information** | means the content of this Contract in its entirety, including from time to time agreed changes to the Contract, and details of any payments made by the Authority to the Contractor under the Contract; |
| **Virgin Timber** | means Timber and Wood-Derived Products that do not include Recycled Timber. |

**Schedule 1 – Annex 1**

Standardised Contracting Terms and Project specific DEFCONs
and DEFCON SC variants that apply to this contract

**SC2**

**GENERAL CONDITIONS**

**1.** **General**

a. The defined terms in the Contract shall be as set out in Schedule 1.

b. The Contractor shall comply with all applicable Legislation, whether specifically referenced in this Contract or not.

c. The Contractor warrants and represents, that:

(1) it has the full capacity and authority to enter into, and to exercise its rights and perform its obligations under, the Contract;

(2) from the Effective Date of Contract and for so long as the Contract remains in force it shall give the Authority Notice of any litigation, arbitration (unless expressly prohibited from doing so in accordance with the terms of the arbitration), administrative or adjudication or mediation proceedings before any court, tribunal, arbitrator, administrator or adjudicator or mediator or relevant authority against itself or a Subcontractor which would adversely affect the Contractor's ability to perform its obligations under the Contract;

(3) as at the Effective Date of Contract no proceedings or other steps have been taken and not discharged (nor, to the best of the knowledge of the Contractor, threatened) for its winding-up or dissolution or for the appointment of a receiver, administrative receiver, administrator, liquidator, trustee or similar officer in relation to any of its assets or revenues;

(4) for so long as the Contract remains in force it shall give the Authority Notice of any proceedings or other steps that have been taken but not discharged (nor to the best of the knowledge of the Contractor, threatened) for its winding-up or dissolution or for the appointment of a receiver, administrator, liquidator, trustee or similar officer in relation to any of its assets or revenues.

d. Unless the context otherwise requires:

(1) The singular includes the plural and vice versa, and the masculine includes the feminine and vice versa.

(2) The words “include”, “includes”, “including” and “included” are to be construed as if they were immediately followed by the words “without limitation”, except where explicitly stated otherwise.

(3) The expression “person” means any individual, firm, body corporate, unincorporated association or partnership, government, state or agency of a state or joint venture.

(4) References to any statute, enactment, order, regulation, or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation, or instrument as amended, supplemented, replaced or consolidated by any subsequent statute, enactment, order, regulation, or instrument.

(5) The heading to any Contract provision shall not affect the interpretation of that provision.

(6) Any decision, act or thing which the Authority is required or authorised to take or do under the Contract may be taken or done only by the person (or their nominated deputy) authorised in Schedule 3 (Contract Data Sheet) to take or do that decision, act, or thing on behalf of the Authority.

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

**2.** **Duration of Contract**

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

**3.** **Entire Agreement**

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

**4.** **Governing Law**

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

b. Subject to clause 4.d and 40 (Dispute Resolution) and without prejudice to the dispute resolution process set out therein, each Party submits and agrees to the exclusive jurisdiction of the Courts of England to resolve, and the laws of England to govern, any actions proceedings, controversy or claim of whatever nature arising out of or relating to the Contract or breach thereof.

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

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

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

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

b. Subject to condition 40 (Dispute Resolution) and without prejudice to the dispute resolution process set out therein, each Party submits and agrees to the exclusive jurisdiction of the Courts of Scotland to resolve, and the laws of Scotland to govern, any actions, proceedings, controversy or claim of whatever nature arising out of or relating to the Contract or breach thereof.

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

Clause 40.b shall be amended to read:

“In the event that the dispute or claim is not resolved pursuant to clause 40.a the dispute shall be referred to arbitration. Unless otherwise agreed in writing by the Parties, the arbitration and this clause 40.b shall be governed by the Arbitration (Scotland) Act 2010. The seat of the arbitration shall be Scotland. For the avoidance of doubt, for the purpose of arbitration the tribunal shall have the power to make provisional awards pursuant to Rule 53 of the Scottish Arbitration Rules, as set out in Schedule 1 to the Arbitration (Scotland) Act 2010.”

e. Each Party warrants to each other that entry into the Contract does not, and the performance of the Contract will not, in any way violate or conflict with any provision of law, statute, rule, regulation, judgement, writ, injunction, decree or order applicable to it. Each Party also warrants that the Contract does not conflict with or result in a breach or termination of any provision of, or constitute a default under, any mortgage, contract or other liability, charge or encumbrance upon any of its properties or other assets.

f. Each Party agrees with each other Party that the provisions of this condition 4 shall survive any termination of the Contract for any reason whatsoever and shall remain fully enforceable as between the Parties notwithstanding such a termination.

g. Where the Contractor’s place of business is not in England or Wales (or Scotland where the Parties agree pursuant to this Contract that Scots Law should apply), the Contractor irrevocably appoints the solicitors or other persons in England and Wales (or Scotland where the Parties agree pursuant to the Contract that Scots Law should apply) detailed in Schedule 3 (Contract Data Sheet) as its agents to accept on its behalf service of all process and other documents of whatever description to be served on the Contractor in connection with any litigation or arbitration within the English jurisdiction (or Scottish jurisdiction where the Parties agree pursuant to this Contract that Scots Law should apply) arising out of or relating to the Contract or any issue connected therewith.

**5.** **Precedence**

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

(1) Conditions 1 - 44 (and 45 - 47, if included in this Contract) of the Conditions of the Contract shall be given equal precedence with Schedule 1 (Definitions of Contract) and Schedule 3 (Contract Data Sheet);

(2) Schedule 2 (Schedule of Requirements) and Schedule 8 (Acceptance Procedure);

(3) the remaining Schedules; and

(4) any other documents expressly referred to in the Contract.

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

**6.** **Amendments to Contract**

a. Except as provided in condition 31 all amendments to this Contract shall be serially numbered, in writing, issued only by the Authority’s Representative (Commercial), and agreed by both Parties.

b. Where the Authority or the Contractor wishes to introduce a change which is not minor or which is likely to involve a change to the Contract Price, the provisions of Schedule 4 (Contract Change Control Procedure) shall apply. The Contractor shall not carry out any work until any necessary change to the Contract Price has been agreed and a written amendment in accordance with clause 6.a above has been issued.

**7.** **Variations to Specification**

a. The Authority’s Representative may, by Notice (following consultation with the Contractor as necessary), alter the Specification as from a date agreed by both Parties and to the extent specified by the Authority, provided that any such variations shall be limited to the extent that they do not alter the fit, form, function or characteristics of the Contractor Deliverables to be supplied under the Contract. The Contractor shall ensure that the Contractor Deliverables take account of any such variations. Such variations shall not require formal amendment of the Contract in accordance with the process set out in condition 6 (Amendments to Contract) and shall be implemented upon receipt, or at the date specified in the Authority’s Notice, unless otherwise specified.

b. Any variations that cause a change to:

(1) fit, form, function or characteristics of the Contractor Deliverables;

(2) the cost;

(3) Delivery Dates;

(4) the period required for the production or completion; or

(5) other work caused by the alteration,

shall be the subject to condition 6 (Amendments to Contract). Each amendment under condition 6 shall be classed as a formal change.

**8.** **Authority Representatives**

a. Any reference to the Authority in respect of:

(1) the giving of consent;

(2) the delivering of any Notices; or

(3) the doing of any other thing that may reasonably be undertaken by an individual acting on behalf of the Authority, shall be deemed to be references to the Authority's Representatives in accordance with this condition 8.

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

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

**9.** **Severability**

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

(1) such provision shall (to the extent that it is invalid, illegal or unenforceable) be given no effect and shall be deemed not to be included in the Contract but without invalidating any of the remaining provisions of the Contract; and

(2) the Parties shall use all reasonable endeavours to replace the invalid, illegal or unenforceable provision by a valid, legal and enforceable substitute provision the effect of which is as close as possible to the intended effect of the invalid, illegal or unenforceable provision.

**10.** **Waiver**

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

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

**11.** **Assignment of Contract**

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

**12.** **Third Party Rights**

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

**13.** **Transparency**

a. Subject to clause 13.b but notwithstanding condition 14 (Disclosure of Information), the Contractor understands that the Authority may publish the Transparency Information to the general public. The Contractor shall assist and cooperate with the Authority to enable the Authority to publish the Transparency Information.

b. Before publishing the Transparency Information to the general public in accordance with clause 13.a, the Authority shall redact any Information that would be exempt from disclosure if it was the subject of a request for Information under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004, and any Information which has been acknowledged by the Authority at Schedule 5 – Contractor’s Commercially Sensitive Information.

c. The Authority may consult with the Contractor before redacting any Information from the Transparency Information in accordance with clause 13.b. The Contractor acknowledges and accepts that its representations on redactions during consultation may not be determinative and that the decision whether to redact Information is a matter in which the Authority shall exercise its own discretion, subject always to the provisions of the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.

d. For the avoidance of doubt, nothing in this condition 13 shall affect the Contractor’s rights at law.

**14.** **Disclosure of Information**

a. Subject to clauses 14.d, 14.e, 14.h and condition 13 each Party:

(1) shall treat in confidence all Information it receives from the other;

(2) shall not disclose any of that Information to any third party without the prior written consent of the other Party, which consent shall not unreasonably be withheld, except that the Contractor may disclose Information in confidence, without prior consent, to such persons and to such extent as may be necessary for the performance of the Contract;

(3) shall not use any of that Information otherwise than for the purpose of the Contract; and

(4) shall not copy any of that Information except to the extent necessary for the purpose of exercising its rights of use and disclosure under the Contract.

b. The Contractor shall take all reasonable precautions necessary to ensure that all Information disclosed to the Contractor by or on behalf of the Authority under or in connection with the Contract:

(1) is disclosed to its employees and Subcontractors, only to the extent necessary for the performance of the Contract; and

(2) is treated in confidence by them and not disclosed except with the prior written consent of the Authority or used otherwise than for the purpose of performing work or having work performed for the Authority under the Contract or any subcontract.

c. The Contractor shall ensure that its employees are aware of the Contractor’s arrangements for discharging the obligations at clauses 14.a and 14.b before receiving Information and shall take such steps as may be reasonably practical to enforce such arrangements.

d. Clauses 14.a and 14.b shall not apply to any Information to the extent that either Party:

(1) exercises rights of use or disclosure granted otherwise than in consequence of, or under, the Contract;

(2) has the right to use or disclose the Information in accordance with other Conditions of the Contract; or

(3) can show:

(a) that the Information was or has become published or publicly available for use otherwise than in breach of any provision of the Contract or any other agreement between the Parties;

(b) that the Information was already known to it (without restrictions on disclosure or use) prior to receiving the Information under or in connection with the Contract;

(c) that the Information was received without restriction on further disclosure from a third party which lawfully acquired the Information without any restriction on disclosure; or

(d) from its records that the same Information was derived independently of that received under or in connection with the Contract;

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

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

f. The Authority may disclose the Information:

(1) on a confidential basis to any Central Government Body for any proper purpose of the Authority or of the relevant Central Government Body, which shall include: disclosure to the Cabinet Office and/or HM Treasury for the purpose of ensuring effective cross-Government procurement processes, including value for money and related purposes;

(2) to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;

(3) to the extent that the Authority (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;

(4) on a confidential basis to a professional adviser, consultant or other person engaged by any of the entities defined in Schedule 1 (including benchmarking organisations) for any purpose relating to or connected with this Contract;

(5) on a confidential basis for the purpose of the exercise of its rights under the Contract; or

(6) on a confidential basis to a proposed body in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under the Contract;

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

g. Before sharing any Information in accordance with clause 14.f, the Authority may redact the Information. Any decision to redact Information made by the Authority shall be final.

h. The Authority shall not be in breach of the Contract where disclosure of Information is made solely and to the extent necessary to comply with the Freedom of Information Act 2000 (the “Act”) or the Environmental Information Regulations 2004 (the “Regulations”). To the extent permitted by the time for compliance under the Act or the Regulations, the Authority shall consult the Contractor where the Authority is considering the disclosure of Information under the Act or the Regulations and, in any event, shall provide prior notification to the Contractor of any decision to disclose the Information. The Contractor acknowledges and accepts that its representations on disclosure during consultation may not be determinative and that the decision whether to disclose Information in order to comply with the Act or the Regulations is a matter in which the Authority shall exercise its own discretion, subject always to the provisions of the Act or the Regulations.

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

**15.** **Publicity and Communications with the Media**

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

**16.** **Change of Control of Contractor**

a. The Contractor shall notify the Representative of the Authority at the address given in clause 16.b, as soon as practicable, in writing of any intended, planned or actual change in control of the Contractor. The Contractor shall not be required to submit any notice which is unlawful or is in breach of either any pre-existing non-disclosure agreement or any regulations governing the conduct of the Contractor in the UK or other jurisdictions where the Contractor may be subject to legal sanction arising from issuing such a notice.

b. Each notice of change of control shall be taken to apply to all contracts with the Authority. Notices shall be submitted to:

Mergers & Acquisitions Section

Strategic Supplier Management Team

Spruce 3b # 1301

MOD Abbey Wood,

Bristol, BS34 8JH

The Representative of the Authority shall consider the notice of change of control and advise the Contractor in writing of any concerns the Authority may have. Such concerns may include but are not limited to potential threats to national security, the ability of the Authority to comply with its statutory obligations or matters covered by the declarations made by the Contractor prior to Contract Award.

c. The Authority may terminate the Contract by giving written notice to the Contractor within six months of the Authority being notified in accordance with clause 16.a. The Authority shall act reasonably in exercising its right of termination under this condition.

d. If the Authority exercises its right to terminate in accordance with clause 16.c the Contractor shall be entitled to request the Authority to consider making a payment representing any commitments, liabilities or expenditure incurred by the Contractor in connection with the Contract up to the point of termination. Such commitments, liabilities or expenditure shall be reasonably and properly chargeable by the Contractor, and shall otherwise represent an unavoidable loss by the Contractor by reason of the termination of the Contract. Any payment under this clause 16.d must be fully supported by documentary evidence. The decision whether to make such a payment shall be at the Authority’s sole discretion.

e. Notification by the Contractor of any intended, planned or actual change of control shall not prejudice the existing rights of the Authority or the Contractor under the Contract nor create or imply any rights of either the Contractor or the Authority additional to the Authority’s rights set out in this condition.

**17.** **Environmental Requirements**

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

**18.** **Contractor’s Records**

a. The Contractor and its sub-contractors shall maintain all records specified in and connected with the Contract (expressly or otherwise) and make them available to the Authority when requested on reasonable notice.

b. The Contractor and its sub-contractors shall also permit access to relevant records that relate to the contractual obligations to supply goods or services under the Contract, held by or controlled by them and reasonably required by the Comptroller and Auditor General, their staff and any appointed representative of the National Audit Office, and provide such explanations and information as reasonably necessary for the following purposes:

(1) to enable the National Audit Office to carry out the Authority’s statutory audits and to examine and/or certify the Authority’s annual and interim report and accounts; and

(2) to enable the National Audit Office to carry out an examination pursuant to Part II of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources.

c. With regard to the records made available to the Authority under clause 1 of this Condition, and subject to the provisions of SC2 conditions of contract clause 14, the Contractor shall permit records to be examined and if necessary copied, by the Authority, or Representative of the Authority, as the Authority may require.

d. Unless the Contract specifies otherwise the records referred to in this Condition shall be retained for a period of at least 6 years from:

(1) the end of the Contract term;

(2) termination of the Contract; or

(3) the final payment

whichever occurs latest.

**19.** **Notices**

a. A Notice served under the Contract shall be:

(1) in writing in the English Language;

(2) authenticated by signature or such other method as may be agreed between the Parties;

(3) sent for the attention of the other Party’s Representative, and to the address set out in Schedule 3 (Contract Data Sheet);

(4) marked with the number of the Contract; and

(5) delivered by hand, prepaid post (or airmail), facsimile transmission or, if agreed in Schedule 3 (Contract Data Sheet), by electronic mail.

b. Notices shall be deemed to have been received:

(1) if delivered by hand, on the day of delivery if it is a Business Day in the place of receipt, and otherwise on the first Business Day in the place of receipt following the day of delivery;

(2) if sent by prepaid post, on the fourth Business Day (or the tenth Business Day in the case of airmail) after the day of posting;

(3) if sent by facsimile or electronic means:

(a) if transmitted between 09:00 and 17:00 hours on a Business Day (recipient’s time) on completion of receipt by the sender of verification of the transmission from the receiving instrument; or

(b) if transmitted at any other time, at 09:00 on the first Business Day (recipient’s time) following the completion of receipt by the sender of verification of transmission from the receiving instrument.

**20.** **Progress Monitoring, Meetings and Reports**

a. The Contractor shall attend progress meetings at the frequency or times (if any) specified in Schedule 3 (Contract Data Sheet) and shall ensure that its Contractor’s Representatives are suitably qualified to attend such meetings.

b. The Contractor shall submit progress reports to the Authority’s Representatives at the times and in the format (if any) specified in Schedule 3 (Contract Data Sheet). The reports shall detail as a minimum:

(1) performance/Delivery of the Contractor Deliverables;

(2) risks and opportunities;

(3) any other information specified in Schedule 3 (Contract Data Sheet); and

(4) any other information reasonably requested by the Authority.

**SUPPLY OF CONTRACTOR DELIVERABLES**

**21.** **Supply of Contractor Deliverables and Quality Assurance**

a. The Contractor shall provide the Contractor Deliverables to the Authority, in accordance with the Schedule of Requirements and the Specification, and shall allocate sufficient resource to the provision of the Contractor Deliverables to enable it to comply with this obligation.

b. The Contractor shall:

(1) comply with any applicable quality assurance requirements specified in Schedule 3 (Contract Data Sheet) in providing the Contractor Deliverables; and

(2) discharge its obligations under the Contract with all due skill, care, diligence and operating practice by appropriately experienced, qualified and trained personnel.

c. The provisions of clause 21.b. shall survive any performance, acceptance or payment pursuant to the Contract and shall extend to any remedial services provided by the Contractor.

d. The Contractor shall:

(1) observe, and ensure that the Contractor’s Team observe, all health and safety rules and regulations and any other security requirements that apply at any of the Authority’s premises;

(2) notify the Authority as soon as it becomes aware of any health and safety hazards or issues which arise in relation to the Contractor Deliverables; and

(3) before the date on which the Contractor Deliverables are to start, obtain, and at all times maintain, all necessary licences and consents in relation to the Contractor Deliverables.

**22.** **Marking of Contractor Deliverables**

a. Each Contractor Deliverable shall be marked in accordance with the requirements specified in Schedule 3 (Contract Data Sheet), if no such requirement is specified, the Contractor shall mark each Contractor Deliverable clearly and indelibly in accordance with the requirements of the relevant DEF-STAN 05-132 as specified in the contract or specification. In the absence of such requirements, the Contractor Deliverables shall be marked with the MOD stock reference, NATO Stock Number (NSN) or alternative reference number specified in Schedule 2 (Schedule of Requirements).

b. Any marking method used shall not have a detrimental effect on the strength, serviceability or corrosion resistance of the Contractor Deliverables.

c. The marking shall include any serial numbers allocated to the Contractor Deliverable.

d. Where because of its size or nature it is not possible to mark a Contractor Deliverable with the required particulars, the required information should be included on the package or carton in which the Contractor Deliverable is packed, in accordance with condition 23 (Packaging and Labelling (excluding Contractor Deliverables containing Munitions)).

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

a. Packaging responsibilities are as follows:

(1) The Contractor shall be responsible for providing Packaging which fully complies with the requirements of the Contract.

(2) The Authority shall indicate in the Contract the standard or level of Packaging required for each Contractor Deliverable, including the PPQ. If a standard or level of Packaging (including the PPQ) is not indicated in the Contract, the Contractor shall request such instructions from the Authority before proceeding further.

(3) The Contractor shall ensure all relevant information necessary for the effective performance of the Contract is made available to all subcontractors.

(4) Where the Contractor or any of their subcontractors have concerns relating to the appropriateness of the Packaging design and or MPL prior to manufacture or supply of the Contractor Deliverables they shall use DEFFORM 129B to feedback these concerns to the Contractor or Authority, as appropriate.

b. The Contractor shall supply Commercial Packaging meeting the standards and requirements of Def Stan 81-041 (Part 1). In addition the following requirements apply:

(1) The Contractor shall provide Packaging which:

(a) will ensure that each Contractor Deliverable may be transported and delivered to the consignee named in the Contract in an undamaged and serviceable condition; and

(b) is labelled to enable the contents to be identified without need to breach the package; and

(c) is compliant with statutory requirements and this Condition.

(2) The Packaging used by the Contractor to supply identical or similar Contractor Deliverables to commercial customers or to the general public (i.e. point of sale packaging) will be acceptable, provided that it complies with the following criteria:

(a) reference in the Contract to a PPQ means the quantity of a Contractor Deliverable to be contained in an individual package, which has been selected as being the most suitable for issue(s) to the ultimate user;

(b) Robust Contractor Deliverables, which by their nature require minimal or no packaging for commercial deliveries, shall be regarded as "PPQ packages" and shall be marked in accordance with Clauses 23.i to 23.l. References to "PPQ packages" in subsequent text shall be taken to include Robust Contractor Deliverables; and

(c) for ease of handling, transportation and delivery, packages which contain identical Contractor Deliverables may be bulked and overpacked, in accordance with clauses 23.i to 23.k.

c. The Contractor shall ascertain whether the Contractor Deliverables being supplied are, or contain, Dangerous Goods, and shall supply the Dangerous Goods in accordance with:

(1) The Health and Safety At Work Act 1974 (as amended);

(2) The Classification Hazard Information and Packaging for Supply Regulations (CHIP4) 2009 (as amended);

(3) The REACH Regulations 2007 (as amended); and

(4) The Classification, Labelling and Packaging Regulations (CLP) 2009 (as amended).

d. The Contractor shall package the Dangerous Goods as limited quantities, excepted quantities or similar derogations, for UK or worldwide shipment by all modes of transport in accordance with the regulations relating to the Dangerous Goods and:

(1) The Safety Of Lives At Sea Regulations (SOLAS) 1974 (as amended); and

(2) The Air Navigation Order.

e. As soon as possible, and in any event no later than one month before delivery is due, the Contractor shall provide a Safety Data Sheet in respect of each Dangerous Good in accordance with the REACH Regulations 2007 (as amended) and the Health and Safety At Work Act 1974 (as amended) and in accordance with condition 24 (Supply of Hazardous Materials or Substances in Contractor Deliverables).

f. The Contractor shall comply with the requirements for the design of MLP which include clauses 23.f and 23.g as follows:

(1) Where there is a requirement to design UK or NATO MLP, the work shall be undertaken by an MPAS registered organisation, or one that although non-registered is able to demonstrate to the Authority that its quality systems and military package design expertise are of an equivalent standard.

(a) The MPAS certification (for individual designers) and registration (for organisations) scheme details are available from:

DES SEOC SCP-SptEng-Pkg

MOD Abbey Wood

Bristol, BS34 8JH

Tel. +44(0)30679-35353

DESSEOCSCP-SptEng-PKg@mod.uk

(b) The MPAS Documentation is also available on the DStan website.

(2) MLP shall be designed to comply with the relevant requirements of Def Stan 81-041, and be capable of meeting the appropriate test requirements of Def Stan 81-041 (Part 3). Packaging designs shall be prepared on a SPIS, in accordance with Def Stan 81-041 (Part 4).

(3) The Contractor shall ensure a search of the SPIS index (the ‘SPIN’) is carried out to establish the SPIS status of each requirement (using DEFFORM 129a ‘Application for Packaging Designs or their Status’).

(4) New designs shall not be made where there is an existing usable SPIS, or one that may be easily modified.

(5) Where there is a usable SFS, it shall be used in place of a SPIS design unless otherwise stated by the Contract. When an SFS is used or replaces a SPIS design, the Contractor shall upload this information on to SPIN in Adobe PDF.

(6) All SPIS, new or modified (and associated documentation), shall, on completion, be uploaded by the Contractor on to SPIN. The format shall be Adobe PDF.

(7) Where it is necessary to use an existing SPIS design, the Contractor shall ensure the Packaging manufacturer is a registered organisation in accordance with clause 23.f(1) above, or if un-registered, is compliant with MPAS ANNEX A Supplement (Code) M. The Contractor shall ensure, as far as possible, that the SPIS is up to date.

(8) The documents supplied under clause 23.f(6) shall be considered as a contract data requirement and be subject to the terms of DEFCON 15 and DEFCON 21.

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

(1) If the Contractor or their subcontractor is the PDA they shall:

(a) On receipt of instructions received from the Authority’s representative nominated in Box 2 of DEFFORM 111 at Annex A to Schedule 3 (Contract Data Sheet), prepare the required package design in accordance with clause 23.f.

(b) Where the Contractor or their subcontractor is registered they shall, on completion of any design work, provide the Authority with the following documents electronically:

i. a list of all SPIS which have been prepared or revised against the Contract; and

ii. a copy of all new / revised SPIS, complete with all continuation sheets and associated drawings, where applicable, to be uploaded onto SPIN.

(c) Where the PDA is not a registered organisation, then they shall obtain approval for their design from a registered organisation before proceeding, then follow clause 23.g(1)(b).

(2) Where the Contractor or their subcontractor is not the PDA and is un-registered, they shall not produce, modify, or update SPIS designs. They shall obtain current SPIS design(s) from the Authority or a registered organisation before proceeding with manufacture of Packaging. To allow designs to be provided in ample time, they should apply for SPIS designs as soon as practicable.

(3) Where the Contractor or their subcontractor is un-registered and has been given authority to produce, modify, and update SPIS designs by the Contract, he shall obtain approval for their design from a registered organisation using DEFFORM 129a before proceeding, then follow clause 23.g(1)(b).

(4) Where the Contractor or their subcontractor is not a PDA but is registered, he shall follow clauses 23.g(1)(a) and 23.g(1)(b).

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

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

(1) If the Contract specifies UK or NATO MPL, labelling and marking of the packages shall be in accordance with Def Stan 81-041 (Part 6) and this Condition as follows:

(a) Labels giving the mass of the package, in kilograms, shall be placed such that they may be clearly seen when the items are stacked during storage.

(b) Each consignment package shall be marked with details as follows:

i. name and address of consignor;

ii. name and address of consignee (as stated in the Contract or order);

iii. destination where it differs from the consignee's address, normally either:

(i). delivery destination / address; or

(ii). transit destination, where delivery address is a point for aggregation / disaggregation and / or onward shipment elsewhere, e.g. railway station, where that mode of transport is used;

iv. the unique order identifiers and the CP&F Delivery Label / Form which shall be prepared in accordance with DEFFORM 129J.

(i). If aggregated packages are used, their consignment marking and identification requirements are stated at clause 23.l.

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

(a) description of the Contractor Deliverable;

(b) the full thirteen digit NATO Stock Number (NSN);

(c) the PPQ;

(d) maker's part / catalogue, serial and / or batch number, as appropriate;

(e) the Contract and order number when applicable;

(f) the words “Trade Package” in bold lettering, marked in BLUE in respect of trade packages, and BLACK in respect of export trade packages;

(g) shelf life of item where applicable;

(h) for rubber items or items containing rubber, the quarter and year of vulcanisation or manufacture of the rubber product or component (marked in accordance with Def Stan 81-041);

(i) any statutory hazard markings and any handling markings, including the mass of any package which exceeds 3kg gross; and

(j) any additional markings specified in the Contract.

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

(1) the full 13-digit NSN;

(2) denomination of quantity (D of Q);

(3) actual quantity (quantity in package);

(4) manufacturer's serial number and / or batch number, if one has been allocated; and

(5) the CP&F-generated unique order identifier.

k. Requirements for positioning bar codes in relation to related text, as well as positioning on package etc., are defined in Def Stan 81-041 (Part 6). If size of the bar code does not allow a label to be directly attached, then a tag may be used. Any difficulties over size or positioning of barcode markings shall initially be referred to the organisation nominated in Box 3 of DEFFORM 111 at Annex A to Schedule 3 (Contract Data Sheet).

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

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

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

(a) class group number;

(b) name and address of consignor;

(c) name and address of consignee (as stated on the Contract or Order);

(d) destination if it differs from the consignee's address, normally either:

i. delivery destination / address; or

ii. transit destination, if the delivery address is a point of aggregation / disaggregation and / or onward shipment e.g. railway station, where that mode of transport is used;

(e) where applicable, the reference number of the delivery note produced by CP&F relating to the contents. The consignee's copy of each delivery note shall be placed in the case / container. If the Contractor Deliverables listed in the delivery note are packed in several cases, the consignee's copy shall be placed in the first case and a separate list detailing the contents shall be prepared for each case after the first and placed in the case to which it relates. Each case is to be numbered to indicate both the number of the case and the total number of cases concerned e.g. 1/3, 2/3, 3/3;

(f) the CP&F-generated shipping label; and

(g) any statutory hazard markings and any handling markings.

m. Authorisation of the Contractor to undertake Packaging design, or to use a packaging design, that was not part of the original requirement under the Contract, shall be considered as an alteration to the specification in accordance with condition 7 (Variations to Specification).

n. The Contractor shall ensure that timber and wood-containing products supplied under the Contract comply with the provisions of condition 25 (Timber and Wood-Derived Products) and Annex I and Annex II of the International Standards for Phytosanitary Measures, "Guidelines for Regulating Wood Packaging Material in International Trade", Publication No 15 (ISPM 15).

o. All Packaging shall meet the requirements of the Packaging (Essential Requirements) Regulations 2003 (as amended) where applicable.

p. In any design work the Contractor shall comply with the Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (as amended) or equivalent legislation. Evidence of compliance shall be a contractor record in accordance with condition 18 (Contractor’s Records).

q. This Condition is concerned with the supply of Packaging suitable to protect and ease handling, transport and storage of specified items. Where there is a failure of suitable Packaging (a design failure), or Packaging fails and this is attributed to the Packaging supplier, then the supplier shall be liable for the cost of replacing the Packaging.

r. Liability for other losses resulting from Packaging failure or resulting from damage to Packaging, (such as damage to the packaged item etc.), shall be specified elsewhere in the Contract.

s. General requirements for service Packaging, including details of UK and NATO MLP and Commercial Packaging descriptions, are contained in Def Stan 81-041 (Part 1) "Packaging of Defence Materiel". Def Stans, NATO Standardisation Agreements (STANAGs), and further information are available from the DStan internet site at: https://www.dstan.mod.uk/

t. Unless specifically stated otherwise in the invitation to tender or the Contract, reference to any standard including Def Stans or STANAGs in any invitation to tender or Contract document means the edition and all amendments extant at the date of such tender or Contract.

u. In the event of conflict between the Contract and Def Stan 81-041, the Contract shall take precedence.

**24.** **Supply of Hazardous Materials or Substances in Contractor Deliverables**

a. The Contractor shall provide to the Authority:

(1) for each hazardous material or substance supplied, a Safety Data Sheet (SDS) in accordance with the extant Chemicals (Hazard Information and Packaging for Supply) Regulations (CHIP) and / or the Classification, Labelling and Packaging (CLP) Regulation 1272/2008 (whichever is applicable), and

(2) for each Contractor Deliverable containing hazardous materials or substances, safety information as required by the Health and Safety at Work, etc Act 1974, at the time of supply.

Nothing in this Condition shall reduce or limit any statutory duty or legal obligation of the Authority or the Contractor.

b. If the Contractor Deliverable contains hazardous materials or substances, or is a substance falling within the scope of the REACH Regulation (EC) No 1907/2006:

(1) the Contractor shall provide to the Authority an SDS for the substance in accordance with the Regulation. If the Contractor becomes aware of new information which may affect the risk management measures or new information on the hazard, the Contractor shall update the SDS and forward it to the Authority and to the address listed in clause 24.h below, and

(2) the Authority, if it becomes aware of new information regarding the hazardous properties of the substance, or any other information that might call into question the appropriateness of the risk management measures identified in the SDS supplied, shall report this information in writing to the Contractor.

c. If the Contractor is required, under, or in connection with the contract, to supply Contractor Deliverables or components of Contractor Deliverables that, in the course of their use, maintenance, disposal, or in the event of an accident, may release hazardous materials or substances, they shall provide to the Authority a list of those hazardous materials or substances, and for each hazardous material or substance listed, provide an SDS.

d. The Contractor shall provide to the Authority a completed Schedule 6 (Hazardous Contractor Deliverables, Materials or Substances Supplied under the Contract: Data Requirements) in accordance with Schedule 3 (Contract Data Sheet).

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

f. If the Contractor Deliverables, materials or substances are or contain or embody a radioactive substance as defined in the Ionising Radiation Regulations SI 1999/3232, the Contractor shall additionally provide details of:

(1) activity;

(2) the substance and form (including any isotope);

g. If the Contractor Deliverables, materials or substances have magnetic properties, the Contractor shall additionally provide details of the magnetic flux density at a defined distance, for the condition in which it is packed.

h. Any SDS to be provided in accordance with this Condition, including any related information to be supplied in compliance with the Contractor’s statutory duties under Clause 24.a, any information arising from the provisions of Clauses 24.e, 24.f and 24.g and the completed Schedule 6, shall be sent directly to the Authority’s Representative (Commercial) as soon as practicable, and no later than one (1) month prior to the Contract delivery date, unless otherwise stated in Schedule 3 (Contract Data Sheet). In addition, so that the safety information can reach users without delay, a copy shall be sent preferably as an email with attachment(s) in Adobe PDF or MS WORD format, or, if only hardcopy is available, to the addresses below:

(1) Hard copies to be sent to:

Hazardous Stores Information System (HSIS)

Defence Safety Authority (DSA)

Movement Transport Safety Regulator (MTSR)

Hazel Building Level 1, #H019

MOD Abbey Wood (North)

Bristol, BS34 8QW

(2) Emails to be sent to:

DSA-DLSR-MovTpt-DGHSIS@mod.uk

i. Failure by the Contractor to comply with the requirements of this Condition shall be grounds for rejecting the affected Contractor Deliverables. Any withholding of information concerning hazardous Contractor Deliverables, materials or substances shall be regarded as a material breach of Contract under Condition 43 (Material Breach) for which the Authority reserves the right to require the Contractor to rectify the breach immediately at no additional cost to the Authority or to terminate the Contract in accordance with Condition 43.

**25.** **Timber and Wood-Derived Products**

a. All Timber and Wood-Derived Products supplied by the Contractor under the Contract:

(1) shall comply with the Contract Specification; and

(2) must originate either:

(a) from a Legal and Sustainable source; or

(b) from a FLEGT-licensed or equivalent source.

b. In addition to the requirements of clause 25.a, all Timber and Wood-Derived Products supplied by the Contractor under the Contract shall originate from a forest source where management of the forest has full regard for:

(1) identification, documentation and respect of legal, customary and traditional tenure and use rights related to the forest;

(2) mechanisms for resolving grievances and disputes including those relating to tenure and use rights, to forest management practices and to work conditions; and

(3) safeguarding the basic labour rights and health and safety of forest workers.

c. If requested by the Authority, the Contractor shall provide to the Authority Evidence that the Timber and Wood-Derived Products supplied to the Authority under the Contract comply with the requirements of clause 25.a or 25.b or both.

d. The Authority reserves the right at any time during the execution of the Contract and for a period of five (5) years from final Delivery under the Contract to require the Contractor to produce the Evidence required for the Authority’s inspection within fourteen (14) days of the Authority’s request.

e. If the Contractor has already provided the Authority with the Evidence required under clause 25.c, the Contractor may satisfy these requirements by giving details of the previous notification and confirming the Evidence remains valid and satisfies the provisions of clauses 25.a or 25.b or both.

f. The Contractor shall maintain records of all Timber and Wood-Derived Products delivered to and accepted by the Authority, in accordance with condition 18 (Contractor’s Records).

g. Notwithstanding clause 25.c, if exceptional circumstances render it strictly impractical for the Contractor to record Evidence of proof of timber origin for previously used Recycled Timber, the Contractor shall support the use of this Recycled Timber with:

(1) a record tracing the Recycled Timber to its previous end use as a standalone object or as part of a structure; and

(2) an explanation of the circumstances that rendered it impractical to record Evidence of proof of timber origin.

h. The Authority may disclose the Information:

(1) The Authority reserves the right to decide, except where in the Authority’s opinion the timber supplied is incidental to the requirement and from a low risk source, whether the Evidence submitted to it demonstrates compliance with clause 25.a or 25.b, or both. In the event that the Authority is not satisfied, the Contractor shall commission and meet the costs of an Independent Verification and resulting report that will:

(2) verify the forest source of the timber or wood; and

(3) assess whether the source meets the relevant criteria of clause 25.b.

i. The statistical reporting requirement at clause 25.j applies to all Timber and Wood-Derived Products delivered under the Contract. The Authority reserves the right to amend the requirement for statistical reporting, in the event that the UK Government changes the requirement for reporting compliance with the Government Timber Procurement Policy. Amendments to the statistical reporting requirement will be made in accordance with condition 6 (Amendments to Contract).

j. The Contractor shall provide to the Authority, a completed Schedule 7 (Timber and Wood-Derived Products Supplied under the Contract: Data Requirements), the data or Information the Authority requires in respect of Timber and Wood-Derived Products delivered to the Authority under the Contract, or in respect of each Order in the case of a Framework Agreement, or at such other frequency as stated in the Contract. The Contractor shall send all completed Schedule 7s (Timber and Wood-Derived Products Supplied under the Contract: Data Requirements), including Nil Returns where appropriate, to the Authority’s Representative (Commercial).

k. The Schedule 7 (Timber and Wood-Derived Products Supplied under the Contract: Data Requirements) may be amended by the Authority from time to time, in accordance with condition 6 (Amendments to Contract).

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

(1) companies that have a full registered status under the Forestry Commission and Timber Packaging and Pallet Confederation’s UK Wood Packaging Material Marking Programme (more detailed information can be accessed at www.forestry.gov.uk) and all such wood shall be treated for the elimination of raw wood pests and marked in accordance with that Programme; or

(2) sources supplying wood treated and marked so as to conform to Annex I and Annex II of the International Standard for Phytosanitary Measures, “Guidelines for Regulating Wood Packaging Material in International Trade”, Publication No 15 published by the Food and Agricultural Organisation of the United Nations (ISPM15) (more detailed information can be accessed at www.fao.org).

**26.** **Certificate of Conformity**

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

b. The Contractor shall consider the CofC to be a record in accordance with condition 18 (Contractor’s Records).

c. The Information provided on the CofC shall include:

(1) Contractor’s name and address;

(2) Contractor unique CofC number;

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

(4) details of any approved concessions;

(5) acquirer name and organisation;

(6) Delivery address;

(7) Contract Item Number from Schedule 2 (Schedule of Requirements);

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

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

(10) quantities;

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

Exceptions or additions to the above are to be documented.

d. Where Schedule 2 (Schedule of Requirements) and any applicable Quality Plan require demonstration of traceability and design provenance through the supply chain the Contractor shall include in any relevant subcontract the requirement for the Information called for at clause 26.c. The Contractor shall ensure that this Information is available to the Authority through the supply chain upon request in accordance with condition 18 (Contractor Records).

**27.** **Access to Contractor’s Premises**

a. The Contractor shall provide to the Authority’s Representatives following reasonable Notice, relevant accommodation/facilities, at no direct cost to the Authority, and all reasonable access to its premises for the purpose of monitoring the Contractor’s progress and quality standards in performing the Contract.

b. As far as reasonably practical, the Contractor shall ensure that the provisions of clause 1 are included in their subcontracts with those suppliers identified in the Contract. The Authority, through the Contractor, shall arrange access to such subcontractors.

**28.** **Delivery / Collection**

a. Schedule 3 (Contract Data Sheet) shall specify whether the Contractor Deliverables are to be Delivered to the Consignee by the Contractor or Collected from the Consignor by the Authority.

b. Where the Contractor Deliverables are to be Delivered by the Contractor (or a third party acting on behalf of the Contractor), the Contractor shall, unless otherwise stated in writing:

(1) contact the Authority’s Representative as detailed in Schedule 3 (Contract Data Sheet) in advance of the Delivery Date in order to agree administrative arrangements for Delivery and provide any Information pertinent to Delivery requested;

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

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

(4) be responsible for all costs of Delivery; and

(5) Deliver the Contractor Deliverables to the Consignee at the address stated in Schedule 2 (Schedule of Requirements) by the Delivery Date between the hours agreed by the Parties.

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

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

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

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

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

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

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

(1) on the Delivery of the Contractor Deliverables by the Contractor to the Consignee in accordance with clause 28.b; or

(2) on the Collection of the Contractor Deliverables from the Consignor by the Authority once they have been made available for Collection by the Contractor in accordance with clause 28.c.

**29.** **Acceptance**

a. Acceptance of the Contractor Deliverables shall occur in accordance with any acceptance procedure specified in Schedule 8 (Acceptance Procedure). If no acceptance procedure is so specified acceptance shall occur when either:

(1) the Authority does any act in relation to the Contractor Deliverable which is inconsistent with the Contractor’s ownership; or

(2) the time limit in which to reject the Contractor Deliverables defined in clause 30.b has elapsed.

**30.** **Rejection**

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

b. Rejection of any of the Contractor Deliverables under clause 30.a shall take place by the time limit for rejection specified in Schedule 3 (Contract Data Sheet), or if no such period is specified within thirty (30) Business Days.

**31.** **Diversion Orders**

a. The Authority shall notify the Contractor at the earliest practicable opportunity if it becomes aware that a Contractor Deliverable is likely to be subject to a Diversion Order.

b. The Authority may issue a Diversion Order for the urgent delivery of the Contractor Deliverables identified in it. These Contractor Deliverables are to be delivered by the Contractor using the quickest means available as agreed by the Authority.

c. The Authority reserves the right to cancel the Diversion Order.

d. If the terms of the Diversion Order are unclear, the Contractor shall immediately contact the Representative of the Authority who issued it for clarification and/or further instruction.

e. If the Diversion Order increases the quantity of Contractor Deliverables beyond the scope of the Contract, it is to be returned immediately to the Authority’s Commercial Officer with an appropriate explanation.

f. The Contractor shall be entitled to reasonable additional delivery and packaging costs incurred in complying with the Diversion Order or cancellation. Claims are to be submitted by the Contractor to the Authority’s Commercial Officer together with applicable receipts and agreed as an amendment to the Contract in accordance with condition 6 (Amendments to Contract). The Contractor shall comply with the requirements of the Diversion Order upon receipt of the Diversion Order.

**32.** **Self-to-Self Delivery**

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

**LICENCES AND INTELLECTUAL PROPERTY**

**33.** **Import and Export Licences**

a. If, in the performance of the Contract, the Contractor needs to import into the UK or export out of the UK anything not supplied by or on behalf of the Authority and for which a UK import or export licence is required, the responsibility for applying for the licence shall rest with the Contractor. The Authority shall provide the Contractor with sufficient information, certification, documentation and other reasonable assistance in obtaining any necessary UK import or export licence.

b. When an export licence or import licence or authorisation either singularly or in combination is required from a foreign government for the performance of the Contract, the Contractor shall as soon as reasonably practicable consult with the Authority on the licence requirements. Where the Contractor is the applicant for the licence or authorisation the Contractor shall:

(1) ensure that when end use or end user restrictions, or both, apply to all or part of any Contractor Deliverable (which for the purposes of this Condition shall also include information, technical data and software), the Contractor, unless otherwise agreed with the Authority, shall identify in the application:

(a) the end user as: Her Britannic Majesty’s Government of the United Kingdom of Great Britain and Northern Ireland (hereinafter “HM Government”); and

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

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

c. If the Contractor or any subcontractor in the performance of the Contract needs to export materiel not previously supplied by or on behalf of the Authority for which an export licence or import licence or authorisation from a foreign government is required, the responsibility for instituting expeditious action to apply for and obtain the licence shall rest with the Contractor or that subcontractor. For the purposes of this Condition materiel shall mean information, technical data and items, including Contractor Deliverables, components of Contractor Deliverables and software.

d. Where the Contract performance requires the export of materiel for which a foreign export licence or import licence or authorisation is required, the Contractor shall include the dependencies for the export licence or import licence or authorisation application, grant and maintenance in the Contract risk register and in the risk management plan for the Contract, with appropriate review points. Where there is no requirement under the Contract for a risk management plan the Contractor shall submit this information to the Authority’s representative.

e. During the term of the Contract and for a period of up to 2 years from completion of the Contract, the Authority may make a written request to the Contractor to seek a variation to the conditions to a foreign export licence or import licence or authorisation to enable the Authority to re-export or re-transfer a licensed or authorised item or licensed or authorised information from the UK to a non-licensed or unauthorised third party. If the Authority makes such a request it will consult with the Contractor before making a determination of whether the Authority or the Contractor is best placed in all the circumstance to make the request. Where, subsequent to such consultation the Authority notifies the Contractor that the Contractor is best placed to make such request:

(1) the Contractor shall, or procure that the Contractor’s subcontractor shall, expeditiously consider whether or not there is any reason why it should object to making the request and, where it has no objection, file an application to seek a variation of the applicable export licence or import licence or authorisation in accordance with the procedures of the licensing authority. Where the contractor has an objection, the Parties shall meet within five (5) working days to resolve the issue and should they fail the matter shall be escalated to an appropriate level within both Parties’ organisations, to include their respective export licensing subject matter experts; and

(2) the Authority shall provide sufficient information, certification, documentation and other reasonable assistance as may be necessary to support the application for the requested variation.

f. Where the Authority determines that it is best placed to make such request the Contractor shall provide sufficient information, certification, documentation and other reasonable assistance as may be necessary to support the Authority to make the application for the requested variation.

g. Where the Authority invokes clause 33.e or 33.f the Authority will pay the Contractor a fair and reasonable charge for this service based on the cost of providing it.

h. Where the Contractor subcontracts work under the Contract, which is likely to be subject to foreign export control, import control or both the Contractor shall use reasonable endeavours to incorporate in each subcontract equivalent obligations to those set out in this Condition. Where it is not possible to include equivalent terms to those set out in this Condition, the Contractor shall report that fact and the circumstances to the Authority.

i. Without prejudice to HM Government's position on the validity of any claim by a foreign government to extra-territoriality, the Authority shall provide the Contractor with sufficient information, certification, documentation and other reasonable assistance to facilitate the granting of export licences or import licences or authorisations by a foreign Government in respect of the performance of the Contract.

j. The Authority shall provide such assistance as the Contractor may reasonably require in obtaining any UK export licences necessary for the performance of the Contract.

k. The Contractor shall use reasonable endeavours to identify whether any Contractor Deliverable is subject to:

(1) a non-UK export licence, authorisation or exemption; or

(2) any other related transfer or export control,that imposes or will impose end use, end user or re-transfer or re-export restrictions, or restrictions on disclosure to individuals based upon their nationality. This does not include the Intellectual Property-specific restrictions of the type referred to in condition 34 (Third Party Intellectual Property – Rights and Restrictions).

l. If at any time during the term of the Contract the Contractor becomes aware that all or any part of the Contractor Deliverables are subject to Clause 33.k(1) or 33.k(2), it shall notify the Authority of this as soon as reasonably practicable by providing details in the DEFFORM 528 or other mutually agreed alternative format. Such notification shall be no later than thirty (30) days of knowledge of any affected Contractor Deliverable and in any event such notification shall be not less than thirty (30) days prior to delivery of the Contractor Deliverables.

m. If the information to be provided under Clause 33.l has been provided previously to the Authority by the Contractor under the Contract, the Contractor may satisfy these requirements by giving details of the previous notification and confirming they remain valid and satisfy the provisions of Clause 33.l.

n. During the term of the Contract, the Contractor shall notify the Authority as soon as reasonably practicable of any changes in the information notified previously under clauses 33.l or 33.m of which it becomes or is aware that would affect the Authority’s ability to use, disclose, re-transfer or re-export an item or part of it as is referred to in those Clauses by issuing an updated DEFFORM 528 to the Authority.

o. For a period of up to 2 years from completion of the Contract and in response to a specific request by the Authority, the Contractor shall notify the Authority as soon as reasonably practicable of any changes in the information notified previously under Clause 33.l or 33.m of which it becomes aware that would affect the Authority’s ability to use, disclose, re-transfer or re-export an item or part of it as is referred to in those Clauses by issuing an updated DEFFORM 528 to the Authority.

p. Where following receipt of materiel from a subcontractor or any of its other suppliers restrictions are notified to the Contractor by that subcontractor, supplier or other third party or are identified by the Contractor, the Contractor shall immediately inform the Authority by issuing an updated DEFFORM 528. Within 0 days of such notification, the Contractor shall propose to the Authority actions to mitigate the impact of such restrictions. Such proposals may include, where appropriate, mutually supported attempts to obtain removal or modification to the restrictions or to obtain appropriate authorisations from the relevant foreign government. The Authority shall notify the contractor within 0 days of receipt of a proposal whether it is acceptable and where appropriate the Contract shall be modified in accordance with its terms to implement the proposal.

q. If the restrictions prevent the Contractor from performing its obligations under the Contract and have not been removed, modified or otherwise satisfactorily managed within a reasonable time, the Authority may at its absolute discretion elect to amend the contract in accordance with condition 6 or 7 or as otherwise may be provided by the Contract, or to terminate the Contract. Except as set out in clause 33.r, in the event of termination in these circumstances termination shall be on fair and reasonable terms having regard to all the circumstances including payments already made and that would otherwise be due under the Contract, costs incurred by the Contractor and benefits received by the Authority. The Parties, acting in good faith, will use all reasonable endeavours to agree such fair and reasonable terms failing which either Party may refer the matter to dispute resolution in accordance with the provisions in the Contract.

r. In the event that the restrictions notified to the Authority pursuant to Clause 33.l were known or ought reasonably have been known by the Contractor (but were not disclosed) at contract award or if restrictions notified to the Authority pursuant to clauses 33.n or 33.p were known or ought reasonably to have been known by the Contractor at the date of submission of the most recent DEFFORM 528 submitted to the Authority in accordance with Clause 33.l, termination under Clause 33.q will be in accordance with condition 43 (Material Breach) and the provisions of clause 33.v will not apply.

s. The Authority shall use reasonable endeavours to identify any export control restrictions applying to materiel to be provided to the Contractor as Government Furnished Assets (GFA). Where the Authority is to provide materiel necessary to enable the Contractor to perform the Contract or in respect of which the Services are to be provided, and that materiel is subject to a non-UK export licence, authorisation, exemption or other related transfer or export control as described in the provisions of Clause 33.k, the Authority shall provide a completed DEFFORM 528 or will provide a new or updated DEFFORM 528 to the Contractor within thirty (30) days of the date of knowledge and in any case not later than thirty (30) days prior to the delivery of such materiel to the Contractor.

t. In the event that the Authority becomes aware that the DEFFORM 528 disclosure was incomplete or inaccurate or in the event additional such materiel is identified then the Authority shall provide, as soon as reasonably practicable a new or revised DEFFORM 528. In the event that the Authority becomes aware that a prior disclosure included in DEFFORM 528 submitted to the Contractor was incomplete or inaccurate less than thirty (30) days prior to the delivery to the Contractor of any material to which the updated or new disclosure relates, the Parties will meet as soon as reasonably practicable to discuss how to mitigate the impact of the incomplete or inaccurate disclosure.

u. Where:

(1) restrictions are advised by the Authority to the Contractor in a DEFFORM 528 provided pursuant to Clauses 33.s or 33.t or both; or

(2) any of the information provided by the Authority in any DEFFORM 528 proves to be incorrect or inaccurate;

the Authority and the Contractor shall act promptly to mitigate the impact of such restrictions or incorrect or inaccurate information. Such mitigation shall include, where appropriate, mutually supported attempts to obtain removal or modification to the restrictions or to obtain appropriate authorisations from the relevant foreign government. If the restrictions or incorrect or inaccurate information adversely affect the ability of the Contractor to perform its obligations under the Contract, the matter shall be handled under the terms of condition 6 (Amendments to Contract) or condition 7 (Variations to Specification) or as may otherwise be provided by the Contract as appropriate and if no alternative solution satisfies the essential terms of the Contract and the restrictions have not been removed, modified or otherwise satisfactorily managed within a reasonable time the Authority may terminate the Contract. Termination under these circumstances will be under the terms of condition 42 (Termination for Convenience) and as referenced in the Contract.

v. Pending agreement of any amendment of the Contract as set out in clause 33.q or 33.u, provided the Contractor takes such steps as are reasonable to mitigate the impact, the Contractor shall be relieved from its obligations to perform those elements of the Contract directly affected by the restrictions or provision of incorrect or incomplete information.

**34.** **Third Party Intellectual Property – Rights and Restrictions**

a. The Contractor and, where applicable any Subcontractor, shall promptly notify the Authority as soon as they become aware of:

(1) any invention or design the subject of patent or registered Design Rights (or application thereof) owned by a third party which appears to be relevant to the performance of the Contract or to use by the Authority of anything required to be done or delivered under the Contract;

(2) any restriction as to disclosure or use, or obligation to make payments in respect of any other intellectual property (including technical Information) required for the purposes of the Contract or subsequent use by the Authority of anything delivered under the Contract and, where appropriate, the notification shall include such Information as is required by Section 2 of the Defence Contracts Act 1958;

(3) any allegation of infringement of intellectual property rights made against the Contractor and which pertains to the performance of the Contract or subsequent use by the Authority of anything required to be done or delivered under the Contract.

Clause 34.a does not apply in respect of Contractor Deliverables normally available from the Contractor as a Commercial Off The Shelf (COTS) item or service.

b. If the Information required under clause 34.a has been notified previously, the Contractor may meet its obligations by giving details of the previous notification.

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

(1) the Authority has made or makes an admission of any sort relevant to such question;

(2) the Authority has entered or enters into any discussions on such question with any third party without the prior written agreement of the Contractor;

(3) the Authority has entered or enters into negotiations in respect of any relevant claim for compensation in respect of Crown Use under Section 55 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1977;

(4) legal proceedings have been commenced against the Authority or the Contractor in respect of Crown Use, but only to the extent of such Crown Use that has been properly authorised.

d. The indemnity in clause 34.c does not extend to use by the Authority of anything supplied under the Contract where that use was not reasonably foreseeable at the time of the Contract.

e. In the event that the Authority has entered into negotiation in respect of a claim for compensation, or legal proceedings in respect of the Crown Use have commenced, the Authority shall forthwith authorise the Contractor for the purposes of performing the Contract (but not otherwise) to utilise a relevant invention or design in accordance with Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949 and to use any model, document or information relating to any such invention or design which may be required for that purpose.

f. For all other Contractor Deliverables patents and registered designs in the UK, if a relevant invention or design has been notified to the Authority by the Contractor prior to the Effective Date of Contract, then unless it has been otherwise agreed, under the provisions of Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949, the Contractor is hereby authorised to utilise that invention or design, notwithstanding the fact that it is the subject of a UK Patent or UK Registered Design, for the purpose of performing the Contract.

g. If, under clause 34.a, a relevant invention or design is notified to the Authority by the Contractor after the Effective Date of Contract, then:

(1) if the owner (or its exclusive licensee) takes or threatens in writing to take any relevant action against the Contractor, the Authority shall issue to the Contractor a written authorisation in accordance with the provisions of Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949, and

(2) in any event, unless the Contractor and the Authority can agree an alternative course of action, the Authority shall not unreasonably delay the issue of a written authorisation in accordance with the provisions of Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949.

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

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

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

(1) a relevant discharge has been given under Section 2 of the Defence Contracts Act 1958, or relevant authorisation in accordance with Sections 55 or 57 of the Patents Act 1977, Section 12 of the Registered Designs Act 1949 or Section 240 of the Copyright, Designs and Patents Act 1988 in respect of any intellectual property; or

(2) any obligation to make payments for intellectual property has not been promptly notified to the Authority under clause 34.a.

k. Where authorisation is given by the Authority under clause 34.e, 34.f or 34.g, to the extent permitted by Section 57 of the Patents Act 1977, Section 12 of the Registered Designs Act 1949 or Section 240 of the Copyright, Designs and Patents Act 1988, the Contractor shall also be:

(1) released from payment whether by way of royalties, licence fees or similar expenses in respect of the Contractor's use of the relevant invention or design, or the use of any relevant model, document or information for the purpose of performing the Contract; and

(2) authorised to use any model, document or information relating to any such invention or design which may be required for that purpose.

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

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

(2) misuse of any confidential information, trade secret or the like by the Contractor in performing the Contract;

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

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

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

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

n. The general authorisation and indemnity is:

(1) clauses 34.a – 34.m represents the total liability of each Party to the other under the Contract in respect of any infringement or alleged infringement of patent or other Intellectual Property Right (IPR) owned by a third party;

(2) neither Party shall be liable, one to the other, for any consequential loss or damage arising as a result, directly or indirectly, of a claim for infringement or alleged infringement of any patent or other IPR owned by a third party;

(3) a Party against whom a claim is made or action brought, shall promptly notify the other Party in writing if such claim or action appears to relate to an infringement which is the subject of an indemnity or authorisation given under this Condition by such other Party. The notification shall include particulars of the demands, damages and liabilities claimed or made of which the notifying Party has notice;

(4) the party benefiting from the indemnity or authorisation shall allow the other Party, at its own expense, to conduct any negotiations for the settlement of the same, and any litigation that may arise therefrom and shall provide such information as the other Party may reasonably require;

(5) following a notification under clause 34.n(3), the Party notified shall advise the other Party in writing within thirty (30) Business Days whether or not it is assuming conduct of the negotiations or litigation. In that case the Party against whom a claim is made or action brought shall not make any statement which might be prejudicial to the settlement or defence of such a claim without the written consent of the other Party;

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

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

p. Nothing in condition 34 shall be taken as an authorisation or promise of an authorisation under Section 240 of the Copyright, Designs and Patents Act 1988.

**PRICING AND PAYMENT**

**35.** **Contract Price**

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

b. Subject to condition 35.a the Contract Price shall be inclusive of any UK custom and excise or other duty payable. The Contractor shall not make any claim for drawback of UK import duty on any part of the Contract Deliverables supplied which may be for shipment outside of the UK.

**36.** **Payment and Recovery of Sums Due**

a. Payment for Contractor Deliverables will be made by electronic transfer and prior to submitting any claims for payment under clause 36b the Contractor will be required to register their details (Supplier on-boarding) on the Contracting, Purchasing and Finance (CP&F) electronic procurement tool.

b. Where the Contractor submits an invoice to the Authority in accordance with clause 36a, the Authority will consider and verify that invoice in a timely fashion.

c. The Authority shall pay the Contractor any sums due under such an invoice no later than a period of 30 days from the date on which the Authority has determined that the invoice is valid and undisputed.

d. Where the Authority fails to comply with clause 36b and there is undue delay in considering and verifying the invoice, the invoice shall be regarded as valid and undisputed for the purpose of clause 36c after a reasonable time has passed.

e. The approval for payment of a valid and undisputed invoice by the Authority shall not be construed as acceptance by the Authority of the performance of the Contractor’s obligations nor as a waiver of its rights and remedies under this Contract.

f. Without prejudice to any other right or remedy, the Authority reserves the right to set off any amount owing at any time from the Contractor to the Authority against any amount payable by the Authority to the Contractor under the Contract or under any other contract with the Authority, or with any other Government Department.

**37.** **Value Added Tax**

a. The Contract Price excludes any UK output Value Added Tax (VAT) and any similar EU (or non-EU) taxes chargeable on the supply of Contractor Deliverables by the Contractor to the Authority

b. If the Contractor is required by UK VAT law to be registered for UK VAT (or has registered voluntarily) in respect of his business activities at the time of any supply, and the circumstances of any supply are such that the Contractor is liable to pay the tax due to HM Revenue and Customs (HMRC), the Authority shall pay to the Contractor in addition to the Contract Price (or any other sum due to the Contractor) a sum equal to the output VAT chargeable on the tax value of the supply of Contractor Deliverables, and all other payments under the Contract according to the law at the relevant tax point.

c. The Contractor is responsible for the determination of VAT liability. The Contractor shall consult its Client Relationship Manager or the HMRC Enquiries Desk (and not the Authority’s Representative (Commercial)) in cases of doubt. The Contractor shall notify the Authority’s Representative (Commercial) of the Authority’s VAT liability under the Contract, and any changes to it, within twenty (20) Business Days of becoming aware the liability is other than at the standard rate of VAT. In the event of any doubt about the applicability of the tax in such cases, the Authority may require the Contractor to obtain, and pass to the Authority, a formal ruling from HMRC. The Contractor shall comply promptly with any such requirement. Where the Contractor obtains a ruling from HMRC, it shall supply a copy to the Authority within three (3) Business Days of receiving that ruling unless it proposes to challenge the ruling.

Where the Contractor challenges the ruling it shall supply to the Authority a copy of any final decisions issued by HMRC on completion of the challenge within three (3) Business Days of receiving the decision.

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

e. Where Contractor Deliverables are deemed to be supplied to the Authority outside the UK, the Contractor may be required by the laws of the country where the supply takes place to register there for EU (or non-EU) turnover or similar tax. In that event, the Authority shall pay to the Contractor in addition to the Contract Price (and any other sum due to the Contractor under the Contract) a sum equal to the tax the Contractor is liable to pay to the tax authorities of the country in question in relation to the Contractor Deliverables within thirty (30) calendar days of a written request for payment of any such sum by the Contractor.

f. In relation to the Contractor Deliverables supplied under the Contract the Authority shall not be required to pay any sum in respect of the Contractor’s input VAT (or similar EU or non-EU or both input taxes). However, these input taxes will be allowed where it is established that, despite the Contractor having taken all reasonable steps to recover them, it has not been possible to do so. Where there is any doubt that the Contractor has complied with this requirement the matter shall be resolved in accordance with condition 40 (Dispute Resolution).

g. Should HMRC decide that the Contractor has incorrectly determined the VAT liability, in accordance with clause 37.b above, the Authority will pay the VAT assessed by HMRC. In the event that HMRC so determines, the Contractor shall pay any interest charged on any assessment or penalties or both directly to HMRC. Such interest or penalties or both shall not be recoverable from the Authority under this Contract or any other contract. The Contractor shall supply the Authority with a copy of all correspondence between HMRC and the Contractor’s advisors regarding the VAT assessment within three (3) Business Days of a written request from the Authority for such correspondence.

**38.** **Debt Factoring**

a. Subject to the Contractor obtaining the prior written consent of the Authority in accordance with condition 11 (Assignment of Contract), the Contractor may assign to a third Party (“the Assignee”) the right to receive payment of the Contract Price or any part thereof due to the Contractor under the Contract (including interest which the Authority incurred through late payment under the Late Payment of Commercial Debts (Interest) Act 1998 (“the Act”)). Any assignment of the right to receive payment of the Contract Price (or any part thereof) under this condition 38 shall be subject to:

(1) reduction of any sums in respect of which the Authority exercises its right of recovery under clause 36.f

(2) all related rights of the Authority under the Contract in relation to the recovery of sums due but unpaid; and

(3) the Authority receiving notification under both clauses 38.b and 38.c(2).

b. In the event that the Contractor obtains from the Authority the consent to assign the right to receive the Contract Price (or any part thereof) under clause 38.a, the Contractor shall notify the Authority in writing of the assignment and the date upon which the assignment becomes effective.

c. The Contractor shall ensure that the Assignee:

(1) is made aware of the Authority’s continuing rights under clauses 38.a(1) and 38.a(2); and

(2) notifies the Authority of the Assignee’s contact Information and bank account details to which the Authority shall make payment, subject to any reduction made by the Authority in accordance with clauses 38.a(1) and 38.a(2).

d. The provisions of condition 36 (Payment and Recovery of Sums Due) shall continue to apply in all other respects after the assignment and shall not be amended without the prior approval of the Authority.

**39.** **Subcontracting and Prompt Payment**

a. Subcontracting any part of the Contract shall not relieve the Contractor of any of the Contractor’s obligations, duties or liabilities under the Contract.

b. Where the Contractor enters into a Subcontract he shall cause a term to be included in such Subcontract:

(1) providing that where the Subcontractor submits an invoice to the Contractor, the Contractor will consider and verify that invoice in a timely fashion;

(2) providing that the Contractor shall pay the Subcontractor any sums due under such an invoice no later than a period of thirty (30) days from the date on which the Contractor has determined that the invoice is valid and undisputed;

(3) providing that where the Contractor fails to comply with clause 39.b(1) above, and there is an undue delay in considering and verifying the invoice, that the invoice shall be regarded as valid and undisputed for the purposes of clause 39.b(2) after a reasonable time has passed; and

(4) requiring the counterparty to that Subcontract to include in any Subcontract which it awards, provisions having the same effect as clauses 39.b(1) to 39.b(4).

**TERMINATION**

**40.** **Dispute Resolution**

a. The Parties will attempt in good faith to resolve any dispute or claim arising out of or relating to the Contract through negotiations between the respective representatives of the Parties having authority to settle the matter, which attempts may include the use of any alternative dispute resolution procedure on which the Parties may agree.

b. In the event that the dispute or claim is not resolved pursuant to clause 40.a the dispute shall be referred to arbitration. Unless otherwise agreed in writing by the Parties, the arbitration and this clause 40.b shall be governed by the Arbitration Act 1996. For the purposes of the arbitration, the arbitrator shall have the power to make provisional awards pursuant to Section 39 of the Arbitration Act 1996.

c. For the avoidance of doubt, anything said, done or produced in or in relation to the arbitration process (including any awards) shall be confidential between the Parties, except as may be lawfully required in judicial proceedings relating to the arbitration or otherwise.

**41.** **Termination for Insolvency or Corrupt Gifts**

**Insolvency:**

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

Where the Contractor is an individual or a firm:

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

(2) the court making an interim order pursuant to Section 252 of the Insolvency Act 1986; or

(3) the individual, the firm or, in the case of a firm constituted under English law, any partner of the firm making a composition or a scheme of arrangement with his or its creditors; or

(4) the presentation of a petition for bankruptcy order against the individual or, in the case of a firm constituted under English law, any partner of the firm unless it is withdrawn within three (3) Business Days from the date on which the Contractor is notified of the presentation; or

(5) the court making a bankruptcy order in respect of the individual or, in the case of a firm constituted under English law, any partner of the firm; or

(6) where the Contractor is either unable to pay his debts as they fall due or has no reasonable prospect of being able to pay debts which are not immediately payable. The Authority shall regard the Contractor as being unable to pay his debts if:

(a) he has failed to comply with or to set aside a Statutory demand under Section 268 of the Insolvency Act 1986 within twenty-one (21) days of service of the Statutory Demand on him; or

(b) execution or other process to enforce a debt due under a judgement or order of the court has been returned unsatisfied in whole or in part.

(7) the presentation of a petition for sequestration in relation to the Contractor's estates unless it is withdrawn within three (3) Business Days from the date on which the Contractor is notified of the presentation; or

(8) the court making an award of sequestration in relation to the Contractor’s estates.

Where the Contractor is a company registered in England:

(9) the presentation of a petition for the appointment of an administrator; unless it is withdrawn within three (3) Business Days from the date on which the Contractor is notified of the presentation; or

(10) the court making an administration order in relation to the company; or

(11) the presentation of a petition for the winding-up of the company unless it is withdrawn within three (3) Business Days from the date on which the Contractor is notified of the presentation; or

(12) the company passing a resolution that the company shall be wound-up; or

(13) the court making an order that the company shall be wound-up; or

(14) the appointment of a Receiver or manager or administrative Receiver.

Where the Contractor is a company registered other than in England, events occur or are carried out which, within the jurisdiction to which it is subject, are similar in nature or effect to those specified in clauses 41.a(9) to 41.a(14) inclusive above.

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

**Corrupt Gifts:**

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

(1) offer, promise or give to any Crown servant any gift or financial or other advantage of any kind as an inducement or reward;

(a) for doing or not doing (or for having done or not having done) any act in relation to the obtaining or execution of this or any other contract with the Crown; or

(b) for showing or not showing favour or disfavour to any person in relation to this or any other Contract with the Crown.

(2) enter into this or any other Contract with the Crown in connection with which commission has been paid or has been agreed to be paid by it or on its behalf, or to its knowledge, unless before the Contract is made particulars of any such commission and of the terms and conditions of any such agreement for the payment thereof have been disclosed in writing to the Authority.

d. If the Contractor, its employees, agents or any subcontractor (or anyone acting on its behalf or any of its or their employees) does any of the prohibited acts or commits any offence under the Bribery Act 2010 with or without the knowledge or authority of the Contractor in relation to this Contract or any other contract with the Crown, the Authority shall be entitled:

(1) to terminate the Contract and recover from the Contractor the amount of any loss resulting from the termination;

(2) to recover from the Contractor the amount or value of any such gift, consideration or commission; and

(3) to recover from the Contractor any other loss sustained in consequence of any breach of this condition, where the Contract has not been terminated.

e. In exercising its rights or remedies under this condition, the Authority shall:

(1) act in a reasonable and proportionate manner having regard to such matters as the gravity of, and the identity of the person performing, the prohibited act;

(2) give all due consideration, where appropriate, to action other than termination of the Contract, including (without being limited to):

(a) requiring the Contractor to procure the termination of a subcontract where the prohibited act is that of a Subcontractor or anyone acting on its or their behalf;

(b) requiring the Contractor to procure the dismissal of an employee (whether its own or that of a Subcontractor or anyone acting on its behalf) where the prohibited act is that of such employee.

f. Recovery action taken against any person in Her Majesty's service shall be without prejudice to any recovery action taken against the Contractor pursuant to this Condition.

**42.** **Termination for Convenience**

a. The Authority shall have the right to terminate the Contract in whole or in part at any time by giving the Contractor at least twenty (20) business days written notice (or such other period as may be stated in Schedule 3 (Contract Data Sheet)). Upon expiry of the notice period the Contract, or relevant part thereof, shall terminate without prejudice to the rights of the parties already accrued up to the date of termination. Where only part of the Contract is being terminated, the Authority and the Contractor shall owe each other no further obligations in respect of the part of the Contract being terminated, but will continue to fulfil their respective obligations on all other parts of the Contract not being terminated.

b. Following the above notification the Authority shall be entitled to exercise any of the following rights in relation to the Contract (or part being terminated) to direct the Contractor to:

(1) not start work on any element of the Contractor Deliverables not yet started;

(2) complete in accordance with the Contract the provision of any element of the Contractor Deliverables;

(3) as soon as may be reasonably practicable take such steps to ensure that the production rate of the Contractor Deliverables is reduced as quickly as possible;

(4) terminate on the best possible terms any subcontracts in support of the Contractor Deliverables that have not been completed, taking into account any direction given under clauses 42.b(2) and 42.b(3) of this condition.

c. Where this condition applies (and subject always to the Contractor’s compliance with any direction given by the Authority under clause 42.b):

(1) The Authority shall take over from the Contractor at a fair and reasonable price all unused and undamaged materiel and any Contractor Deliverables in the course of manufacture that are:

(a) in the possession of the Contractor at the date of termination; and

(b) provided by or supplied to the Contractor for the performance of the Contract,

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

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

(c) all such unused and undamaged materiel; and

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

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

d. The Authority shall (subject to clause 42.e below and to the Contractor’s compliance with any direction given by the Authority in clause 42.b above) indemnify the Contractor against any commitments, liabilities or expenditure which would otherwise represent an unavoidable loss by the Contractor by reason of the termination of the Contract, subject to:

(1) the Contractor taking all reasonable steps to mitigate such loss; and

(2) the Contractor submitting a fully itemised and costed list of such loss, with supporting evidence, reasonably and actually incurred by the Contractor as a result of the termination of the Contract or relevant part.

e. The Authority’s total liability under the provisions of this Condition shall be limited to the total price of the Contractor Deliverables payable under the contract (or relevant part), including any sums paid, due or becoming due to the Contractor at the date of termination.

f. The Contractor shall include in any subcontract over £250,000 which it may enter into for the purpose of the Contract, the right to terminate the subcontract under the terms of clauses 42.a to 42.e except that:

(1) the name of the Contractor shall be substituted for the Authority except in clause 42.c(1);

(2) the notice period for termination shall be as specified in the subcontract, or if no period is specified twenty (20) business days; and

(3) the Contractor’s right to terminate the subcontract shall not be exercised unless the main Contract, or relevant part, has been terminated by the Authority in accordance with the provisions of this condition 42.

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

**43.** **Material Breach**

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

b. Where the Authority has terminated the Contract under clause 43.a the Authority shall have the right to claim such damages as may have been sustained as a result of the Contractor’s material breach of the Contract, including but not limited to any costs and expenses incurred by the Authority in:

(1) carrying out any work that may be required to make the Contractor Deliverables comply with the Contract; or

(2) obtaining the Contractor Deliverable in substitution from another supplier.

**44.** **Consequences of Termination**

The termination of the Contract, however arising, shall be without prejudice to the rights and duties of either Party accrued prior to termination. The Conditions that expressly or by implication have effect after termination shall continue to be enforceable even after termination.

**45 Project specific DEFCONs and DEFCON SC variants that apply to this contract**

 **DEFCON 005J**

DEFCON 005J (Edn. 11/16) - Unique Identifiers

**DEFCON 076 (SC2)**

DEFCON 076 (SC2) (Edn. 11/17) - Contractor's Personnel at Government Establishments

**DEFCON 129J**

DEFCON 129J (Edn. 11/16) - The Use Of The Electronic Business Delivery Form

**DEFCON 502 (ISC)**

DEFCON 502 (ISC) (Edn. 12/19) - Specification Changes
**DEFCON 514**
DEFCON 514 (Edn. 08/15) - Material Breach
**DEFCON 522**
DEFCON 522 (Edn. 11/17) - Payment and Recovery of Sums Due
**DEFCON 530**
DEFCON 530 (Edn. 12/14) - Dispute Resolution (English Law)
**DEFCON 531**
DEFCON 531 (Edn. 11/14) - Disclosure of Information
**DEFCON 532B**
DEFCON 532B (Edn. 04/20) - Protection Of Personal Data (Where Personal Data is being processed on behalf of the Authority)
**DEFCON 656A**
DEFCON 656A (Edn. 08/16) - Termination for Convenience (Contracts Under £5M)
**DEFCON 658 - Cyber Risk Profile – High**DEFCON 658 (SC2) (Edn. 11/17) - Cyber

Note: Further to DEFCON 658 the Cyber Risk Profile of the Contract is High, as defined in Def Stan 05-138. The associated Risk Assessment Reference (RAR) is: RAR-ECZ78AXD

 **46. General Conditions**

**Third Party IPR Authorisation**

AUTHORISATION BY THE CROWN FOR USE OF THIRD-PARTY INTELLECTUAL PROPERTY RIGHTS

Notwithstanding any other provisions of the Contract and for the avoidance of doubt, award of the Contract by the Authority and placement of any contract task under it does not constitute an authorisation by the Crown under Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949. The Contractor acknowledges that any such authorisation by the Authority under its statutory powers must be expressly provided in writing, with reference to the acts authorised and the specific intellectual property involved.

**47**. **Payment Terms**

1. Payment for Contractor Deliverables will be made by electronic transfer and prior to submitting any claims for payment under clause 36b the Contractor will be required to register their details (Supplier on-boarding) on the Contracting, Purchasing and Finance (CP&F) electronic procurement tool.
2. Where the Contractor submits an invoice to the Authority in accordance with clause 36a, the Authority will consider and verify that invoice in a timely fashion.
3. The Authority shall pay the Contractor any sums due under such an invoice no later than a period of 30 days from the date on which the Authority has determined that the invoice is valid and undisputed.
4. Where the Authority fails to comply with clause 36b and there is undue delay in considering and verifying the invoice, the invoice shall be regarded as valid and undisputed for the purpose of clause 36c after a reasonable time has passed.
5. The approval for payment of a valid and undisputed invoice by the Authority shall not be construed as acceptance by the Authority of the performance of the Contractor’s obligations nor as a waiver of its rights and remedies under this Contract

.

1. Without prejudice to any other right or remedy, the Authority reserves the right to set off any amount owing at any time from the Contractor to the Authority against any amount payable by the Authority to the Contractor under the Contract or under any other contract with the Authority, or with any other Government Department.
2. The Limit of Liability for this contract is confirmed at an estimated total value of £ 2,666,000.00 for the entirety of the duration of this agreement.

This Form forms part of the Contract and must be completed and attached to each Contract containing DEFCON 532B.

|  |  |
| --- | --- |
| **Data Controller** | The Data Controller is the Secretary of State for Defence (the Authority).The Personal Data will be provided by: Defence Business Services Civilian Personnel  |
| **Data Processor** | The Data Processor is the Contractor.The Personal Data will be processed at: OH Assist Limited Trading as Optima Health  Meadow Court, 2 Hayland Street, Sheffield, S9 1BY |
| **Data Subjects** | The Personal Data to be processed under the Contract concern the following Data Subjects or categories of Data Subjects: MOD Civil Servants and candidates selected for employment in MOD Civil Servant roles |
| **Categories of Data**  | The Personal Data to be processed under the Contract concern the following categories of data: Name; Employer’s Staff Identification Number; Work Address; Work Email addressHome Address; Personal contact details email address, phone number(s). Sick Absence History; including dates and reason codes Functional Capability of the employee; including any permanent or temporary workplace adjustments applied by the employer.Existence or absence of current disciplinary action affecting the employee. |
| **Special Categories of data (if appropriate)** | The Personal Data to be processed under the Contract concern the following Special Categories of data:Medical data; information about the data subject’s health, including any medical condition, health and sickness records. |
| **Subject matter of the processing** | The processing activities to be performed under the contract are as follows: The performance of Occupational Health Services to Authority personnel. |
| **Nature and the purposes of the Processing**  | The Personal Data to be processed under the Contract will be processed as follows: Data processor will process data provided by the authority and /or data subjects in relation to: Determining employee’s fitness to work, fitness for continued employment by the authority; managing sickness absenceThe authority’s obligations under health and safety legislation.Ascertaining employment candidate’s fitness for employment by the authority. |
| **Technical and organisational measures** | The following technical and organisational measures to safeguard the Personal Data are required for the performance of this Contract: Compliance with Defence Cyber Protection Partnership (DCPP) requirements applicable to ‘High’ risk profileSee: <https://www.gov.uk/government/publications/defence-cyber-protection-partnership-cyber-risk-profiles>Compliance with requirements of :All requirements identified as Key priority within Annex R of Annex A to 700946373 Schedule 2 ‘Defence Business Services - Security Statement of Requirements v1.3’The vast majority (>=80%) of requirements identified as High priority within Annex R of Annex A to 700946373 Schedule 2 ‘Defence Business Services - Security Statement of Requirements v1.3’Note: In accordance with the agreed time frame for the supplier’s compliance with the Ministry’s Cyber Implementation Plan - as confirmed during the tender clarification exercise. |
| **Instructions for disposal of Personal Data**  | The disposal instructions for the Personal Data to be processed under the Contract are as follows (where Disposal Instructions are available at the commencement of Contract): The Supplier shall dispose of all hardware and other information bearing equipment in accordance with the CPNI Destruction Standard commensurate with the level of information carried on the asset.All disposals of system components are to be undertaken in accordance with NCSC Secure sanitisation guidance (See NCSC site for guidance). Documents including electronic and paper formats that contain personal information must be destroyed within guidelines for secure destruction - Destroy / sanitise to make reconstitution and / or identification of constituent parts highly unlikely |
| **Date from which Personal Data is to be processed** | Where the date from which the Personal Data will be processed is different from the Contract commencement date this should be specified here: From the commencement date of contract 4th Feb 2021. |

The capitalised terms used in this form shall have the same meanings as in the General Data Protection Regulations.

**Schedule 2**

Schedule of Requirements

Please see Annex 1 to Schedule 2 – Statement of Requirements (which should be read in conjunction with Crown Commercial Services (CCS) Framework RM3795 Attachment 4a – Lot 2 Occupational Health Services.

**Schedule 2 Annex 1**

Provision of Occupational Health Services

Statement of Requirements

1. **Introduction**
	1. This Statement of Requirement (SOR) details the specific requirements for the Ministry of Defence (MOD) for Occupational Health services and should be read in conjunction with Crown Commercial Services (CCS) Framework RM3795 Attachment 4a – Lot 2 Occupational Health Services.
	2. The MOD requires an Occupational Health (OH) service for approximately 51,000[[1]](#footnote-1) industrial and non-industrial civil servants employed by the MOD and based primarily throughout the UK including Northern Ireland and a number of locations overseas[[2]](#footnote-2). Scope of eligibility will include all Top-Level Budgetary areas (TLBs) including Royal Fleet Auxiliary (RFA); Defence Nuclear Organisation (DNO) and Defence Equipment & Support (DE&S) Trading Entity. Other trading funds / agencies have separate arrangements for OH and are outside the scope of these MOD requirements.
	3. MOD’s policy aims are to maximise the civilian contribution to defence by encouraging a healthy workforce that attends regularly. MOD wishes to achieve this both by reducing sickness absence and avoiding claims in the civil courts for breach of health and safety requirements. To this end it is intended to enable line management, as part of its normal business, to:
2. Ensure that employees are fit for work and ensure that work does not adversely affect health.
3. Underpin the delivery of health-related components of wider HR (recruitment, progression, absence) shared services.
4. Identify and assess risks to future regular attendance and be more systematic in planning and taking steps to reduce that risk.
5. Instil a culture where in addition to the above, OH is viewed primarily as a facilitator of rehabilitation rather than a means to defend a decision to dismiss, whilst at the same time maintaining a process that will complement existing HR procedures for managing long-term and persistent short-term sickness absence.
6. Ensure that MOD complies with its statutory duty under health and safety law to provide health surveillance to employees in certain locations and occupations.
7. **Ministry of Defence Locations:**
	1. A breakdown of UK MOD civilian personnel population byCounty or Unitary Authority is included within government personnel statistics at Annex M.
	2. A detailed UK location list, with full postal addresses and estimated civilian employee volumes is provided at Annex I.
8. **Service Delivery**
	1. Unless there are exceptional circumstances, such as a remote rural location, the MOD is expecting a nationwide service with none of its staff having to travel for more than one (1) hours travelling time by private car or public transport.
	2. Provision of Face to Face OH Services at overseas locations will be required only in exceptional circumstances, with services routinely being delivered by telephone or remote video consultation or co-ordinated with the employee’s return visit to the UK.
	3. Delivery of OH services to MOD may be required:
* Remotely, via assessment of employee health questionnaire(s) and other clinical records.
* Via telephone.
* Via remote video consultation.
* Face to face at an OH Service Provider clinic location.
* Face to face on MOD Site premises.
* Face to face provision UK-wide.
* Face to face at an OH Service Provider Mobile Unit on MOD sites where suitable on-site facilities are not available. This mechanism will primarily be required for Ministry of Defence Police (MDP) services – see MDP specific Annex A.
* At MOD Personnel’s home, only in cases where the individual has a disability or medical condition that prevents them from travelling to the nearest clinic location.
	1. Initial assessment of MOD Personnel shall be via telephone or remote video consultation, unless proposed as part of the OH Service Provider tender or clinically justified and agreed on a case by case basis with the Referring Manager that a face-to-face meeting should be conducted.
	2. The full range of services may not be required at all MOD locations.
	3. MOD requires the capability for MOD internal clinicians providing treatment / assessment of employees to obtain OH Service Provider medical records where employee consent is provided. Records shall be provided within 20 working days of consent being notified to the OH Service Provider.
	4. OH Service Provider to obtain further evidence from other medical providers where needed to provide a comprehensive outcome report answering all line manager questions.
	5. **Service Availability**
		1. The OH Service Provider shall ensure that all Services, including the necessary OH Service Provider Personnel, be available as a minimum, fifty-two (52) weeks a year, Monday to Friday between the hours of 08:00 to 18:00 hours, excluding Public and Bank Holidays.
		2. Exceptions to the standard service availability may be needed on occasions where on-site delivery of Fitness for task and Safety critical work, or Health Assessment services to shift workers is required. These are likely to affect Defence Fire & Rescue (DFR) and MDP personnel and in exceptional circumstances other staff and may require attendance up to 22:00 hours.
		3. Where this option is called upon, a proportionately later start time for day clinics will apply, to ensure that the overall attendance is no longer than the standard working day.
	6. **Key Contract Milestones and Deliverables**
		1. The following contract milestones/deliverables shall apply:

|  |  |  |
| --- | --- | --- |
| Milestone | Description | Timeframe |
|  | OH Service Provider to appoint an Account Manager | Within one week of Contract Award |
|  | Contact details for the service to be provided to MOD. | Within one week of Contract Award  |
|  | Implementation / mobilisation plan published for Contracting Authority review | Within one week of Contract Award & prior to initial implementation meeting |
|  | Implementation meetings (to work towards GO-LIVE status). | Commence within one week of Contract Award and weekly until go-live |
|  | Examples of educational / promotional / service catalogue materials to be provided to MOD for approval. | Within four weeks of Contract Award |
|  | Supply of final materials promoting the service to be provided to MOD | Within six weeks of Contract Award |
|  | Provide draft service Implementation plan for Contracting Authority approval. | Within one week of Contract Award |
|  | Provide cyber implementation plan covering full scope of MOD security requirements. | Within four weeks of Contract Award and prior to the commencement of the service (Go Live) |
|  | Provide evidence of security certification ISO27001; Cyber Essentials Plus and similar security obligations. | Within six weeks of the commencement of the service |
|  | Provide system security documentation in accordance with the Security Policy Framework for endorsement by Government Security Accreditor. (Reference – MOD Security Statement of Requirements – Serial 1) | Within four weeks of Contract Award and prior to the commencement of the service (Go Live) |
|  | Review quality of Service | Quarterly as part of contract service reviews |
|  | Completion of migration of historic OH Service Provider data | Within four weeks of Contract Award |
|  | Review of pricing including headcount charges for the provision of OH1 Telephone Support Services, Online Portal and Publicity and Promotion in line with changes in MOD eligible population. | Twice Yearly; April and October |
|  | Service Go-Live  | Within twelve weeks of Contract Award |
|  | Provide evidence of continued regular IT system penetration testing and continued compliance with certification requirements to the Contracting Authority. | Annually at anniversary of Contract Award |

* 1. **Customer Satisfaction**
		1. The OH Service Provider shall undertake satisfaction surveys of the Services and shall aim to get a 50% response from Contracting Authority Personnel.
		2. The OH Service Provider shall ensure that surveys contain questions relating to all aspects of the Services, including use of the on-line portal and where appropriate to incorporate measures that are included in the Contracting Authority employee surveys, which will be shared with the OH Service Provider.
		3. The OH Service Provider shall design and provide such surveys to the Contracting Authority upon request at no additional charge.
		4. The OH Service Provider shall provide the Contracting Authority with survey results, including recommendations for Service improvements, identifying changes to Services where Contracting Authority Personnel satisfaction has not met Contracting Authority agreed targeted results.
		5. The OH Service Provider shall design the content of satisfaction surveys and agree in advance with the Contracting Authority, including specified measures to be achieved to be determined at initial contract set up meeting.
		6. The OH Service Provider shall seek further feedback from key stakeholders via individual feedback sessions with key stakeholders; or group sessions (‘Voice of the customer’) conducted at six monthly periodicities.
		7. Contracting Authority representative attendance will be co-ordinated via Defence Business Services (DBS) and may include HR Business Partners; Representative of specialist occupational groups; Health and Safety representatives; HR Casework representatives; Line Managers using the service.
	2. **Continuous Improvement**
		1. The OH Service Provider will be expected to continually improve the way in which the required Services are delivered throughout the Contract duration, taking into account customer feedback through all channels including customer complaints.
		2. The OH Service Provider should present new ways of working to the Contracting Authority during quarterly Contract review meetings.
		3. Changes to the way in which the Services are to be delivered must be brought to the Contracting Authority’s attention and agreed prior to any changes being implemented.
	3. **Measuring Service Impact and Outcomes**
		1. The OH Service Provider shall use published, recognised methodologies, where available and agreed in advance with the Contracting Authority, to measure the Services at least twice in each Contract Year. The OH Service Provider shall include, at a minimum, an assessment of the impact of the Services on:
			1. Contracting Authority Personnel engagement with the Contracting Authority as an employer;
			2. Contracting Authority Personnel perception of their own health and wellbeing;
			3. Contracting Authority Personnel perception of their own levels of resilience; and
			4. Contracting Authority Personnel perception of presenteeism (the extent Contracting Authority Personnel work when sick or feel obliged to work when sick) and productivity.
			5. Reduction in Average Working Days Lost (AWDL);
			6. Interventions put in place for disabled Contracting Authority Personnel;
			7. Support for Contracting Authority Personnel remaining in the workplace; and
			8. Support for Contracting Authority Personnel returning to work and whether they have remained in the workplace for a sustained period of time;
	4. **Physical Accessibility of OH Service Provider Locations**
		1. Access to OH Service Provider premises for face-to-face appointments shall be disability friendly. Where this is not possible alternative arrangements shall be made in advance of any appointments.
	5. Provision of disabled parking at OH Service Provider premises is required.
1. **Business Continuity**
	1. OH Service Provider must ensure that they have suitable, tested plans for continuation of service delivery in the event of loss of IT Comms; loss of access to OH Service Provider locations and non-availability of OH Service Provider personnel, including pandemic situations.
2. **PRICE**
	1. Prices are to be submitted on the provided Price Schedule template, excluding VAT and including all other expenses relating to Contract delivery.
	2. The basis of each price is per single intervention, the exceptions being per head per annum for telephone support and portal, hourly, half day and full days for case conferences/on-sites and consultancy. Per course of treatments, and half / whole day for Healthcare Worker disciplinary cases. Please refer to the pricing template for full instructions.
	3. Where the full intended scope of any service cannot be delivered or is proposed to be split. I.e. delivery of some elements of the requirement at a separate consultation / at another location or practitioner level – this must be fully explained within the bid.
	4. All prices submitted within your pricing submission at the attachment – Pricing Schedule Template shall remain unaltered for the full length of the contract and any extension options agreed prior to award of this contract.
	5. Pricing for OH1 - Telephone Support Services, Online Portal and Publicity and Promotion, should include recovery of costs for Exostar subscription. Separate charges in relation to Exostar subscription costs will not be paid by the Contracting Authority.
3. **PAYMENT AND INVOICING**
	1. All costs under the contract, including headcount related will be paid monthly in arrears. Headcount related costs quoted as annual costs will be paid at 1/12th of the annual price with each monthly invoice.
	2. Payment can only be made following satisfactory delivery of pre-agreed certified products and deliverables.
	3. Before payment can be considered, each invoice must include a detailed elemental breakdown of work completed and the associated costs.
	4. MOD eligible Headcount figures are published twice yearly – see Table 3 – Headcount by TLB; <https://www.gov.uk/government/statistics/mod-biannual-civilian-personnel-report-2020>.
	5. Contract charges dependant on headcount shall be calculated based on the latest twice-yearly headcount volumes ‘Civilian Level 1 Total’ plus DE&S Trading Entity plus DNO headcount and shall be revised twice yearly following publication of official data.
	6. The Cabinet Office has issued the directive that all trade should be conducted electronically therefore, all suppliers should continue or to start doing business with the MOD via electronic means.
	7. The MOD has adopted the Exostar system to enable Suppliers to view orders and submit invoices and use of this system is mandatory for all new contracts.
	8. Once a contract has been awarded the Commercial Officer is responsible for requesting Suppliers to be registered in CP&F. Once the process is initiated, the request will be transferred and managed by the Defence Business Services (DBS) Onboarding Team who will set up the OH Service Provider details on CP&F and progress the initial OH Service Provider connection via the Exostar system. It may take up to 6 weeks for a OH Service Provider to be set up both within CP&F and for e-Trading. Please note that payment for the winning OH Service Provider is dependent on set up on these systems and as such the first payment will not be possible until set up has been completed.
	9. More information and guidance for Suppliers on e-Trading and Exostar, including the key steps for the onboarding process, is available from the GOV.UK website: <https://www.gov.uk/government/publications/mod-contracting-purchasing-and-finance-e-procurement-system/cpf-guidance-for-suppliers>
	10. Costs incurred in relation to Exostar subscription are dependent on usage levels and are a OH Service Provider obligation. Costs incurred will not be paid by the Contracting Authority.
4. **Data Management**
	1. The OH Service Provider will, as part of the transition plan, detail how they will receive and migrate electronic files from the present OH Service Provider to their ICT on day one of the contract.
	2. The OH Service Provider will also ensure that electronic files are stored in a suitable format to enable files to be transferred at the end of the contract to an incoming OH Service Provider. The current case management system is bespoke, and data storage incorporates two distinct classes of data: Structured data, such as officer/dependant data and case activity records; and unstructured data in case document and attachment files. Data will be passed on to a new provider in two corresponding formats:
		1. Structured data will be extracted from SQL DBs into text files(s) in XML or csv format.
		2. Case documents and attachments will be provided in a flat folder tree with individual files and having multiple common file types.
	3. The OH Service Provider will ensure that storage of electronic files fully conforms to any Data Protection Act requirements and the Department of Health guidelines for medical records.
5. **On-line Portal**
	1. The OH Service Provider shall provide and maintain an on-line portal to support the Services and provide as a minimum, but not limited to:
		1. Web based access;
		2. Secure log-in by Contracting Authority Personnel;
		3. General information on the Services;
		4. Input and transfer of Contracting Authority Personnel referrals;
		5. Case management and tracking;
		6. Health screening and surveillance referrals and monitoring;
		7. Access to all OH Service Provider standard training materials which they include as part of their standard Service offering;
		8. Management information in a down-loadable format.
	2. The OH Service Provider shall provide a mechanism to allocate on-line portal account permissions with varying levels of access, including but not limited to:

|  |  |
| --- | --- |
| **Role Name – example only** | **Permissions Applied** |
| Basic Online Portal User | Access to referrals made by the referring manager only. |
| Power User access – all MOD Business Units | Access to all open and historic referrals held within the OH Service Provider’s system, made by Contracting Authority personnel. Ability to transfer referrals from any Referring Manager to any other referring manager. |
| Power User access – Selected MOD Business Units | Access to Business Unit Specific open and historic referrals held within the OH Service Provider’s system, made by Contracting Authority personnel. Ability to transfer referrals from any Referring Manager to any other referring manager within a specific Business Unit |
| Full Business Unit Access | Access to all open and historic referrals held within the supplier’s system, related to employees of a MOD Business Unit.Ability to transfer referrals between referring managers from the same Business Unit |
| Custom Access | Access to open historic referrals held within the supplier’s system, based on referral type(s) and / or Business Unit(s) of the subject of the referral. |
| Account Permissions Co-ordinator | Ability to assign; manage and revoke permissions; based on referral type; Business Unit.Ability to disable and re-enable accounts for all MOD users of the online portal.. |

Table 1

* 1. The OH Service Provider shall provide the capability for selected referral types to be made unavailable to users within the Basic Online Portal User role. This may be used for example to limit pre-placement or services related to reasonable adjustments for disabled personnel to expert HR Recruiting; HR Casework or related teams.
	2. The OH Service Provider shall provide the capability for on-line portal users nominated by the Contracting Authority to assign; manage and revoke permissions; disable and re-enable accounts for all MOD users of the OH Service Provider on-line portal.
	3. The OH Service Provider shall provide the option for accounts to be disabled automatically after a period of inactivity. Applicable period of inactivity to be agreed with the Contracting Authority.
	4. The OH Service Provider shall provide the option for account permissions to be downgraded to Portal User permissions only, after a period of account inactivity. Applicable period of inactivity to be agreed with the Contracting Authority.
	5. On-line Portal shall provide employees the capability of completing any statutory; OH Service Provider or MOD specific health questionnaires via the web portal.
	6. The OH Service Provider shall provide the capability to restrict visibility of ‘historic’ referrals by Basic On-line Portal Users in order to facilitate the departments compliance with its obligations under the Data Protection Act 2018. This would for example remove details of referrals made and reports published over 12 months ago. The applicable period for this feature to be agreed with the Contracting Authority.
	7. Where historic referrals are no longer visible to Basic On-line Portal Users, they shall remain visible to MOD Civilian HR users with the Power User access.
	8. OH Service Provider content delivered via app; or web portal shall comply with the Public Sector Bodies (Websites and Mobile Applications) (No. 2) Accessibility Regulations 2018.
		1. The OH Service Provider shall meet or be working towards meeting the content accessibility standards WCAG 2.1 AA in line with central Government standards. For further details see <https://www.gov.uk/service-manual/helping-people-to-use-your-service/making-your-service-accessible-an-introduction#meeting-government-accessibility-requirements>
1. **On-line Portal Capacity**
	1. The on-line portal shall not restrict the maximum number of referrals possible within a single account. System performance and user experience must not be adversely affected by high volumes of referrals from a single account. It is expected that up to 3000 referrals may be made annually from a single HR department or internal OH team account each year. The number of such high activity accounts is expected to be less than 50.
2. **On-line Portal Account Creation**
	1. The OH Service Provider shall provide the capability for automatic creation of on-line portal accounts, via self-registration. Eligibility will be restricted to Contracting Authority personnel with \*.mod.gov.uk; \*.mod.uk email addresses and other domains specific to the eligible MOD population as advised by DBS.
	2. The permissions assigned to self-created accounts shall be Basic On-line Portal User – with access to referrals made by that account only, unless subsequently upgraded by an MOD user with Account Permissions Co-ordinator role.
	3. The OH Service Provider shall reject requests to upgrade account permissions and notify DBS within 24 hours of such attempts.
3. **Sensitive Referrals**
	1. The OH Service Provider shall provide the capability to make referrals where the content and any outcome reports are not visible to the standard power user group. Such ‘off-line’ referrals may be used for very senior employees, or for employees within teams requiring power user permissions. Such referrals should only be visible to the referring manager and members of the Account Permissions Co-ordinator role.
4. **Promotion; Publicity MOD Customer Education and Up-skilling**
	1. The Contracting Authority requires promotional material to inform and up-skill Contracting Authority personnel on the services available, benefits of OH advice; how to make a good referral and electronic materials to aid publicity for the service, to include:
		1. **Customer Catalogue**
			1. The OH Service Provider shall produce a catalogue of the services provided under this contract in electronic document (Adobe PDF; or MS Word format). This will be made available within MOD to referring managers wishing to use the service and should include.
				1. A list and description of each service available under the contract
				2. An outline of how each service will be provided and what type of tests and physical examinations (if any) may be undertaken.
				3. Explain what is required of the employee; e.g. to bring photographic ID; prescription glasses; copies of any existing certification.
				4. An explanation of how to access and create accounts on the OH Service Provider portal.
				5. An explanation of how to navigate the OH Service Provider portal to initiate tasking for each service.
				6. Signposting to OH Service Provider telephone support services; how to request amendment of a report; how to complain about the supplier’s service.
		2. **How To Make A Good Referral**
			1. Written customer advice on how to make a good referral should be available to Line Managers at the point of making a referral and separately provided for publication within MOD Intranet. This should provide advice on the benefits and limitations of OH advice; factors to consider when asking questions and what steps to take if they are unsatisfied with the content of an OH report.
			2. Briefing sessions (up to 5 over the contract term) conducted via Video Conferencing shall be provided to groups of Contracting Authority personnel, covering topics related to best use of the OH service and ‘how to make a good referral’.
			3. Content shall be agreed with the Contracting Authority and provided within 6 weeks of contract award.
		3. Costs for providing the publicity, promotion and educational materials described in section 12 shall be included within the bid pricing for OH1 Telephone Support Services, On-line Portal and Publicity and Promotion.
5. **Service Credits**
	1. The maximum service credit payable will be capped at 10% of the overall contract value.
	2. The service credits for the following service levels are set at a rate of 0.5% for each percentage point under the specified ‘Green’ Service Level Performance Measure:
* Case Management – Occupational Health Advisor or Occupational Health Physician face to face consultation to be held and report to be provided within ten (10) working days of Contracting Authority Personnel referral (including confirmation of appointment to the employee and line manager).
* Case Management – Occupational Health Advisor telephone consultation to be held and report to be delivered within four (4) working days of Contracting Authority Personnel referral.
* Case Management – Occupational Health Physician telephone consultation to be held and report to be delivered within seven (7) working days of Contracting Authority Personnel referral.
* Health Surveillance and fitness for task – All health surveillance, monitoring and specialist fit for task assessments and reports to be completed within ten (10) working days of referral.

	1. The Service Credit regime shall operate as defined in the CCS framework RM3795 except for the following variations. A “Service Level Failure” shall be when any of the following are reported in a Performance Monitoring Report produced in accordance with Part B of this Call Off Schedule 6:
* The OH Service Provider’s performance of any Critical Service Level is reported as achieving the Red Service Level Performance Measure in a given Service Period;
* The OH Service Provider’s performance of a single Service Level is reported as failing to meet the Red Service Level Performance Measure for that Service Level twice or more in any three (3) consecutive Service Periods;
* The OH Service Provider’s performance of a single Service Level is reported as achieving the Red Service Level Performance Measure for that Service Level four (4) times or more in any twelve (12) consecutive Service Periods; and
* The OH Service Provider’s performance of a single Service Level is reported as the Amber or RED Service Level Performance Measure for that Service Level six (6) times or more in any twelve (12) consecutive Service Periods.
1. **Service Levels and Key Performance Indicators**
	1. The OH Service Provider shall meet all the KPI’s listed below:

|  |  | **Service Level Performance Measure:** |  |
| --- | --- | --- | --- |
| **Service Level Performance Criterion** | **Description** | **Service Level – FailRED** | **Service Level – Warning****AMBER** | **Service Level – Pass****GREEN** | **Service Credit Payable (%) gained for each percentage point under the specified ‘Green’ Service Level Performance Measure** |  |
| **On-line Portal** | On-line Portal to be available fifty-two (52) weeks a year, Monday to Friday 08:00 to 18:00 hours, excluding Public and Bank Holidays, except for agreed downtime and maintenance which will be agreed with the Contracting Authority at least seventy-two (72) hours in advance of such work being carried out. | <98% | >= 98% and < 100% | 100% |  | Critical Service Level |
| **Telephone Support Services** | All telephone support line Services to be available Monday to Friday 08:00 to 18:00 hours, fifty-two (52) weeks a year excluding public and bank holidays.  | < 98% | >= 98% and < 100% | 100% |  | Critical Service Level |
|  | Occupational Health Physicians and Occupational Health Advisors to be available Monday to Friday 08:00 to 18:00 hours, fifty-two (52) weeks a year excluding public and bank holidays. | < 98% | >= 98% and < 100% | 100% |  |  |
|  | All calls to be answered within 30 seconds. | <80% within 30 seconds | >=80%  <90% within 30 seconds | >90% within 30 seconds  |  |  |
|  | All telephone messages and emails to be responded to within 24 hours (excluding Bank and Public Holidays). | <97% | >= 97% and < 98% | >= 98% |  |  |
| **Case Management** | Occupational Health Advisor or Occupational Health Physician face to face consultation to be held and report to be provided within ten (10) working days of Contracting Authority Personnel referral (including confirmation of appointment to the employee and line manager). | <=90 | >90 and<95 % | >= 95% | 0.5% | Critical Service Level |
|  | Occupational Health Advisor telephone consultation to be held and report to be delivered within four (4) working days of Contracting Authority Personnel referral  | <97% | >= 97% and < 99% | >= 99% | 0.5% | Critical Service Level |
|  | Occupational Health Physician telephone consultation to be held and report to be delivered within seven (7) working days of Contracting Authority Personnel referral. | <90 % | >=90% and <95 % | >= 95% | 0.5% | Critical Service Level |
|  | All written case reports to be right first time (with correct level of information and details). | <98% | >= 98% and < 100% | 100% |  |  |
|  | Notification to the Contracting Authority of an employee failing to attend appointment within one (1) working day of appointment being missed. | <100% |  | 100% |  |  |
|  | On-site Occupational Health professionals to be available at the times agreed, including scheduled replacement OH Service Provider Personnel. | <100% |  | 100% |  |  |
|  | File opinion to be delivered to the Contracting Authority within five (5) working days on receipt of request. | <98% | >= 98% and < 100% | 100% |  |  |
|  | Single case conferences to take place within five (5) working days of request of Contracting Authority. | <98% | >= 98% and < 100% | 100% |  |  |
|  | Multiple case conference (including collation of referrals) to take place within ten (10) working days of request. | <98% | >= 98% and < 100% | 100% |  |  |
|  | Report delivered to the Contracting Authority within two (2) working days of completion of consultation. | <97% | > = 97% and < 99% | >=99% |  |  |
| **Further Medical Evidence** | Further Medical Evidence report requested from a specialist or General Practitioner within two (2) days of the need having been identified by the OH Service Provider. | < 100% |  | 100% |  |  |
| **Ill-Health Retirements** | Medical opinion to support ill health retirement applications to be delivered within ten (10) working days of request. | <97% | >= 97% and < 100% | 100% |  |  |
| **Health Surveillance and Fitness for Task** | All health surveillance, monitoring and specialist fit for task assessments and reports to be completed within ten (10) working days of referral.  | <90 % | >=90 <95 % | >= 95% | 0.5% | Critical Service Level |
|  | All paper-based screening or assessments to be completed within three (3) working days of referral. | <98% | >= 98% and < 100% | 100% |  |  |
|  | All surveillance and assessments scheduled on a Contracting Authority’s annual plan to be completed on time. | <97% | >= 97% and < 99% | >= 99% |  |  |
| **Pre-Appointment and Pre-Enrolment Checks** | Delivery of report to Contracting Authority following on-line screening within twenty-four (24) hours. | <97% | >= 97% and < 99% | >= 99% |  |  |
|  | Occupational Health Adviser written opinion following on-line assessment to be delivered to the Contracting Authority within two (2) working days. | <98% | >= 98% and < 100% | 100% |  |  |
|  | Telephone assessment of Contracting Authority Personnel within three (3) working days of request. | <95% | >= 95% and < 99% | >=99% |  |  |
|  | Face to face Contracting Authority Personnel assessment and delivery of report to Contracting Authority within (10) working days of request. | <=90 % | >90 <95 % | >= 95% |  |  |
| **Physiotherapy** | Physiotherapy telephone assessment within four (4) working days of request. | <97% | > = 97% and < 99% | >=99% |  |  |
|  | Appointment and first face-to-face physiotherapy session to take place within seven (7) calendar days of referral. | <97% | > = 97% and < 99% | >=99% |  |  |
|  | Report delivered to the Contracting Authority within two (2) working days of completion of treatment. | <97% | > = 97% and < 99% | >=99% |  |  |
| **Assessments** | For all Contracting Authority Personnel assessments listed below; within ten (10) working days from referral to delivery of report:* Workplace / Workstation Assessments for employees considered disabled under the Equality Act 2010
* Occupational Therapy
* Specialist assessments for sight and hearing
* Dyslexia assessment
* Specialist assessments for disabled employees
* Support Worker assessment
 | < 97% | > = 97% and < 99% | > = 99% |  |  |
| **Complaints** | All customer complaints to be acknowledged within one (1) Working Day of receipt. | < 97% | > = 97% and < 99% | > = 99% |  |  |
|  | Customer complaints to be resolved within ten (10) working days. | < 97% | > = 97% and < 99% | > = 99% |  |  |
| **Customer Satisfaction** | All customer satisfaction surveys to meet agreed target measures.  | < 90% | > = 90% and < 95% | > = 95% |  |  |
| **Contract Management** | All invoices right first time, provided with supporting Data and received at the agreed times. | < 97% | > = 97% and < 99% | > = 99% |  |  |
|  | Account management support available Monday to Friday from 08:00 – 18:00 hours with responses to queries from the Contracting Authority within one (1) Working Day. | < 97% | > = 97% and < 99% | > = 99% |  |  |
| **Management Information** | Management Information delivered at agreed periods with the Contracting Authority (as defined at Call Off stage). | <100% |  | 100% |  |  |
|  | All ad-hoc and urgent MI in relation to Freedom of Information requests, Minister’s questions and Parliamentary Questions will be provided within the timelines outlined for each request by the Contracting Authority. | <100% |  | 100% |  |  |

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|  | Occupational Health Advisor telephone consultation to be held and report to be delivered within four (4) working days of Contracting Authority Personnel referral  | <97% | >= 97% and < 99% | >= 99% | 0.5% | Critical Service Level |
|  | Occupational Health Physician telephone consultation to be held and report to be delivered within seven (7) working days of Contracting Authority Personnel referral. | <90 % | >=90% and <95 % | >= 95% | 0.5% | Critical Service Level |
|  | All written case reports to be right first time (with correct level of information and details). | <98% | >= 98% and < 100% | 100% |  |  |
|  | Notification to the Contracting Authority of an employee failing to attend appointment within one (1) working day of appointment being missed. | <100% |  | 100% |  |  |
|  | On-site Occupational Health professionals to be available at the times agreed, including scheduled replacement OH Service Provider Personnel. | <100% |  | 100% |  |  |

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| --- | --- | --- | --- | --- | --- | --- |
|  | File opinion to be delivered to the Contracting Authority within five (5) working days on receipt of request. | <98% | >= 98% and < 100% | 100% |  |  |
|  | Single case conferences to take place within five (5) working days of request of Contracting Authority. | <98% | >= 98% and < 100% | 100% |  |  |
|  | Multiple case conference (including collation of referrals) to take place within ten (10) working days of request. | <98% | >= 98% and < 100% | 100% |  |  |
|  | Report delivered to the Contracting Authority within two (2) working days of completion of consultation. | <97% | > = 97% and < 99% | >=99% |  |  |
| **Further Medical Evidence** | Further Medical Evidence report requested from a specialist or General Practitioner within two (2) days of the need having been identified by the OH Service Provider. | < 100% |  | 100% |  |  |
| **Ill-Health Retirements** | Provision of OH case notes / report(s) in support of support ill health retirement applications to be delivered within ten (10) working days of request | <97% | >= 97% and < 100% | 100% |  |  |
| **Health Surveillance and Fitness for Task** | All health surveillance, monitoring and specialist fit for task assessments and reports to be completed within ten (10) working days of referral.  | <90 % | >=90 <95 % | >= 95% | 0.5% | Critical Service Level |

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| --- | --- | --- | --- | --- | --- | --- |
|  | All paper-based screening or assessments to be completed within three (3) working days of referral. | <98% | >= 98% and < 100% | 100% |  |  |
|  | All surveillance and assessments scheduled on a Contracting Authority’s annual plan to be completed on time. | <97% | >= 97% and < 99% | >= 99% |  |  |
| **Pre-Appointment and Pre-Enrolment Checks** | Delivery of report to Contracting Authority following on-line screening within twenty-four (24) hours. | <97% | >= 97% and < 99% | >= 99% |  |  |
|  |  |  |  |  |  |  |
|  | Occupational Health Adviser written opinion following on-line assessment to be delivered to the Contracting Authority within two (2) working days. | <98% | >= 98% and < 100% | 100% |  |  |
|  | Telephone assessment of Contracting Authority Personnel within three (3) working days of request. | <95% | >= 95% and < 99% | >=99% |  |  |
|  | Face to face Contracting Authority Personnel assessment and delivery of report to Contracting Authority within (10) working days of request. | <=90 % | >90 <95 % | >= 95% |  |  |
| **Physiotherapy** | Physiotherapy telephone assessment within four (4) working days of request. | <97% | > = 97% and < 99% | >=99% |  |  |

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|  | Appointment and first face-to-face physiotherapy session to take place within seven (7) calendar days of referral. | <97% | > = 97% and < 99% | >=99% |  |  |
|  | Report delivered to the Contracting Authority within two (2) working days of completion of treatment. | <97% | > = 97% and < 99% | >=99% |  |  |
| **Assessments** | For all Contracting Authority Personnel assessments listed below; within ten (10) working days from referral to delivery of report:* Workplace / Workstation Assessments for employees considered disabled under the Equality Act 2010
* Occupational Therapy
* Specialist assessments for sight and hearing
* Dyslexia assessment
* Specialist assessments for disabled employees
* Support Worker assessment
 | < 97% | > = 97% and < 99% | > = 99% |  |  |

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| --- | --- | --- | --- | --- | --- | --- |
| **Complaints** | All customer complaints to be acknowledged within one (1) Working Day of receipt. | < 97% | > = 97% and < 99% | > = 99% |  |  |
|  | Customer complaints to be resolved within ten (10) working days. | < 97% | > = 97% and < 99% | > = 99% |  |  |
| **Customer Satisfaction** | All customer satisfaction surveys to meet agreed target measures.  | < 90% | > = 90% and < 95% | > = 95% |  |  |
| **Contract Management** | All invoices right first time, provided with supporting Data and received at the agreed times. | < 97% | > = 97% and < 99% | > = 99% |  |  |
|  | Account management support available Monday to Friday from 08:00 – 18:00 hours with responses to queries from the Contracting Authority within one (1) Working Day. | < 97% | > = 97% and < 99% | > = 99% |  |  |
| **Management Information** | Management Information delivered at agreed periods with the Contracting Authority (as defined at Call Off stage). | <100% |  | 100% |  |  |
|  | All ad-hoc and urgent MI in relation to Freedom of Information requests, Minister’s questions and Parliamentary Questions will be provided within the timelines outlined for each request by the Contracting Authority. | <100% |  | 100% |  |  |

* 1. **KPI Clock Stopping**
		1. Unless otherwise agreed between the Contracting Authority and OH Service Provider; KPI Timers shall start at the point valid referral is made. Where follow on interventions are required, for example, escalation for further OH scrutiny or consultation; or further medical evidence is required – the KPI timer shall start immediately after completion of the preceding intervention.
		2. Where a recall or review period is indicated, for example, where a delay to the next stage of OH intervention is essential to allow the employee to seek treatment.   The recall period should be set using clinical best practice and explained within the initial OH report. KPI clock for the follow-on intervention starts from zero at the end of ‘recall’ period.
		3. KPI Clock stopping may be applied in the following circumstances:
			1. KPI can be reported as met – where the employee rejects appointment(s) offered which would otherwise have been within the KPI target levels; and
				1. Employee agrees a later appointment (which would normally be outside the KPI target level).
				2. The planned Consultation is not subject to cancellation by the OH Service Provider.
				3. OH report is published within 24 hours of consultation.
			2. Notional KPI success instances must be reported to the Contracting Authority as part of monthly MI – to allow validation. Other circumstances agreed with the Authority in advance.
1. **Referrals from the Contracting Authority:**
	* 1. Authorised representatives of the Contracting Authority may be Line Managers, HR Department agents; or Occupational Health personnel employed by MOD.
		2. Self-referrals by employees of the Contracting Authority shall not be permitted by the OH Service Provider and attempts to do so notified to DBS within 2 (two) working days.
		3. The OH Service Provider shall provide the referring manager the capability to identify their MOD business unit at the point a referral is made, for use by the Contracting Authority for billing validation and for use by the OH Service Provider within MI reporting.
		4. In addition to the On-line Portal features listed, the OH Service Provider shall provide the option for Referring Managers making a referral via the OH Service Provider’s on-line portal to select an appointment from a list of available appointment slots, at the point of submitting an on-line referral.
		5. The OH Service Provider shall provide the ability for Referring Managers to specify that appointment scheduling will be agreed with the referring manager, rather than the Contracting Authority’ personnel (employee). Services utilised by MOD DFR require this option - refer to Annex C for more details.
		6. Where services defined elsewhere in this document require MOD specific forms, or health questionnaires / declarations, an equivalent version completable by the employee via the on-line portal is a preferred option.
	1. **Additional Referring Managers**
		1. The OH Service Provider shall provide an option for an additional Referring Manager to be nominated for each referral. Additional Referring Managers shall have the same permissions to manage the case via the on-line portal, view reports and seek clarification / submit complaints related to the case as the original Referring Manager.
		2. The OH Service Provider shall provide the ability for Referring Managers to nominate a third party; in addition to providing the Referring Manager and the Contracting Authority personnel (employee) details, who should be contacted to arrange a mutually acceptable appointment time.
		3. Where the Referring Manager uses the option at 15.2.2- the OH Service Provider shall provide the capability to nominate which party should be contacted for each phase of the referral. I.e. The party contacted to agree an acceptable appointment may be different for the initial appointment and any follow-on appointments required during the referral.
	2. **Referral Type selection**
		1. The OH Service Provider’s systems must allow selection of the full range of services (subject to restrictions based on role permissions) to facilitate correct MI reporting against each service.
	3. **Appointment Scheduling**
		1. The MOD welcomes novel solutions to simplify and speed up the process of agreeing with the Contracting Authority personnel including employee self-selection of appointments; contact by email, SMS or similar options.
		2. Where delivery at a OH Service Provider location is required, selection of the location should take into account the employee’s home and work address and whether they are currently absent from work.
		3. The OH Service Provider shall ensure that appointments are offered at a location that is closest to the employee’s home or work location whichever involves the least amount of travel.
		4. Unless there are exceptional circumstances, such as a remote rural location, the MOD is expecting a nationwide service with none of its staff having to travel for more than one (1) hours travelling time by private car or public transport.
		5. Appointments should normally be agreed with the employee.
		6. The OH Service Provider shall make at least three attempts to contact the Contracting Authority personnel, over a period of at least three working days to agree an appointment.
		7. The OH Service Provider shall provide the capability for Referring Managers to specify that appointment booking should be agreed with the Referring Manager; or a third party responsible for workforce rotas.
		8. Appointment reminders shall be used – via SMS Text message; email or other channel agreed with the employee, to minimise non-attendance.
	4. **Non-Attendance / Cancellation by MOD**
		1. The OH Service Provider shall allow agreed appointments to be cancelled by the Referring Manager or the subject of the referral (employee).
		2. The OH Service Provider shall ensure that the Referring Manager is notified of an employee failing to attend appointment within one (1) working day of non-attendance at an appointment.
		3. The OH Service Provider shall ensure that the Referring Manager is notified of an employee cancelling an appointment within one (1) working day of the cancellation.
		4. No OH Service Provider charges should be applicable where over 48 hours notice given for the cancellation of an agreed appointment. Cancellation notice of less than 48 hours will incur the standard contractual price rate applicable to the type of referral, except for immunisation; vaccination and inoculation services.
		5. Charges applied for Non-attendance / short notice cancellation of an appointment related to immunisation; vaccination and inoculation services shall be limited to the standard contractual price rate applicable to a face to face attendance management referral.
		6. Where an employee cancels three agreed appointments in a row, or fails to attend two agreed appointments in a row, the OH Service Provider shall publish an outcome summary report and close the referral. The OH Service Provider shall clearly annotate the report to the effect that the employee failed to attend for a second time (and state reason if known) and that the submitted report is based on all medical information currently held.
	5. **Cancellation By The OH Service Provider**
		1. The MOD expects the OH Service Provider to honour all appointments. In the event of cancellation due to illness or other exceptional circumstances, the OH Service Provider will inform the employee and the Referring Manager and arrange an alternative appointment at the earliest opportunity.
		2. Where the OH Service Provider commences a planned telephone consultation later than agreed, MOD employees will make every effort to continue with the consultation.
		3. Where the OH Service Provider commences a planned consultation more than 30 minutes past the pre-arranged start time and the employee is no longer available, it shall be treated as a cancellation by the OH Service Provider and no charge applied.
2. **OH Service Provider Security Requirements**
	1. Overall OH Service Provider security requirements are contained in Annex R – Defence Business Services Security Statement of Requirements; and Annex S - Defence Business Services Security Aspects Letter.
	2. In addition, the OH Service Provider must provide the Referring Manager full name; date of birth, nationality, vehicle details and photographic ID at least three working days in advance of attendance at MOD sites where on-site delivery is required by the Referring Manager.
	3. Additional personnel security requirements apply where on site attendance at HMNB Clyde / RNAD Coulport is requested by the Referring Manager.
	4. OH Service Provider must provide full name; date of birth, country and town of birth, vehicle details to the Referring Manager at least two weeks in advance of attendance at HMNB Clyde / RNAD Coulport.
	5. OH Service Provider personnel who are not UK Nationals must be security cleared to SC level in order to provide OH services on site at HMNB Clyde / RNAD Coulport.
	6. OH Service Provider personnel must present approved photographic identification when attending any MOD site. Passport and UK driving licences will be accepted.
	7. **Northern Ireland (NI) Specific Security Requirements**
		1. There is a risk that MOD civilians and their dependants working and living in NI or ROI, may be targeted by extremist organisations.
		2. Special precautions are essential to conceal the association with MOD for all employees and dependants within Northern Ireland.
		3. There is a requirement to make referrals of all types, without specifying a home address if the employee declines to provide this to the OH Service Provider. Any process for verification of identity must not rely on validation of employee home address.
		4. OH Service Provider mail sent to a home address shall not include any reference to Ministry of Defence; Guard Service; grade or rank on the envelope.
		5. At OH Service Provider clinics held outside MOD Sites, employees shall not be referred to by grade, rank or reference made to employment with MOD within public areas.
3. **OH Service Provider Accreditation, Personnel Skills; Competencies, Training and Experience**
	1. The OH Service Provider is to be a member of the ‘Disability Confident’ employer scheme. See <https://www.gov.uk/government/collections/disability-confident-campaign>
	2. MOD require additional knowledge, experience or accreditation in the following areas:
* The OH Service provided to MOD is to be Consultant led and accredited by the Faculty of Occupational Medicine to SEQOHS standards throughout the period of the contract.
* OH Service Provider must follow guidance issued by Public Health England, meet the requirements set out by NHS Employers for NHS Occupational Health Services and be able to demonstrate that it offers the enhanced competencies for Occupational Physicians caring for Healthcare Practitioners, published by the Faculty of Occupational Medicine.
	+ Where the Department of Health and Social Care, Public Health England, NHS Employers or the Faculty of Occupational Medicine amend the guidance referred to here, the OH Service Provider is to ensure it maintains coherence with that amended guidance.
* Clinicians with mental health qualifications and experience.
* Clinicians experienced in providing OH services to UK Fire Services.
* Clinicians aware of the demands both physically and psychologically associated with the armed policing role.
* Clinicians with knowledge and understanding of Maritime Coastal Agency medical standards; the seafaring environment and working practices
* Clinicians appointed by the HSE to conduct statutory medicals, as required by the following regulations, or later updated versions:
	+ Ionising Radiation Regulations 2017
	+ [Control of Lead at Work Regulations 2002](http://www.hse.gov.uk/pubns/books/l132.htm)
	+ [Control of Asbestos Regulations 2012](http://www.hse.gov.uk/pubns/books/l143.htm)
	+ [Control of Substances Hazardous to Health Regulations 2002 (as amended)](http://www.hse.gov.uk/pubns/books/l5.htm)
	+ [Work in Compressed Air Regulations 1996](http://www.hse.gov.uk/pubns/books/l96.htm)
	+ Diving at Work Regulations 1997
	1. Clinicians familiar with the demands of adventurous activities, including yachting, hang gliding, para-gliding and mountaineering.
1. **Written Reports**
	1. A written report is required after each consultation during the life of a referral.
	2. Reports shall be produced in alternative formats where required as a reasonable adjustment. i.e. Braille if requested.
	3. Outcome reports shall be written in plain English, intended for a management audience and should avoid medical terminology or explain it fully when it must be used.
	4. Additional requirements apply to Workstation / Workplace assessment and reports generated for some MOD specialist occupational groups – See section 19.22, MDP Annex A, DFR Annexes C and RFA Annex T.
2. **Occupational Health Services Required**
	1. **General / Attendance Management Advice and Assessments**
	2. MOD require the capability to make Occupational Health referrals – for reasons including Attendance Management and:
		1. Performance efficiency: This may be used where an employee is under-performing or otherwise not achieving targets and the line manager requires advice on whether an underlying health condition may be contributing to the issue.
		2. Incompatibility of Health and Job: This may be used if the line manager or employee feels that their health puts them, colleagues or members of the public, at particular risk in relation to the activities required of the role.
		3. Assess requirement for temporary adaptation: This may be used where an employee has a temporary problem from which they are expected to recover in a reasonable period (normally 3 months or less) which requires some change of their job/workplace.
	3. Referrals made under these categories shall be recorded separately and may be required for MI purposes.
	4. Referrals shall be provided to the CCS Framework RM3795 standards applicable to Attendance Management referrals in attachment 4a Lot 2 Occupational Health Services section 3.4.
	5. Referrals shall provide the capability for Referring Managers to ask a number of questions relating to the referral (capability for up to 6).
	6. In all cases, advice is to take account of objective, independent, comprehensive medical advice to the Referring Manager and Contracting Authority Personnel, taking into account both employee and line manager provided background details and where required further evidence from healthcare providers.
	7. Case reports shall by default provide coverage of the topics specified within CCS Framework RM3795 attachment 4a Lot 2 Occupational Health Services section 3.5. plus responses to Referring Manager questions where these are not already covered by the default report content.
		1. Where required by additional Referring Manager questions, to advise whether sick pay should be paid at the pension rate when the normal entitlement to sick pay is exhausted. Sick Pay at Pension Rate (SPPR) may only be paid if OH advice indicates a clear likelihood of a return to work (rather than return to full capability).
		2. Where referring managers ask questions related to SPPR – this should be interpreted as defined in 19.7.1 and advice provided on the likelihood of a return to work.
		3. Where required, by additional referring manager questions to advise Line Managers whether continued absence from work is as a result of a specified work-related event for which MOD may be culpable and if a full pay extension is therefore appropriate if the full criteria has been met.
		4. Where referring managers ask questions related to full pay extension - this should be interpreted as defined in 19.7.3.
		5. Where required, by additional Referring Manager questions to advise whether Full Pay Extension should apply. Extension of sick pay at full rates may be authorised to employees who have exceeded the contractual sick pay limits and will normally be paid at half or nil pay. Decisions on full pay extension are dependent on the reason for current absence being unrelated to previous absence reasons and the OH report should cover this.
		6. Where required, to report whether a decline in the performance or efficiency of an employee is wholly or partially due to an underlying health condition. Where partially due to an underlying health condition, the OH Service Provider shall explain the extent to which it is likely to have contributed.
	8. **Extended consultations – General / Attendance Management Management Advice and Assessments**
		1. Exceptionally the Contracting Authority may require the capability of specifying extended consultations.
		2. This option may be used where personnel with extensive range of medical conditions; communication barriers or where a more extensive range of questions have been raised by the referring manager than can be accommodated within the constraints of the General / Attendance Management Management Advice and Assessments referral type.
	9. **Royal Fleet Auxiliary (RFA) Specific General / Attendance Management Advice and Assessments**
		1. OH Assessment and advice shall take account of the specialist nature of the seafaring role described at Annex T and any role specific terms of reference.
		2. RFA Specific General / Attendance Management referrals shall by default cover the standard elements and answer the following specific questions:
		3. In accordance with the RFA Health Assessment and BSSC criteria- (Annex T) and the Terms of Reference specific to the individual role- what affects the employee’s current fitness for work at sea/ability to undertake current tasks as described?
		4. In accordance with the same criteria, what parts of their role and wider expected activity is the employee unable to undertake now and within the next 12 weeks.
		5. What is the likely time frame for full return to worldwide sea service in the full core role as described in the Terms of Reference.
		6. Are there any temporary or permanent modifications required in the working environment that would facilitate a return to work?
		7. Does any of the medication this person requires influence their ability to carry out their role at sea and what is the immediate impact of a loss or inability to source this medicine internationally?
		8. Which specific work-related activity or issue may have contributed to this situation [if any]?
	10. Referring managers shall have the capability to ask additional questions related to the referral.
	11. **Case Conferences**

19.11.1 MOD requires the ability to task for case conferences as described in CCS Framework RM3795 – Attachment 4a – Lot 2 Occupational Health Services. Framework section 3.6.

* 1. **Ill-Health Retirement**

As part of General / Attendance Management Advice and Assessments, MOD requires advice to Line Managers to support them with ill-health retirements as required. The OH Service Provider shall make recommendations to the Contracting Authority to support them with Ill-Health Retirement cases when requested as specified in CCS Framework RM3795 – Attachment 4a – Lot 2 Occupational Health Services. Framework section 3.7.

* + 1. The OH Service Provider shall assist the Contracting Authority to gather and collate medical evidence to support the Scheme Medical Advisor to the Principal Civil Service Pension Scheme (PCSPS), ill-health retirement scheme for the NHS or other relevant pension scheme on applications for ill-health retirement.
		2. The OH Service Provider shall, on request, provide the Contracting Authority with an opinion on the likelihood of the Contracting Authority’s Personnel meeting the criteria for ill-health retirement to enable the Contracting Authority to determine if a formal ill-health retirement application should be made to the relevant scheme medical adviser for the Contracting Authority’s Personnel.
	1. **Pre-Appointment and Pre-Enrolment Checks**

The OH Service Provider shall provide pre-appointment and pre-enrolment checks on behalf of MOD as specified in CCS Framework RM3795 – Attachment 4a – Lot 2 Occupational Health Services. Framework section 3.8.

* + 1. MOD require Pre-employment medicals to MOD defined medical standards for the following specialist occupational groups:
* MDP; Refer to MDP specific Annex A for full specifications:
	+ Pre-employment / Health Screening Assessment
	+ Colour Vision Testing (2nd or 3rd edition City University test and Farnsworth - Munsell D15).
* NISGS; Refer to NISGS specific Annex B:
	+ Pre-employment / Pre-appointment fitness for role assessment
	+ Colour Vision Testing (2nd or 3rd edition City University test and Farnsworth - Munsell D15).
* DFR; Refer to DFR specific Annex C for full specifications.
* MOD Guard Service (MGS) pre-placement assessments, refer to MGS specific Annex D for full specification:
	+ MGS Pre-placement (airfield and dockyard locations)
	+ MGS CAD Colour Vision assessment
	+ MGS Pre-placement (standard)
* DE&S Technical Apprentices Refer to Para 19.13.4 for full specifications.
* VTS Pre-employment / Pre-appointment assessment, Refer to VTS specific Annex E for full specifications.
* SALMO refer to SALMO specific Annex F for full specifications:
	+ Pre-placement for Diving roles
	+ Pre-placement – non-diving roles
* Surgeon General Department (SGD) and Healthcare Workers (HCW) specific Annex G:
	+ Healthcare worker pre-placement (role involves Exposure Prone Procedures (EPP) and / or Exposure Prone Environment (EPE)).
	+ Healthcare worker pre-placement (non EPP / EPE roles).
* Physical & Adventurous Training Instructors (PAT), Refer to PAT specific Annex H for full specifications.
* OTTO Fuel Workers. Both Direct and Indirect Otto Fuel workers require baseline and Health surveillance and medical in accordance with MOD JSP 950 [Leaflet 6-6-3: Health surveillance of Otto Fuel workers](http://defenceintranet.diif.r.mil.uk/libraries/library1/DINSJSPS/20151214.1/20150930-JSP_950_Lft_6-6-3_V1.1.pdf) (Annex J), is mandatory before providing a recommendation on fitness for employment. Refer to section 19.15.2 for further details.
	+ Pre-placement variant of this service shall include delivery of resting electrocardiogram (ECG) within the scope of delivery and pricing for this service.
	+ Additional charges for ECG shall not be applied.

		1. Pre-employment standards for some occupational groups include a requirement for drug and alcohol screening; this is detailed as part of the clinical standards in the MDP requirements – see Annex A.
		2. The OH Service Provider shall provide the capability for Referring Managers to request that any baseline health surveillance required for the role are performed at the same time as other pre-employment / pre-enrolment checks. Where this option is used by Referring Managers; results from all relevant referrals will be taken into account in the clinical decision making on fitness for employment.
		3. **DE&S Technical Apprentices Pre-employment Assessment**
			1. MOD requires a medical assessment of candidates applying for the MOD Technician Apprentice Scheme to assess any medical reason why they would be unable to complete the three-year apprenticeship.
			2. Each case should be looked at individually and assessed on its merits. Levels of medical and physical fitness which are not compatible with the job requirements or the working environment, this may potentially adversely affect health, safety and operational efficiency.
			3. During the first-year apprentices carry out approximately 60% of their time in the workshop, with the remaining 40% being academic study. Three days a week are spent in the workshop carrying out a mixture of activities such as machining, welding, hand skills (filing, metal fabrication) and soldering and therefore candidates need to be able to stand and operate machinery for most of the day.
			4. There are activities that include noise and dust/fumes when operating in the workshops and MOD have confirmed that no activity is outside of HSE approved limits.
			5. Some apprentices will operate in an electrical/electronic specialisation; all candidates will require to be assessed for colour blindness using the Ishihara test.
			6. Lack of correct colour perception shall not be a barrier to fitness for employment – but should be reported so that selection of engineering discipline and / or reasonable adjustments during training can be applied.
			7. At the end of the first-year apprentices undertake an outward-bound activity course including abseiling, mountain biking and similar activity (although participation in all activities is not mandatory).
			8. During years 2 and 3 apprentices spend 4 (four) days a week in office-based placements. They may go on visits to MOD equipment sites. The 5th day of each week is spent at college completing academic study.
			9. Applicants should be assessed in terms of ability based on the role, functions and activities of an MOD apprentice. This will provide a common base for consistent decision making. Key areas to be assessed are that there are no planned or predicted periods of prolonged absence (prolonged being more than 1-2 weeks) due to sickness or medical conditions, that the applicant can cope in an area that is vocationally challenging (standing for extended periods in the workshop in year 1).
	1. **Fitness for Task and Safety Critical Work Services**
		1. MOD have a confirmed requirement for the following Fitness for Task Health Assessment services.
		2. Unless otherwise stated that MOD specific standards apply, all assessments shall be delivered in accordance with clinical and industry best practice and any relevant legislation. Assessments required include:
* Colour Vision testing (Ishihara Screening only).
* Driver medical (DVLA Group 1).
* Driver medical (DVLA Group 2).
* Night worker assessment in accordance with the Working Time Regulations.
* Fork Lift Truck Medical in accordance with MOD JSP 950 Leaflet 6-6-2 (See Annex K for full specification).
* Railway Worker Medicals (Rail Industry Guidance Note GNGO/GN3655 Guidance on Medical Fitness for Railway Safety Critical Workers Issue Two: June 2014). See Annex N.
* Diving Medical in accordance with Diving at Work Regulations 1997.
* Confined Spaces Working Assessment.
* Working at Height.
* Seafarers Medical Assessment in accordance with MCA standards (ENG1).
* Marine Medical Assessment in accordance with MCA standards (ML5).
* Ministry of Defence Police (MDP) fitness for role assessments, refer to MDP specific Annex A for full specification:
	+ Fitness for Work Medical including hearing conservation and health surveillance.
	+ MDP AFO Audiometry Test.
	+ Colour Vision Testing (both 2nd or 3rd edition City University test and Farnsworth - Munsell D15).
	+ Mental Health Review.
	+ In work referral – fitness to undertake the MDP Multi-Stage Fitness Test.
	+ Specialist all-inclusive Fit to Work Medical (Marine Officers only).
	+ Weight of equipment.
* Northern Ireland Security Guard Service (NISGS) fitness for role assessment refer to NISGS specific Annex B for full specifications:
	+ Periodic Fitness for role Assessment (“NISGS Annual Firearms Medical).
	+ NISGS AFO Audiometry Test.
	+ Colour Vision Testing (both 2nd or 3rd edition City University test and Farnsworth - Munsell D15).
	+ Mental Health Review.
	+ Weight of equipment.
* Defence Fire & Rescue (DFR) fitness for role assessment. Refer to DFR specific Annex C:
	+ Operational Fitness Assessment
	+ Pre-Course Fitness Assessment
	+ Return to Work Fitness Assessment
* Vessel Traffic Services (VTS Operator) periodic fitness for role assessment, refer to VTS specific Annex E for full specification.
* Physical and Adventurous Training (PAT) refer to PAT specific Annex H for full specification.
* Healthcare Worker and Non-Clinical Healthcare Staff (NCHS) refer to Annex G for full specifications.
* Drug and Alcohol Testing for pre-employment screening and intervention testing when it is suspected the individual is impaired through alcohol or drugs.
* Chemical, Biological, Radiological and Nuclear Defence (CBRN) assessment.
* Breathing apparatus medical and face fit testing.
* Hearing Test (testing and comparison to a specific acuity standard).
	+ 1. **Chemical, Biological, Radiological and Nuclear Defence (CBRN) Assessment**
		2. MOD Civilian Personnel who work as part of the Chemical, Biological, Radiological and Nuclear Decontamination Team (CBRN) provide response to major incidents that may involve Chemical, Biological, Radiological and Nuclear Hazards which may require decontamination and treatment of exposed personnel.
		3. Due to the nature of the work members of the CBRN Team will be required to wear additional personal protective equipment (PPE); they may need to wear Self Contained Breathing Apparatus (SCBA) under adverse operating conditions where significant energy expenditure is required.
		4. CBRN Decontamination Team members will need to have good levels of physical fitness and stamina and be physically and mentally resilient. To avoid placing themselves or others at risk when working in these conditions it is important that they are assessed as medically capable of undertaking this type of work.
		5. A comprehensive health assessment is required annually to ensure their suitability for this work.
		6. Volumes of < 20 per annum are estimated, for delivery in the HMNB Clyde region; Reading and Plymouth areas.
		7. There are no defined MOD clinical standards of fitness. Assessment shall be conducted to clinical and industry best practice and any relevant legislation.
	1. **Health Surveillance Services**
		1. MOD have a confirmed requirement for the following Health Monitoring / Surveillance services. Unless otherwise stated that MOD specific standards apply, all assessment shall be delivered in accordance with clinical and industry best practice and any relevant legislation.
* Ionising Radiation Medical
* Asbestos Health Check
* Hand Arm Vibration (HAV)
* Whole Body Vibration
* Diving Medical
* Hearing Surveillance (HSE Audiometry/Noise)
* Respiratory Surveillance
* Otto Fuel Worker Health Surveillance (in accordance with MOD JSP 950 [Leaflet 6-6-3: Health surveillance of Otto Fuel workers](http://defenceintranet.diif.r.mil.uk/libraries/library1/DINSJSPS/20151214.1/20150930-JSP_950_Lft_6-6-3_V1.1.pdf), see Annex J and further specification of this service at section 19.15.2.
	+ Note: Delivery of resting electrocardiogram (ECG) testing is required only where clinically indicated.
	+ Periodic Health Surveillance variant of this service shall exclude delivery of resting electrocardiogram (ECG) from the scope of delivery and pricing for this service.
	+ Additional charges for ECG may be applied, where required for periodic Health Surveillance.
* Petroleum Installation Worker Surveillance (in accordance with JSP 375 Pt. 2 Vol 3) see Annex L for further specification for this service.
* Dermatology / skin assessment – for those at risk of occupational dermatitis
* Health surveillance exposure to substances hazardous to health (COSHH)
	+ 1. **Otto Fuel Worker Health Surveillance**
			1. MOD employees may be exposed to Otto Fuel as a result of fuelling of torpedoes or other weapons, including the maintenance and cleaning of weapon components and the cleaning of workshops where such work takes place.
		2. Employees who, in the course of their normal duties, regularly visit workshops where Otto refuelling and/or maintenance and cleaning of Otto fuelled weapons takes place may be inadvertently exposed.
		3. Pre-placement and Health surveillance requirements, including a health questionnaire are provided in MOD JSP 950 Part 1 Leaflet 6-6-3 (see Annex J), with the exception of urinalysis related to propylene glycol dinitrate (PGDN). Note: The requirement for PGDN urinalysis was waived in 2017 as a result of the Health and Safety Laboratory (HSL) ceasing such testing and there being no known provider of an equivalent test.
		4. It is preferred that the OH Service Provider makes available an equivalent health questionnaire and employee declaration for completion via their on-line portal.
		5. **Health Surveillance Exposure to Substances Hazardous to Health (COSHH)**
		6. Some MOD roles may expose employees to substances hazardous to health, including but not limited to:
			1. Lead;
			2. Isocyanates;
			3. Man Made Mineral Fibres;
			4. Wood dust and other respiratory sensitisers;
			5. Skin irritants or sensitisers with potential to cause occupational dermatitis;
			6. Industrial chemicals and explosives.
		7. Where defined by the MOD’s workplace and process risk assessments, undertake periodic medical examination or routine health surveillance, as required by health and safety legislation in the minimum number of appointments necessary. A written report of the result of such action is to be provided.
		8. **Petroleum Installation Workers Health Surveillance**
			1. MOD requires Health Surveillance meeting the requirements of JSP 375 Pt. 2 Vol 3 (Annex L) and industry best practice.
	1. **Immunisations, Vaccinations, Inoculations, Medications and Blood Tests**
		1. MOD have a requirement for vaccinations amongst employees travelling overseas and those within a number of specialist roles, including divers, clinical workers; Fire Fighters and MOD Police.
		2. MOD requires the full range of Immunisations and blood tests listed below to be available.

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| **Immunisations, Vaccinations, Inoculations:** |
| BCG |
| Cholera oral full course |
| Combined Diphtheria, Tetanus and Polio |
| Combined Hepatitis A + B |
| Combined Hepatitis A + B (paediatric) |
| Combined Hepatitis A + Typhoid |
| Diftavax (Combined Diphtheria and Tetanus) |
| Diphtheria |
| Flu |
| Hepatitis A |
| Hepatitis B |
| Hepatitis C |
| Hepatyrix |
| Japanese Encephalitis |
| Junior Hepatitis B |
| Mantoux test |
| Meningitis ACWY |
| Meningococcal Meningitis |
| Polio |
| Rabies |
| Rubella |
| TB |
| Tetanus |
| Tick Encephalitis |
| Tick Encephalitis (Junior) |
| Typhoid |
| Typhoid (Oral, price for full course) |
| VZV (Chicken pox) |
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| **Blood Tests** |
| Blood Group |
| Blood Tests - Hepatitis A Antibody |
| Blood Tests - Hepatitis B Antibody |
| Blood Tests - Hepatitis C Antibody |
| Diphtheria immunity |
| Hepatitis B Surface Antigen |
| HIV Antibodies |
| Rubella Antibodies |
| Urine Cytology |
| Brucella |
| Q Fever |
| T Spot Test – TB |
| Measles |
| Varicella Zoster |

Yellow Fever |
| Anthrax |

* + 1. Seasonal Flu vaccination shall be restricted to MOD civilian employees employed within a clinical role, or working within a clinical environment.
		2. The MOD requires availability of the following medicines:

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| **Medications** |
| Diarrhoea: Diarrhoea Treatment Kit  |
| Diarrhoea: Loperamide |
| Insect Repellent: Diethyltoluamide (DEET – Insect repellent) |
| Broad spectrum: Doxycycline Tablets  |
| Malaria : Chloroquine tablets |
| Malaria : Malarone tablets |
| Malaria : Malarone Paediatric tablets |
| Malaria : Avloclor tablets |
| Malaria : Mefloquine (Lariam) tablets |
| Malaria : Paludrine tablets |
| Insect Repellent: Mosi Guard 50% Spray |
| Insect Repellent: Mosi Guard Natural |
| Influenza type A and B: Tamiflu |

* 1. **Petroleum Installation Workers Health Surveillance**
		1. MOD requires Health Surveillance meeting the requirements of JSP 375 Pt. 2 Vol 3 (Annex L) and industry best practice.
	2. **Healthcare Worker and Non-Clinical Healthcare Staff (NCHS)**
		1. MOD Healthcare workers (HCW) and Non-Clinical Healthcare Staff (NCHS) may be exposed to additional risks and may present a risk to colleagues and patients beyond those presented by standard MOD civilian staff. Healthcare Workers undertake direct patient care and will include doctors, dentists, nurses, healthcare assistants and other healthcare support workers, allied health professionals. NCHS refers to any civilian MOD employee working in a healthcare environment, such as a medical or dental centre, but not providing direct clinical care; such as reception, administrative and facilities management staff.
		2. MOD require services specific to this employee community – defined in Annex G.

			1. HCW Pre-employment / Pre-appointment health assessment.
			2. Health checks for HCWs who may undertake exposure-prone procedures (EPP) or work in exposure-prone environments (EPE).
			3. Health checks for Overseas HCWs who may undertake exposure-prone procedures (EPP) or work in exposure-prone environments (EPE).
			4. Pre-Placement Health checks for HCW candidates who may undertake exposure-prone procedures (EPP) or work in exposure-prone environments (EPE).Advice and Testing HCWs potentially exposed to Blood Borne Viruses (BBV).
			5. Advice and Testing Overseas HCWs potentially exposed to Blood Borne Viruses (BBV).

				1. **Optional service**:- 24/7 Telephone advice service in relation to exposure to BBV.
				2. **Note**: If taken up, application of this service in preference to standard delivery hours only will be agreed at call-off and included within the terms and conditions for the contract. Prices for the 24-hour delivery option will be excluded from the pricing evaluation.
			6. HCW - Occupational Health assessment and reporting related to disciplinary procedures including statutory regulatory hearings (e.g. GMC, GDC, HCPC).
			7. Occupational Health clinician attendance at disciplinary panel.
	3. **Physiotherapy Services**
		1. Self-referral for Physiotherapy services by MOD employees shall be rejected by the OH Service Provider.
		2. Physiotherapy services to MOD personnel shall be limited to ‘work related’ conditions only. This includes conditions assessed as being caused by working conditions, causing an absence from work, or resulting in lack of full work capability.
		3. Physiotherapy services within MOD shall be limited to a maximum of six face to face sessions, except for DFR and MDP personnel. See relevant Annexes A and C.
	4. **Dyslexia Workplace Needs Assessment**
		1. The Dyslexia Workplace Needs Assessment should be carried out by a suitably qualified assessor to look at the specific job role of an individual, and the difficulties that they have as a result of their dyslexia.
		2. The assessor should also consider the working environment and the specific concerns and requirements of the organisation.
		3. The Assessment report should identify reasonable adjustments to support the dyslexic employee.
		4. For any IT hardware/software adjustments identified, the assessor should recommend equipment from the MOD ISS catalogue and if not, provide reasons why in the report.
	5. **Dyslexia Diagnosis Assessment**
		1. Diagnostic Assessment to be carried out by a suitably qualified assessor in accordance with SpLD Assessment Standards Committee (SASC) guidelines.
		2. The diagnostic assessment should take 3 – 4 hours to complete and followed by a full written report.
		3. Diagnostic assessment should consist of testing the cognitive ability of the employee to identify their individual profile of strengths and weaknesses and to confirm a diagnosis of dyslexia or another specific learning difficulty.
	6. **Workplace Assessments (including Environmental Assessments) and Workstation Assessments**
		1. **Workplace Assessments (WPA)**
			1. A full assessment by a suitably qualified assessor of the entire work environment to determine the employee's current ability to carry out their duties.
			2. The Assessment report should provide an opinion on any issues present and recommendations on adjustments required to assist the employee to fully perform their duties.  Report to provide an opinion on whether the employee is able to continue working whilst any adjustments are put into place.
			3. The WPA should include a workstation DSE, and assessment of the working environment.  The environment includes but is not limited to; heating, lighting, access routes, parking facilities and bathroom facilities.
			4. WPA may require assessment of tasks the employee undertakes as part of their role; including use of machinery, vehicles, chemicals and proximity to fumes.
			5. For any IT hardware/software adjustments identified, the assessor should recommend equipment from the MOD ISS catalogue and if not, provide reasons why in the report.
		2. **Workstation (Single Desk) Assessments**
			1. A full DSE Assessment by a suitably qualified assessor to determine correct layout of employee's current (or future) workstation and current ability to undertake their duties.
			2. Workstation definition includes, but is not limited to, the work surface suitability and layout and seating suitability and configuration. It should also take into account IT hardware/software, lighting and any other equipment in use, e.g. scanners, printers etc

..

* + - 1. The Assessment report should provide advice and recommendations on adjustments required to enable the employee to fully perform their duties and if the employee is able to continue working whilst any adjustments are put into place.
			2. Detailed and accurate person measurements to be completed for all assessments and included in the report. Template example below.

* + - 1. Equipment from the standard approved catalogue should be recommended wherever applicable. Where there are no suitable options within the approved catalogue for a particular case, the reasons should be fully explained in the written report. Where there are no suitable options within the approved catalogue for a particular case, the reasons should be fully explained in the written report.
			2. OH Service Provider shall liaise and co-ordinate with MOD Reasonable Adjustments Services Team and MOD IT Suppliers to familiarise themselves with IT software and peripheral equipment approved and tested for use within MOD environments.
			3. The OH Service Provider will ensure that all assessments are carried out by a competent person, for example a suitably qualified and experienced OH adviser who will collate the information, advise the individual and report back to the line manager. The report will contain advice on the adjustments and technical specification of any equipment required to remedy the situation.
			4. The OH Service Provider and their Workstation/Workplace Assessment and Occupational Therapy services provide advice that integrates with MOD policies on:
				1. Standard provision of workplace chairs/office equipment;
				2. Standard provision of computer/workstation equipment; and
				3. Reasonable behavioural changes users can apply.
			5. Where necessary the OH Service Provider may need to visit the workplace (office or home) of the user in the UK. For referrals from overseas telephone or video consultations may be required and advice provided.
			6. In circumstances where a clinical assessment indicates that further advice is required, the OH Service Provider will ensure that a referral to the OH physician is made and the individual and line manager informed immediately.
		1. **Workstation (Multiple Desk) Assessment**
			1. A full DSE Assessment of multiple workstations i.e. employee using more than one workstation (e.g. manning of reception desk in addition to usual workstation) by a suitably qualified assessor to determine correct layout of the employee's workstations and current ability to undertake their duties.
			2. Delivery should comply with the general requirements of section 19.22.2.
	1. **Occupational Therapy Assessment**
		1. MOD requires services relating to occupational therapy assessments.
		2. Provision of a full and comprehensive assessment of the individual’s current ability and aptitude to carry out their role.
		3. Assessment shall Identify and report on any permanent or temporary loss or lack of physical, sensory, mental or communication function.
		4. The consultation should be an assessment of the individuals full range of duties, taking into consideration working pattern, performance targets/deadlines, communication barriers etc to determine any adjustments required and to identify any underlying barriers preventing individual fully performing their duties.
		5. To include if necessary, testing against set criteria in skills e.g. literacy testing, numeracy testing, memory and cognitive as required.
		6. Assessor to identify issues and any adjustments required and to report on potential for the future.
		7. Occupational therapy assessments must be able to advise on a full range of employee conditions including but not limited to; Neuro-diverse conditions including Dyslexia, Dyspraxia, Memory, Concentration and/or Learning Difficulties. Also, where there are exceptionally complex or multiple conditions where the standard OH referral has been unable to identify suitable adjustments.
	2. **Hearing/Sight Impaired Assessment**
		1. The OH Service Provider shall provide the Contracting Authority with assessments relating to reasonable adjustments for hearing and sight loss where requested.
		2. The OH Service Provider shall provide a detailed report recommending suitable aids, adaptions, equipment, training and/or specialist support for both the Contracting Authority’s Personnel and the Referring Manager and make recommendations to the Contracting Authority’s Personnel of actions they can take to enable them to do their job more effectively**.**
	3. **Support Worker Services**
		1. The OH Service Provider shall, on request, assess a disabled Contracting Authority’s Personnel’s need for a clinical or non-clinical support worker to assist them at work. For example, support may include personal hygiene, support with eating, dressing and/or supporting disabled Contracting Authority Personnel in and around the workplace.
		2. The OH Service Provider shall carry out the assessment at the Contracting Authority Personnel’s place of work and shall book an appointment with the Contracting Authority Personnel upon receipt of a request from a referring manager.
		3. The OH Service Provider shall provide the Contracting Authority with a formal report of the assessment having been carried out and the report shall include advice relating to the tasks a support worker would be required to undertake.
		4. The OH Service Provider shall provide the Contracting Authority with a formal report of the assessment having been carried out and the report shall include advice relating to the tasks a support worker would be required to undertake.
		5. The OH Service Provider shall advise the Contracting Authority where to source a support worker to carry out the tasks recommended in the assessment.
		6. The OH Service Provider shall advise the Contracting Authority where to source a support worker to carry out the tasks recommended in the assessment.
	4. **Consultancy**
		1. MOD require consultancy services on occupational health and health and safety topics, which may require expertise from a wide range of clinical experts including Consultant Occupational Physicians.
	5. **Travel Clinics**
		1. MOD requires OH Service Provider assessment of vaccination requirements for employees travelling abroad on short work assignments (exceptionally up to six months).
		2. The OH Service Provider shall provide Contracting Authority’s Personnel with the most up to date public health advice including, at a minimum, travel warnings, restrictions, medical and/or disease risks.
		3. Administering of any recommended immunisation and supply of essential travel medication is required as part of this service.
		4. The scope of immunisation and treatments should cover at least the baseline within the CCS Framework attachment 4a Section 3.11.
1. **Monthly Contract Performance Monitoring Meetings & MI Reports**
	1. The MOD requires monthly Management Information to facilitate MOD understanding of demand for services, OH Service Provider performance and customer perception of the service.
	2. Management information shall be made available at least one week in advance of monthly contract performance review meetings.
	3. Management Information reports shall include as a minimum the following elements.
		1. KPI Performance – for each Service Level, the actual performance achieved taking into account all referral activities delivered the preceding month. Including volumes within each type of referral.
		2. Age Profile of open referrals. To be reported separately for each category of referral.
		3. Workload Volumes
			1. To include volumes of referrals in progress; opened in month; cleared in month; withdrawn in month.
			2. Volumes shall be broken down by MOD Business Unit.
		4. Appointment Cancellation / Non-Attendance Analysis
			1. Volumes of appointments subject to employee non-attendance; or cancellation with notice.
			2. Shall be broken down according to source of the cancellation (OH Service Provider / MOD employee or Line Manager) and reason for cancellation.
			3. Reporting of the scale of employee non-attendance; or cancellation incurring charges in context, including:
				* Ratio of Volume of cancelled / non-attended consultations; in relation to overall number of consultations booked.
				* Ratio of Cost of cancelled / non-attended consultations; in relation to overall cost of consultations.
				* Comparison of MOD non-attendance ratios with similar organisations.
		5. OH report corrections analysis – To include volumes and reasons for OH reports being corrected by the OH Service Provider.
		6. Complaints Analysis
			1. Summary of complaints received the preceding month,
			2. Analysis of contributing factors; rate of complaints; historic complaints volumes and trends.
		7. Customer Satisfaction Survey Results summary
		8. Summary of OH Service Provider clinical audit results
			1. A summary of the number of clinical audits undertaken (relevant to service delivered to MOD and personnel involved in delivery to MOD) undertaken in the period.
			2. A summary of the number where adverse findings were identified.
			3. A summary of the types of adverse findings identified; what corrective action was taken and the outcome.
		9. **Additional Business Unit Specific Management Information (MI):**
			1. Ministry of Defence Police (MDP) require additional monthly MI providing detailed information of the volumes and outcomes of the pre-placement and fitness for role services used.
			2. Full details are provided within Annex A
2. **Quarterly Contract Performance Monitoring / Governance**
	1. In addition to the monthly Performance Review Meetings as described in section 20, the Contracting Authority will chair a quarterly meeting of an ***OH Contract Management Group***, at which the OH Service Provider shall provide representation.
		1. The scope of the forum will be to identify emerging trends or problems; discuss any on-going issues relating to the Contract; consideration of new requirements, review of annual clinical governance reports; developments and improvements in service delivery.
		2. OH Service Provider attendance shall include the call off contract manager.
3. **Clinical Governance**
	1. The OH Service Provider shall conduct an annual Service review in respect of each Contract Year. The Service review shall be supported by a report that provides details of the methodology applied to complete the review, the sampling techniques applied, details of any issues identified and remedial action to be taken.
	2. The OH Service Provider shall make the results available to the Contracting Authority in advance of periodic contract review meetings.
	3. The OH Service Provider shall include the following in the review:
		1. OH Service Provider Personnel levels are being maintained and monitored to cope with Service demands and that a OH Service Provider Personnel resource planning process is regularly reviewed and maintained.
		2. All clinical policies and procedures are being monitored and followed.
		3. The maintenance and secure storage of medical records.
		4. OH Service Provider Personnel are professionally accredited in order to provide the Services.
		5. The OH Service Provider is compliant with SEQOHS standards.
		6. OH Service Provider Personnel professional qualification accreditation is monitored and maintained at organisational level; and
		7. The complaints process is effectively monitored and maintained by sampling 10% of complaints and reviewing that all processes are followed and appropriate records maintained.
		8. The OH Service Provider shall work with the relevant Contracting Authority to track and report on any remedial actions identified and the Parties agree that they shall bear their own respective costs and expenses incurred in respect thereof.

**Annexes**

|  |  |  |
| --- | --- | --- |
| **Annex** | **Description** | **File****Attachment** |
| 1.
 | MDP Service Specific Requirements | Please see attached |
| 1.
 | NISGS Service Specific Requirements | “ |
| 1.
 | Defence Fire & Rescue (DFR) Service Specific Requirements | “ |
| 1.
 | MOD Guard Service (MGS) Service Specific Requirements | “ |
| 1.
 | Vessel Traffic Services (VTS) Service Specific Requirements | “ |
| 1.
 | Salvage & Mooring Officer (SALMO) Service Specific Requirements | “ |
| 1.
 | Healthcare Worker and Non-Clinical Healthcare Staff (NCHS) Service Specific Requirements | “ |
| 1.
 | Physical & Adventurous Training Instructors (PAT) Service Specific Requirements | “ |
| 1.
 | MOD Site locations including postcodes  | “ |
| 1.
 | JSP 950 [Leaflet 6-6-3: Health surveillance of Otto Fuel workers](http://defenceintranet.diif.r.mil.uk/libraries/library1/DINSJSPS/20151214.1/20150930-JSP_950_Lft_6-6-3_V1.1.pdf) | “ |
| 1.
 | JSP 950 Leaflet 6-6-2: Fork Lift Truck Medical | “ |
| 1.
 | JSP 375 Pt. 2 Vol 3: Petroleum Installation Worker Surveillance | “ |
| 1.
 | MOD Annual Location Statistics | “ |
| 1.
 | RSSB – Guidance on medical fitness for Railway Workers | “ |
| 1.
 | Intentionally Blank |  Intentionally Blank |
|  | Intentionally Blank | Intentionally Blank |
|  | Intentionally Blank | Intentionally Blank |
| 1.
 | Defence Business Services - Security Statement of Requirements v1.3 | Please see attached |
| 1.
 | Defence Business Services - Security Aspects Letter. | “ |
| 1.
 | Royal Fleet Auxiliary (RFA) Service Specific Requirements | “ |

**Note – All File Attachments are included in Attachment “Annex A to Schedule 2 File Attachments”**

**Schedule 3 - Contract Data Sheet**

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| **General Conditions** |
| **Condition 2 – Duration of Contract:** The Contract shall commencement date shall be: 2021/02/04        The Contract expiry date shall be: 2022/05/20  |
| **Condition 4 – Governing Law:**Contract to be governed and construed in accordance with: English LawSolicitors or other persons based in England and Wales (or Scotland if Scots Law applies) irrevocably appointed for Contractors without a place of business in England (or Scotland, if Scots Law applies) in accordance with clause 4.g (if applicable) are as follows: |
| **Condition 8 – Authority’s Representatives:**The Authority’s Representatives for the Contract are as follows:Commercial: Andy Wood (as per DEFFORM 111)Project Manager: Marc Kelly (as per DEFFORM 111) |
| **Condition 19 – Notices:**Notices served under the Contract shall be sent to the following address:Authority: Head Office Commercial, Rm2.1.02, Kentigern House, 65 Brwon Street, Glasgow, G2 8EX (as per DEFFORM 111)Contractor: OH Assist Limited T/A Optima Health,Notices can be sent by electronic mail? Yes |
| **Condition 20.a – Progress Meetings:**The Contractor shall be required to attend the following meetings: as required by the MOD Project Manager/ Commercial Branch |
| **Condition 20.b – Progress Reports:**The Contractor is required to submit the following Reports: as required by the MOD Project Manager/ Commercial BranchReports shall be Delivered to the following address: See the Project Manager and Commercial representatives’ addressed as at the Defform 111 |

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| **Supply of Contractor Deliverables** |
| **Condition 21 – Quality Assurance:**Is a Deliverable Quality Plan required for this Contract? NoIf required, the Deliverable Quality Plan must be set out as defined in AQAP 2105 and delivered to the Authority (Quality) within 0 Business Days of Contract Award. Once agreed by the Authority the Quality Plan shall be incorporated into the Contract. The Contractor shall remain at all times solely responsible for the accuracy, suitability and applicability of the Deliverable Quality Plan.Other Quality Assurance Requirements: As required by the MOD Sponsor Manager and Commercial representatives |
| **Condition 22 – Marking of Contractor Deliverables:**        Special Marking requirements: N/A |
| **Condition 24 - Supply of Data for Hazardous Contractor Deliverables, Materials and Substances:**A completed Schedule 6 (Hazardous Contractor Deliverables, Materials or Substance Statement), and if applicable, Safety Data Sheet(s) are to be provided by e-mail with attachments in Adobe PDF or MS WORD format to:a) The Authority’s Representative (Commercial): andy.wood602@mod.gov.ukb) Defence Safety Authority – DSA-DLSR-MovTpt-DGHSIS@mod.ukto be Delivered no later than the following date: 2020/09/24 00:00:00 |
| **Condition 25 – Timber and Wood-Derived Products:**A completed Schedule 7 (Timber and Wood-Derived Products Supplied under the Contract: Data Requirements) is to be provided by e-mail with attachments in Adobe PDF or MS WORD format to the Authority’s Representative (Commercial)to be Delivered by the following date: 2020/09/24 00:00:00 |
| **Condition 26 – Certificate of Conformity:**Is a Certificate of Conformity required for this Contract? No Applicable to Line Items: N/AIf required, does the Contractor Deliverables require traceability throughout the supply chain? No Applicable to Line Items: N/A |
| **Condition 28.b – Delivery by the Contractor:**The following Line Items are to be Delivered by the Contractor:All        Special Delivery Instructions:N/AEach consignment is to be accompanied by a DEFFORM 129J. |
| **Condition 28.c - Collection by the Authority:**The following Line Items are to be Collected by the Authority:NoneSpecial Delivery Instructions:        N/AEach consignment is to be accompanied by a DEFFORM 129J.Consignor details (in accordance with 28.c.(4)):Line Items: As per the individual Order Address: As per the individual Order Consignee details (in accordance with condition 23):Line Items: As per the individual Order Address: As per the individual Order  |
| **Condition 30 – Rejection:**The default time limit for rejection of the Contractor Deliverables is thirty (30) days unless otherwise specified here:The time limit for rejection shall be 30 Business Days. |
| **Condition 32 – Self-to-Self Delivery:**Self-to-Self Delivery required? NoIf required, Delivery address applicable:N/A |

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| **Pricing and Payment** |
| **Condition 35 – Contract Price:**All Schedule 2 line items shall be FIRM Price other than those stated below:Line Items N/AClause 47: Limit of Liability - £2,666,000.00 (ex VAT) refers |

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| **Termination** |
| **Condition 42 – Termination for Convenience:**The Notice period for terminating the Contract shall be twenty (20) days unless otherwise specified here:The Notice period for termination shall be 20 Business Days |

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| **Other Addresses and Other Information** *(forms and publications addresses and official use information)* |
| DEFFORM 111 |

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

**Contract No: 700946373**

**1.** **Authority Changes**

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

**2.** **Notice of Change**

a. If the Authority requires a Change, it shall serve a Notice (an "Authority Notice of Change") on the Contractor.

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

**3.** **Contractor Change Proposal**

a. As soon as practicable, and in any event within fifteen (15) Business Days (or such other period as the Parties may agree) after having received the Authority Notice of Change, the Contractor shall deliver to the Authority a Contractor Change Proposal.

b. The Contractor Change Proposal shall include:

1. the effect of the Change on the Contractor’s obligations under the Contract;

2. a detailed breakdown of any costs which result from the Change;

3. the programme for implementing the Change;

4. any amendment required to this Contract as a result of the Change, including, where appropriate, to the Contract Price; and

5. such other information as the Authority may reasonably require.

c. The price for any Change shall be based on the prices (including all rates) already agreed for the Contract and shall include, without double recovery, only such charges that are fairly and properly attributable to the Change.

**4.** **Contractor Change Proposal – Process and Implementation**

a. As soon as practicable after the Authority receives a Contractor Change Proposal, the Authority shall:

1. evaluate the Contractor Change Proposal;

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

b. As soon as practicable after the Authority has evaluated the Contractor Change Proposal (amended as necessary) the Authority shall:

1. indicate its acceptance of the Change Proposal by issuing an amendment to the Contract in accordance with Condition 6 (Amendments to Contract); or

2. serve a Notice on the Contractor rejecting the Contractor Change Proposal and withdrawing (where issued) the Authority Notice of Change.

c. If the Authority rejects the Change Proposal it shall not be obliged to give its reasons for such rejection.

d. The Authority shall not be liable to the Contractor for any additional work undertaken or expense incurred unless a Contractor Change Proposal has been accepted in accordance with Clause 4b.(1) above.

**5.** **Contractor Changes**

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

**Schedule 5 - Contractor's Commercial Sensitive Information Form (i.a.w. condition 13)**

**Contract No:   700946373**

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| Contract No:    700946373    |
| Description of Contractor’s Commercially Sensitive Information:

|  |
| --- |
| The full tender/proposal document including but not limited to the information set out below.  |

 |
| Cross Reference(s) to location of sensitive information: All pricing information as contained within the pricing schedule.

|  |
| --- |
| All details of the supplier’s personnel including any personnel sensitive data as contained within the responses to questionnaires 1 to 7 inclusive, all attached Appendices and DEFFORM 47; All details of our solution and description of services including that of any subcontractors as contained within the responses to questionnaires 1 to 7 inclusive, all attached Appendices and DEFFORM 47; All details of our standard operating procedures and ‘know how’ as contained with the responses to questionnaires 1 to 7 inclusive, all attached Appendices and DEFFORM 47; and Service performance related material, for Optima Health and any subcontractors, including but not limited to: a) regular and ad-hoc service reports; b) results of benchmarking and case studies; and c) materials disclosed in relation to audits as contained within the responses to questionnaires 1 to 7 inclusive, all attached Appendices and DEFFORM 47.  |

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| Explanation of Sensitivity:

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| --- |
| All pricing information – this information is commercially sensitive; Any details of supplier’s personnel including any personnel sensitive data – to comply with the requirements of the Data Protection Act; All details of our solution and description of services including that of any subcontractors – protection of intellectual property rights; and Service performance of related material, for Optima Health and any subcontractors, including but not limited to: a) regular and ad-hoc service reports; b) results of benchmarking and case studies; and c) materials disclosed in relation to audits - protection of intellectual property rights  |

 |
| Details of potential harm resulting from disclosure:

|  |  |
| --- | --- |
|  All pricing information – competitive disadvantage; Any details of supplier’s personnel including any personnel sensitive data – breach of Data Protection Act; All details of our solution and description of services including that of any subcontractors –competitive disadvantage; and

|  |
| --- |
| Service performance of related material, for Optima Health and any subcontractors, including but not limited to: a) regular and ad-hoc service reports; b) results of benchmarking and case studies; and c) materials disclosed in relation to audits - competitive disadvantage.  |

 |

 |
| Period of Confidence (if applicable):    In perpetuity.  |
| Contact Details for Transparency / Freedom of Information matters:Name:  Emma Wiberg  Position: Quality Assurance Manager Address: 2nd Floor, Cadoro Building, 45 Gordon Street, Glasgow, G1 3PE   Telephone Number: 07525805691     Email Address: emma.wiberg@optimahealth.co.uk     |

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

**Hazardous Contractor Deliverables, Materials or Substances**

**Statement by the Contractor**

Contract No:   700946373

Contract Title: The provision of MOD Civilian Occupational Health Services

Contractor:     OH Assist Limited   T/A Optima Health,

Date of Contract: 07/01/2021

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

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

Contractor’s Signature:    Jo Newey

Name:    Jo Newey

Job Title:   Business Development Director

Date:     02/11/2020

\* Select the response as appropriate

To be completed by the Authority

Domestic Management Code (DMC):

NATO Stock Number:

Contact Name:

Contact Address:

Copy to be forwarded to:

Hazardous Stores Information System (HSIS)

Department of Safety & Environment, Quality and Technology (D S & EQT)

Spruce 2C, #1260

MOD Abbey Wood (South)

Bristol BS34 8JH

Emails to be sent to:

DESTECH-QSEPEnv-HSISMulti@mod.gov.uk

**Schedule 7 - Timber and Wood- Derived Products Supplied under the Contract**

**Data Requirements for Contract No:  700946373**

The following information is provided in respect of condition 25 (Timber and Wood-Derived Products):

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Schedule of Requirements item and timber product type** | **Volume of timber Delivered to the Authority with FSC, PEFC or equivalent evidence** | **Volume of timber Delivered to the Authority with other evidence** | **Volume (as Delivered to the Authority) of timber without evidence of compliance with Government Timber Procurement Policy** | **Total volume of timber Delivered to the Authority under the Contract** |
| **N/A** | **N/A** | **N/A** | **N/A** | **N/A** |
|  |  |  |  |  |
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**Schedule 8 - Acceptance Procedure (i.a.w. condition 29)**

**Contract No: 700946373**

**29.** **Acceptance**

a. Acceptance of the Contractor Deliverables shall occur in accordance with any acceptance procedure specified in Schedule 8 (Acceptance Procedure). If no acceptance procedure is so specified acceptance shall occur when either:

(1) the Authority does any act in relation to the Contractor Deliverable which is inconsistent with the Contractor’s ownership; or

(2) the time limit in which to reject the Contractor Deliverables defined in clause 30.b has elapsed.

**Schedule 9 - CCS RM 3795 Lot 2 Call Off Terms and Conditions**

Please see attachment Schedule 9 – CCS RM 3795 Lot 2 Call Off Terms and Conditions

**Schedule 10 – Intentionally left blank**

**Schedule 11 - Pricing**

Please see attached Schedule 11 – Pricing Excel Spreadsheet

 **Schedule 12 – TUPE Employee Information**

Please see attached Schedule 12 – TUPE – Employee Details Excel Spreadsheet

**Schedule 13 - Statement Relating to Good Standing**

**The Statement Relating To Good Standing**

**Contract Title:** The provision of MOD Civilian Occupational Health Services

**Contract Number:** 700946373

1. We confirm, to the best of our knowledge and belief, that OH Assist Ltd Trading as Optima Health including its directors or any other person who has powers of representation, decision or control or is a member of the administrative, management or supervisory body of OH Assist Ltd Trading as Optima Health has not been convicted of any of the following offences within the past 5 years:

a. conspiracy within the meaning of section 1 or 1A of the Criminal Law Act 1977 or article 9 or 9A of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 where that conspiracy relates to participation in a criminal organisation as defined in Article 2 of Council Framework Decision 2008/841/JHA;

b. corruption within the meaning of section 1(2) of the Public Bodies Corrupt Practices Act 1889 or section 1 of the Prevention of Corruption Act 1906;

c. common law offence of bribery;

d. bribery within the meaning of section 1,2 or 6 of the Bribery Act 2010; or section 113 of the Representation of the People Act 1983;

e. any of the following offences, where the offence relates to fraud affecting the European Communities financial interests as defined by Article 1 of the Convention on the protection of the financial interests of the European Communities:

(1) the common law offence of cheating the Revenue;

(2) the common law offence of conspiracy to defraud;

(3) fraud or theft within the meaning of the Theft Act 1968, the Theft Act (Northern Ireland) 1969, the Theft Act 1978 or the Theft (Northern Ireland) Order 1978;

(4) fraudulent trading within the meaning of section 458 of the Companies Act 1985, Article 451 of the Companies (Northern Ireland) Order 1986 or section 933 of the Companies Act 2006;

(5) fraudulent evasion within the meaning of section 170 of the Customs and Excise Management Act 1979 or section 72 of the Value Added Tax Act 1994;

(6) an offence in connection with taxation in the European Union within the meaning of section 71 of the Criminal Justice Act 1993;

(7) destroying, defacing or concealing of documents or procuring the extension of a valuable security within the meaning of section 20 of the Theft Act 1968 or section 19 of the Theft Act (Northern Ireland) 1969;

(8) fraud within the meaning of section 2,3 or 4 of the Fraud Act 2006; or

(9) the possession of articles for use in frauds within the meaning of section 6 of the Fraud Act 2006, or making, adapting, supplying or offering to supply articles for use in frauds within the meaning of section 7 of that Act;

f. any offence listed:

(1) in section 41 of the Counter Terrorism Act 2008; or

(2) in Schedule 2 to that Act where the court has determined that there is a terrorist connection;

g. any offence under sections 44 to 46 of the Serious Crime Act 2007 which relates to an offence covered by (f) above;

h. money laundering within the meaning of section 340(11) and 415 of the Proceeds of Crime Act 2002;

i. an offence in connection with the proceeds of criminal conduct within the meaning of section 93A, 93B, or 93C of the Criminal Justice Act 1988 or article 45, 46 or 47 of the Proceeds of Crime (Northern Ireland) Order 1996;

j. an offence under section 4 of the Asylum and Immigration (Treatment of Claimants etc) Act 2004;

k. an offence under section 59A of the Sexual Offences Act 2003;

l. an offence under section 71 of the Coroners and Justice Act 2009;

m. an offence in connection with the proceeds of drug trafficking within the meaning of section 49, 50 or 51 of the Drug Trafficking Act 1994; or

n. an offence under section 2 or 4 of the Modern Slavery Act 2015;

o. any other offence within the meaning of Article 57(1) of Public Contracts Directive –

(1) as defined by the law of any jurisdiction outside England and Wales and Northern Ireland: or

(2) created in the law of England and Wales or Northern Ireland after the day on which these Regulations were made;

p. any breach of its obligations relating to the payment of taxes or social security contributions where the breach has been established by a judicial or administrative decision having final and binding effect in accordance with the legal provisions of the country in which it is established or with those of any jurisdictions of the United Kingdom.

a. has fulfilled its obligations relating to the payment of taxes and social security contributions of the country in which it is established or with those of any jurisdictions of the United Kingdom;

b. is not bankrupt or is not the subject of insolvency or winding-up proceedings, where its assets are being administered by a liquidator or by the court, where it is in an agreement with creditors, where its business activities are suspended or it is in any analogous situation arising from a similar procedure under the laws and regulations of any State;

c. has not committed an act of grave professional misconduct, which renders its integrity questionable;

d. has not entered into agreements with other suppliers aimed at distorting competition;

e. Is not subject to a conflict of interest within the meaning of regulation 24;

f. has not been involved in the preparation of this procurement procedure which would result in distortion of competition which could not be remedied by other, less intrusive, measures other than exclusion from this procedure;

g. has not had a contract terminated, damages or other comparable sanctions taken as a result of significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract, or a prior concession contract as defined by the Concession Contracts Regulations 2016;

h. is not guilty of serious misrepresentation in providing any information required by this statement.

i. has not unduly influenced the decision-making process of the Authority or obtained confidential information that may confer upon it undue advantages in the procurement procedure;

j. in relation to procedures for the award of a public services contract, is licensed in the relevant State in which he is established or is a member of an organisation in that relevant State where the law of that relevant State prohibits the provision of the services to be provided under the contract by a person who is not so licensed or who is not such a member;

k. has fulfilled its obligations in the fields of environmental, social and labour law established by EU law, national law, collective agreements or by the international environmental, social and labour law provisions listed in the Public Contracts Directive as amended from time to time (as listed in PPN 8/16 Annex C).

2. OH Assist Ltd Trading as Optima Health further confirms to the best of our knowledge and belief that within the last 3 years it:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| I confirm that to the best of my knowledge my declaration is correct. I understand that the contracting authority will use the information in the selection process to assess my organisation’s suitability to be invited to participate further in this procurement, and I am signing on behalf of my organisation. I understand that the Authority may reject my submission ifthere is a failure to provide a declaration or if I provide false or misleading information.

|  |
| --- |
| **Organisation’s name** OH Assist Ltd Trading as Optima Health |
| **Signed** Jo Newey |
| **Name** Jo Newey |
| **Position** Business Development Director |
| **Date** 02/11/2020 |

  |

**DEFFORM 111**

**DEFFORM 111**

**Appendix - Addresses and Other Information**

**1. Commercial Officer**

Name: Andy Wood

Address: Def Comrcl-HO BP1-2a, DBS Team, Head Office Commercial, Rm 2.1.02, Kentigern House 65 Brown Street, Glasgow G2 8EX

Email: andy.wood602@mod.gov.uk         0141 224 2460

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

Name: Marc Kelly

Address Mailpoint 6030-6, DBS Civ Pers-SAS Ops CL, MOD, Abbey Wood North, Bristol, BS34 8QW

Email: Marc.Kelly104@mod.gov.uk                 03067985030

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

N/A

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

 N/A

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

**Branch/Name:** N/A

**(b) U.I.N.** As per individual order

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

**6.** **Intentionally Blank**

**7.** **Quality Assurance Representative:**

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

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

**8. Public Accounting Authority**

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

 44 (0) 161 233 5397

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

**9. Consignment Instructions** The items are to be consigned as follows: As per individual order

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

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

Air Freight Centre

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

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

Surface Freight Centre

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

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

**B.JSCS**

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

JSCS Fax No. 01869 256837

[www.freightcollection.com](http://www.freightcollection.com/)

**11. The Invoice Paying Authority**

Ministry of Defence, DBS Finance, Walker House, Exchange Flags Liverpool, L2 3YL

 0151-242-2000 Fax: 0151-242-2809

**Website is:** [https://www.gov.uk/government/organisations/ministry-of-defence/about/procurement#invoice-processing](#https://www.gov.uk/government/organisations/ministry_of_defence/about/procurement)

**12. Forms and Documentation are available through \*:**

Ministry of Defence, Forms and Pubs Commodity Management PO Box 2, Building C16, C Site, Lower Arncott, Bicester, OX25 1LP (Tel. 01869 256197 Fax: 01869 256824)

**Applications via fax or email:** Leidos-FormsPublications@teamleidos.mod.uk

**\* NOTE**

**1.** Many **DEFCONs** and **DEFFORMs** can be obtained from the MOD Internet Site: <https://www.aof.mod.uk/aofcontent/tactical/toolkit/index.htm>

2. If the required forms or documentation are not available on the MOD Internet site requests should be submitted through the Commercial Officer named in Section 1.

**Deliverables**

**Deliverables Note**

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

**Supplier Contractual Deliverables**

|  |  |  |  |
| --- | --- | --- | --- |
| Name | Description | Due | Responsible Party |
| Obligation Condition - Compliance with hazard reporting requirements for materials or substances are ordnance, munitions or explosives | In addition to the requirements of CHIP and / or the CLP Regulation 1272/2008 and REACH the Contractor shall comply with hazard reporting requirements of DEF STAN 07-085 Design Requirements for Weapons and Associated Systems. | Prior to the commencement date of the contract – see Schedule 6 | Supplier Organization |
| Obligation Condition 25.c - Source of Timber and Wood | If requested Evidence that the Timber and Wood-Derived Products supplied to the Authority comply with the requirements of clause 25.a or 25.b or both. | Prior to the commencement date of the contract – see Schedule 7 | Supplier Organization |
| Obligation Condition 37.c - Notification of applicable VAT | Notification of VAT liability or changes to it |  | Supplier Organization |
| Obligation Clause Condition 42.f - Subcontract Termination | inclusion of Termination clause in subcontracts over £250,000 |  | Supplier Organization |
| Obligation Condition 1.c.(2) - Notification of litigation  | Notification of; Litigation, arbitration, administrative, adjudication or mediation proceedings against itself or a Subcontractor | Within 5 working days of Notification of Litigation | Supplier Organization |
| Obligation Condition 1.c.(4) - Notification of Winding-up  | Notice of any proceedings or steps taken for its winding-up or dissolution or for the appointment of a receiver, administrator, liquidator, | Within 3 working days of proceedings or steps taken. | Supplier Organization |
| Obligation Condition 5.b - Notice of inconsistency between contract documents | If either Party becomes aware of any inconsistency within or between Contractual documents they shall notify the other Party forthwith | Within 3 working days of inconsistency being identified | Supplier Organization |
| Obligation Condition 18.a - Contractors Records (reminder) | maintain all records in connection with the Contract for a period of at least six (6) years | Ongoing | Supplier Organization |
| Obligation DEFCON 21 ( Edn 10/04) Clause - 3a - Maintenance of Deliverables (reminder) | To maintain at least one copy of all deliverable information to which DEFCON 21 applies during the period of the Contract and for at least two years after the Contract, or period as may be specified in the contract. | From date of commencement of the contract | Supplier Organization |
| Obligation Condition 20.a - Attendance at Progress Meetings | attend progress meetings at the frequency or times specified in the contract | As required by the MOD Sponsor / Commercial Team | Supplier Organization |
| Obligation Condition 20.b - Progress Reports | submit progress reports at the times and in the format specified in the contract | As required by the MOD Sponsor / Commercial Team | Supplier Organization |
| Obligation Condition 16.a - Change of Control of Contractor | Written Notification of any intended, planned or actual change in control of the Contractor, including any Sub-contractors. | Within 5 working days of any intended change of control. | Supplier Organization |
| Obligation Condition 23.e, 24.a, and 24.c - Safety Data Sheet | provide a Safety Data Sheet in respect of each Dangerous/Hazardous Material or substance supplied or deliverable containing such. | See Schedule 6. | Supplier Organization |
| Obligation Condition 24.d - Schedule 6 hazardous Contractor Deliverables, Materials or Substances Supplied under the Contract: Data Requirements | a completed Schedule 6 (Hazardous Contractor Deliverables, Materials or Substances Supplied under the Contract: Data Requirements) | See Schedule 6. | Supplier Organization |

**Buyer Contractual Deliverables**

|  |  |  |  |
| --- | --- | --- | --- |
| Name | Description | Due | Responsible Party |
| Obligation Condition 33.a 33.i - Import Export Licence Information | sufficient information, certification, documentation and other reasonable assistance to obtain necessary UK import/export licence or to facilitate the granting of export/import licences or authorisations by a foreign Government | N/A | Buyer Organization |
| Obligation Condition 33.l - Notification of restrictions in use due to non-UK licence  | If all or any part of the Contractor Deliverables are subject to Clause 33.k(1) or 33.k(2), it shall notify the Authority of this as soon as reasonably practicable | N/A | Buyer Organization |
| Obligation Condition 36.a - Register on CP&F | provide details for registration on CP&F | Prior to the contract commencement date. | Buyer Organization |
| Obligation Condition 42.a - Termination | Written notice of Termination of part or whole of contract |  | Buyer Organization |
| Obligation Condition 5.b - Notice of inconsistency between contract documents | If either Party becomes aware of any inconsistency within or between Contractual documents they shall notify the other Party forthwith | Within 3 working days of inconsistency being identified | Buyer Organization |
| Obligation Condition 8.c - Change in Authority Representatives | Written confirmation of any change to the Authorities Representatives | Within 5 working days of any change being implemented. | Buyer Organization |
| Obligation Condition 14.f.(6) - Use of confidentiality agreement | Disclosure of Information on a confidential basis shall be subject to a confidentiality agreement containing terms no less stringent than those placed on the Authority |  | Buyer Organization |
| Obligation Condition 16.b - Notification of Concern due to Change of Control | advise the Contractor in writing of any concerns due to Change of Control | Within 7 working days of receipt of a Notification of Change of Control. | BuyerOrganization |
| Obligation Condition 36.c - Payment | no later than 30 days from receipt of valid undisputed invoice | Ongoing. | BuyerOrganization |

**Service Delivery**

**Key Performance Indicators**

As detailed within the Statement of Requirements

**Quality Assurance Conditions**

**No Specific QMS**

No Specific Quality Management System requirements are defined. This does not relieve the Supplier of providing conforming Services under this Contract.

1. MOD Biannual Civilian Personnel Report 1 April 2020

<https://www.gov.uk/government/statistics/mod-biannual-civilian-personnel-report-2020> [↑](#footnote-ref-1)
2. It is expected that only in very rare occasions would it be appropriate for the OH Service Provider’s personnel to travel overseas. [↑](#footnote-ref-2)