Ministry of Defence

DEF Comrcl – HO BP3-1
Room 2.1.02
Kentigern House
65 Brown Street
Glasgow G2 8EX

Tel: ██████
Email: ██████

Textio Inc – by email

Your Reference: Your email of 17 Mar 2023

Our Reference: 707268453

Date: 21 March 2023

FAO: ██████

Dear ██████,

707268453 - Provision of Assistive Technology for MOD Recruiting

Offer of Contract 707268453 – Provision of Assistive Technology

- You are hereby informed of the Authority's requirement and you are invited to accept the Offer of Contract, detailed in the attached Schedule of Requirements. The Schedule describes the requirements and sets out the Contract terms and conditions which will take effect on acceptance by you of the Authority's Offer. The Authority acknowledges however, that the Textio Services Agreement signed and attached to this offer will take precedent over the Authority's Terms & Conditions.

- If you wish to accept this Offer, please complete and sign off the DEFFORM 10 returning one copy to me at the address shown above by email within 10 working days of the date of this Offer. Your acceptance of the Authority's Offer must be unqualified. If you do not accept the Authority's Offer within the period specified, then the Authority's Offer will lapse.

- No Contract will come into existence until you have accepted the Authority's Offer in accordance with paragraph 2 above. Accordingly, prior to your unconditional acceptance of this Offer, the Authority shall not be responsible in any way whatsoever for any:

1) work undertaken by you; or

2) costs incurred by you.

- When you have accepted the Authority's Offer in accordance with paragraph 2 above, you must proceed with the performance of the Contract.

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- Nothing contained in this Offer and in the attached Schedule shall be construed as notifying or implying acceptance by the Authority of any estimated or suggested price or of any condition of Contract which may have been referred to orally or in writing in any previous discussion or correspondence.

- Please note that the MoD intends to pay via CP&F according to DEFCON 522.

Yours sincerely,

███████

Senior Commercial Manager

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Acceptance of Offer of Contract   DEFFORM 10

To: Textio, INC

We acknowledge receipt of your Authority's Letter of Offer, reference 701545476 dated 26 MAR 2021, with associated documents and confirm that we accept the offer contained therein. We understand that by accepting the Authority's offer, we are entering into a legally binding Contract. We agree that Textio's Service Agreement will supersede and take precedence over the MODs T&Cs. We confirm that we are proceeding with the work.

Offer and Acceptance	
A) **Offer**	B) **Acceptance of Offer of Contract**
Contract 707268453 constitutes an offer by the Authority for the supplier to supply the Deliverables. This is open for acceptance by the supplier until **10 working days (or more) from date of signature]**. By signing below the Contractor agrees to be bound by the attached Contract terms and conditions.	I acknowledge receipt of the Authority's Contract letter reference **707268453**. I confirm that I accept the Offer it contains and agree to be bound by its terms.
Signed by:	Signed by:
Name (Block Capitals):	Name (Block Capitals):
Position: BP3 Senior Commercial Manager	Position:
For and on behalf of the Authority **- MOD**	For and on behalf of
Authorised Signatory: ▮▮▮▮▮	Authorised Signatory:
Date: 22 Mar 2023	Date[1]:
C) **Scots law to apply?** Yes ☐ No ☒	

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[1] The date of unqualified acceptance by signature is the effective date of the Contract

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Statement: For the avoidance of doubt, the Authority accepts that for this particular contract, Textio Inc Service Agreement will take precedence.

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SCHEDULE ONE - STATEMENT OF REQUIREMENT

Assistive Technology for Civilian Recruitment

ISSUE

To continue to deliver Assistive Technology to enhance civilian adverts to help improve attraction across the MOD and reduce growing recruitment pressures.

AIMS AND OBJECTIVES

To improve the quality of MOD adverts across several key areas/methods:

- Use of recognisable and industry standard job titles e.g., Project Manager rather than organisation specific titles i.e., ISS Ops Pro C1a
    - Minimising the use of acronyms unless necessary i.e., CIPD or DDaT
    - Encourage the use of inclusive language rather than traditional masculine wording i.e. *high-pressured environments*, *bleeding edge*
3. Simple and well-written essential criteria enabling candidates to determine suitability/deselect themselves with ease.
    Consistent MOD branding on organisation culture, benefits and wider offer of working within the Civil Service.

To evaluate the quality of MOD adverts against other similar industries and sectors for inclusivity based:

    The use of gender-neutral language
    Locations
Professions/industry types i.e., PPM

BACKGROUND

MOD has significant issues in filling vacancies successfully first-time round. Only one third of all vacancies filled first time. Between January 2022 -December 2022, 2740, MOD vacancies were advertised and received 0 applications. Most of these vacancies were advertised externally and, in some instances, re-advertised on several occasions. Whilst there are several factors affecting this e.g., lack of additional advertising outside of CS Jobs, a consistent issue is poorly written adverts. This may result in potential applicants not understanding the vacancy and therefore not applying.

Significant work has been done to improve recruitment across the organisation including:

Development of additional guidance, toolkits, policy videos and training to upskill managers of running effective recruitment campaigns and attraction
Implementation of the new Civil Service Jobs platform offering a simpler and more user-friendly platform
LinkedIn advertising for external roles, enabling adverts to be rewritten and attract a wider audience.
Removal of Minimum Entry Qualifications, no longer stipulating certain qualifications depending on grades across all adverts.
Implementation of Success Profiles (recruiting framework) enabling managers to tailor their adverts depending on the requirements.

HR Directorate have undertaken significant research into possible solutions by collaborating with other Government Departments as well as external suppliers and identified Assistive Technology as the best solution. This enables managers to use online software to check the inclusivity of their advert as well as refining the content with alternative wording/suggestions based on a database of inclusive content based on industry best practice.

THE RECRUITMENT LANDSCAPE

Recruitment within the MOD is carried out in accordance with the Civil Service Recruitment Principles. This means all recruitment must be:

Fair - selection is objective, impartial and applied consistently

Open – Anyone can apply

Basis of Merit - The appointment of the best available candidates against the essential criteria

The MOD operates a central recruitment model outlining how managers can carry out their recruitment in line with the recruitment principles and using the [Success Profile Framework](). However, each area of the MOD, referred to as TLBs, has the delegated authority to apply additional parameters when managers are recruiting into a particular role. In practice this could mean online testing for Programme Managers, sifting against particular requirements or mandatory paragraphs as part of the advert.

Recruiting managers are responsible for uploading and managing their recruitment activity through Civil Service Jobs. This includes creating the advert, identifying which elements of the Success Profile they wish to use as part of the selection process, identifying which external advertising mediums may be beneficial i.e., LinkedIn and conducting the sift/interviews. To support managers there is training available via Civil Service Learning as well as guidance/support tools for them to utilise throughout the process

However, there are still significant variations in the quality of adverts, there were 10408 job adverts, across the MOD between January 2022 and December 2022 and the recurring issues include:

Unexplained and significant use of acronyms
Long, dull, uninspiring, and drawn-out blocks of text (often not spell checked)
Little emphasis on the exciting career opportunities and wider benefits
Poorly written essential criteria enabling candidates to deselect themselves (also resulting in speculative applications which take time to sift out)
A lack of consistency across professions and TLBs for similar roles i.e., significant variations in entry requirements
A distilled MOD brand within adverts as there is a greater emphasis on TLB identity/culture/branding

With these factors in mind, understanding the right way to create meaningful job adverts across the organisation proves to be a challenging task.

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REQUIREMENT

Assistive software (Textio) was launched across MOD in August 2021 accessed online through Google Chrome. It is aimed at improving the inclusiveness and effectiveness of job adverts to enhance the department's ability to attract and retain a more diverse workforce.

The key requirement is a software platform which enables recruiting managers to easily upload their advert content and identify improvements to ensure the content gender neutral and inclusive. Textio has provided this.

Given the volume of job adverts the Textio solution is helping to streamline current practices by including the ability to build a library of job templates and workflows which can be shared between recruiting managers.

Monthly MI issued by Textio confirms that there is steady increase in the numbers of job roles written using this assistive technology. We wish to renew the contract for a further year to continue to improve job adverts across MOD. HR Directorate wish to further develop the use of Textio, working with internal comms to increase use through information and training.

TRAVEL AND SUBSISTENCE

There is no expectation for the supplier to undertake any travel as part of the contract given the key focus is the provision of assistive software and stakeholder meetings will take place via Microsoft teams/skype.

The MOD confirms that there will be no requirement for the supplier to travel overseas in relation to this Contract.

SERVICE LEVELS AND PERFORMANCE

The Authority will measure the quality of the Contractor's delivery by:

KPI/SLA	Service Area	KPI/SLA description	Target
1	Service Delivery	Delivery of the software and reporting to time and within budget	On-going (regular reports on a monthly basis or as required)
2.	Account Management	Quality of Account Management (e.g., responsiveness, regular communication, flexibility, agility)	On-going

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SCHEDULE TWO – PRICING SCHEDULE

Product	Specification	Start Date	Term	Firm Price ($) Ex VAT
				Total inc. packaging (and delivery if specified in the Purchase Order)
Textio Standard	Provision of Assistive Technology for Recruiting in accordance with Statement of Requirement in Schedule 2	31/03/23	24 Months	███████
			Total Firm Price	███████

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SCHEDULE THREE - CONTRACTING TERMS

As per Textio INC. Services Agreement.

<div align="center">

TEXTIO, INC.
SERVICES AGREEMENT

</div>

This Services Agreement ("**Agreement**") is entered into as of 01 Apr 2021 ("**Effective Date**") between Textio, Inc., a Delaware corporation with its principal place of business at 920 5th Ave, Suite 2300, Seattle, WA 98104 ("**Textio**") and Ministry of Defence, Main Building, Horse Gurads Parade, Whitehall, London SW1A 2HB corporation with its principal place of business at Civilian HR Policy Team – Recruitment (address as above) and governs Company's access to and use of Textio's platform, plug-in (the "**Plug-in**") (where applicable), website (located at https://textio.com/, the "**Site**") and related services (Textio's platform, the Plug-in, the Site and related services are collectively referred as, the "**Services**").

1. USE OF SERVICES

1.1 Account

In order to access and use the Services, Company will need to register with Textio and create an account ("**Account**"). Textio reserves the right to suspend or terminate Company's Account if any information provided during the registration process or thereafter is or becomes inaccurate, false or misleading. Company is responsible for maintaining the confidentiality of Company's Account, including the login and passwords for all Authorized Users. An "**Authorized User**" means an employee or contractor of Company who (i) Company has authorized to access Company's Account and use the Services, and (ii) has registered with Textio and been assigned a unique username-password combination to access and use the Services. Company agrees to notify Textio if any passwords are lost, stolen, or disclosed to an unauthorized third party, or otherwise may have been compromised. Company is responsible for all activities that occur under Company's Account, including those carried out by any Authorized Users. Company will promptly notify Textio of any unauthorized use of or access to the Services. Company will ensure that its Authorized Users, employees, agents, and representatives comply with all of Company's obligations under this Agreement.

1.2 Rights to Use the Services

Subject to Company's compliance with the terms and conditions of this Agreement, during the subscription term, (a) Textio will make the applicable Services available to Company and Authorized Users; and (b) Textio grants Company and Company's Authorized Users a limited, non-exclusive, non-transferable, revocable right: (i) if Company has a subscription to Textio Services which includes access to the Plug-In, to download and install the Plug-in in connection with the Textio Services with which Company received the Plug-in; and (ii) to access and use the Services solely for Company's internal business use. Company's rights in the Services will be limited to those expressly granted in this Section 1.2. Textio and its licensors reserve all rights and licenses in and to the Services not expressly granted under this Agreement.

1.3 Prohibitions

Company will not: (i) sell, resell, license, sublicense, distribute, rent or lease the Services, whether or not for a fee, or use the Services to operate any timesharing, service bureau, or similar business; (ii) copy or prepare derivative works of the Services in whole or in part; (iii) access the Services in order to build a competitive product or service; (iv) reverse engineer, reverse assemble, decompile or otherwise attempt to derive source code from any part of the Services; (v) use the Services in any unlawful manner, for any unlawful purpose, or in any manner inconsistent with this Agreement or applicable documentation; (vi) attempt to gain unauthorized access to any part of the Services or its related systems or networks; (vii) knowingly transmit a virus to, overload, flood, spam, or paralyze the Services or take any action or inaction that interferes with the integrity of the Services; (viii) attempt to access or search the Services

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or download any content from the Services through the use of any engine, software, tool, agent, device or mechanism (including spiders, robots, crawlers, data mining tools or the like) other than the software and/or search agents provided by Textio or other generally available third-party web browsers; or (ix) intentionally encourage, authorize, or enable anyone to do any of the foregoing.

1.4 Modifications to Services

Because the Services are evolving over time, Textio may change the features within the Services and/or update the Services from time to time, without prior notice to Company.

Modifications to the Services will not materially decrease the functionality of the Services. If any such changes or updates materially affect Company's use of the Services, Company may terminate this Agreement upon 30 days' written notice to Textio. If Textio does not return the original functionality of the Services within the 30 days, Company will receive a pro-rata refund on any unused, prepaid fees associated with the Services.

1.5 Data Exchange

Company may elect to participate in the Data Exchange Partnership program where participants to such program (each, a "**Data Exchange Partner**") provide qualified recruiting text and corresponding performance outcomes and statistics (collectively, "**Exchanged Data**"). No personally identifiable information should be included in the Exchanged Data provided to Textio.

2. SUBSCRIPTION, FEES AND PAYMENT

2.1 Fees

The Services are purchased as a subscription. The subscription term is as described in Section 4.2 of this Agreement. By subscribing to the Services, Company agrees to pay Textio all fees set forth in the applicable order form that Textio presents to Company when Company purchases its subscription ("**Order Form**"). Each Order Form will form part of this Agreement and will be subject to the terms and conditions contained herein. Except as otherwise specified in this Agreement, payment obligations are non-cancelable and fees paid are non-refundable.

2.2 Invoicing

All fees set forth in an Order Form are stated in and are payable in U.S. dollars. Unless stated otherwise in the Order Form, Textio will issue an invoice to Company at the beginning of each subscription term, and invoiced charges are due thirty (30) days from receipt of invoice. Company is responsible for providing complete and accurate billing and contact information to Textio and notifying Textio of any changes to such information.

2.3 Changes to Fees

Textio reserves the right to change Textio's fees for the Services any time and Textio will notify Company in advance of such changes becoming effective. Changes to Textio's fees for the Services will not apply retroactively and will only apply after the conclusion of Company's then-current subscription term. If Company does not agree with the changes to Textio's fees for the Services then Company's only recourse is to stop using the Services.

2.4 Taxes

All stated fees are exclusive of taxes or duties of any kind. Company will be responsible for, and will promptly pay, all taxes and duties of any kind (including but not limited to sales, use and withholding taxes) associated with this Agreement or Company's use of the Services, except for taxes based on Textio's net income.

2.5 Future Functionality

During the Term, Textio may in its discretion release new or additional features, modules, functionality, innovations, or offerings ("**New Features**"), some or all of which Textio may make available to Company for an additional fee. Company agrees that Company's purchases are not contingent on the delivery of any future functionality or features, or dependent on any oral or written public comments made by Textio regarding future functionality or features, nor is Company entitled to obtain any or all of such New Features. Notwithstanding the foregoing, Textio will not charge Company for any New Features that are offered as a substitute for any features, modules, functionality, innovations, or offerings that were part of the Services on the Effective Date.

2.6   Service Level Agreement

Textio will use commercially reasonable efforts to make the Services available 99.9% of the time per month ("**Uptime Availability**"), except for any scheduled or emergency maintenance or for any unavailability as a result of system failures or circumstances outside or beyond the reasonable control of Textio ("**Service Interruptions**").

Textio will use commercially reasonable efforts to maintain the Services in a manner which minimizes Service Interruptions. Textio will inform Company (by email or other means) of any significant Service Interruptions (greater than 3 hour(s)) and will use commercially reasonable efforts to restore the affected Service as soon as practicable. If Textio fails to meet the Uptime Availability, then as Textio's sole obligation and Company's exclusive remedy, Company may request a 5% credit of the subscription fees for the month in which Textio did not meet the Uptime Availability (this credit will be applied to future subscription fees due).

If Textio fails to make the Services available for less than 97% of the Uptime Availability, then Company may terminate this Agreement and Textio will promptly refund to Company any prepaid fees for the terminated period on a pro-rata basis.

3.   PROPRIETARY RIGHTS AND DATA LICENSE
3.1   Reservation of Rights

Textio and Textio's licensors exclusively own the Services and all enhancements, improvements or derivative works of the Services, including any ideas, concepts, know-how, process, techniques and methodologies developed by Textio from performing the Services, and all copyrights, patents, trademarks, and other intellectual property rights therein. Company may not remove, alter, or obscure any copyright, trademark, or other proprietary rights notices appearing on the Services.

3.2   Company's Data

Textio does not claim any ownership rights in any data, information, documents or other materials that Company provides or prepares using the Services (collectively, "**Data**"). Nothing in this Agreement will be deemed to restrict any rights that Company may have to use and exploit the Data.

Company hereby grants to Textio a non-exclusive, worldwide, royalty-free license to use, reproduce, modify and make derivative works based upon the Data solely in connection with use of the Services and Textio's provision of the Services to Company. Company represents and warrants that Company or Company's licensors own all right, title and interest in and to the Data and that Company has all rights in the Data that are necessary and sufficient to use the Data in connection with Company's Account on the Services, and to grant the rights contemplated by this Agreement.

Textio may store and use certain Data, such as Company's recruiting text, and Metadata to identify common patterns and improve Textio's products and services across Textio's customer base. "**Metadata**" means metadata associated with Company's use of the Services. For clarity, Metadata does not include Company's Data. Textio may store and use certain data associated with Authorized Users, including IP addresses, stored session identifiers, and account credentials (collectively, "**User Data**"). Company agrees and consents to Textio's access, collection, transmittal, storage, monitoring, copying, processing, analysis and use of the Metadata, User Data and Company's Data in order to administer and

provide Services to the Company and to monitor compliance with this Agreement. In addition, Company agrees and consents to Textio's access, collection, transmittal, storage, monitoring, copying, processing, analysis and use of the Metadata and Company's Data, in an anonymized format, to develop and improve the Services and Textio's other products and services.

3.3 Feedback

If Company provides Textio with any suggestions for improvement, comments, or other feedback regarding the Services ("**Feedback**"), Company grants to Textio a non-exclusive, worldwide, perpetual, irrevocable, fully-paid, royalty-free, sublicensable and transferable license under any and all intellectual property rights that Company owns or controls to use, copy, modify, create derivative works based upon and otherwise exploit the Feedback for any purpose.

4. TERM AND TERMINATION

4.1 Term of Agreement

This Agreement will remain in force and effect until the terms of all subscriptions hereunder have expired or have been terminated.

4.2 Term of Purchased Subscription

The initial term of each subscription shall be as specified in the applicable Order Form. Except as otherwise specified in an Order Form, each subscription will automatically renew for the additional renewal terms equal to the expiring subscription term or one year (whichever is shorter), unless either party gives the other notice of non-renewal at least thirty (30) days before the end of the relevant subscription term. The initial term and any renewal term(s) are individually and collectively referred to in this Agreement as the "subscription term."

4.3 Suspension by Textio

Textio may suspend or limit Company's Account and use of the Services as Textio deems appropriate to prevent, investigate or otherwise address (a) any suspected misuse of the Services or (b) any material risk to the security or performance of the Services, the network, or any other Textio customer or business partner. Textio will provide advance written notice of at least five (5) business days where reasonably possible and, subject to any exigent circumstances, will provide Company an opportunity to cure any actions of Company which Textio reasonably believes are such causing such harm. Company will not be entitled to any compensation or credits unless the suspension was due to Textio's error.

4.4 Termination

Either party may terminate this Agreement upon written notice if the other party materially breaches this Agreement and fails to correct the breach within thirty (30) days following written notice from the non-breaching party specifying the breach; provided that the cure period for any default with respect to payment shall be five (5) business days.

4.5 Surviving Provisions

Company's rights under this Agreement will automatically terminate upon the any expiration or termination of this Agreement. The provisions of Sections 1.3, 2.1, 2.2, 2.4, 3, 4.5 and 5 through 9 will survive any expiration or termination of this Agreement. After termination or expiration of this Agreement, Textio will retain Company's Data submitted to the Services in accordance with Textio's Data Removal policy outlined in Exhibit 1.

5. CONFIDENTIALITY

5.1 "**Confidential Information**" means any business or technical information that a party discloses to the other party and designates as "confidential" or "proprietary" at the time of disclosure or that, given the nature or the information or the circumstances surrounding the disclosure, would reasonably be considered to be confidential. Company's Confidential Information includes the Data. Textio's Confidential Information includes the Services, features and other information relating to the Services and the Feedback. Confidential Information does not include information that: (i) is or becomes

generally known to the public through no fault or breach of this Agreement by the receiving party; (ii) is rightfully known by the receiving party at the time of disclosure; (iii) is independently developed by the receiving party without use of the disclosing party's Confidential Information; or (iv) is rightfully received by the receiving party from a third party, who has the right to provide such information without breach of a confidentiality obligation owed to the disclosing party.

5.2   Use and Disclosure Restrictions of Confidential Information.

Except as permitted in this Agreement, each party will not use any Confidential Information disclosed by the other party except as necessary for the performance or enforcement of this Agreement and will not disclose such Confidential Information to any third party except to those of its employees and subcontractors who have a bona fide need to know such Confidential Information for the performance or enforcement of this Agreement; <u>provided</u> that each such employee and subcontractor is bound by a written agreement that contains use and nondisclosure restrictions consistent with the terms set forth in this Section. Each party will employ all reasonable steps to protect all Confidential Information disclosed by the other party from unauthorized use or disclosure, including, but not limited to, all steps that it takes to protect its own information of like importance. The foregoing obligations will not restrict either party from disclosing such Confidential Information: (i) pursuant to the order or requirement of a court, administrative agency, or other governmental body; provided that the party required to make such a disclosure gives reasonable notice to the other party (if legally permitted) to allow the other party to contest such order or requirement; (ii) to its legal or financial advisors; (iii) as required under applicable securities regulations; and (iv) subject to customary restrictions, to present or future providers of venture capital and/or potential private investors in or acquirers of such party.

6.   REPRESENTATIONS, WARRANTIES, EXCLUSIVE REMEDIES AND DISCLAIMERS

6.1   Representations

Each party represents that it has validly entered into this Agreement and has the legal power to do so.

Textio warrants that during the subscription term, when used by Company as expressly permitted hereunder, the Services shall substantially conform to the documentation and shall perform in all material respects in accordance with the terms of this Agreement and each Order Form. In the event Company determines that the Services have not met the foregoing warranty, Company shall give Textio prompt notice of the deficiency, including details sufficient to allow Textio to replicate the deficiency, and in such event Textio will use commercially reasonable efforts to remedy the identified deficiency. If Textio does not remedy the deficiency, either party may terminate the affected Order Form and in such case Textio will refund to Customer the amount of any pre-paid Fees for the period after termination as its exclusive remedy. This warranty does not cover any problem with or damage to the Services to the extent caused by: (i) Company's negligence, abuse, misuse, improper handling and/or use, (ii) modifications by anyone other than Textio or its Subcontractors; (iii) failure to operate the Platform in accordance with the documentation; or (iv) a Force Majeure Event.

6.2   Disclaimers

THE SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE," WITHOUT WARRANTY OF ANY KIND. WITHOUT LIMITING THE FOREGOING, TEXTIO EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT, AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE.   NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM TEXTIO OR ELSEWHERE WILL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THIS AGREEMENT.

Without limiting the foregoing and except as set forth in the Service Level Agreement, Textio makes no warranty that the Services will meet Company's requirements, provide specific results or be available on an uninterrupted, secure, or error-free basis. Company acknowledges that the provision of the Services depends on necessary hardware, software, networks, storage, and other products and services provided by third parties, which are not controlled by Textio, and that Textio will not be liable for any

unavailability of the Services that is due to the outage or failure to perform of any such third party products or services. Company assumes sole responsibility and liability for any output or results obtained from the use of the Services and for conclusions drawn from such use. Textio will have no liability for any claims, losses or damage caused by arising out of or in connection with any Data or any other information provided to Textio by Company in connection with the Services or any actions taken by Textio at Company's direction.

7.   INDEMNIFICATION

7.1   Indemnification by Textio. Textio will indemnify, defend and hold Company and its officers, directors, employees, contractors, representatives and agents harmless from and against any claims, disputes, demands, liabilities, damages, losses, and costs and expenses, including, without limitation, reasonable legal and other professional fees, to the extent that they are based upon a third party claim that the Services, as provided by Textio to Company pursuant to this Agreement, infringe any U.S. patent or any copyright or misappropriate any trade secret, and will pay any costs, damages and reasonable attorneys' fees attributable to such claim awarded in final judgment against or paid in settlement by Company. Textio's obligations under this Section 7.1 are contingent upon: (a) Company providing Textio with prompt written notice of such claim; (b) Company providing reasonable cooperation to Textio, at Textio's expense, in the defense and settlement of such claim; and (c) Textio having sole authority to defend or settle such claim.

7.2   Injunction. If Company's use of the Services is, or in Textio's opinion is likely to be, enjoined due to the type of claim specified in Section 7.1, then Textio may at its sole option and expense: (i) replace or modify the Services to make them non-infringing and of equivalent functionality; (ii) procure for Company the right to continue using the Services under the terms of this Agreement; or (iii) if Textio is unable to accomplish either (i) or (ii) despite using its reasonable efforts, terminate Company's rights and Textio's obligation under this Agreement with respect to such Services and refund to Company a pro-rata portion of the fees paid for the remaining term during which Company would have had access to the Services.

7.3   Exclusions. Notwithstanding the terms of Section 7.1, Textio will have no liability for any infringement or misappropriation claim of any kind to the extent that it results from: (i) the combination, operation or use of the Services with equipment, devices, software or data (including without limitation Data) not supplied by Textio, if a claim would not have occurred but for such combination, operation or use; or (ii) Company's or an Authorized User's use of the Services other than in accordance with this Agreement.

7.4   Sole Remedy. THE PROVISIONS OF SECTIONS 7.1-7.3 SET FORTH THE ENTIRE OBLIGATIONS AND SOLE AND EXCLUSIVE REMEDIES OF TEXTIO AND ITS LICENSORS WITH RESPECT TO ANY ALLEGED OR ACTUAL INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS OF ANY KIND.

7.5   Indemnification by Company. Company will indemnify, defend and hold Textio and its officers, directors, employees, contractors, representatives and agents harmless from and against any claims, disputes, demands, liabilities, damages, losses, and costs and expenses, including, without limitation, reasonable legal and other professional fees, arising out of or in any way connected with (i) Company's access to or use of the Services, or (ii) the Data, including but not limited to, the transmission and submission of the Data to the Services, and infringement or misappropriation of any third party proprietary rights by the Data, provided that Textio: (a) promptly notifies Company in writing of the claim; (b) grants Company sole control of the defense and settlement of the claim; and (c) provides Company, at Company's expense, with all assistance, information and authority reasonably required for the defense and settlement of the claim.

8.   LIMITATION OF LIABILITY

EXCEPT FOR EACH PARTY'S INDEMNIFICATION OBLIGATIONS IN SECTION 7, EACH PARTY'S TOTAL LIABILITY TO THE OTHER (AND, IN TEXTIO'S CASE TO THE COMPANY'S AUTHORIZED USERS) FROM ALL CAUSES OF ACTION AND UNDER ALL THEORIES OF LIABILITY UNDER THIS AGREEMENT WILL BE LIMITED TO THE AMOUNTS PAID TO TEXTIO BY COMPANY FOR THE SERVICES DURING THE TWELVE (12)-MONTH PERIOD IMMEDIATELY PRECEDING THE EVENTS GIVING RISE TO THE LIABILITY. NEITHER PARTY WILL BE LIABLE TO THE OTHER (AND IN THE CASE OF TEXTIO, TO COMPANY'S AUTHORIZED USERS) FOR ANY INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, OR FOR COSTS OF SUBSTITUTE GOODS OR SERVICES, OR FOR LOSS OF PROFITS, DATA, USE, GOODWILL, OR OTHER INTANGIBLE LOSSES, ARISING IN ANY WAY OUT OF THIS AGREEMENT OR RESULTING FROM ACCESS TO, USE OF, OR INABILITY TO ACCESS OR USE THE SERVICES, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL THEORY, WHETHER OR NOT A PARTY HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGE, AND EVEN IF AN EXCLUSIVE REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

NOTWITHSTANDING THE FOREGOING, FOR LIABILITY ARISING FROM EACH PARTY'S INDEMNIFICATION OBLIGATIONS IN SECTION 7, IN NO EVENT SHALL THE AGGREGATE LIABILITY FOR ANY DAMAGES UNDER THIS AGREEMENT OR IN CONNECTION WITH THE SERVICES EXCEED TEN TIMES (10X) THE AMOUNTS PAID TO TEXTIO BY COMPANY FOR THE SERVICES DURING THE TWELVE (12)-MONTH PERIOD IMMEDIATELY PRECEDING THE EVENTS GIVING RISE TO THE LIABILITY.

9.   GENERAL PROVISIONS

9.1   Export Control
Both parties agree to comply fully with all relevant export laws and regulations of the United States and other applicable jurisdictions to ensure that neither the Services, nor any direct product thereof, are: (i) downloaded or otherwise exported or re-exported directly or indirectly in violation of such export laws and regulations; or (ii) used for any purposes prohibited by the such export laws and regulations, including but not limited to nuclear, chemical, or biological weapons proliferation.

9.2   U.S. Government End User
The Services and its documentation are "commercial items" as that term is defined in FAR 2.101, consisting of "commercial computer software" and "commercial computer software documentation," respectively, as such terms are used in FAR 12.212, DFARS 227.7202 and other government acquisition regulations, as applicable. If the Services and its documentation are being acquired by or on behalf of the U.S. Government, then, as provided in FAR 12.212 and DFARS 227.7202-1 through 227.7202-4, as applicable, the U.S. Government's rights in the Services and its documentation will be only those specified in this Agreement.

9.3   Dispute Resolution
This Agreement and any action related thereto will be governed by the laws of the State of New York without regard to its conflict of laws provisions. Company and Textio irrevocably consent to the jurisdiction of, and venue in, the state or federal courts located in the Southern District of the State of New York for any disputes arising under this Agreement.

9.4   Information Security
Textio has implemented, and will maintain, a comprehensive written information security program ("Information Security Program") that includes administrative, technical, and physical safeguards to ensure the confidentiality, security, integrity, and availability of Data and to protect against unauthorized access, use, disclosure, alteration or destruction of Data. Information Security Program includes the measures described in Exhibit 1.

9.5   Assignment

Neither party may assign or transfer any rights or obligations under this Agreement, whether by operation of law or otherwise, without the other party's prior written consent. Any attempt to assign or transfer this Agreement without such consent will be void. Notwithstanding the foregoing, each party may assign or transfer this Agreement without the other party's consent to an affiliate or a third party that acquires the assigning party by merger, the sale of the majority of such party's stock, or the acquisition of all or substantially all of such party's assets. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their successors and permitted assigns.

9.6   Notice
All notices required or permitted under this Agreement will be in writing, will reference this Agreement, and will be deemed given: (i) when delivered personally; (ii) one (1) business day after deposit with a nationally-recognized express courier, with written confirmation of receipt; or (iii) four (4) business days after having been sent by registered or certified mail, return receipt requested, and postage prepaid. All such notices will be sent to the addresses set forth above or to such other address as may be specified by either party to the other party in accordance with this Section.

9.7   Severability
In the event that any provision of this Agreement is held to be invalid or unenforceable, that provision will be enforced to the maximum extent permissible, and the remaining provisions of this Agreement will remain in full force and effect.

9.8   Waiver
A party's failure to enforce any right or provision of this Agreement will not be considered a waiver of such right or provision. The waiver of any such right or provision will be effective only if in writing and signed by a duly authorized representative of such party.

9.9   No Election of Remedy
Except as expressly set forth in this Agreement, the exercise by the parties of any of their remedies under this Agreement will be without prejudice to their other remedies under this Agreement or otherwise.

9.10   Force Majeure
Neither party will be responsible for any failure or delay in its performance under this Agreement (except for the payment of money) due to causes beyond its reasonable control, including, but not limited to, shortages of or inability to obtain labor, energy, raw materials or supplies, war, acts of terror, riot, pandemics, outbreaks, acts of God or governmental action.

9.11   Equitable Relief
Each party acknowledges that a breach by the other party of any confidentiality or proprietary rights provision of this Agreement may cause the non-breaching party irreparable damage, for which the award of damages would not be adequate compensation. Consequently, the non-breaching party may seek injunctive relief enjoining any breach or threatened breach of those provisions, in addition to any other relief to which the non-breaching party may be entitled at law or in equity.

9.12   Insurance
During the term of the Agreement, Textio will obtain and maintain the following: (a) "Commercial General Liability" insurance with limits of not less than $2,000,000 per occurrence and $4,000,000 general aggregate, covering bodily injury and property damage; (b) "Personal & Advertising Injury" insurance with a limit of $2,000,000 per claim; (c) "Hired Auto Liability" insurance with a limit of $1,000,000 per claim, covering bodily injury and property damage; "Non-Owned Auto" insurance with a limit of $1,000,000 per claim, covering bodily injury and property damage; and (d) "Professional Liability/Errors and Omissions" insurance with a limit of $1,000,000 per claim and $1,000,000 aggregate

(e) "Cyber/Network Security & Privacy Liability" insurance with limits not less than $5,000,000 per occurrence and $5,000,000 aggregate.

9.13 Entire Agreement

This Agreement constitutes the entire agreement between the parties regarding the Services, and it supersedes and replaces any prior agreements and understandings between the parties regarding the Services and it shall take precedence over all terms, conditions, and provisions on any purchase order or other acknowledgment, order release or business form that Company may use in connection with the Services. Any modification or amendment of any provision of this Agreement will be effective only if in writing and signed by the parties hereto.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the Effective Date by their duly authorized representatives.

TEXTIO, INC.   **[MOD BP3]**

By: ▮▮▮▮▮▮   By: ▮▮▮▮▮▮

Print Name: ▮▮▮▮▮▮   Print Name: ▮▮▮▮▮▮

Title: ▮▮▮▮▮   Title: ▮▮▮▮▮

Date: _____   Date: **26 Mar 2021**

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Exhibit 1
Information Security Requirements

This Information Security Requirements Exhibit forms part of the Agreement between Textio and the Company.

1.   Purpose

These Information Security Requirements ("ISRs") constitute minimum standards for the protection of Data Processed on behalf of Company or its employees via the Services provided by Textio under and during the terms of the Agreement. All capitalized terms that are not expressly defined in this Information Security Requirements Exhibit will have the meanings given to them in the Agreement.

Textio has implemented, and will maintain, a comprehensive written information security program ("Information Security Program") that includes administrative, technical, and physical safeguards to ensure the confidentiality, security, integrity, and availability of Data and to protect against unauthorized access, use, disclosure, alteration or destruction of Data. In particular, the Information Security Program will include the safeguards described below where appropriate or necessary to ensure the protection of the Data.

2.   Definitions

2.1   "Process" or "Processing" means any operation or set of operations which is performed on Data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination, or otherwise making available, alignment or combination, restriction, erasure, or destruction.

2.2   "Breach" means any the breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Data Processed by Textio.

2.3   "Incident" means any impairment to the security of Data including any (i) act that materially violates any Textio security policy, (ii) unplanned service disruption that prevents the normal operation of the Services, or (iii) a Breach.

2.4   "Data Center" means a location at which Textio provides data processing, transmission, or storage functions for hosting and operating the Services. Data Centers may or may not be controlled by Textio.

2.5   "Facilities" means the secured working areas inside of Textio offices in which Personnel provide development and customer support services in support of the Services, and in which Personnel have access to Data.

2.6   "Personnel" means employees or independent contractors of Textio that may be provided with access to Data in connection with the provision of the Service.

4.   Audit and Compliance Program

3.1   Security Standards and Certifications: Textio will maintain a current industry-standard security certification (such as ISO/IEC 27001:2013) for the duration of the Agreement. A certificate and an external audit report will be provided upon request and under NDA.

4. Security Management

4.1   Security Leadership. Textio will have a designated individual or group who is responsible for the development and implementation of the information security program, policies, and procedures.

4.2   Security Policies. Textio will maintain, documented policies or standards appropriate to govern the handling of Data in compliance with these ISRs, the Agreement, and applicable law.

4.3   Personnel Security.

a) Textio will conduct background checks on Personnel who will have access to Data, except where expressly prohibited by law. Such background checks will include at least a professional reference check and a criminal background check.

b) Textio's Personnel will sign a non-disclosure and confidentiality agreement as a condition of employment.

c) Textio's Personnel will be provided with a clear understanding of procedures and controls reasonably necessary to comply with these ISRs prior to their being granted access to Data. Personnel will, upon hiring, and as appropriate thereafter, participate in security awareness training that covers Textio's security policies.

4.4   Subcontractors and Vendors. Textio will maintain a security process to conduct appropriate due diligence prior to utilizing subcontractors to provide or assist in the provision of any portion of the Service or Process any Data. Textio will monitor the security capabilities of any such subcontractors to ensure Textio's ability to comply with these ISRs and the terms of the Agreement.

5.   **Physical Security**

5.1   Facilities. Textio will take appropriate steps to prevent unauthorized physical access to Textio's Facilities. Textio Facilities will be access-controlled and Textio will maintain access and video surveillance logs for all Personnel and visitors who have access to Facilities. Textio will require all visitors or other outside individuals to sign in and be accompanied by authorized Personnel.

5.2   Data Centers. Data Centers used for Processing Company's Data, hosting the Services and providing Services will meet a recognized compliance standard.

6.   **Access Control**

6.1   General. The provisions in this Section 6 apply to all systems and supporting networks used to provide the Services.

6.2   Systems Access Control and Network Access Control.

a) Textio will employ access control mechanisms to prevent unauthorized access to Data and to limit access to authorized Personnel with a business need to know. Such mechanisms have the capability of detecting, logging, and reporting access to the system.

b) Textio will limit access to Textio systems solely to Personnel who need access to perform specific responsibilities or functions in support of the Services. Wherever technically feasible, all Personnel must have an individual account that authenticates that individual's access to Data.

c) Textio will maintain a process to review access controls no less frequently than quarterly for all Textio systems that contain Data, including any system that, via any form of communication interface, can connect to the system on which Data is stored.

e) Textio will revoke Personnel's access to physical locations, systems, and applications that contain or process Data promptly after the cessation of such Personnel's need to access the system(s) or application(s).

6.3   Authentication Controls.

Where technically feasible, Textio will implement the following authentication controls for all networks or systems Processing Data:

a) Textio will use multi-factor authentication for remote access to systems that access or store Data.

b) Textio will require any password controls to meet industry best practices for complexity and account lock-out.

7.   **Secure Systems Development and Maintenance**

7.1   Secure Software Development. Textio will follow established industry best practices for all applications and systems that Process or store Data. Textio will employ documented secure programming guidelines, standards, and protocols in the development of applications that Process or store Data, including the Service. Textio will train all development staff in secure programming techniques.

7.2   Code Review. Textio will have a documented program for code reviews and maintain documentation of code reviews performed for all applications or systems that store or Process Data.

7.3   Change Management. Textio will employ an effective, documented change management program with respect to the Services as an integral part of its security profile. This includes logically or physically separate environment from production for all development and testing.

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7.4 <u>Vulnerability Scans</u>. Textio will run external application vulnerability scans of the Services no less frequently than monthly. Vulnerabilities identified will be remediated in a commercially reasonable manner and timeframe based on severity.

7.5 <u>Penetration Tests</u>. Textio will conduct application penetration tests of the Services no less frequently than annually, and using a qualified third-party. Vulnerabilities will be remediated in a commercially reasonable manner and timeframe based on severity.

7.6 <u>Patching</u>. Textio will patch all applications, workstations, and servers (virtual or physical) with all current operating system, database, and application patches deployed in Textio's computing environment according to a schedule based on the criticality of the patch.

8. Network and Systems Security

8.1 <u>Firewalls</u>. Textio will deploy reasonably appropriate firewall technology in operation of the Services. Traffic between Company and Textio will be protected and authenticated by industry standard cryptographic technologies.

8.2 <u>Intrusion Detection</u>. Textio will deploy intrusion detection or prevention systems to monitor the network for inappropriate activity.

8.3 <u>Logs</u>. Textio will deploy a log management solution and retain logs produced by infrastructure changes and intrusion detection systems for a minimum period of one (1) year.

8.4 <u>Mobile Devices</u>. All Textio-owned laptops and mobile devices will be protected using appropriate controls (such as industry-standard security and encryption features) to minimize the risk of theft, unauthorized use, or damage.

8.5 <u>Wireless Networks</u>. Network access to corporate wireless networks at Textio's Facilities will be restricted only to those authorized; encryption of all wireless connections will be enabled using industry standard encryption algorithms.

8.6 <u>Malicious Code Protection</u>.
a) All Textio-owned laptops and workstations will run the current version of industry standard anti-virus and anti-malware software with the most recent updates available. Textio will configure equipment (where possible) and have supporting policies to prohibit users from disabling antivirus software, altering security configurations, or disabling other protective measures put in place to ensure the safety of Company's Data or Textio's computing environment.
b) Textio's servers that operate the Site will be scanned regularly for system and code packages with known vulnerabilities (CVEs).

9. Incident Response and Notification Procedures

9.1 <u>Incident Response Procedure</u>. Textio will maintain an Incident response function capable of identifying, mitigating the effects of, and preventing the recurrence of Incidents.

9.2 <u>Notification</u>. If a Breach occurs, Textio will (i) promptly take all necessary steps to prevent any further compromise of Data or any future Breaches; (ii) notify Company within seventy-two (72) hours of the Breach being identified; and (iii) respond promptly to any reasonable request from Company for detailed information pertaining to the Breach. Textio's notice will contain a description of the nature of the Breach, its impact, and any investigative, corrective, or remedial actions taken or planned.

10. Storage, Handling, and Disposal

10.1 <u>Data Segregation</u>. Textio will logically separate and segregate Data from its other clients' data.

10.2 <u>Data Encryption</u>. Textio will utilize industry standard encryption algorithms and key strengths to encrypt (a) all Data that is in electronic form while in transit over all public wired networks (i.e. Internet) and all wireless networks; and (b) all Data while at rest. "At Rest" means information stored in databases, in file systems, and on various forms of online and offline media.

If mobile devices (e.g., laptop, tablet, cell phone) are used to perform any part of the Services, Textio will encrypt all Data on such mobile devices.

Where encryption is utilized, Textio will maintain a key management process that includes appropriate access controls to limit access to private keys (both symmetric and asymmetric) and a key revocation process when Textio has reason to believe that encryption keys are compromised.

10.3   Data Backup and Recovery. Textio will ensure the Data is regularly backed up and that such backups are available for recovery in the event of an Incident.

10.4   Data Removal. Upon the request of Company, and only after the expiry or termination of the Agreement, Textio will promptly remove Data from Textio's environment and destroy it within a reasonable timeframe except (a) where Textio is required to retain copies under applicable laws, in which case Textio will isolate and protect that Company Personal Data from any further Processing except to the extent required by applicable laws; or (b) retaining Data is necessary for maintaining the availability and security of the Services. Textio will provide Company with a written confirmation regarding such removal, destruction, and/or cleaning within thirty (30) days of such occurrence.

11.   **Business Continuity and Disaster Recovery**.

Textio will maintain a commercially reasonable business continuity plan to maintain availability of the Services (the "**Continuity Plan**"). The Continuity Plan will include elements such as (a) activation criteria; (b) internal and external communication guidelines; (c) event management for different anticipated scenarios; (d) recovery activities; (e) response team people and roles. Not less than annually following adoption of the Continuity Plan, Textio will conduct a test of the Continuity Plan.

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SCHEDULE FOUR – DEFORM 111

DEFFORM 111

DEFFORM 111 - Appendix - Addresses and Other Information

1. Commercial Officer

Name: ▮▮▮▮▮▮

Address: Kentigern house, 65 Brown Street, Glasgow, G2 8EX

Email: ▮▮▮▮▮▮

Tel: ▮▮▮▮▮▮

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

Name: ▮▮▮▮▮▮

Address

Email: ▮▮▮▮▮▮

Tel:

3. Packaging Design Authority Organisation & point of contact:

(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

((People Concepts and Development

(b) U.I.N. D0905Z

5. Drawings/Specifications are available from N/A

6. Intentionally Blank

7. Quality Assurance Representative: N/A
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

Tel: 44 (0) 161 233 5397

2. For all other enquiries contact DES Fin FA-AMET Policy, Level 4 Piccadilly Gate, Store Street, Manchester, M1 2WD

((44 (0) 161 233 5394

9. Consignment Instructions The items are to be consigned as follows: N/A

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

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

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

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submitted through the Commercial Officer named in
Section 1.