



Ministry
of Defence



Contract Number: 706125450

Sting Ray Mid Life Upgrade (SRMLU)
Assessment Phase

Terms and Conditions

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General Conditions

1. General

- 1.1. The defined terms in the Contract shall be as set out in Schedule 1.
- 1.2. The Contractor shall comply with all applicable Legislation, whether specifically referenced in this Contract or not.
- 1.3. The Contractor warrants and represents, that:
 - 1.3.1. they have the full capacity and authority to enter into and to exercise their rights and perform their obligations under the Contract;
 - 1.3.2. from the Effective Date of Contract and for so long as the Contract remains in force it shall give the Authority Notice of any litigation, arbitration (unless expressly prohibited from doing so in accordance with the terms of the arbitration), administrative or adjudication or mediation proceedings before any court, tribunal, arbitrator, administrator or adjudicator or mediator or relevant authority against themselves or a Subcontractor which would adversely affect the Contractor's ability to perform their obligations under the Contract;
 - 1.3.3. as at the Effective Date of Contract no proceedings or other steps have been taken and not discharged (nor, to the best of the knowledge of the Contractor, threatened) for the winding-up of the company or dissolution or for the appointment of a receiver, administrative receiver, administrator, liquidator, trustee or similar officer in relation to any of its assets or revenues;
 - 1.3.4. for so long as the Contract remains in force they shall give the Authority Notice of any proceedings or other steps that have been taken but not discharged (nor to the best of the knowledge of the Contractor, threatened) for the winding-up of the company or dissolution or for the appointment of a receiver, administrator, liquidator, trustee or similar officer in relation to any of its assets or revenues.
- 1.4. Unless the context otherwise requires:
 - 1.4.1. The singular includes the plural and vice versa, and the masculine includes the feminine and vice versa.
 - 1.4.2. 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.
 - 1.4.3. The expression "person" means any individual, firm, body corporate, unincorporated association or partnership, government, state or agency of a state or joint venture.
 - 1.4.4. 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.
 - 1.4.5. The heading to any Contract provision shall not affect the interpretation of that provision.
 - 1.4.6. Any decision, act or thing which the Authority is required or authorised to take or do under the Contract may be taken or done only by the person (or

its nominated deputy) authorised in Schedule 3 (Contract Data Sheet) to take or do that decision, act, or thing on behalf of the Authority.

- 1.4.7. 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) or on completion of all obligations under the Contract, whichever is later, 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

- 4.1. The Contract shall be considered as a contract made in England and subject to English Law.
- 4.2. 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 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.
- 4.3. 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.
- 4.4. NOT USED.
- 4.5. Each Party warrants to each other that entry into the Contract does not, and the performance of the Contract will not, in anyway 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.
- 4.6. Each Party agrees with each other Party that the provisions of Clause 4.1 to 4.5 shall survive any termination of the Contract for any reason whatsoever and shall remain fully enforceable as between the Parties notwithstanding such a termination.
- 4.7. NOT USED.
- 4.8. In the event that changes in Law are imposed on this Contract following its Effective Date and i) such changes are out of the Contractor's control and of a material impact **and** ii) affect the performance of the Contract ("Change in Law"), **and** iii) were not reasonably foreseeable at Contract Award, this will be subject to the terms of Condition 6 (Formal Amendments to the Contract).

5. Precedence

- 5.1. 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:
 - 5.1.1. Conditions 1 - 64 of the Conditions of the Contract shall be given equal precedence with Schedule 1 (Definitions of Contract) and Schedule 3 (Contract Data Sheet);
 - 5.1.2. The Contract DEFCONs, Schedule 2 (Schedule of Requirements) and Schedule 8 (Acceptance Procedure);
 - 5.1.3. the remaining Schedules, Annexes and Appendices; and
 - 5.1.4. any other documents expressly referred to in the Contract.
- 5.2. If either Party becomes aware of any inconsistency within or between the documents referred to in clause 5.1 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 5.1. 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. Formal Amendments to the Contract

- 6.1. Except as provided in Condition 31 and subject to clause 6.3, the Contract may only be amended by the written agreement of the Parties (or their duly authorised representatives acting on their behalf). Such written agreement shall consist of:
 - 6.1.1. the Authority Notice of Change under Schedule 4 (Contract Change Control Procedure) (where used); and
 - 6.1.2. the Contractor's unqualified acceptance of the contractual amendments as evidenced by the DEFFORM 10B duly signed by the Contractor.
- 6.2. NOT USED.
- 6.3. Where the Authority wishes to amend the Contract to incorporate any work that is unpriced at the time of amendment, if the Contract is a Qualifying Defence Contract, the Contract Price shall be redetermined on amendment in accordance with the Defence Reform Act 2014 and Single Source Contract Regulations 2014 (each as amended from time to time).

Changes to the Specification

- 6.4. The Specification forms part of the Contract and all Contract Deliverables to be supplied by the Contractor under the Contract shall conform in all respects with the Specification.
- 6.5. The Contractor shall use a configuration control system to control all changes to the Specification. The configuration control system shall be compatible with ISO 9001 (latest published version) or as specified in the Contract.

7. Authority Representatives

- 7.1. Any reference to the Authority in respect of:

- 7.1.1. the giving of consent;
 - 7.1.2. the delivering of any Notices; or
 - 7.1.3. the doing of any other thing that may reasonably be undertaken by an individual acting on behalf of the Authority, shall be deemed to be references to the Authority's Representatives in accordance with this Condition 7.
- 7.2 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.
- 7.3 In the event of any change to the identity of the Authority's Representatives, the Authority shall provide written confirmation to the Contractor, and shall update Schedule 3 (Contract Data Sheet) in accordance with Condition 6 (Formal Amendments to the Contract).

8. Severability

- 8.1 If any provision of the Contract is held to be invalid, illegal or unenforceable to any extent then:
 - 8.1.1. 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
 - 8.1.2. the Parties shall use all reasonable endeavours to replace the invalid, illegal or unenforceable provision by a valid, legal and enforceable substitute provision the effect of which is as close as possible to the intended effect of the invalid, illegal or unenforceable provision.

9. Waiver

- 9.1 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.
- 9.2 No waiver in respect of any right or remedy shall operate as a waiver in respect of any other right or remedy.

10. Assignment of Contract

Neither Party shall be entitled to assign the Contract (or any part thereof) without the prior written consent of the other Party, other than for corporate restructure which, for the Contractor means within any of its wholly owned subsidiaries.

11. 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.

12. Transparency

- 12.1 Notwithstanding any other term of this Contract, including Condition 13 (Disclosure of Information), the Contractor understands that the Authority may publish the Transparency Information and Publishable Performance Information to the general public.
- 12.2 Subject to clause 12.3. the Authority shall publish and maintain an up-to-date version of the Transparency Information and Publishable Performance Information in a format readily accessible and reusable by the general public under an open licence where applicable.
- 12.3. If, in the Authority's reasonable opinion, publication of any element of the Transparency Information and Publishable Performance Information would be contrary to the public interest, the Authority shall be entitled to exclude such Information from publication. The Authority acknowledges that it would expect the public interest by default to be best served by publication of the Transparency Information and Publishable Performance Information in its entirety. Accordingly, the Authority acknowledges that it shall only exclude Transparency Information and Publishable Performance Information from publication in exceptional circumstances and agrees that where it decides to exclude Information from publication on that basis, it will provide a clear statement to the general public explaining the categories of information that have been excluded from publication and reasons for withholding that information.
- 12.4 The Contractor shall assist and co-operate with the Authority as reasonably required to enable the Authority to publish the Transparency Information and Publishable Performance Information, in accordance with the principles set out above, including through compliance with the requirements relating to the preparation of Publishable Performance Information set out in clauses 12.5. to 12.9. Where the Authority publishes Transparency Information, it shall:
 - 12.4.1. before publishing, 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 (FOIA) or the Environmental Information Regulations 2004 (EIR), for the avoidance of doubt, including Sensitive Information;
 - 12.4.2. taking account the Sensitive Information set out in Schedule 5, consult with the Contractor where the Authority intends to publish Information which has been identified as Sensitive Information. For the avoidance of doubt the Authority, acting reasonably, shall have absolute discretion to decide what information shall be published or be exempt from disclosure in accordance with the FOIA and/or the EIR; and
 - 12.4.3. present information in a format that assists the general public in understanding the relevance and completeness of the Information

- being published to ensure the public obtain a fair view on how this Contract is being performed. Publishable Performance Information
- 12.5. Within three (3) months of the effective date of Contract the Contractor shall provide to the Authority for its approval (such approval shall not be unreasonably withheld or delayed) a draft Publishable Performance Information KPI Data Report consistent with the content requirements of Annex D to this Contract.
- 12.6. If the Authority rejects any draft Publishable Performance Information the Contractor shall submit a revised version of the relevant KPI Data Report for further approval by the Authority within ten (10) business days of receipt of any notice or rejection, taking account of any recommendations for revision and improvement to the report provided by the Authority. This process shall be repeated until the parties have an agreed version of the Publishable Performance Information.
- 12.7. The Contractor shall provide an accurate and up-to-date version of the KPI Data Report to the Authority for each quarter at the frequency referred to in the agreed Annex D.
- 12.8. Any dispute in connection with the preparation and/or approval of Publishable Performance Information, other than under clause 12.6, shall be resolved in accordance with the dispute resolution procedure provided for in this Contract.
- 12.9. The requirements of this Condition are in addition to any other reporting requirements in this Contract.

13. Disclosure of Information

- 13.1. Subject to clauses 13.4 to 13.9 and Condition 12 each Party:
- 13.1.1 shall treat in confidence all Information it receives from the other;
 - 13.1.2. 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;
 - 13.1.3. shall not use any of that Information otherwise than for the purpose of the Contract; and
 - 13.1.4. 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.
- 13.2. 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:
- 13.2.1. is disclosed to their employees and Subcontractors, only to the extent necessary for the performance of the Contract; and
 - 13.2.2. 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.
- 13.3. The Contractor shall ensure that their employees are aware of the Contractor's arrangements for discharging the obligations at clauses 13.1 and 13.2 before

receiving Information and shall take such steps as may be reasonably practical to enforce such arrangements.

- 13.4. A Party shall not be in breach of Clauses 13.1, 13.2, 13.6, 13.7 and 13.8 to the extent that either Party:

13.4.1. exercises rights of use or disclosure granted otherwise than in consequence of, or under, the Contract;

13.4.2. has the right to use or disclose the Information in accordance with other Conditions of the Contract; or

13.4.3. can show:

13.4.3.1. 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;

13.4.3.2. 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;

13.4.3.3. 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

13.4.3.4. 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.

- 13.5 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.

- 13.6 The Authority may disclose the Information:

13.6.1. to any Central Government Body for any proper purpose of the Authority or of the relevant Central Government Body, which shall include: disclosure to the Cabinet Office and/or HM Treasury for the purpose of ensuring effective cross Government procurement processes, including value for money and related purposes. Where such a disclosure is made the Authority shall ensure that the recipient is made aware of its confidentiality;

13.6.2. to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;

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

13.6.4. subject to clause 13.7. below, on a confidential basis to a professional adviser, consultant or other person engaged by any of the entities defined in Schedule 1 (including benchmarking

- organisations) for any purpose relating to or connected with the Contract;
- 13.6.5. subject to clause 13.7 below, on a confidential basis for the purpose of the exercise of its rights under the Contract; or
- 13.6.6. 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.
- 13.7. Where the Authority intends to disclose Information to a commercial entity which is not a Central Government Body in accordance with clauses 13.6.4 or 13.6.5. above, the Authority will endeavour to provide the Contractor with 3 Business Days' notice in advance of such disclosure. In relation to a disclosure of Information made under clause 13.6.3. above, if reasonably requested by the Contractor within 2 Business Days of such notice being given, where the Authority has not already done so, it will endeavour to procure from the intended recipient of the Information an agreement containing confidentiality terms the same as, or substantially similar to, those placed on the Authority under this Condition.
- 13.8. Before sharing any Information in accordance with clause 13.6, the Authority may redact the Information. Any decision to redact Information made by the Authority shall be final.
- 13.9. The Authority shall not be in breach of the Contract where disclosure of Information is made solely and to the extent necessary to comply with the Freedom of Information Act 2000 (the "Act") or the Environmental Information Regulations 2004 (the "Regulations"). To the extent permitted by the time for compliance under the Act or the Regulations, the Authority shall consult the Contractor where the Authority is considering the disclosure of Information under the Act or the Regulations and, in any event, shall provide prior notification to the Contractor of any decision to disclose the Information. The Contractor acknowledges and accepts that their representations on disclosure during consultation may not be determinative and that the decision whether to disclose Information in order to comply with the Act or the Regulations is a matter in which the Authority shall exercise its own discretion, subject always to the provisions of the Act or the Regulations.
- 13.10. Nothing in this Condition shall affect the Parties' obligations of confidentiality where Information is disclosed orally in confidence.

14. Publicity and Communications with the Media

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

15. Change of Control of Contractor

- 15.1. The Contractor shall notify the Representative of the Authority at the address given in clause 15.2, as soon as practicable, in writing of any intended, planned or actual

change in control of the Contractor, including any Subcontractors. The Contractor shall not be required to submit any notice which is unlawful or is in breach of either any pre-existing non-disclosure agreement or any regulations governing the conduct of the Contractor in the UK or other jurisdictions where the Contractor may be subject to legal sanction arising from issuing such a notice.

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

Mergers & Acquisitions Section
Strategic Supplier Management Team
Spruce 3b # 1301
MOD Abbey Wood,
Bristol, BS34 8JH

and emailed to: DefComrcISSM-MergersandAcq@mod.gov.uk

- 15.3. 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.
- 15.4. 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 15.1. The Authority shall act reasonably in exercising its right of termination under this Condition.
- 15.5. If the Authority exercises its right to terminate in accordance with clause 15.4 the Contractor shall be entitled to request the Authority to consider making a payment representing any commitments, liabilities or expenditure incurred by the Contractor in connection with the Contract up to the point of termination. Such commitments, liabilities or expenditure shall be reasonably and properly chargeable by the Contractor, and shall otherwise represent an unavoidable loss by the Contractor by reason of the termination of the Contract. Any payment under this clause 15.5. must be fully supported by documentary evidence. The decision whether to make such a payment shall be at the Authority's sole discretion.
- 15.6. Notification by the Contractor of any intended, planned or actual change of control shall not prejudice the existing rights of the Authority or the Contractor under the Contract nor create or imply any rights of either the Contractor or the Authority additional to the Authority's rights set out in this Condition.

16. Environmental Requirements

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

17. Contractor's Records

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

- 17.2. The Contractor and their Subcontractors shall also permit access to relevant records that relate to the contractual obligations to supply goods or services under the Contract, held by or controlled by them and reasonably required by the Comptroller and Auditor General, their staff and any appointed representative of the National Audit Office, and provide such explanations and information as reasonably necessary for the following purposes:
- 17.2.1. 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
 - 17.2.2. 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.
- 17.3. With regard to the records made available to the Authority under clause 17.1 of this Condition, and subject to the provisions of Condition 13 (Disclosure of Information), the Contractor shall permit records to be examined and if necessary copied, by the Authority, or Representative of the Authority, as the Authority may require.
- 17.4. Unless the Contract specifies otherwise the records referred to in this Condition shall be retained for a period of at least 6 years from:
- 17.4.1. the end of the Contract term;
 - 17.4.2. the termination of the Contract; or
 - 17.4.3. the final payment,
- whichever occurs latest.

18. Notices

- 18.1. A Notice served under the Contract shall be:
- 18.1.1. in writing in the English language;
 - 18.1.2. authenticated by signature or such other method as may be agreed between the Parties;
 - 18.1.3. sent for the attention of the other Party's Representative, and to the address set out in Schedule 3 (Contract Data Sheet);
 - 18.1.4. marked with the number of the Contract; and
 - 18.1.5. delivered by hand, prepaid post (or airmail), or, if agreed in Schedule 3 (Contract Data Sheet), by electronic mail.
- 18.2. Notices shall be deemed to have been received:
- 18.2.1. if delivered by hand, on the day of delivery if it is the recipient's Business Day and otherwise on the first Business Day of the recipient immediately following the day of delivery;
 - 18.2.2. 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;
 - 18.2.3. if sent by electronic means in accordance with Schedule 3:
 - 18.2.3.1. 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
 - 18.2.3.2. 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.

18.2.3.3 the addresses (including electronic addresses) of each party to the Contract to which all Notices shall be sent are those specified in the Contract, or such other address as either party may by written Notice specify to the other for the purpose of this Condition.

18.2.3.4 where either party requests written confirmation of any communication which does not constitute a Notice such request shall not unreasonably be refused.

19. Progress Monitoring, Meetings and Reports

- 19.1. The Contractor shall attend progress meetings at the frequency or times (if any) specified in Schedule 3 (Contract Data Sheet) and Statement of Work at Annex A to the Contract and shall ensure that their Contractor's representatives are suitably qualified to attend such meetings.
- 19.2. 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). Statement of Work at Annex A to the Contract The reports shall detail as a minimum:
 - 19.2.1. performance/Delivery of the Contractor Deliverables;
 - 19.2.2. risks and opportunities;
 - 19.2.3. any other information specified in Schedule 3 (Contract Data Sheet).

20. Supply of Contractor Deliverables and Quality Assurance

- 20.1. The Contractor shall provide the Contractor Deliverables to the Authority, in accordance with the Schedule of Requirements and the Specification detailed in the Statement of Work at Annex A to the Contract and shall allocate sufficient resource to the provision of the Contractor Deliverables to enable it to comply with this obligation.
- 20.2. The Contractor shall:
 - 20.2.1. comply with any applicable quality assurance requirements specified in Schedule 3 (Contract Data Sheet) in providing the Contractor Deliverables; and
 - 20.2.2. discharge their obligations under the Contract with all due skill, care, diligence and operating practice by appropriately experienced, qualified and trained personnel.
- 20.3. The provisions of clause 20.2. shall survive any performance, acceptance or payment pursuant to the Contract and shall extend to any remedial services provided by the Contractor.
- 20.4. The Contractor shall:
 - 20.4.1. 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;
 - 20.4.2. notify the Authority as soon as they become aware of any health and safety hazards or issues which arise in relation to the Contractor Deliverables; and

- 20.4.3. 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.

20.5 The Authority shall:

provide advice and guidance on any such rules, regulations and/or security requirements, to ensure that the Contractor is made aware.

21. Marking of Contractor Deliverables

- 21.1. 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).
- 21.2. Any marking method used shall not have a detrimental effect on the strength, serviceability or corrosion resistance of the Contractor Deliverables.
- 21.3. The marking shall include any serial numbers allocated to the Contractor Deliverable.
- 21.4. Where because of its size or nature it is not possible to mark a Contractor Deliverable with the required particulars, the required information should be included on the package or carton in which the Contractor Deliverable is packed, in accordance with Condition 22 (Packaging and Labelling (excluding Contractor Deliverables containing Munitions)).

22. Packaging and Labelling (excluding Contractor Deliverables containing Munitions)

- 22.1. Packaging responsibilities are as follows:
 - 22.1.1. The Contractor shall be responsible for providing Packaging which fully complies with the requirements of the Contract.
 - 22.1.2. 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.
 - 22.1.3. The Contractor shall ensure all relevant information necessary for the effective performance of the Contract is made available to all Subcontractors.
 - 22.1.4. 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.
- 22.2. The Contractor shall supply Commercial Packaging meeting the standards and requirements of Def Stan 81-041 (Part 1). In addition, the following requirements apply:

- 22.2.1. The Contractor shall provide Packaging which:
 - 22.2.1.1. 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
 - 22.2.1.2. is labelled to enable the contents to be identified without need to breach the package; and
 - 22.2.1.3. is compliant with statutory requirements and this Condition.
- 22.2.2. 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:
 - 22.2.2.1. 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;
 - 22.2.2.2. Robust Contractor Deliverables, which by their nature require minimal or no packaging for commercial deliveries, shall be regarded as "PPQ packages" and shall be marked in accordance with clauses 22.9 to 22.12. References to "PPQ packages" in subsequent text shall be taken to include Robust Contractor Deliverables; and
 - 22.2.2.3. for ease of handling, transportation and delivery, packages which contain identical Contractor Deliverables may be bulked and overpacked, in accordance with clauses 22.9 to 22.11.
- 22.3. The Contractor shall ascertain whether the Contractor Deliverables being supplied are, or contain, Dangerous Goods, and shall supply the Dangerous Goods in accordance with:
 - 22.3.1. The Health and Safety At Work Act 1974 (as amended);
 - 22.3.2. The Classification Hazard Information and Packaging for Supply Regulations (CHIP4) 2009 (as amended);
 - 22.3.3. The REACH Regulations 2007 (as amended); and
 - 22.3.4. The Classification, Labelling and Packaging Regulations (CLP) 2009 (as amended).
- 22.4. 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:
 - 22.4.1. The Safety Of Lives At Sea Regulations (SOLAS) 1974 (as amended); and
 - 22.4.2. The Air Navigation (Amendment) Order 2019.
- 22.5. 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).
- 22.6. The Contractor shall comply with the requirements for the design of MLP which include clauses 22.6 and 22.7 as follows:

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

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

DES LSOC SpSvcs--SptEng-Pkg1

MOD Abbey Wood

Bristol, BS34 8JH

Tel. +44(0)30679-35353

DESLSOC-SpSvcs-SptEng-Pkg1@mod.gov.uk

22.6.1.2. The MPAS Documentation is also available on the DStan website.

22.6.2. 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).

22.6.3. 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').

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

22.6.5. 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.

22.6.6. 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.

22.6.7. Where it is necessary to use an existing SPIS design, the Contractor shall ensure the Packaging manufacturer is a registered organisation in accordance with clause 22.f.(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.

22.6.8. The documents supplied under clause 22.6.6. shall be considered as a contract data requirement and be subject to the terms of DEFCON 15 and DEFCON 21.

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

22.7.1. If the Contractor or their Subcontractor is the PDA they shall:

22.7.1.1 On receipt of instructions received from the Authority's representative nominated in Box 2 Annex A to Schedule 3 (Contract Data Sheet), prepare the required package design in accordance with clause 22.6.

- 22.7.1.2. 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.
 - 22.7.1.3. Where the PDA is not a registered organisation, then they shall obtain approval for their design from a registered organisation before proceeding, then follow clause 22.7.1.2.
 - 22.7.2. 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.
 - 22.7.3. Where the Contractor or their Subcontractor is un-registered and has been given authority to produce, modify, and update SPIS designs by the Contract, they shall obtain approval for their design from a registered organisation using DEFFORM 129a before proceeding, then follow clause 22.7.1.2.
 - 22.7.4. Where the Contractor or their Subcontractor is not a PDA but is registered, they shall follow clauses 22.7.1.1. and 22.7.1.2.
- 22.8. 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.
- 22.9. In addition to any marking required by international or national legislation or regulations, the following package labelling and marking requirements apply:
 - 22.9.1. 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:
 - 22.9.1.1. 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.
 - 22.9.1.2. Each consignment package shall be marked with details as follows:
 - i. name and address of consignor;
 - ii. name and address of consignee (as stated in the Contract or order);
 - iii. destination where it differs from the consignee's address, normally either:
 - (i). delivery destination / address; or
 - (ii). transit destination, where delivery address is a point for aggregation / disaggregation and / or

- onward shipment elsewhere, e.g. railway station,
where that mode of transport is used;
 - iv. the unique order identifiers and the CP&F Delivery Label / Form which shall be prepared in accordance with DEFFORM 129J.
 - (i). If aggregated packages are used, their consignment marking and identification requirements are stated at clause 22.12.
- 22.9.2. 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.
- 22.10. 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.
- 22.11. Requirements for positioning bar codes in relation to related text, as well as positioning on package etc., are defined in Def Stan 81-041 (Part 6). If size of the bar code does not allow a label to be directly attached, then a tag may be used. Any difficulties over size or positioning of barcode markings shall initially be referred to the organisation nominated in Box 3 of Annex A to Schedule 3 (Contract Data Sheet).
- 22.12. The requirements for the consignment of aggregated packages are as follows:
- 22.12.1. 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.

22.12.2. 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.

- 22.13. Authorisation of the Contractor to undertake Packaging design, or to use a packaging design, that was not part of the original requirement under the Contract, shall be considered as an alteration to the specification in accordance with Condition 6 (Formal Amendments to the Contract).
- 22.14. 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).
- 22.15. All Packaging shall meet the requirements of the Packaging (Essential Requirements) Regulations 2003 (as amended) where applicable.
- 22.16. In any design work the Contractor shall comply with the Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (as amended) or equivalent legislation. Evidence of compliance shall be a contractor record in accordance with Condition 17 (Contractor's Records).
- 22.17. 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.

- 22.18. 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.
- 22.19. 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/>
- 22.20. 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.
- 22.21. In the event of conflict between the Contract and Def Stan 81-041, the Contract shall take precedence.

23. Plastic Packaging Tax ("PPT")

- 23.1. The Contractor shall ensure that any PPT due in relation to this Contract is paid in accordance with the PPT Legislation.
- 23.2. The Contract Price includes any PPT that may be payable by the Contractor in relation to the Contract.
- 23.3. On reasonable notice being provided by the Authority, the Contractor shall provide and make available to the Authority details of any PPT they have paid that relates to the Contract.
- 23.4. The Contractor shall notify the Authority, in writing, in the event that there is any adjustment required to the Contract Price in accordance with section 70 of the Finance Act 2021 and, on reasonable notice being provided by the Authority, the Contractor shall provide any such information that the Authority requires in relation to any such adjustment.
- 23.5. In accordance with Condition 17 the Contractor (and their sub-contractors) shall maintain all records relating to PPT and make them available to the Authority when requested on reasonable notice for reasons related to the Contract.
- 23.6. Where the Contractor manufactures, purchases or imports into the UK any Plastic Packaging Component in relation to the Contract the Contractor shall, on reasonable notice being given, provide the Authority with such information and documentation that it requires to enable the Authority to carry out due diligence checks and satisfy itself that the Contractor has complied with the requirements of the PPT Legislation. This shall include, but is not limited to the Contractor providing:
 - 23.6.1. confirmation of the tax status of any Plastic Packaging Component;
 - 23.6.2. documents to confirm that PPT has been properly accounted for;
 - 23.6.3. product specifications for the packaging components, including, but not limited to, the weight and composition of the products and any other product specifications that may be required; and
 - 23.6.4. copies of any certifications or audits that have been obtained or conducted in relation to the provision of Plastic Packaging Components.

- 23.7. The Authority shall have the right, on providing reasonable notice, to physically inspect or conduct an audit on the Contractor, to ensure any information that has been provided in accordance with clause 23.6 above is accurate.
- 23.8. In the event the Contractor is not required to register for PPT they (and to the extent applicable, their sub-contractors) shall provide the Authority with a statement to this effect and, to the extent reasonably required by the Authority on reasonable notice, supporting evidence for that statement.
- 23.9. The Contractor shall provide, on the Authority providing reasonable notice, any information that the Authority may require from the Contractor for the Authority to comply with any obligations it may have under the PPT Legislation.

24. Supply of Data for Hazardous Substances, Mixtures and Articles in Contractor Deliverables

- 24.1. Nothing in this Condition shall reduce or limit any statutory duty or legal obligation of the Authority or the Contractor.
- 24.2. The Contractor shall provide to the Authority:
 - 24.2.1 for each Substance or Mixture supplied in meeting the criteria of classification as hazardous in accordance with the GB Classification, Labelling and Packaging (GB CLP) a UK REACH compliant Safety Data Sheet (SDS);
 - 24.2.2. where Mixtures supplied do not meet the criteria for classification as hazardous according to GB CLP but contain a hazardous Substance an SDS is to be made available on request; and
 - 24.2.3. for each Article whether supplied on its own or part of an assembly that contains a Substance on the UK REACH Authorisation List, Restriction List and/or the Candidate List of Substances of Very High Concern (SVHC) in a proportion greater than 0.1% w/w of the Article, sufficient information, available to the Contractor, to allow safe use of the Article including, as a minimum, the name of that Substance.
- 24.3. For Substances, Mixtures or Articles that meet the criteria list in clause 24.2 above:
 - 24.3.1. 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/safety information and forward it to the Authority and to the address listed in clause 24.9 below; and
 - 24.3.2. if the Authority becomes aware of new information that might call into question the appropriateness of the risk management measures identified in the safety information supplied, shall report this information in writing to the Contractor.
- 24.4. The Contractor shall provide to the Authority a completed Schedule 6 (Hazardous Substances, Mixtures and Articles in Contractor Deliverables Supplied under the Contract: Data Requirements) in accordance with Schedule 3 (Contract Data Sheet).
- 24.5. If the Substances, Mixtures or Articles in Contractor Deliverables are Ordnance, Munitions or Explosives (OME), in addition to the requirements of the GB CLP and UK REACH the Contractor shall comply with hazard reporting requirements of DEF STAN 07-085 Design Requirements for Weapons and Associated Systems.

- 24.6. If the Substances, Mixtures or Articles in Contractor Deliverables, are or contain or embody a radioactive substance as defined in the Ionising Radiation Regulations SI 2017/1075, the Contractor shall additionally provide details in Schedule 6 of:
 - 24.6.1. activity; and
 - 24.6.2. the substance and form (including any isotope).
- 24.7. If the Substances, Mixtures or Articles in Contractor Deliverables have magnetic properties which emit a magnetic field, the Contractor shall additionally provide details in Schedule 6 of the magnetic flux density at a defined distance, for the condition in which it is packed.
- 24.8. 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 24.2.1 and 24.3.1., any information arising from the provisions of clauses 24.6. and 24.7. and the completed Schedule 6, shall be sent directly to the Authority's Point of Contact as specified in the Schedule 3 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).
- 24.9. So that the safety information can reach users without delay, the Authority shall send a copy preferably as an email with attachment(s) in Adobe PDF or MS WORD format, or, if only hardcopy is available, to the addresses below:
 - 24.9.1. Hard copies to be sent to:
 - Hazardous Stores Information System (HSIS)
 - Spruce 2C, #1260,
 - MOD Abbey Wood (South)
 - Bristol BS34 8JH
 - 24.9.2. Emails to be sent to:
 - DEEngSfty-QSEPSEP-HSISMulti@mod.gov.uk
- 24.10. SDS which are classified above OFFICIAL including Explosive Hazard Data Sheets (EHDS) for OME are not to be sent to HSIS and must be held by the respective Authority Delivery Team.
- 24.11. Failure by the Contractor to comply with the requirements of this Condition shall be grounds for rejecting the affected Substances, Mixtures and Articles in Contractor Deliverables. Any withholding of information concerning hazardous Substances, Mixtures or Articles in Contractor Deliverables 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.
- 24.12. Where delivery is made to the Defence Fulfilment Centre (DFC) and / or other Team Leidos location / building, the Contractor must comply with the Logistic Commodities and Services Transformation (LCST) Supplier Manual.

25. Timber and Wood-Derived Products

- 25.1. All Timber and Wood-Derived Products supplied by the Contractor under the Contract:
 - 25.1.1. shall comply with the Contract Specification; and
 - 25.1.2. must originate either:
 - (a) from a Legal and Sustainable source; or
 - (b) from a FLEGT-licensed or equivalent source.

- 25.2. In addition to the requirements of clause 25.1, 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:
- 25.2.1. identification, documentation and respect of legal, customary and traditional tenure and use rights related to the forest;
 - 25.2.2 mechanisms for resolving grievances and disputes including those relating to tenure and use rights, to forest management practices and to work conditions; and
 - 25.2.3. safeguarding the basic labour rights and health and safety of forest workers.
- 25.3. 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 25.1 or 25.2 or both.
- 25.4. 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.
- 25.5. If the Contractor has already provided the Authority with the Evidence required under clause 25.3, 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 25.1 or 25.2 or both.
- 25.6. The Contractor shall maintain records of all Timber and Wood-Derived Products delivered to and accepted by the Authority, in accordance with Condition 17 (Contractor's Records).
- 25.7. Notwithstanding clause 25.3, 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:
- 25.7.1. a record tracing the Recycled Timber to its previous end use as a standalone object or as part of a structure; and
 - 25.7.2. an explanation of the circumstances that rendered it impractical to record Evidence of proof of timber origin.
- 25.8. 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 25.1 or 25.2, 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:
- 25.8.1. verify the forest source of the timber or wood; and
 - 25.8.2. assess whether the source meets the relevant criteria of clause 25.2.
- 25.9. The statistical reporting requirement at clause 25.10 applies to all Timber and Wood-Derived Products delivered under the Contract. The Authority reserves the right to amend the requirement for statistical reporting, in the event that the UK Government changes the requirement for reporting compliance with the Government Timber Procurement Policy. Amendments to the statistical reporting requirement will be made in accordance with Condition 6 (Formal Amendments to the Contract).

- 25.10. 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).
- 25.11. The Schedule 7 (Timber and Wood-Derived Products Supplied under the Contract: Data Requirements) may be amended by the Authority from time to time, in accordance with Condition 6 (Formal Amendments to the Contract).
- 25.12. The Contractor shall obtain any wood, other than processed wood, used in Packaging from:
 - 25.12.1. 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 <https://www.forestryengland.uk/>) and all such wood shall be treated for the elimination of raw wood pests and marked in accordance with that Programme; or
 - 25.12.2. 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

- 26.1. 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.
- 26.2. Each CofC should include the wording "Certificate of Conformity" in the title of the document to allow for easy identification. One CofC is to be used per NSN/part number; a CofC must not cover multiple line items.
- 26.3. The Contractor shall consider the CofC to be a record in accordance with Condition 17 (Contractor's Records).
- 26.4. The Information provided on the CofC shall include:
 - 26.4.1. Contractor's name and address;
 - 26.4.2. Contractor unique CofC number;
 - 26.4.3. Contract number and where applicable Contract amendment number;
 - 26.4.4. details of any approved concessions;
 - 26.4.5. acquirer name and organisation;
 - 26.4.6. Delivery address;
 - 26.4.7. Contract Item Number from Schedule 2 (Schedule of Requirements);
 - 26.4.8. description of Contractor Deliverable, including part number,

- specification and configuration status;
 - 26.4.9. NATO Stock Number (NSN) (where allocated);
 - 26.4.10. identification marks, batch and serial numbers in accordance with the Specification;
 - 26.4.11. quantities;
 - 26.4.12. a signed and dated statement by the Contractor that the Contractor Deliverables comply with the requirements of the Contract and approved concessions. Exceptions or additions to the above are to be documented.
- 26.5. 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 26.4. The Contractor shall ensure that this Information is available to the Authority through the supply chain upon request in accordance with Condition 17 (Contractor Records).

27. Access to Contractor's Premises

- 27.1. The Contractor shall provide to the Authority's Representatives following reasonable Notice, relevant accommodation/facilities, at no direct cost to the Authority, and all reasonable access to their premises for the purpose of monitoring the Contractor's progress and quality standards in performing the Contract.
- 27.2. As far as reasonably practical, the Contractor shall ensure that the provisions of clause 27.1 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

- 28.1. 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.
- 28.2. 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:
 - 28.2.1. 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;
 - 28.2.2. comply with any special instructions for arranging Delivery in Schedule 3 (Contract Data Sheet);
 - 28.2.3 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;
 - 28.2.4. be responsible for all costs of Delivery; and
 - 28.2.5. 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.

- 28.3. 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:
- 28.3.1. contact the Authority's Representative (Transport) as detailed in box 10 of Annex A to Schedule 3 (Contract Data Sheet) in advance of the Delivery Date in order to agree specific arrangements for Collection and provide any Information pertinent to the Collection requested;
 - 28.3.2. comply with any special instructions for arranging Collection in Schedule 3 (Contract Data Sheet);
 - 28.3.3. 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;
 - 28.3.4. 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
 - 28.3.5. 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).
- 28.4. Title and risk in the Contractor Deliverables shall only pass from the Contractor to the Authority:
- 28.4.1. on the Delivery of the Contractor Deliverables by the Contractor to the Consignee in accordance with clause 28.2; or
 - 28.4.2. 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 28.3.
- 28.5. This Condition shall not apply to any Articles issued to the Contractor by or on behalf of the Authority in connection with which the Contractor is required to carry out any Service. Such Articles shall be subject to DEFCON 611.

29. Acceptance

- 29.1. 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:
- 29.1.1. the Authority does any act in relation to the Contractor Deliverable which is inconsistent with the Contractor's ownership; or
 - 29.1.2. the time limit in which to reject the Contractor Deliverables defined in clause 30.2 has elapsed.

30. Rejection and Counterfeit Materiel

Rejection:

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

agreed with the Authority, on an individual basis, the Contractor may collect the rejected deliverable, or come to the Authority site location to rectify conformance at the Contractor's risk and cost.

- 30.2. Rejection of any of the Contractor Deliverables under clause 30.1 shall take place by the time limit for rejection specified in Schedule 3 (Contract Data Sheet), or if no such period is specified, the Contractor Deliverables shall be deemed to be accepted within a reasonable period of time.

Counterfeit Materiel:

- 30.3. Where the Authority suspects that any Contractor Deliverable or consignment of Contractor Deliverables contains Counterfeit Materiel, it shall:
- 30.3.1. notify the Contractor in writing of its suspicion and reasons therefore;
 - 30.3.2. where reasonably practicable, and if requested by the Contractor within 10 Business Days of such notification, (at the Contractor's own risk and expense and subject to any reasonable controls specified by the Authority) afford the Contractor the facility to:
 - (i) inspect the Contractor Deliverable or consignment and/or
 - (ii) obtain a sample thereof for validation or testing purposes.
 - 30.3.3. at its discretion, provide the Contractor with a sample of the Contractor Deliverable or consignment for validation or testing purposes by the Contractor (at the Contractor's own risk and expense);
 - 30.3.4. give the Contractor a further 20 Business Days or such other reasonable period agreed by the Authority, from the date of the inspection at 30.3.2.(i) or the provision of a sample at 30.3.2.(ii), to comment on whether the Contractor Deliverable or consignment meets the definition of Counterfeit Materiel; and
 - 30.3.5. determine, on the balance of probabilities and strictly on the evidence available to it at the time, whether the Contractor Deliverable or consignment meets the definition of Counterfeit Materiel.
- 30.4. Where the Authority has determined that the Contractor Deliverable, part or consignment of Contractor Deliverables contain Counterfeit Material then it may reject the Contractor Deliverable, part or consignment under 30.1 and 30.2 (Rejection), and provide written notification to the Contractor of the rejection.
- 30.5. In addition to its rights under 30.1 and 30.2 (Rejection), where the Authority has determined that any Contractor Deliverable or consignment of Contractor Deliverables contains Counterfeit Materiel, it shall be entitled to:
- 30.5.1. retain any Counterfeit Materiel; and/or
 - 30.5.2. retain the whole or any part of such Contractor Deliverable or consignment where it is not possible to separate the Counterfeit Materiel from the rest of the Contractor Deliverable, or consignment; and such retention shall not constitute acceptance under Condition 29 (Acceptance).
- 30.6. Where the Authority intends to exercise its rights under clause 30.5 the Contractor may, subject to the agreement of the Authority (and at the Contractor's own risk and expense and subject to any reasonable controls and timeframe agreed), arrange, for:

- 30.6.1. the separation of Counterfeit Materiel from any Contractor Deliverable or part of a Contractor Deliverable; and/or
 - 30.6.2. the removal of any Contractor Deliverable or part of a Contractor Deliverable that the Authority is reasonably satisfied does not contain Counterfeit Materiel.
- 30.7. In respect of any Contractor Deliverable, consignment or part thereof that is retained in accordance with clause 30.5, including where the Authority permits the Contractor to remove non-Counterfeit Materiel under clause 30.6 but the Contractor fails to do so within the period agreed and subject to clause 30.11, the Authority shall be entitled to exercise any, all, or any combination of, the following rights:
- 30.7.1. to dispose of it responsibly, and in a manner that does not permit its reintroduction into the supply chain or market;
 - 30.7.2. to pass it to a relevant investigatory or regulatory authority;
 - 30.7.3. to retain conduct or have conducted further testing including destructive testing, for further investigatory, regulatory or risk management purposes. Results from any such tests shall, at the discretion of the Authority, be shared with the Contractor; and/or
 - 30.7.4. to recover the appropriate, attributable, and reasonable costs incurred by the Authority in respect of testing, storage, access, and/or disposal of it from the Contractor; and exercise of the rights granted at clauses 30.7.1 to 30.7.3 shall not constitute acceptance under Condition 29 (Acceptance).
- 30.8. Any scrap or other disposal payment received by the Authority shall be off set against any amount due to the Authority under clause 30.7.4. If the value of the scrap or other disposal payment exceeds the amount due to the Authority under clause 30.7.4 then the balance shall accrue to the Contractor.
- 30.9. The Authority shall not use a retained Contractor Deliverable or consignment other than as permitted in clauses 30.3 – 30.11.
- 30.10. The Authority may report a discovery of Counterfeit Materiel and disclose information necessary for the identification of similar materiel and its possible sources.
- 30.11. The Contractor shall not be entitled to any payment or compensation from the Authority as a result of the Authority exercising the rights set out in clauses 30.3. – 30.11. except:
- (1) in relation to the balance that may accrue to the Contractor in accordance with clause 30.8; or
 - (2) where it has been determined in accordance with Condition 40 (Dispute Resolution) that the Authority has made an incorrect determination in accordance with clause 30.3.5. In such circumstances the Authority shall reimburse the Contractors reasonable costs of complying with clause 30.3.

31. Diversion Orders

- 31.1. 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.

- 31.2. 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.
- 31.3. The Authority reserves the right to cancel the Diversion Order.
- 31.4. 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.
- 31.5. 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.
- 31.6. The Contractor shall be entitled to reasonable additional delivery and packaging costs incurred in complying with the Diversion Order or cancellation. Claims are to be submitted by the Contractor to the Authority's Commercial Officer together with applicable receipts and agreed as an amendment to the Contract in accordance with Condition 6 (Formal Amendments to the Contract). The Contractor shall comply with the requirements of the Diversion Order upon receipt of the Diversion Order.

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 their own premises, or to those of a Subcontractor ('self-to-self delivery'), the risk in such a Contractor Deliverable shall remain vested in the Contractor until such time as it is handed over to the Authority.

33. Import and Export Licences

- 33.1. 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.
- 33.2. 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:
 - 33.2.1. 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
 - 33.2.2. 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".

- 33.3. 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.
- 33.4. 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.
- 33.5. 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:
- 33.5.1. 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
 - 33.5.2. the Authority shall provide sufficient information, certification, documentation and other reasonable assistance as may be necessary to support the application for the requested variation.
- 33.6. 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.
- 33.7. Where the Authority invokes clause 33.5 or 33.6 the Authority will pay the Contractor a fair and reasonable charge for this service based on the cost of providing it.

- 33.8. 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.
- 33.9. 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.
- 33.10. 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.
- 33.11. The Contractor shall use reasonable endeavours to identify whether any Contractor Deliverable is subject to:
- 33.11.1 a non-UK export licence, authorisation or exemption; or
 - 33.11.2. 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).
- 33.12. 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 33.11.1. or 33.11.2., they shall notify the Authority of this as soon as reasonably practicable by providing details in the DEFFORM 528 or other mutually agreed alternative format. Such notification shall be no later than thirty (30) days of knowledge of any affected Contractor Deliverable and in any event such notification shall be not less than thirty (30) days prior to delivery of the Contractor Deliverables.
- 33.13. If the information to be provided under clause 33.12 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 33.12.
- 33.14. 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 33.12. or 33.13 of which they become or are aware that would affect the Authority's ability to use, disclose, re-transfer or re-export an item or part of it as is referred to in those clauses by issuing an updated DEFFORM 528 to the Authority.
- 33.15. For a period of up to two 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 33.12. or 33.13. of which they become aware that would affect the Authority's ability to use, disclose, re-transfer or re-export an item or part of it as is referred to in those clauses by issuing an updated DEFFORM 528 to the Authority.

- 33.16. Where following receipt of materiel from a Subcontractor or any of their other suppliers' restrictions are notified to the Contractor by that Subcontractor, supplier or other third party or are identified by the Contractor, the Contractor shall immediately inform the Authority by issuing an updated DEFFORM 528. Within 10 business days of such notification, the Contractor shall propose to the Authority actions to mitigate the impact of such restrictions. Such proposals may include, where appropriate, mutually supported attempts to obtain removal or modification to the restrictions or to obtain appropriate authorisations from the relevant foreign government. The Authority shall notify the contractor within 10 business days of receipt of a proposal whether it is acceptable and where appropriate the Contract shall be modified in accordance with its terms to implement the proposal.
- 33.17. If the restrictions prevent the Contractor from performing their obligations under the Contract and have not been removed, modified or otherwise satisfactorily managed within a reasonable time, the Authority may at its absolute discretion elect to amend the contract in accordance with Condition 6 or as otherwise may be provided by the Contract, or to terminate the Contract. Except as set out in clause 33.18, 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.
- 33.18. In the event that the restrictions notified to the Authority pursuant to clause 33.12 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 33.14 or 33.15 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 33.12, termination under clause 33.20 will be in accordance with Condition 43 (Material Breach) and the provisions of clause 34.22 will not apply.
- 33.19. 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 33.11, 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.
- 33.20. 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.

33.21. Where:

33.21.1. restrictions are advised by the Authority to the Contractor in a DEFFORM 528 provided pursuant to clauses 33.19 or 33.20 or both;
or

33.21.2. any of the information provided by the Authority in any DEFFORM 528 proves to be incorrect or inaccurate; the Authority and the Contractor shall act promptly to mitigate the impact of such restrictions or incorrect or inaccurate information. Such mitigation shall include, where appropriate, mutually supported attempts to obtain removal or modification to the restrictions or to obtain appropriate authorisations from the relevant foreign government. If the restrictions or incorrect or inaccurate information adversely affect the ability of the Contractor to perform their obligations under the Contract, the matter shall be handled under the terms of Condition 6 (Formal Amendments to the Contract) or as may otherwise be provided by the Contract as appropriate and if no alternative solution satisfies the essential terms of the Contract and the restrictions have not been removed, modified or otherwise satisfactorily managed within a reasonable time the Authority may terminate the Contract. Termination under these circumstances will be under the terms of Condition 42 (Termination for Convenience) and as referenced in the Contract.

33.22. Pending agreement of any amendment of the Contract as set out in clause 33.17 or 33.21, provided the Contractor takes such steps as are reasonable to mitigate the impact, the Contractor shall be relieved from their obligations to perform those elements of the Contract directly affected by the restrictions or provision of incorrect or incomplete information.

34. Third Party Intellectual Property – Rights and Restrictions

34.1. 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 34.1 does not apply in respect of Contractor Deliverables normally available from the Contractor as a Commercial Off The Shelf (COTS) item or service.

- 34.2. If the Information required under clause 34.1 has been notified previously, the Contractor may meet their obligations by giving details of the previous notification.
- 34.3. For COTS Contractor Deliverables patents and registered designs in the UK, in respect of any question arising (by way of an allegation made to the Authority or Contractor, or otherwise) that the manufacture or provision under the Contract of Contractor Deliverables normally available from the Contractor as a COTS item or service is an infringement of a UK patent or registered design not owned or controlled by the Contractor or the Authority, the Contractor shall, subject to the agreement of the third party owning such patent or registered design, be given exclusive conduct of any and all negotiations for the settlement of any claim or the conduct of any litigation arising out of such question. The Contractor shall indemnify the Authority, its officers, agents and employees against any liability and cost arising from such allegation. This Condition shall not apply if:
- (1) the Authority has made or makes an admission of any sort relevant to such question;
 - (2) the Authority has entered or enters into any discussions on such question with any third party without the prior written agreement of the Contractor;
 - (3) the Authority has entered or enters into negotiations in respect of any relevant claim for compensation in respect of Crown Use under Section 55 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949;
 - (4) legal proceedings have been commenced against the Authority or the Contractor in respect of Crown Use, but only to the extent of such Crown Use that has been properly authorised.
- 34.4. The indemnity in clause 34.3 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.
- 34.5. 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.
- 34.6. 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.
- 34.7. If, under clause 34.1, 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.
- 34.8. The Authority shall assume all liability and shall indemnify the Contractor, their officers, agents and employees against liability, including the Contractor's costs, as a result of infringement by the Contractor or their suppliers of any patent, utility model, registered design or like protection outside the United Kingdom in the performance of the Contract when such infringement arises from or is incurred by reason of the Contractor following any specification, statement of work or instruction in the Contract or using, keeping or disposing of any item given by the Authority for the purpose of the Contract in accordance with the Contract.
- 34.9. 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.
- 34.10. 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 34.1.
- 34.11. 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.

- 34.12. 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.
- 34.13. The Authority shall assume all liability and indemnify the Contractor, their officers, agents and employees against liability, including costs as a result of:
- (1) infringement or alleged infringement by the Contractor or their suppliers of any copyright, database right, Design Right or the like protection in any part of the world in respect of any item provided by the Authority for the purpose of the Contract but only to the extent that the item is used for the purpose of the Contract;
 - (2) alleged misuse of any confidential Information, trade secret or the like by the Contractor as a result of use of Information provided by the Authority for the purposes of the Contract, but only to the extent that Contractor's use of that Information is for the purposes intended when it was disclosed by the Authority.
- 34.14. The general authorisation and indemnity is:
- (1) clauses 34.1 – 34.13 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 34.12.(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.

- 34.15. If at any time a claim or allegation of infringement arises in respect of copyright, database right, Design Right or breach of confidence as a result of the provision of any Contractor Deliverable by the Contractor to the Authority, the Contractor may at their own expense replace the item with an item of equivalent functionality and performance so as to avoid infringement or breach. The Parties will co-operate with one another to mitigate any claim or damage which may arise from use of third party IPR.
- 34.16. 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.
- 34.17. 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.

Notification of Intellectual Property Rights (IPR) Restrictions

- 34.18. Where any of the conditions listed below (1 and 2) have been added to the Conditions of the contract as project specific DEFCONs at Clause 45, or where required by Clauses 34.1 – 34.17, the Contractor confirms, to the best of its knowledge, that all Intellectual Property Rights restrictions and associated export restrictions relating to the use or disclosure of the Contractor Deliverables that are notifiable under those Conditions, or of which the Contractor is or should reasonably be aware as at Effective Date of contract, are disclosed in schedule 10 (Notification of intellectual Property Rights (IPR) restrictions).
- (1) DEFCON 90 – including copyright material supplied under clause 5;
- (2) DEFCON 91 – limitations of Deliverable Software under clause 3b.
- 34.19. The Contractor shall promptly notify the Authority in writing if they become aware during the performance of the Contract of any required additions, inaccuracies or omissions in Schedule 10. These notifications shall be at least made annually by the Contractor, and before the Contract end date.
- 34.20. Any amendment to Schedule 10 shall be made in accordance with Condition 6.

35. Contract Price

- 35.1. The Contractor shall provide the Contractor Deliverables to the Authority at the Contract Price. The Contract Price shall be a Fixed Price unless otherwise stated in Schedule 3 (Contract Data Sheet).
- 35.2. Subject to clause 35.1 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

- 36.1. Payment for Contractor Deliverables will be made by electronic transfer and prior to submitting any claims for payment under clause 36.2 the Contractor will be required to register their details (Supplier on-boarding) on the Contracting, Purchasing and Finance (CP&F) electronic procurement tool.
- 36.2. Where the Contractor submits an invoice to the Authority in accordance with clause 36.1, the Authority will consider and verify that invoice in a timely fashion.
- 36.3. The Authority shall pay the Contractor any sums due under such an invoice no later than a period of 30 calendar days from the date on which the Authority has determined that the invoice is valid and undisputed.
- 36.4. Where the Authority fails to comply with clause 36.2 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 36.3 after a reasonable time has passed.
- 36.5. 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 the Contract.
- 36.6. 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. The order of set off precedence will be:
 - i) BAE Systems Maritime Services then
 - ii) BAE Systems Surface Ships.

37. Value Added Tax

- 37.1. 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.
- 37.2. If the Contractor is required by UK VAT law to be registered for UK VAT (or has registered voluntarily) in respect of their business activities at the time of any supply, and the circumstances of any supply are such that the Contractor is liable to pay the tax due to HM Revenue and Customs (HMRC), the Authority shall pay to the Contractor in addition to the Contract Price (or any other sum due to the Contractor) a sum equal to the output VAT chargeable on the tax value of the supply of Contractor Deliverables, and all other payments under the Contract according to the law at the relevant tax point.
- 37.3. The Contractor is responsible for the determination of VAT liability. The Contractor shall consult their Client Relationship Manager or the HMRC Enquiries Desk (and not the Authority's Representative (Commercial)) in cases of doubt. The Contractor shall notify the Authority's Representative (Commercial) of the Authority's VAT liability under the Contract, and any changes to it, within twenty (20) Business Days of becoming aware the liability is other than at the standard rate of VAT. In the event of any doubt about the applicability of the tax in such cases, the Authority may require the Contractor to obtain, and pass to the Authority, a formal ruling from HMRC. The Contractor shall comply promptly with any such requirement. Where the Contractor obtains a ruling from HMRC, they shall supply a copy to the Authority

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

- 37.4. Where supply of Contractor Deliverables comes within the scope of UK VAT, but the Contractor is not required by UK VAT law to be registered for UK VAT (and has not registered voluntarily), the Authority shall be responsible for assessing and paying over directly to HMRC any UK output VAT due in respect of the Contractor Deliverables. The Contractor shall be responsible for ensuring they take into account any changes in VAT law regarding registration.
- 37.5. 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.
- 37.6. 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).
- 37.7. Should HMRC decide that the Contractor has incorrectly determined the VAT liability, in accordance with clause 37.2 above, the Authority will pay the VAT assessed by HMRC. In the event that HMRC so determines, the Contractor shall pay any interest charged on any assessment or penalties or both directly to HMRC. Such interest or penalties or both shall not be recoverable from the Authority under the Contract or any other contract. The Contractor shall supply the Authority with a copy of all correspondence between HMRC and the Contractor's advisors regarding the VAT assessment within three (3) Business Days of a written request from the Authority for such correspondence.

38. NOT USED.

38.1.

39. Subcontracting and Prompt Payment

- 39.1. Subcontracting any part of the Contract shall not relieve the Contractor of any of the Contractor's obligations, duties or liabilities under the Contract.
- 39.2. Where the Contractor enters into a subcontract, they shall cause a term to be included in such subcontract:
- (1) providing that where the Subcontractor submits an invoice to the Contractor, the Contractor will consider and verify that invoice in a timely fashion;
 - (2) providing that the Contractor shall pay the Subcontractor any sums due under such an invoice no later than a period of thirty (30) days from the date

on which the Contractor has determined that the invoice is valid and undisputed;

(3) providing that where the Contractor fails to comply with clause 39.2.(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 39.2.(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 39.2.(1) to 39.2.(4).

- 39.3 The Contractor shall ensure that all necessary rights and licences are flowed down to any Sub-Contractor such that the Authorities Intellectual Property rights under the Contract are fully enabled. Should the Contractor be unable to secure such rights, they shall promptly inform the Authority and allow for a direct agreement to be sought in the Form of DEFFORM 177 held at Contract Annex E. If this is not possible the parties shall agree on how to proceed prior to any placement of any sub-contract.

Termination

40. Dispute Resolution

- 40.1 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.
- 40.2. In the event that the dispute or claim is not resolved pursuant to clause 40.1 the dispute shall, unless it is a question to be referred to the Single Source Regulations Office pursuant to provisions in the Defence Reform Act 2014 and the Single Source Contract Regulations 2014, be referred to arbitration. Unless otherwise agreed in writing by the Parties, the arbitration and this clause 40.2 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. The party initiating the arbitration shall give a written Notice of Arbitration to the other party. The Notice of Arbitration shall specifically state:
- (1) that the dispute is referred to arbitration; and
 - (2) the particulars of the Contract out of, or in relation to which the dispute arises.
- 40.3. 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. No report relating to anything said, done or produced in or in relation to the arbitration process may be made beyond the tribunal, the parties, their legal representatives and any person necessary to the conduct of the proceedings, without the concurrence of all the parties to the arbitration.

41. Termination for Insolvency or Corrupt Gifts

Insolvency:

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

Where the Contractor is an individual or a firm:

- (1) the application by the individual or, in the case of a firm constituted under English law, any partner of the firm to the court for an interim order pursuant to Section 253 of the Insolvency Act 1986; or
- (2) the court making an interim order pursuant to Section 252 of the Insolvency Act 1986; or
- (3) the individual, the firm or, in the case of a firm constituted under English law, any partner of the firm making a composition or a scheme of arrangement with them or their creditors; or
- (4) the presentation of a petition for bankruptcy order against the individual or, in the case of a firm constituted under English law, any partner of the firm unless it is withdrawn within three (3) Business Days from the date on which the Contractor is notified of the presentation; or
- (5) the court making a bankruptcy order in respect of the individual or, in the case of a firm constituted under English law, any partner of the firm; or
- (6) where the Contractor is either unable to pay their debts as they fall due or has no reasonable prospect of being able to pay debts which are not immediately payable. The Authority shall regard the Contractor as being unable to pay their debts if:
 - (a) they have failed to comply with or to set aside a Statutory demand under Section 268 of the Insolvency Act 1986 within twenty-one (21) days of service of the Statutory Demand on them; or
 - (b) execution or other process to enforce a debt due under a judgement or order of the court has been returned unsatisfied in whole or in part.
- (7) the presentation of a petition for sequestration in relation to the Contractor's estates unless it is withdrawn within three (3) Business Days from the date on which the Contractor is notified of the presentation; or
- (8) the court making an award of sequestration in relation to the Contractor's estates.

Where the Contractor is a company registered in England:

- (9) the presentation of a petition for the appointment of an administrator; unless it is withdrawn within three (3) Business Days from the date on which the Contractor is notified of the presentation; or
- (10) the court making an administration order in relation to the company; or
- (11) the presentation of a petition for the winding-up of the company unless it is withdrawn within three (3) Business Days from the date on which the Contractor is notified of the presentation; or
- (12) the company passing a resolution that the company shall be wound-up; or
- (13) the court making an order that the company shall be wound-up; or
- (14) the appointment of a Receiver or manager or administrative Receiver.

Where the Contractor is a company registered other than in England, events occur or are carried out which, within the jurisdiction to which they are subject, are similar in nature or effect to those specified in clauses 41.1.(9) to 41.1.(14) inclusive above.

- 41.2. 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:

- 41.3. The Contractor shall not do, and warrants that in entering the Contract they have not done any of the following (hereafter referred to as 'prohibited acts'):
- (1) offer, promise or give to any Crown servant any gift or financial or other advantage of any kind as an inducement or reward;
 - (a) for doing or not doing (or for having done or not having done) any act in relation to the obtaining or execution of this or any other Contract with the Crown; or
 - (b) for showing or not showing favour or disfavour to any person in relation to this or any other Contract with the Crown.
 - (2) enter into this or any other Contract with the Crown in connection with which commission has been paid or has been agreed to be paid by them or on their behalf, or to their knowledge, unless before the Contract is made particulars of any such commission and of the terms and conditions of any such agreement for the payment thereof have been disclosed in writing to the Authority.
- 41.4. If the Contractor, their employees, agents or any Subcontractor (or anyone acting on their behalf or any of their employees) does any of the prohibited acts or commits any offence under the Bribery Act 2010 with or without the knowledge or authority of the Contractor in relation to this Contract or any other contract with the Crown, the Authority shall be entitled:
- (1) to terminate the Contract and recover from the Contractor the amount of any loss resulting from the termination;
 - (2) to recover from the Contractor the amount or value of any such gift, consideration or commission; and
 - (3) to recover from the Contractor any other loss sustained in consequence of any breach of this Condition, where the Contract has not been terminated.
- 41.5. In exercising its rights or remedies under this Condition, the Authority shall:
- (1) act in a reasonable and proportionate manner having regard to such matters as the gravity of, and the identity of the person performing, the prohibited act;
 - (2) give all due consideration, where appropriate, to action other than termination of the Contract, including (without being limited to):
 - (a) requiring the Contractor to procure the termination of a subcontract where the prohibited act is that of a Subcontractor or anyone acting on their behalf;
 - (b) requiring the Contractor to procure the dismissal of an employee (whether their own or that of a Subcontractor or anyone acting on their behalf) where the prohibited act is that of such employee.

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

42. Termination for Convenience

- 42.1. The Authority shall have the right to terminate the Contract in whole or in part at any time by giving the Contractor at least sixty (60) 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.
- 42.2. 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 42.2.(2) and 42.2.(3) of this Condition.
- 42.3. Where this Condition applies (and subject always to the Contractor's compliance with any direction given by the Authority under clause 42.2):
- (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:
 - (a) all such unused and undamaged materiel; and
 - (b) Contractor Deliverables in the course of manufacture, that are liable to be taken over by, or previously belonging to the Authority, and shall deliver such 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.
- 42.4. The Authority shall (subject to clause 42.5 below and to the Contractor's compliance with any direction given by the Authority in clause 42.2 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.
 - (3) the provisions of the Single Source Contract Regulations 2014 shall apply in determining the recovery of all unavoidable losses to the Contractor;
 - (4) the Contractor shall submit a fully itemised and costed settlement report with supporting evidence. This should include all of the liabilities, commitments and expenditure as a result of the associated termination of the Contract and shall include profit in line with the agreed profit rate in the Contract set out in Annex C;
 - (5) the Authority shall review and approve the costed settlement report within a period of five (5) calendar months from the date of submission,
 - (6) any disputes regarding the costed settlement report will be managed in accordance with Condition 40 (Dispute Resolution);
 - (7) where unavoidable losses are claimed, any benefits which would otherwise be transferred to the Authority had the Contract continued, shall still be delivered to the Authority.
- 42.5. 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.
- 42.6. 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 42.1 to 42.5 except that:
- (1) the name of the Contractor shall be substituted for the Authority except in clause 42.3.(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.
- 42.7. Claims for payment under this Condition shall be submitted in accordance with the Authority's direction.

43. Material Breach

- 43.1. In addition to any other rights and remedies, the Authority shall have the right to terminate the Contract (in whole or in part) with immediate effect by giving written

Notice to the Contractor where the Contractor is in material breach of their obligations under the Contract.

- 43.2. Where the Authority has terminated the Contract under clause 43.1 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. The project specific DEFCONS and DEFCON SC variants that apply to the Contract are:

DEFCON 14 (11/22) – Inventions and Designs, Crown Rights and Ownership of Patents and Registered Designs

DEFCON 15 (Edn 06/21) – Design Rights and Rights to Use Design Information:

DEFCON 16 (Edn 06/21) – Repair and Maintenance Information

DEFCON 21 (Edn 06/21) – Retention of Records

DEFCON 21 Note 1: For the purposes of Clause 3 of this Condition the period shall be five (5) years following the termination or expiration of the Contract.

DEFCON 023 (SC2) (Edn. 06/21) – Special Jigs, Tooling and Test Equipment

DEFCON 076 (SC2) Contractor's Personnel at Government Establishments Edition 11/22

DEFCON 90 (Edn 06/21) – Copyright

DEFCON 90 (Edn 06/21) Note: For the purposes of this Condition the nations prescribed for the purposes of Clause 4 c) of DEFCON 90 shall be the NATO nation states, Sweden, Australia and New Zealand and any Nation State to whom the MOD disposes of the equipment.

DEFCON 91 (Edn.06/21) – Intellectual Property Rights In Software

DEFCON 91 Note 1: For the purposes of this Condition the nations prescribed for the purposes of Clause 3 e) of DEFCON 91 shall be the NATO nation states, Sweden, Australia and New Zealand and any Nation State to whom the MOD disposes of the equipment.

DEFCON 91 Note 2: DEFCON 91 shall apply to the following deliverables within Annex A – Statement of Work

- Offline Simulator – Statement of Work reference 11.1.2.4
- Real Time Simulator – Statement of Work reference 11.1.2.5
- Common Core Simulation Software – Statement of Work reference 11.1.2.6
- Digital Acoustic Signal Generator – Statement of Work reference 11.1.2.7
- Data Analysis Software – Statement of Work reference 11.1.2.8
- Weapon Tactics Software – Statement of Work reference 11.1.2.9
- Weapon Control Software – Statement of Work reference 11.1.2.10
- Digital Signal Processing – Statement of Work reference 11.1.2.11
- High Integrity Safety Unit Software – Statement of Work reference 11.1.2.12
- Sonar Software – Statement of Work reference 11.1.2.13
- Test Equipment Software – Statement of Work reference 11.1.2.14

DEFCON 117 (SC2) (Edn.11/17) – Supply of Information for NATO Codification and Defence Inventory Introduction

DEFCON 126 (Edn. 06/21) – International Collaboration

DEFCON 126 Note: the period referred to in Clauses 2 and 3 of DEFCON 126 shall be 15 years or as may otherwise be agreed. The Authority may require to disclose information arising from the Contract to member nations of NATO and to any other country with whom there exists treaty or similar obligations for mutual defence and DEFCON 126 is to be construed accordingly.

DEFCON 130 (SC2) (Edn. 11/21) – Packaging for Explosives

DEFCON 532A (Edn. 05/21) -Protection Of Personal Data (Where Personal Data is not being processed on behalf of the Authority)

DEFCON 565 (Edn. 07/23) – Supply Chain Resilience and Risk Awareness

DEFCON 595 (Edn. 02/19) – General Purpose Automatic Test Equipment Data Requirements

DEFCON 601 (SC) (Edn. 03/15) – Redundant Material

DEFCON 602A (Edn. 04/23) – Quality Assurance (With Deliverable Quality Plan)

DEFCON 603 (Edn 10/04) – Aircraft Integration and Clearance Procedure

DEFCON 605 (SC2) (Edn. 12/17) – Financial Reports

DEFCON 611 (SC2) Issued Property Edition 12/22

DEFCON 624 (SC2) (Edn. 11/17) – Use of Asbestos

DEFCON 645 (Edn. 12/21) – Export Potential

DEFCON 649 (SC2) (Edn 12/21) – Vesting

DEFCON 658 (SC2) Cyber Edition 09/21

Note: Further to DEFCON 658 the Cyber Risk Profile of the Contract is Low, as defined in Def Stan 05-138.

DEFCON 659A (Edn. 09/21) – Security Measures

DEFCON 660 (Edn. 12/15) – Official-Sensitive Security Requirements

DEFCON 670 (SC2) (Edn 11/17) – Tax Compliance

DEFCON 681 (Edn. 06/02) – Decoupling Clause – Subcontracting with the Crown

DEFCON 694 (SC2) (Edn. 07/21) – Accounting For Property of the Authority

DEFCON 703 – (Edn. 06/21) – Vesting in the Authority

DEFCON 703 Note: DEFCON shall only apply to the following deliverables:

- 4.4.4.1 – SRD Measures of Effectiveness
- 4.4.4.2 – A baseline of the SRD
- 8.1.3.1 – Safety Case Report
- 8.1.4.1 – Safety Case Report
- 8.1.5.1 – Safety Case Report
- 8.1.6.1 – Support to PSEC meetings and provision of input for Authority meeting data pack
- 8.1.6.2 – Support to LSERP meetings and provision of meeting data pack
- 8.1.6.3 – Support to Dynamic Safety Meetings and provision on meeting data pack
- 10.1.2.1 – Security Design Document
- 10.1.4.1 – Draft Security Operation Instructions
- 10.1.6.1 – Security Risks, Assumptions, Issues, Dependencies Register
- 16.2.1.1 – Scoping Exercise Report

DEFCON 800 (Edn. 12/14) – Qualifying Defence Contract

DEFCON 801 (SC2) (Edn. 11/17) – Amendments to Qualifying Defence Contracts – Consolidated Versions

DEFCON 802 (Edn. 12/14) – QDC: Open Book on sub-contracts that are not Qualifying Sub-contracts

DEFCON 804 (SC2) (Edn. 11/17) – QDC: Confidentiality of Single Source Contract Regulations Information

DEFFORM – 315 Contract Data Requirement

DEFFORM 315 Note: Attached at Annex E to the Contract

46. Requirement

All work including all Articles, Services and Contractor Deliverables under Schedule 2 – Schedule of Requirements of the Contract shall be carried out by the Contractor in accordance with the Statement of Work at Annex A of this Contract.

47. Responsibilities

47.1. The Contractor shall be responsible for the performance of all work under the Contract to meet the Statement of Work at Annex A to the Contract.

47.2 The Authority shall be responsible for meeting its obligations under the Contract.

48. Risk

- 48.1. The Contractor and the Authority acknowledge that any risk assessment, which has been, or may be undertaken in connection with this Contract, has been, or will be a project management function only. Such risk assessment does not affect the legal relationship between the parties. The process of risk assessment generally, including without limitation, the identification of (or failure to identify) particular risks and their impacts on risk reduction measures, contingency plans and remedial plans, shall not in any way limit or exclude the Contractor's obligations under this Contract and shall be entirely without prejudice to the Authority's rights, privileges and powers under this Contract.
- 48.2 Acceptance by the Authority of any of the Contractor's Risk Assessments, Plans or Reports as listed and defined within the Statement of Work at Annex A of this Contract does not signify acceptance of liability for their accuracy, suitability or applicability. Acceptance only signifies the Authority's acknowledgement of the Contractor's delivery of those Assessments, Plans or Reports and thereafter the Contractor's intention to implement the provisions of those Plans. Any of the Contractor's Project Risk Assessments, Plans or Reports as listed and defined within the Statement of Work at Annex A of this Contract which detail a requirement to change the Contract shall be dealt with in accordance with the Contract Change Procedure detailed in Condition 6. Formal Amendments To Contract and Schedule 4 – Contract Change Control Procedure.
- 48.3 Apportionment, Allocation and Ownership of emerging risks will be dealt with on a case-by-case basis.
- 48.4 All Risk Management processes are defined and to be dealt with in accordance with, the Statement of Work at Annex A to this Contract.
- 48.5 Risk shall be managed in accordance with the Contractor's Risk Management Plan as defined in the Statement Of Work at Annex A to the Contract.

49. Performance Management, Measurement and Monitoring

- 49.1. The Contractor's performance shall be measured monthly and reported at the Quarterly Performance Meeting (QPM), using the Key Performance Indicators (KPI) in accordance with the performance criteria and process detailed for each KPI at Annex D – Performance Management of this Contract.
- 49.2. In the event of unsatisfactory performance as defined in Clause 1.4 of Annex D to the Contract, the Authority reserves the right to terminate the Contract in accordance with the terms and conditions of this Contract.
- 49.3. For the avoidance of doubt, if the MoD terminates the Contract due to unsatisfactory performance as defined in Clause 1.4 of Annex D, termination shall be in accordance with Condition 43.
- 49.4. Any adjustment to the sums due shall be calculated (and applied) in accordance with Annex D – Performance Management to the Contract.

50. Exit Management & Default

50.1. Should there be a fundamental or persistent failure to provide Articles or Services under the Statement of Work at Annex A to the Contract, or any portion thereof, in accordance with the requirements of the Contract within the period or periods specified in the Contract or if it becomes evident to the Authority that such provision or any portion thereof will not be completed substantially in accordance with the requirements of the Contract within the period or periods specified in the Contract and that any such failure materially undermines the Authority's ability to effectively use the Articles or Services to be provided under the Contract, the Authority may by written notice, inform the Contractor of its intention to terminate the Contract in accordance with Condition 43 – Material Breach.

50.2. Upon receipt of the notice at 50.1 above, the Contractor shall within 30 calendar days, or such other period as the Contractor and the Authority may agree, submit to the Authority a Rectification Plan showing when and how action will be taken to remedy the cause of such notification. The Contractor and the Authority shall act reasonably in agreeing such Rectification Plan.

50.3. Within 5 business days of receipt of the draft Rectification Plan from the Contractor pursuant to Condition 50.2, the Parties shall meet to discuss the draft Rectification Plan, and, within 5 business days of such meeting, the Authority shall confirm to the Contractor whether (acting reasonably) the Authority accepts or rejects the draft rectification plan and, where it rejects such plan, the reasons for such rejection.

50.4. If following the reasonable endeavours of the parties to agree the Rectification Plan no such agreement is reached, or the Rectification Plan is not immediately implemented by the Contractor upon its agreement, the Authority may without prejudice to any other remedies terminate the Contract by written notification either in part in respect of the Articles or Services not delivered at the time of such determination, or in full in respect of all the Articles or Services to which the Contract relates other than those delivered or performed in accordance with the Contract before that time.

50.5. The Authority, by agreement with the Contractor, may take delivery of and accept as much of the remaining work under the Contract as it may require.

50.6. The Parties agree that the provisions of Condition 50.4 above shall not be implemented unless and until an appropriate attempt has been made to finally resolve any dispute arising under this Condition in accordance with Condition 40 Dispute Resolution.

50.7. For the avoidance of doubt, Contract termination under this condition shall be in accordance with Condition 43. Material Breach.

50.8 In the event the Contract is terminated in whole or in part for any reason and in the event that the Authority determines an Exit Plan is required, the Authority will notify the Contractor via a TAF in accordance with Condition 51 (Exceptional Tasking).

51. Exceptional Tasking

51.1 Process for Exceptional Tasking

51.1.1 Exceptional Tasking will be initiated by means of a Task Approval Form (TAF) a copy of which is attached at Annex I to this Contract and will carry a unique reference number to identify the specific task. The TAF consists of five parts:

51.1.1.1 Part 1: Description of Task – this part is to be completed by the Authority;

51.1.1.2 Part 2: Contractor's Quotation – this part is to be completed by the Contractor;

51.1.1.3 Part 3: MOD Authorisation – this part is to be completed by the Authority;

51.1.1.4 Part 4: Completion of the Task – this part is to be completed by the Contractor;

51.1.1.5 Part 5: Receipt and Task Completion – this part is to be completed by the Authority;

51.2 Description of Task (Part 1)

51.2.1 The Authority will seek a proposal from the Contractor via Part A of the TAF which will set out the Authority's requirement, deliverables and acceptance criteria as well as other considerations such as additional quality requirements or standards.

51.2.2 TAF Part 1 Requests For Quotation (RFQ) will only be sent by The Authority Commercial Team. The Contractor is not to begin the formal process of reviewing, pricing and/or incur costs against a Task Approval Form (TAF) delivered to the Contractor by any other means.

51.2.3 Part A of the TAF will detail the acceptance criteria under which the Authority will measure the acceptability of the deliverable(s). If no acceptance procedure is specified in the TAF, then acceptance shall be in accordance with Condition 29.

51.3 Task Authorisation Form (TAF) Part 1 Responsiveness

51.3.1. The Contractor shall be assessed in relation to the timeframes for responsiveness to all TAF Part A Requests for Quotation issued by the Authority. The performance targets are provided within KPI 4 within Annex D and shall apply to all TAF Part 1 Request for Quotations issued by the Authority upon receipt by the Contractor. The period to be measured is defined in KPI 4 of Annex D to this Contract.

51.3.2. Where the Contractor has failed to provide a TAF Part 2 Priced Proposal within 30 Business Days, the Key Performance Indicator will automatically be awarded a RED Performance Indicator. The exclusion to this rule will be where an extension has been authorised by the Authority to the response timeframes.

51.3.3. The Authority will consider on a case-by-case basis, requests to extend the response timeframes for individual TAFs. TAFs granted an extension shall be assessed from the agreed extension date rather than the date of receipt of the TAF Part A Request for Quotation. Whilst it is the sole discretion of the Authority upon whether to grant an extension, requests

shall not unreasonably be refused. As part of its assessment, the Authority will take into consideration events beyond the Contractor's reasonable control.

51.3.4. All requests for extensions to the response timeframes detailed in KPI 4 within Annex D to this Contract will be requested in writing by the Contractor within twenty five (25) business days of the date of receipt of the TAF Part A Request for Quotation. All requests must clearly define the amount of extension required and the proposed, revised date for delivery of Part B of the Tasking Approval Form (TAF).

51.3.5 Each TAF will have a limit of One (1) request for extension per TAF

51.4 Contractor's Quotation (Part 2)

51.4.1. The Contractor will provide his proposal via Part 2 of the TAF. Part 2 of the TAF will allow the Contractor to provide a full and detailed price breakdown of the proposed price, in accordance with Annex C to this Contract, to undertake the task utilising the agreed Rates applicable to the Contract .

51.4.2. Part 2 of the TAF will propose an achievable start and end date for the task and will carry a minimum validity period of thirty (30) Business Days.

51.4.3. The Contractor is required to provide such proposals within thirty (30) Business Days of receipt of Part A of the TAF.

51.4.4. Approval to proceed with the TAF shall be upon issue of the Authority's acceptance of the Contractor's offer at Part 2. The Authority shall subsequently raise the corresponding Purchase Order(s) using the CP&F system. Payment shall be made to the Contractor in accordance with Condition 36.

51.4.5. The Contractor shall be entitled to respond to the Authority Part 1 with a 'no-bid' decision. No bid decisions must be detailed in writing to the Authority within twenty-five (25) business days of the date of receipt of the TAF Part 1 Request for Quotation. If the Contractor fails to inform the Authority within twenty five (25) business days of the date of receipt of the TAF Part 1 Request for Quotation that they are not going to bid (no-bid), and subsequently fails to provide a bid within thirty (30) business days, this will be deemed a late response in accordance with KPI 4, as detailed in clause 51.3.2.

51.4.6. When delivering Part 2 of the TAF, The Contractor shall provide all quotations, invoices and pricing information relevant to the TAF, and in accordance with Annex C to this Contract, to The Authority by email, this shall include, but is not limited to the following:

51.4.6.1. Subcontractor quotations

51.4.6.2. Material price breakdown for all materials required to conduct the task

51.4.6.3. Travel and Subsistence breakdown.

51.4.7 The Contractor's offered Price for all TAFs shall be Fixed unless otherwise agreed with the Authority.

51.4.8. Where it is deemed by the Contractor that supplementary information, required to perform the pricing of Part 2 of the TAF, is required from the Authority, the Contractor shall

make the Authority aware in writing at the earliest possible opportunity. If the Authority agrees that this supplementary information is required to conduct the pricing of the TAF part 2, then the response timescale detailed in Clause 51.4.3 will be paused until such information is provided by the Authority to the Contractor.

51.5 MOD Authorisation (Part 3)

51.5.1 Approval to proceed with the work shall be notified by The Authority Commercial Officer issuing the completed and fully authorised TAF Form at Part 3 together with a CP&F Purchase Order number. No work is to be commenced by the Contractor without receipt of such approval.

51.6 TAF Cancellation following approval

51.6.1. In the event that a task is authorised by the Authority at Part 3 of the TAF Form then cancelled for convenience by the Authority, the Contractor may submit a revised TAF Part 2 quotation for the reasonable costs incurred prior to cancellation.

51.6.2. The Authority shall not be liable to pay for any work that the Contractor has commenced without formal authority to proceed being given in accordance with clause 51.5.1.

51.6.3. Upon completion of the TAF or any TAF milestone, the Contractor shall submit their claim for payment via an Invoice in CP&F in accordance with any milestone payment plan set out and agreed in the TAF. Upon completion of the TAF, the Contractor shall complete Part 4 of the TAF and forward to the Authority together with copies of any evidence of costs incurred.

51.6.4. Upon satisfactory evidence that the task has been completed and sufficient evidence of costs incurred has been received, the Authority shall sign and date the TAF form at Part 5 and shall pay the Contractor by creating a Receipt in CP&F.

51.6.5. The Authority shall then forward a copy of the completed TAF form to the Contractor for their records and retain a copy in the Authority's filing system.

51.7 Recording TAF Details

51.7.1. All TAFs committed to Contract shall be recorded within Annex J to this Contract and added formally to the Contract via the next Contract Amendment.

51.7.2. To avoid the need for a Contract Amendment at the award of each TAF, TAFS will be added to the next appropriate Contract Amendment following the agreement of the TAF. Where a Contract Amendment is not due to take place, a specific Contract Amendment will be requested by the Authority no later than 6 months following the agreement and placing of a TAF in accordance with Condition 51.1.1.5.

51.8 Travel and Subsistence for Exceptional Tasking

51.8.1. The Contractor shall submit claims for travel and subsistence expenses in a format acceptable to the Authority and shall detail travel and subsistence costs and expenses separately for each Exceptional Tasking within Part 2 of the associated Tasking Approval Form (TAF).

51.8.2 The Contractor may claim within the detailed subsistence limits set out in Annex C of this Contract.

51.8.3. In exceptional circumstances and with the prior authorisation of the Authority where it is deemed to be in the public interest, the Contractor may request short-term car hire to meet the performance requirements of an Exceptional Task.

51.8.4. The Contractor may claim for (international) flights or rail fares which is in addition to the rates within Annex C of this Contract as applicable. Economy/Standard Class shall be the default travel option. Only in exceptional circumstances will other standards (such as Premium Economy or Business Class) be considered. A justification for use of international air travel must be provided by the Contractor to the Authority along with the priced Tasking Approval Form (TAF) Part 2 for consideration by the Authority prior to agreement of the TAF.

51.9. Pricing Under Limits of Liability

51.9.1. The Parties may, from time to time, agree that some elements of TAFs shall be priced on a Limit of Liability or Maximum Price basis, particularly where there is uncertainty or risk associated with the price. Where this type of pricing is used, the Contractor shall not exceed the agreed maximum without the prior written consent of the Authority.

51.10. Bid Costs

51.10.1 The Parties recognise that Bid Costs may be an Allowable Cost under a Qualifying Defence Contract if they are considered Appropriate Attributable and Reasonable (AAR).

51.10.2. The Contractor shall take steps to limit bid costs to a minimum for tasking activities and note that personnel and overheads associated with developing TAF bids are applied correctly in accordance with the pricing information contained in Annex C of this Contract.

51.10.3. The Contractor shall confirm upon delivery of the Contractor's Quotation (Part 2) that all bid costs have been scrutinised to ensure no duplication of outputs and no double accounting of outputs has taken place during the pricing of the TAF.

51.11. Risk

51.11.1 The Parties recognise that there may be risk associated with the performance of TAFs. Where risk is identified, it shall be noted and managed by the party best placed to manage it and it will be managed in accordance with Condition 46 and Annex A of this Contract. In consideration of risk, the parties recognise that the Contract Risk Adjustment (CRA) element of the QDC 6-step profit formula shall be used to fund risk mitigation.

52. Government Furnished Assets (GFA)

52.1 Under DEFCON 611 the Contractor shall be liable for the costs for the repair, maintenance and calibration of all GFA issued on loan for the duration of the Contract.

- 52.2 The Contractor may request additional GFA or the transfer of assets in addition to those referenced in Annex H and Annex H – Appendix A of this Contract. Such requests will detail the items required and the reasons they are needed to support the Contract. The Authority shall consider any such requests within a reasonable timescale.

52.3 MATERIAL ACCOUNTABILITY

- 52.3.1. For GFA listed at Annex H of this Contract, the Contractor shall control all GFA through the use of a Public Store Account (PSA) in accordance with Defcon 694 (SC2) and in accordance with the GFA management plan, listing all material obtained and supplied on the Contract under DEFCON 611 and DEFCON 23.
- 52.3.2. The Contractor shall provide the Authority, the Comptroller and Auditor General and their authorised representatives with full access to, the right of inspection of, and extraction from all records whether manual or on computer that relate to Government Property on loan.
- 52.3.3 The right of the Authority to reject Articles under the Contract shall in no way be prejudiced by or through the fact that the Articles in question may have been made from or include materials, components, instruments etc supplied by the Authority, unless the rejection has been directly caused or contributed to by the Authority.
- 52.3.4 For GFA listed at Annex H Appendix A to this Contract, the Contractor shall not be responsible for reporting under the Public Stores Accounting requirement detailed in Clause 52.3.1. This is to avoid duplication of reporting of those articles reported for under other, extant torpedo Contracts.

52.4 DISPOSAL OF GOVERNMENT PROPERTY

- 52.4.1 Throughout the duration of the Contract, Authority owned property deemed surplus to requirements may only be disposed of by prior agreement of the Authority. Disposal of Classified or contaminated material may only be disposed of through an appropriately cleared contractor.

53. Earned Value Management (EVM) Reporting

Earned Value Management and Project Controls will be managed in accordance with Annex K to this Contract.

54. Equality

- 54.1 The Parties shall not unlawfully discriminate either directly or indirectly on the grounds of age, disability, gender (including reassignment), sex or sexual orientation, marital status (including civil partnerships), pregnancy and maternity, race, or religion or belief.
- 54.2 Without prejudice to the generality of the obligation in Clause 54.1 above, the Parties shall not unlawfully discriminate within the meaning and scope of the

Equality Act 2010 (or any statutory modification or re-enactment thereof) or other relevant or equivalent legislation in the country where the Contract is being performed.

- 54.3 The Contractor agrees to take reasonable efforts to secure the observance of the provisions of this Condition by any of its employees, agents or other persons acting under its direction or control who are engaged in the performance of the Contract.
- 54.4 The Contractor agrees to take reasonable efforts to reflect this Condition in any subcontract that it enters into to satisfy the requirements of the Contract and to require its subcontractors to reflect this Condition in its subcontracts that entered into to satisfy the requirements of the Contract.

55. Child Labour and Employment Law

- 55.1 In this Condition, “Child Labour Legislation” means those International Labour Law Conventions concerning economic exploitation of children through the performance of work which is likely to be hazardous or to interfere with a child’s health or development, including but not limited to slavery, trafficking, debt bondage or forced labour, which are ratified and enacted into domestic law and directly applicable to the Contractor in the jurisdiction(s) in which it performs the Contract.
- 55.2. The Contractor shall comply in all material respects with Child Labour Legislation and applicable employment legislation of those jurisdiction(s) where the Contract is being performed.
- 55.3. The Contractor agrees to take reasonable efforts to reflect this Condition in any subcontract that it enters into to satisfy the requirements of the Contract and to require its subcontractors to reflect this Condition in their subcontracts that they enter into to satisfy the requirements of the Contract.

56. International Traffic in Arms Regulations (ITAR) and Controlled Information

Controlled Information

56.1. This Condition shall apply in addition to and notwithstanding Condition 13 or any other confidentiality condition of the Contract.

56.2. For the purposes of this Condition ‘Controlled Information’ shall mean any information in any written or tangible form which is disclosed to the Contractor by or on behalf of the Authority under or in connection with the Contract, and which is identified by the legend ‘Controlled Information’ or other approved legend notified to the Contractor. Controlled Information shall exclude information provided by oral communication.

56.3. The Contractor shall:

- a. hold the Controlled Information and not use it other than for the purpose of discharging its obligations under the Contract;
- b. not copy the Controlled Information except as strictly necessary for the purpose of discharging its obligations under the Contract;
- c. not disclose the Controlled Information to any third party unless so authorised in writing beforehand by the Authority;

d. protect the Controlled Information diligently against unauthorised access and against loss; and,

e. act diligently to ensure that:

- (1) Controlled Information is disclosed to its employees only to the extent necessary for the purpose of discharging its obligations under the Contract;
- (2) employees to whom Controlled Information is disclosed are made aware of and required to comply with the terms of this Condition.

56.4. Where Controlled Information is provided to the Contractor, it shall:

a. compile a register of that Controlled Information, which shall include explicit description of the Controlled Information, a record of the number of copies made and a record of all access to the Controlled Information including access to any copies of the Controlled Information.

b. maintain this register for the duration of the Contract and for two years following completion of the Contract.

c. make the register of access available to the Authority upon reasonable notice for inspection and audit for so long as it is required to be maintained under this Condition; and,

d. at the completion of the Contract, return to the Authority all original and duplicate copies of the Controlled Information, or else at the Authority's option destroy these copies and provide a certificate of destruction to the Authority.

Protection of Information FOR MOD INTERNAL GUIDANCE ONLY Commercial Policy Statement E2 of 2 Version 1.28 dated 01 July 2023 Source: The Commercial Toolkit Available at: <https://www.kid.mod.uk/maincontent/business/commercial/index.htm>

56.5. This Condition shall not diminish or extinguish any right of the Contractor to copy, use or disclose any other information to the extent that it can show:

a. that the information concerned was or has become published or publicly available for use without 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 it under or in connection with the Contract;

c. that the information concerned was lawfully provided by a third party without restriction on use or further disclosure; or

d. from its records, that the information was derived independently of the Controlled Information; to the extent that copying use or disclosure of this other information shall not disclose its relationship to any Controlled Information.

ITAR

56.6 It is the Contractor's responsibility to ensure that all ITAR are followed throughout the activities required to deliver the Contract.

57. Force Majeure

57.1 “Force Majeure Event” means any events or circumstances which:

- 57.1.1 are beyond the reasonable control of the affected Party;
- 57.1.2 could not have been avoided by steps which might reasonably be expected to have been taken by the affected Party; and
- 57.1.3 could not have been reasonably foreseen by the affected Party at the Effective Date; and
- 57.1.4 which cause or result in either the failure of the affected Party to perform or a delay in performing any of its obligations owed to the other Party under this Contract.

57.2. The Contractor shall not be in breach of this Contract, nor liable for late or non-performance of any of its obligations under this Contract, if such delay or failure result from a “Force Majeure Event”. For the purposes of this Contract a Force Majeure Event is defined as one of the following:

- 57.2.1. acts of nature;
- 57.2.2. war, including insurgence;
- 57.2.3. hostilities, including acts of terrorism;
- 57.2.4. fire or flood at any of the Contractor’s premises or those of its suppliers except to the extent that the fire or flood was caused by their own negligence;
- 57.2.5. import/export restrictions by the UK or Foreign Governments;
- 57.2.6. national strikes (if relevant to the performance of the contract), other than at BAE Systems (Plc) companies; and
- 57.2.7. pandemics as defined by the World Health Organisation
- 57.2.8. subject to reasonable consideration by the Authority, global or national events, changes and restrictions in government policy relevant to the Contract performance, which could not be foreseen and are beyond the control of the Contractor.

57.3. The Contractor shall immediately notify the Authority in writing on the occurrence of a Force Majeure Event, including details of the Force Majeure Event, its effect on the Contractor’s obligations under this Contract, and the actions proposed to mitigate its effect. The Authority will respond in writing within a reasonable timescale to confirm whether it accepts the Contractor’s notification of a Force Majeure Event. The Authority will be entitled to request further, relevant information in relation to the notification and will engage in meaningful discussion where appropriate and within a reasonable timescale to determine whether the notification will be accepted or rejected by the Authority.

57.4. Subject to 57.5 below, the Contractor shall be entitled to an appropriate extension of time for performing such obligations provided always that the Contractor has

used, to the satisfaction of the Authority, reasonable endeavours, both to mitigate the effects of the Force Majeure Event, and to facilitate the continued performance of its obligations under this Contract. The Authority, acting reasonably, shall decide on an appropriate extension of time and communicate it to the Contractor.

Once the extension of time granted by the Authority in accordance with 57.4 above has expired, the Contractor shall be subject to the Contract terms and conditions in relation to performance of its obligations. Any Extension of Time shall not automatically have a knock-on effect on any future contract obligations. Should the Contractor wish to seek relief or extension to other obligations, it shall notify the Authority in writing within fifteen (15) working days of making its initial Force Majeure claim.

- 57.5.1 With the exception of a Change in Law, the maximum extension of time granted under this Condition 57 shall be 3 calendar months or such other date agreed between the Parties in writing, after which time the Authority may, on giving written notice to the Contractor, terminate this Contract in whole or in part in accordance with Condition 42 of this Contract.
- 57.5.2 Each party shall bear their own additional costs incurred as a result of Force Majeure Events.
- 57.5.3 Force Majeure shall not excuse the Authority from performing its payment obligations under the Contract. However, payments aligned to milestones or deliverable may be moved to align with any revised delivery date agreed as part of a Force Majeure event.
- 57.5.4 Where deliverables are moved to align with any revised delivery date agreed as part of a Force Majeure event, the payment for those deliverables will be separated from the deliverables already completed which do not form part of the Force Majeure event. Payment for those deliverables already completed as part of the payment milestone may still be paid in accordance with the original milestone data.

58. SME Spend Data Collection

- 58.1. In this Condition the following words and expressions shall have the meanings given to them:
 - 58.1.1. 'Contract Period' means the term of the Contract commencing on the commencement date of the Contract and terminating on the earlier of (a) the date on which the Contract terminates early in accordance with its terms and (b) its expiry date;
 - 58.1.2. 'Reporting Date' means 31 March (or such alternative date agreed between the parties (acting reasonably) in writing having regard for the end date of the Contractor's financial year) each year of the Contract Period;
 - 58.1.3. 'Revenue' means the aggregate revenue (excluding VAT and before the application of any deduction, set-off or other remedy) that the Contractor has received under the Contract with the Authority;

- 58.1.4. 'SME' means Small and Medium-sized Enterprise, an enterprise falling within the category of micro, small and medium-sized enterprises defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises;
 - 58.1.5. 'Sub-Contract' means any sub-contract entered into or to be entered into by the Contractor or any purchase order placed or to be placed by the Contractor in connection with the Contract;
 - 58.1.6. 'Sub-Contract Revenue' means the aggregate revenue (excluding VAT and before the application of any deduction, set-off or other remedy) that any Sub-Contractor has been paid by the Contractor under a Sub Contract;
 - 58.1.7. 'Sub-Contractor' means any sub-contractor of the Contractor; and h. 'VCSE' means Voluntary, Community and Social Enterprise, a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives.
- 58.2. The Contractor shall by 30 June (or such alternative date agreed between the parties (acting reasonably) in writing having regard for the end date of the Contractor's financial year)) each year during the Contract Period at (subject to the operation of clause 58.5) no additional cost, charge and expense to the Authority provide to the Authority the information identified in DEFFORM 139 (as amended by the Authority from time-to-time and with each such amended version taking effect in accordance with clause 58.4), including:
- 58.2.1. the total Revenue on and prior to the Reporting Date in respect of the relevant financial year immediately prior to the Reporting Date;
 - 58.2.2. the total value of Sub-Contract Revenue paid under the Contract in respect of the relevant financial year immediately prior to the Reporting Date; and
 - 58.2.3. the total value of Sub-Contract Revenue paid to SMEs and VCSEs in respect of the relevant financial year immediately prior to the Reporting Date.
- 58.3. The Authority may issue from time-to-time guidance to the Contractor in relation to the completion of DEFFORM 139 (and the Contractor shall not unreasonably refuse to comply with any such guidance so issued when completing such DEFFORM and complying with this Condition).
- 58.4. The Authority may at any time during the Contract Period change the reporting template in DEFFORM 139, provided that the Authority shall have given a minimum of thirty (30) business days' advance notice in writing of the scope and nature of such change or changes. The changes may include the data required or format of the report or both.

- 58.5 Where the Contractor is reasonably likely to incur additional costs arising from any change to the reporting template in DEFFORM 139 notified by the Authority to the Contractor pursuant to clause 58.4, the Contractor may notify the Authority to such effect providing at the same time a Contractor Change Proposal (as defined in Schedule 4) including the information identified in paragraph 8 of Schedule 4. On and from the date on which the Authority receives such notification and proposal the parties shall operate, and comply with their respective obligations under, paragraphs 10 to 14 of Schedule 4 in relation to such change. For the purposes of this Condition all references to "Contractor Proposal" shall be construed as references to the Contractor Change Proposal" and "Authority Notice of Change" shall be construed as references to the Authority's notice issued pursuant to clause 58.4.
- 58.6. Notwithstanding the requirements of Condition 17 of this Contract, the Contractor shall retain the information identified in clause 58.2 and supporting records for a period of twenty-four (24) months commencing on the date of their provision pursuant to clause 58.2.

59. Advertising Subcontracts

For the purposes of this Condition 'third party' or 'third parties' means: any separate organisation OR subsidiary/parent of The Contractor.

- 59.1. In addition to those terms used in this Condition which have been defined in Schedule 1 of this Contract, each of the following words and expressions in this Condition has the meaning given to it below:
- 59.1.1. 'Contract Period' means the term of the Contract commencing on the commencement date of the Contract (the 'Commencement Date') and terminating on the earlier of (a) the date on which the Contract terminates early in accordance with its terms and (b) its expiry date;
 - 59.1.2. 'Defence Sourcing Portal' means the Defence Sourcing Portal accessible at <https://www.contracts.mod.uk/> or any replacement thereof for the government procurement opportunities in the defence sector;
 - 59.1.3. 'Regulations' means the Defence and Security Public Contracts Regulations (SI 2011/1848) as amended, extended, re-enacted or replaced from time to time and 'Regulation' means any one of them or (as the case may be) any specified provision of the Regulations; and
 - 59.1.4. 'Sub-Contract' means any sub-contract entered into or to be entered into by the Contractor or any purchase order placed or to be placed by the Contractor in connection with the Contract where the aggregate price and/or any other consideration (in each case excluding VAT and before the application of any deduction, set-off or other remedy) payable by the Contractor under that sub-contract or purchase order is or is reasonably estimated to be greater than

the sum of £200,000 (two hundred thousand pounds sterling) and 'Sub-Contractor' shall be construed accordingly.

59.2. This Condition shall not apply:

- 59.2.1. where pursuant to Regulation 37(3) the Authority obliges the Contractor to apply the provisions set out in Part 7 of the Regulations to all sub-contracts which the Contractor intends to award to third parties in connection with the Contract after the Commencement Date; or
- 59.2.2. in relation to any Sub-Contract or Sub-Contracts which the Contractor intends to award to any third party or third parties after the Commencement Date, where pursuant to Regulation 37(3) the Authority obliges the Contractor to apply the provisions set out in Part 7 of the Regulations to the award of that or those Sub-Contract(s).

59.3. Subject to clause 59.2, where the Contractor, after the Commencement Date, elects to advertise the subject matter of any Sub-Contract with the view to appointing one or more Sub-Contractors, it shall (unless the Authority otherwise agrees in writing):

- 59.3.1. promptly notify the Authority, if the Contractor intends to award a Sub-Contract;
- 59.3.2. publish an advertisement on (and provide all information required by) the Defence Sourcing Portal in respect of each and any Sub-Contract opportunity;
- 59.3.3. within thirty (30) business days after the date on which such Sub-Contract shall have been awarded update the relevant advertisement on the Defence Sourcing Portal in respect of such Sub-Contract identifying the name and registered office address details of the Sub-Contractor so appointed under such Sub-Contract and providing a description of the subject matter and the value (excluding VAT) of such Sub-Contract;
- 59.3.4. provide reports to the Commercial Officer, if so requested, on the number, type and value of Sub-Contract opportunities placed on the Defence Sourcing Portal and awarded in its supply chain during the Contract Period; and
- 59.3.5. promote the Defence Sourcing Portal to all Sub-Contractors and encourage those operators to register on it.

59.4. The Authority may issue guidance to the Contractor on how to advertise sub-contract opportunities on the Defence Sourcing Portal from time to time and (where the Contractor elects to advertise the subject matter of any Sub-Contract after the Commencement Date with the view to appointing one or more Sub-Contractors after that date) the Contractor shall comply with such guidance so issued in relation to the advertisement of any Sub-Contract pursuant to this Condition.

60. Limitations on Liability

Definitions

60.1. In this Condition the following words and expressions shall have the meanings given to them, except where the context requires a different meaning:

“Charges” means any of the charges for the provision of the Services, Contractor Deliverables and the performance of any of the Contractor’s other obligations under this Contract, as determined in accordance with this Contract;

“Data Protection Legislation” means all applicable Law in force from time to time in the UK relating to the processing of personal data and privacy, including but not limited to:

- (1) UK GDPR;
- (2) DPA 2018; and
- (3) the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426) as amended, each to the extent that it relates to the processing of personal data and privacy;

“Default” means any breach of the obligations of the relevant Party (including fundamental breach or breach of a fundamental term) or any other default, act, omission, negligence or statement of the relevant Party, its employees, servants, agents or sub-contractors in connection with or in relation to the subject matter of this Contract and in respect of which such Party is liable to the other. In no event shall a failure or delay in the delivery of an Authority responsibility or an activity to be carried out by the Authority or its representatives in accordance with the Contract be considered a Default;

‘DPA 2018’ means the Data Protection Act 2018;

“Law” means any applicable law, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, regulation, order, regulatory policy, mandatory guidance or code of practice judgment of a relevant court of law, or directives or requirements of any regulatory body, delegated or subordinate legislation or notice of any regulatory body;

“Term” means the period commencing on the commencement date and ending on the expiry date in Schedule 3 or on earlier termination of this Contract.

‘UK GDPR’ means the General Data Protection Regulation (Regulation (EU) 2016/679) as retained in UK law by the EU (Withdrawal) Act 2018 and the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019;

Unlimited liabilities

60.2. Neither Party limits its liability for:

- 60.2.1. death or personal injury caused by its negligence, or that of its employees, agents or sub-contractors (as applicable);
- 60.2.2. fraud or fraudulent misrepresentation by it or its employees;
- 60.2.3. breach of any obligation as to title implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
- 60.2.4. any liability to the extent it cannot be limited or excluded by law.

60.3. The financial caps on liability set out in Clauses 60.4 and 60.5 below shall not apply to the following:

60.3.1. for any indemnity given by the Contractor to the Authority under this Contract, including but not limited to:

60.3.1.1. the Contractor's indemnity in relation to DEFCON 91 (Intellectual Property in Software) and Condition 34 (Third Party IP – Rights and Restrictions);

60.3.2. breach by the Contractor of DEFCON 532A (SC2), 532B and Data Protection Legislation; and

60.3.3. to the extent it arises as a result of a Default by either Party, any fine or penalty incurred by the other Party pursuant to Law and any costs incurred by such other Party in defending any proceedings which result in such fine or penalty.

60.3.4. For the avoidance of doubt any payments due from either of the Parties to the other in accordance with the Defence Reform Act 2014 and/or the Single Source Contract Regulations 2014, as amended from time to time, shall not be excluded or limited under the provisions of Clauses 60.4 and/or 60.5 below.

Financial limits

60.4. Subject to Clauses 60.2 and 60.3 and to the maximum extent permitted by Law:

60.4.1. the Contractor's total liability in respect of losses that are caused by Defaults of the Contractor shall in no event exceed:

60.4.1.1. in respect of DEFCON 76 (SC2) REDACTED pounds (£REDACTED) in aggregate;

60.4.1.2. in respect of Condition 43.2 [REDACTED] pounds (£REDACTED) in aggregate;

60.4.1.3. in respect of DEFCON 611 (SC2) REDACTED pounds (£REDACTED) in aggregate; and

60.4.1.4. in respect of condition 28 REDACTED pounds (£REDACTED) in aggregate;

60.4.2. without limiting Clause 60.4.1 and subject always to Clauses 60.2, 60.3 and 60.4.3., the Contractor's total liability throughout the Term in respect of all other liabilities whether in contract, in tort (including negligence), arising

under warranty, under statute or otherwise under or in connection with this Contract shall be REDACTED pounds (£REDACTED) in aggregate.

- 60.5. Subject to Clauses 60.2, 60.3 and 60.6, and to the maximum extent permitted by Law the Authority's total liability (in aggregate) whether in contract, in tort (including negligence), under warranty, under statute or otherwise under or in connection with this Contract shall in respect of all liabilities (taken together) be limited to the Charges paid by the Authority in the relevant Contract Year in respect of any and all claims in that Contract Year.
- 60.6. Clause 60.5 shall not exclude or limit the Contractor's right under this Contract to claim for the Charges.

Consequential loss

- 60.7. Subject to Clauses 60.2, 60.3 and 60.8, neither Party shall be liable to the other Party or to any third party, whether in contract (including under any warranty), in tort (including negligence), under statute or otherwise for or in respect of:
- 60.7.1. indirect loss or damage;
 - 60.7.2. special loss or damage;
 - 60.7.3. consequential loss or damage;
 - 60.7.4. loss of profits (whether direct or indirect);
 - 60.7.5. loss of turnover (whether direct or indirect);
 - 60.7.6. loss of business opportunities (whether direct or indirect); or
 - 60.7.7. damage to goodwill (whether direct or indirect), even if that Party was aware of the possibility of such loss or damage to the other Party.
- 60.8. The provisions of Clause 60.7 shall not restrict the Authority's ability to recover any of the following losses incurred by the Authority to the extent that they arise as a result of a Default by the Contractor:
- 60.8.1. any additional operational and administrative costs and expenses arising from the Contractor's Default, including any costs paid or payable by the Authority:
 - 60.8.1.1. to any third party;
 - 60.8.1.2. for putting in place workarounds for the Contractor Deliverables and other deliverables that are reliant on the Contractor Deliverables; and
 - 60.8.1.3. relating to time spent by or on behalf of the Authority in dealing with the consequences of the Default;

- 60.8.2. any or all wasted expenditure and losses incurred by the Authority arising from the Contractor's Default, including wasted management time;
- 60.8.3. the additional cost of procuring and maintaining in place transitional assistance and replacement deliverables for the remainder of the Term and any option period or agreed extension to the Term (including legal and other consultants' fees, reprocurement project costs, other expenses associated with such exercise and any increase in the fees for the replacement services over and above the Contract Price that would have been payable for the relevant Contractor Deliverables);
- 60.8.4. any losses arising in connection with the loss, destruction, corruption, inaccuracy or degradation of Authority data, or other data or software, including, to the extent the Authority data, other data or software can be recovered or reconstituted, the fees, costs and expenses of reconstituting such Authority data, data or software;
- 60.8.5. damage to the Authority's physical property and tangible assets, including damage under DEFCONs 76 (SC2) and 611 (SC2);
- 60.8.6. costs, expenses and charges arising from, or any damages, account of profits or other award made for, infringement of any third-party Intellectual Property Rights or breach of any obligations of confidence;
- 60.8.7. any additional costs incurred by the Authority in relation to the Authority's contracts with a third party (including any compensation or interest paid to a third party by the Authority) as a result of the Default (including the extension or replacement of such contracts);
- 60.8.8. any fine or penalty incurred by the Authority pursuant to Law and any costs incurred by the Authority in defending any proceedings which result in such fine or penalty; or
- 60.8.9. any savings, discounts or price reductions during the Term and any option period or agreed extension to the Term committed to by the Contractor pursuant to this Contract.

Invalidity

- 60.9. If any limitation or provision contained or expressly referred to in this Condition 60 is held to be invalid under any Law, it will be deemed to be omitted to that extent, and if any Party becomes liable for loss or damage to which that limitation or provision applied, that liability will be subject to the remaining limitations and provisions set out in this Condition.

Third party claims or losses

60.10. Without prejudice to any other rights or remedies the Authority may have under this Contract (including but not limited to any indemnity claim under DEFCONs 91 and Condition 34 or at Law), the Authority shall be entitled to make a claim under this Contract against the Contractor in respect of any losses incurred by the Authority which arise out of a claim made against the Authority by a third party under any contract with that third party provided that such third party claim:

60.10.1. arises naturally and ordinarily as a result of the Contractor's failure to provide the Contractor Deliverables or failure to perform any of its obligations under this Contract; and

60.10.2. is a type of claim or loss that would have been recoverable under this Contract if the third party were a party to this Contract (whether as the Authority or the Contractor), such claim to be construed as direct losses for the purpose of this Contract.

No double recovery

60.11. Neither Party shall be entitled to employ such rights and remedies available to it so as to seek to recover more than once in respect of the same loss, but the Authority shall be entitled to use (singly or together) such rights and remedies available to the Authority so as to recover the full extent of any recoverable losses suffered or incurred, including any remedies the Authority may have against any guarantor.

61. Financial Management Information

61.1 For the purposes of this Condition, Financial Management Information shall mean the value of work completed at a given point in time.

61.2 As a minimum the Contractor shall report the Financial Management Information to the Authority in accordance with Para 4.1.1.2 of Annex A of this Contract, in the format of Annex A, Appendix A.

61.3 The Contractor shall retain the Financial Management Information and evidence on activity completed to support the financial management information in accordance with Condition 18 of this Contract. This evidence must be released to the Authority if requested, within 10 working days.

62. Safety and Environmental Management

62.1. Safety and Environmental Management is to be conducted in accordance with the requirements of DEF-STAN 00-056 Iss 7 28 Feb 17, Pt 01 Iss 8 14 Oct 23, Pt 02 Iss 6 14 Oct 23; DEF STAN 00-051 Pt 01 Iss 2 26 Nov 21, Pt 02 Iss 2 26 Nov 21; DSA02.OME V2.4.2 May 23 and DSA03.OME V4 11 Oct 23. Safety audits (both internal and external) are to be undertaken as defined in DEF STAN 00-056 Pt 1 Para 10.

62.2 The Contractor shall produce a Safety and Environmental Management Plan as detailed in the Statement of Work at Annex A of this Contract, which shall be prepared in accordance with:

62.2.1 DEF-STAN 00-056 Chapter 6, Issue 7 28 Feb 17;

62.2.2. DEF STAN 00-051 Part 02 Table 1, Issue 2 26 Nov 21;

- 62.3. Following preparation of the Plans as detailed in clause 62.2. The Contractor shall send the completed Plans to the Authority representative detailed in clause 62.12 for consideration prior to endorsement by Project Safety and Environmental Committee. If the Authority Representative detailed in clause 62.12 suggests amendments to the initial Contractor submission these amendments shall be raised to the Contractor by the Authority Representative within 10 business days or such other date agreed between the Parties.
- 62.4 Acceptance of the Safety and Environmental Management Plans will be as defined in the Statement of Work at Annex A to the Contract. And reviewed annually as a minimum.
- 62.5 The argument for the system to be at a tolerable and as low as reasonably possible (ALARP) status is to be presented by the Contractor in Safety and Environmental Case Reports, produced in accordance with the process defined in DEF-STAN 00-056.
- 62.6 The Contractor shall revise the Safety and Environmental Case Reports on an annual basis in accordance with the process defined in DEF-STAN 00-056 and submitted to the Project Safety Committee. In the event of a substantive change in the supporting arguments, the reports are to be reviewed and agreed with the Authority, prior to endorsement by the Project Safety and Environmental Committee.
- 62.7 Acceptance of the Safety and Environmental Case Reports detailed in 62.5 and 62.6 will be as defined in the Statement of Work at Annex A to the Contract.
- 62.8 For audit purposes the Authority shall appoint an Independent Safety and Environmental Auditor(s) (ISEA) to assure compliance to the Safety Management (SMP) Plan and the Environmental Management Plan (EMP) (on an as and when required basis).
- 62.9 The ISEA shall be given unrestricted access to safety and environmental information, subject to agreement of appropriate confidentiality measures, held by the Contractor and its Sub-contractors and suppliers. The ISEA will also be given full access to Authority held safety and environmental information.
- 62.10. The Authority will also appoint an Independent Safety Advisor, the Safety Advisor will be given full access to the Safety artefacts produced and held by the Contractor and its Sub-Contractors.
- 62.11 The Contractor shall enable the Authority and the ISEA to carry out audits of the Contractor's SMS and EMS and any joint work undertaken with the TMS Delivery Team at a frequency agreed with the TMS Delivery Team and in accordance with DSA02.OME regulation OME 102.
- 62.12. The Authority's representative for safety management for the purposes of the Contract is:

DES WpnsTMS-SRMLU-Eng
DE&S, Fir 3C, #4110,
MOD Abbey Wood,
Bristol, BS34 8JH.

- 62.13. The Contractor shall store and make available to the Authority on request, the Safety and Environmental Case and supporting documentation relating to this Contract for the period of the Service Life of the Sting Ray Mod 2 plus 7 years.
- 62.14. All other Safety and Environmental Management processes, procedures and deliverables shall be managed in accordance with the Statement of Work at Annex A to this Contract.

63. Commercial Exploitation Agreements

- 63.1 Commercial Exploitation of Defence Equipment Developed at Government Expense will be managed in accordance with Annex L to this Contract.

64. Additional Intellectual Property Rights and Restrictions

- 64.1 The Parties agree that data deliverables, data packs and source code (as listed below), which have been developed and paid for under an SRMLU Contract and as part of the Assessment Phase output, will be made available to view (as appropriate), but not delivered to the Authority as part of the Assessment Phase Contract unless complete. Where initial development of data is required under the Assessment Phase and/or further development is required under any follow on Sting Ray Mod 2 Contract, including demonstration and manufacture, the data deliverables, data packs and source code as listed below will be delivered to the Authority under the terms and by the date specified in any such follow on contract.

The deliverables which this clause applies to are as follows:

- Technical Data Pack (Annex A reference: 4.5.1.3)
- Manufacturing Data Pack (4.5.3.1)
- Technical Information Data Pack (Integrated Logistics and Support (ILS)).

Source code for software which has been wholly developed and paid for under any SRMLU Contract.

- 64.2 NOT USED
- 64.3 The Contractor shall supply to the Authority upon request all information as necessary to integrate the weapon onto any release platform as deemed required by the Authority. The Authority shall have the right to disclose any such information to its agents and contractors engaged to undertake the task of weapon integration. The Authority, its agents and contractors shall have the right, without payment to the Contractor to use said information for any purpose connected with the said integration task including the design and manufacture of any integration equipment.

65. Provisional Pricing

- 65.1 The parties recognise that each has a legal obligation, under section 20 of the Defence Reform Act 2014, to be satisfied that the costs included in the contract price are Appropriate, Attributable and Reasonable (together 'AAR'). The parties also recognise that, at the time of contract award, the information provided to the

Authority by the Contractor is not sufficient to allow the parties to be satisfied that all the costs included in the contract price are AAR.

- 65.2 The parties have identified at Annex C those costs or categories of costs in respect of which further information must be provided before an 'AAR assessment' can be made.
- 65.3 Accordingly, the parties agree that The Contractor will provide to the Authority, following the promulgation of the CAAS agreed rates for the full Contract term, sufficient information to enable the Authority to be satisfied that those identified costs included in the contract price are AAR or, alternatively, to enable the Authority to be satisfied as to what revised quantum of costs would be AAR.
- 65.4 Following that provision of information and the Authority's analysis thereof, the parties shall meet at the earliest possible opportunity to consider whether, and if so in what respect, it is necessary to re-price the Contract in accordance with Annex C to the Single Source Contract Regulations 2014.
- 65.5 Without prejudice to any other right which the Authority may have, in the event that the Authority does not consider that The Contractor has complied with its obligation under this clause 65, or it is still not satisfied that the costs included in the contract price are AAR, it intends to refer the contract to the SSRO for a determination of allowable costs, pursuant to section 20 of the Defence Reform Act 2014.

66. Contract Signatures

Contract 706125450 for the Sting Ray Mid Life Upgrade (SRMLU) Assessment Phase (AP)

This Contract shall come into effect on the date of signature by both parties, the Effective Date of Contract in accordance with Schedule 3.

For and on behalf of the Company: BAE Systems Surface Ships Ltd.

Name, Title and Company Position	REDACTED, Senior Commercial Manager
Signature	
Date	21 June 2024

For and on behalf of the Secretary of State for Defence:

Name & Title	REDACTED
Signature	
Date	

SC2 Schedules

Schedule 1 - Definitions of Contract

Article	means, in relation to clause 24 and Schedule 6 only, an object which during production is given a special shape, surface or design which determines its function to a greater degree than does its chemical composition;
Articles	means (except in relation to Schedule 10) 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 7;
Business Day	means 09:00 to 17:00 Monday to Friday, excluding public and statutory holidays;
Central Government Body	<p>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:</p> <ul style="list-style-type: none">a. Government Department;b. Non-Departmental Public Body or Assembly <p>Sponsored Public Body (advisory, executive, or</p>

tribunal);

c. Non-Ministerial Department; or

d. Executive Agency;

Collect

means pick up the Contractor Deliverables from the Consignor. This shall include loading, and any other specific arrangements, agreed in accordance with Clause 28.c and Collected and Collection shall be construed accordingly;

Commercial Packaging

means commercial Packaging for military use as described in Def Stan 81-041 (Part 1)

Conditions

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 (Formal Amendments to the 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 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; or
- b. 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.kid.mod.uk ;
DEF STAN	means Defence Standards which can be accessed at https://www.dstan.mod.uk ;
Deliver	means hand over the Contractor Deliverables to the Consignee. This shall include unloading, and any other specific arrangements, agreed in accordance with Condition 28 and Delivered and Delivery shall be construed accordingly;
DeliveryDate	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 upon which both Parties have signed the Contract;
Evidence	means either: a. an invoice or delivery note from the timber supplier or Subcontractor to the Contractor specifying that the product supplied to the Authority is FSC or PEFC certified; or b. other robust Evidence of sustainability or

	FLEGT licensed origin, as advised by CPET;
Firm Price	means a price (excluding VAT) which is not subject to variation;
FLEGT	means the Forest Law Enforcement, Governance and Trade initiative by the European Union to use the power of timber-consuming countries to reduce the extent of illegal logging;
Government Furnished Assets (GFA)	is a generic term for any MOD asset such as equipment, information or resources issued or made available to the Contractor in connection with the Contract by or on behalf of the Authority;
Hazardous Contractor Deliverable	means a Contractor Deliverable or a component of a Contractor Deliverable that is itself a hazardous material or substance or that may in the course of its use, maintenance, disposal, or in the event of an accident, release one or more hazardous materials or substances and each material or substance that may be so released;
Independent Verification	means that an evaluation is undertaken and reported by an individual or body whose organisation, systems and procedures conform to "ISO Guide 65:1996 (EN 45011:1998) General requirements for bodies operating product certification systems or equivalent", and who is accredited to audit against forest management standards by a body whose organisation, systems and procedures conform to "ISO 17011: 2004 General Requirements for Providing Assessment and Accreditation of Conformity Assessment Bodies or equivalent";
Information	means any Information in any written or other tangible form disclosed to one Party by or on behalf of the other Party under or in connection with the Contract;
Issued Property	means any item of Government Furnished Assets (GFA), including any materiel issued or otherwise furnished to the Contractor in connection with the Contract by or on behalf of the Authority;
Legal and Sustainable	means production and process methods, also referred to as timber production standards, as defined by the document titled "UK Government Timber Production Policy: Definition of legal and sustainable for timber procurement". The edition current on the day the Contract documents are

	issued by the Authority shall apply;
Legislation	means in relation to the United Kingdom any Act of Parliament, any subordinate legislation within the meaning of section 21 of the Interpretation Act 1978, or any exercise of Royal Prerogative;
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);
Mixture	means a mixture or solution composed of two or more substances;
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;
Plastic Packaging Components	shall have the same meaning as set out in Part 2 of the Finance Act 2021 together with any associated secondary legislation;
PPT	means a tax called “plastic packaging tax” charged in accordance with Part 2 of the Finance Act 2021;
PPT Legislation	means the legislative provisions set out in Part 2 and Schedule 9-15 of the Finance Act 2021 together with any secondary legislation made under powers contained in Part 2 of the Finance Act 2021. This includes, but is not limited to, The Plastic Packaging Tax (Descriptions of Products) Regulations 2021 and The Plastic Packaging Tax (General) Regulations 2022;
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);
Publishable Performance Information	means any of the Information in Schedule 9 (KPI Data Report) as it relates to Key Performance Indicator where it is expressed as publishable in the table in Schedule 9 which shall not contain any Information which is exempt from disclosure which shall be determined by the Authority; and which shall not constitute Sensitive Information;
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: <ul style="list-style-type: none"> a. pre-consumer reclaimed wood and wood fibre and industrial by-products; b. post-consumer reclaimed wood and wood fibre,

	<p>and driftwood;</p> <p>c. reclaimed timber abandoned or confiscated at least ten years previously;</p> <p>it excludes sawmill co-products;</p>
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;
Sensitive Information	means the Information listed in the completed Schedule 5 (Contractor's Sensitive Information), which is Information notified by the Contractor to the Authority, which is acknowledged by the Authority as being sensitive, at the point at which the Contract is entered into or amended (as relevant) and remains sensitive information at the time of publication;
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, and shall include any document or item which, individually or collectively is referred to in Schedule 2 (Schedule of Requirements). The Specification forms part of the Contract and all Contractor Deliverables to be supplied by the Contractor under the Contract shall conform in all respects with the Specification;
STANAG4329	means the publication NATO Standard Bar Code Symbolologies which can be sourced at https://www.dstan.mod.uk/faqs.html ;
Subcontractor	means any subcontractor engaged by the Contractor or by any other subcontractor of the Contractor at any level of subcontracting to provide Contractor Deliverables wholly or substantially for

the purpose of performing (or contributing to the performance of) the whole or any part of this Contract and 'Subcontract' shall be interpreted accordingly;

Substance

means a chemical element and its compounds in the natural state or obtained by any manufacturing process, including any additive necessary to preserve its stability and any impurity deriving from the process used, but excluding any solvent which may be separated without affecting the stability of the substance or changing its composition;

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, except for (i) any Information which is exempt from disclosure in accordance with the provisions of the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004 (EIR), which shall be determined by the Authority, and (ii) any Sensitive Information;

Virgin Timber

means Timber and Wood-Derived Products that do not include Recycled Timber.

Where project specific DEFCONs are included under Condition 45 definitions shall be in accordance with DEFCON 501.

Annex A to Schedule 1

Additional Definitions of Contract

Acceptance- the action of consenting to receive or undertake something offered

Acceptance Process- means the acceptance process defined in Schedule 8 and in accordance with the Specification held at Annex A to the Contract.

Acceptance Criteria- means the process the Contractor is required to adhere to in accordance with each Deliverable and defined within the Specification held at Annex A to the Contract.

Allocation- the act or process of sharing out an amount of risk assigned to a recipient

Allowable Cost- costs which are Appropriate, Attributable, and Reasonable in the circumstances, in accordance with the Single Source Cost Standards (SSCS): statutory guidance on allowable costs (SGAC) published by the Single Source Regulations Office.

Apportionment- the division of a benefit or liability between two or more parties according to their proportionate interests

Assessments- judgements on the quality, value or importance of items within the contract and the contract itself

Assessments Plans- documents in accordance with the schedule of requirement

Bid Costs- costs incurred in pursuit of the expected award of a specific contract outcome

Breach- an act of breaking or failing to observe a contractual agreement

Loss of AEUK (Annex B - MDAL only) - where AEUK ceases to trade/operate through bankruptcy, insolvency or any other proceeding or where the Atlas subcontract is terminated, for whatever reason including where the termination is instructed, directly or indirectly by the Authority

Comptroller and Auditor General is the Government official responsible for supervising the quality of public accounting and financial reporting

Contract Commencement Date - means the date in which the Contractor signs the DEFFORM 10 and accepts the Contract in accordance with the DEFFORM

Contractor's Risk Assessments- are a Contractor provided document which provides an examination of existing or potential risks and proposed steps on how to minimise them

Contractor Related Party means;

an officer, servant or agent of the Contractor, or any Affiliate of the Contractor and/or of a Sub-Contractor;

any Sub-Contractor acting in connection with this Contract;

any person on or at any of the Sites at the express or implied invitation of the Contractor and/or a Sub-Contractor, save to the extent such person is acting under the instruction or control of the Authority; and/or

Authority personnel to the extent such personnel is acting under the instruction or control of the Contractor and/or a Sub-Contractor but save to the extent that such labour output acts contrary to the instruction of the Contractor and/or a Sub-Contractor;

Contractor's Risk Management Plan- a detailed document that outlines Contractor's assessment of risks for the Contract and the steps they will take to mitigate and manage

Critical Supplier- means If this supplier fails to deliver there is no-one else who has the skills and experience to deliver that element of the requirement.

Earned Value Management and Project Controls- a project control technique based on a structured approach to cost collection and performance measurement. Earned Value can be compared to actual and planned costs to look at how a project is performing now and how it might perform in the future.

End User- means the department or business unit within the Authority who is the ultimate recipient of the Contractor Deliverables delivered under the Contract

Exceptional Tasking- any task-based activity required by the Authority over and above the Contractor Deliverables and which is not already in scope of the Contract

Expiry Date- the date at which the contract ends. As defined in Schedule 3 – Contract Data Sheet

Firm Price- the Contract price is calculated using an agreed value for the estimated Allowable Costs, at the date the contract is entered into. Where a firm price is agreed it can only be amended through a contract amendment agreed by both parties.

Fixed Price- the Contract price is calculated using an agreed value for the estimated Allowable Costs, at the date the contract is entered into. However, the price may subsequently be adjusted in accordance with changes in specified indices or rates, between the time of agreement and a specified time.

Key Performance Indicator- a quantifiable measure of performance over a period of time for a specific objective

Limit of Liability- a contract clause to seek or exclude or limit a party's liability to the other.

Material Breach- One party's failure to abide by the Contract's terms rendering it irreparably broken.

Maximum Price- legally imposed maximum price in a market that suppliers cannot exceed.

Notice- Notifying of action, decision, or issue against the Contract

Ownership- the act, state or right of possessing a contractual risk

Plans- a detailed proposal on how to achieve contractual item

Provisional Price- is a price that neither party intends to be the final contract price. It is a temporary price, pending agreement between the parties of the final contract price

Purchase Order- formal agreement document that is created by the Authority and sent to the Contractor as a request for goods or services

Quarterly Performance Review- a quarterly meeting to review Supplier's performance and progress of the Contract

Rates- means an agreed, hourly Labour cost applicable to the Contract.

Rectification Plan- a document which outlines the impact of an error and the options of resolution.

Reports- official documents produced as a result of Contract reviews, providing the relevant information, data, and proposed actions.

Robust Contractor Deliverables - Robust items as described in Def Stan 81-041 (Part 2)".

Safety and Environmental Case Reports- documents produced in response to safety and environmental meetings and reviews to record decisions and actions, produced in accordance with the process defined in DEF-STAN 00-056.

Safety and Environmental Management- a process of conducting and monitoring Safety and Environmental issues and proposed actions throughout the life of the Contract

Serviceable Not New- Goods that adequately fulfil their function, deemed fit for use

Services Packaging Instruction Sheets (SPIS)- A Military Level Packaging Design prepared as per Def Stan 81-41 (All Parts), completed as per Part 4. A valid SPIS is a current design that has been produced under MPAS (or the system it superseded) and is recorded on SPIN

Surge- large and sudden increases in demand, typically temporary

Tasks- activities assigned by the Authority to the Contractor to be undertaken to support or achieve the success of the contract

Variational of Price- Price is subject to variation in accordance with a pre-agreed, published Index or Indexes and is not a final price of Contract, goods or services.

Schedule 2 - Schedule of Requirements

Item No.	Item Details	Total Inc. packaging and Delivery**
1	To carry out the Labour activities as described within this Contract at Annex A Statement of Work (Specification) for the Contract Duration	Provisional Price £REDACTED
2	To carry out the Supply Chain activities as described within this Contract at Annex A Statement of Work (Specification) for the Contract Duration	Firm Price £REDACTED
3	To carry out the Tasks as may arise in accordance with Condition 51 (Exceptional Tasking) and Annexes I and J for the duration of the Contract	N/A

****and Delivery if specified in Schedule 3
(Contract Data Sheet)**

**Total Price Incl. Packaging and
Delivery ****

£60,135,904

Schedule 3 - Contract Data Sheet

General Conditions
Condition 2 – Duration of Contract: <p>The Effective Date of Contract shall be: 28th June 2024</p> <p>The Contract expiry date shall be: 30th June 2028 (or on completion of all obligations under the Contract, whichever is later)</p>
Condition 4 – Governing Law: <p>Contract to be governed and construed in accordance with: English Law</p> <p>Solicitors or other persons based in England and Wales (or Scotland if Scots Law applies) irrevocably appointed for Contractors without a place of business in England (or Scotland, if Scots Law applies) in accordance with clause 4.g (if applicable) are as follows:</p>
Condition 7 – Authority's Representatives: <p>The Authority's Representatives for the Contract are as follows:</p> <p>Commercial: as per Annex A to Schedule 3 (DEFFORM 111)</p> <p>Project Manager: as per Annex A to Schedule 3 (DEFFORM 111)</p>
Condition 18 – Notices: <p>Notices served under the Contract shall be sent to the following address:</p> <p>Authority: (as per Annex A to Schedule 3 (DEFFORM 111)) – Note that all Notices relating to Pricing or required under the provisions of the Defence Reform Act 2014 to go to the Commercial representative (Box 1 of DEFFORM 111), while all other notices go to the Project Manager (Box 2 of the DEFFORM 111)</p> <p>Contractor: BAE Systems Commercial Manager (Underwater Weapons), Product and Training Services, BAE Systems Maritime Services, Broad Oak Business Park, Airport Service Road Portsmouth, PO3 5PQ</p> <p>Copy to: BAE Systems, Dauntless Building, Fleet Way, PP 200, HM Naval Base Portsmouth, Portsmouth, Hants, PO1 3AQ, FAO: Chief Counsel, BAE Systems Maritime Services</p> <p>Copy to: BAE Systems, Intellectual Property and Technology Law, Warwick House, PO Box 87, Farnborough Aerospace Centre, Farnborough, Hampshire, GU14 6YU FAO: Chief Counsel, Intellectual Property</p> <p>Notices can be sent by electronic mail? YES – Confirmation of receipt will be required to consider any Notice as served when using electronic mail.</p>
Condition 19.a – Progress Meetings:

The Contractor shall be required to attend the following meetings:

- All meetings listed in Statement of Work (Specification) at Annex A to the Contract.
- All meetings arising from the Operation of the Defence Reform Act 2014 in relation to the Single Source Pricing regime

Condition 19.b – Progress Reports:

The Contractor is required to submit the following Reports:

- All reports listed in the Statement of Work.
- All meetings arising from the Operation of the Defence Reform Act 2014 in relation to the Single Source Pricing regime

Reports shall be Delivered to the following address:

Unless otherwise notified by the Project Manager all reports relating to Pricing or required under the provisions of the Defence Reform Act 2014 to go to the Commercial representative (Box 1 of DEFFORM 111), while all other reports go to the Project Manager (Box 2 of the DEFFORM 111)

Supply of Contractor Deliverables

Condition 20 – Quality Assurance:

Is a Deliverable Quality Plan required for this Contract? YES

The Deliverable Quality Plan must be set out as defined in AQAP 2105 and delivered to the Authority (Quality). 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 and DEFSTAN Requirements:

AQAP 2105

NATO Requirements for Deliverable Quality Plans Edition C version 1

AQAP 2110

NATO Quality Assurance Requirements for Design, Development and Production. Edition D Version 1

AQAP 2210

NATO Supplementary Software Quality Assurance Requirements to AQAP 2110 and AQAP 2310 Edition A Version 2

DEFSTAN 05-10

Product Definition Information Pt 1 Iss 07 & Pt 2: Iss08

DEFSTAN 05-57

Configuration Management of Defence Material Iss 8

DEFSTAN 05-061 Pt 1

Quality Assurance Procedural Requirements - Concessions Issue 7

DEFSTAN 05-061 Pt 4

Quality Assurance Procedural Requirements - Contractor Working Parties Issue 4

DEFSTAN 05-061 Pt 9

Quality Assurance Procedural Requirements - Independent Inspection Requirements for Safety Critical Items Issue 5

DEFSTAN 05-061 Pt 18

Quality Assurance Procedural Requirements Part 18: Aircraft and Munitions Parachutes and Parachute Assemblies, Harnesses and Personnel Restraint Harnesses for Use in Aircraft. Issue 2 (Applicable to Air Launched Weapon.)

DEFSTAN 05-135

Avoidance of Counterfeit materiel Issue 2

DEF STAN 05-101.

Multiple Parts: Proof of Ordnance, Munitions, Armour & Explosives

Pt1 Iss 1 (05/05) Requirements

Pt2 Iss 1 (05/05) Guidance

Pt 3 Iss 2: (05/19) Statistical Methods for QA

DEFSTAN 05-138

DEFSTAN 05-138 Cyber Security for Defence Suppliers Issue 3

DEFSTAN 05-139 – [In Accordance With Statement of Work Ref. 10.1.1](#)

DEFSTAN 00-600

Integrated Logistics Support requirements for MOD projects

AQAP 2070

Condition 21 – Marking of Contractor Deliverables:

The markings to be applied to equipment will be notified to the Contractor by the Project Manager in good time to be applied prior to delivery. Should the contractor have any queries on this he should direct them, in the first instance, to the Authorities Project Manager (see Box 2 of DEFFORM 111).

Condition 24 - Supply of Data for Hazardous Substances, Mixtures and Articles in Contractor Deliverables:

A completed Schedule 6 (Hazardous and Non-Hazardous Substances, Mixture or Articles Statement), and if applicable, UK REACH compliant Safety Data Sheet(s) are to be provided by e-mail with attachments in Adobe PDF or MS WORD format to:

- a) The Authority's Representative (Commercial)
- b) Defence Safety Authority – DESTECH-QSEPEnv-HSISMulti@mod.gov.uk

to be Delivered no later than one (1) month prior to the Delivery Date for the Contract Deliverable or by the following date:

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:

Condition 26 – Certificate of Conformity:

If required, to be in accordance with the Statement of Work

Condition 28.b – Delivery by the Contractor:

All Items to be delivered to be in accordance with the Statement of Work.

Any Special Delivery Instructions not detailed in the Statement of Work will be communicated to the Supplier by the Project Manager.

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

Condition 28.c - Collection by the Authority:

At the time of issue of Contract, the Authority does not envisage the need for items to be collected by the Authority. Should the need arise over the course of the contract then the Authorities Project Manager (see Box 2 of DEFFORM 111) will inform the Contractor in good time of:

- The articles/Line Items be Collected by the Authority
- Details of consignor and Consignee
- Any Special Delivery Instructions

Any consignment collected by the Authority is to be accompanied by a DEFFORM 129J

Condition 30 – Rejection:

Schedule 8 of the Contract sets out the Acceptance Procedure for Contract deliverables. No deliverable will be deemed to be accepted unless the appropriate procedure has been followed.

Where no Acceptance Procedure has been specified the default time limit for rejection of the Contractor Deliverables is thirty (30) Business days unless otherwise specified.

Condition 32 – Self-to-Self Delivery:

At the time of issue of Contract, the Authority does not envisage the need for Self to Self Delivery of items. Should the Authority become aware that this is required over the course of the contract then the Authorities Project Manager (see Box 2 of DEFFORM 111) will inform the Contractor in good time, specifying which articles/Items are so affected and the appropriate delivery address.

Should the Contractor believe that Self to Self deliveries are required he is to consult with the Authorities Project Manager and agree the details with him.

Pricing and Payment**Condition 35 – Contract Price:**

All Schedule 2 line items shall be **Fixed Price**

Provisional pricing and Labour Rates reconciliation shall be applied to the Contract in accordance with Annex C – Charging Rates

Termination

Condition 42 – Termination for Convenience:
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The Notice period for terminating the Contract shall be sixty (60) Business Days unless otherwise specified here:

Other Addresses and Other Information <i>(forms and publications addresses and official use information)</i>

See Annex A to Schedule 3 (DEFFORM 111)

Appendix - Addresses and Other Information

1. Commercial Officer

Name: REDACTED, Senior Commercial Manager, DES Weapons Operating Centre, TMS

Address: MOD Abbey Wood #4316, NH4 Fir 3c, Bristol | BS34 8JH

Email: REDACTED  Tel: REDACTED

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

Name: REDACTED, Assistant Team Leader SRMLU and P8 ASW, Weapons Operating Centre – TMS

Address MOD Abbey Wood #4110, NH4 Fir 3c, Bristol | BS34 8JH

Email: REDACTED

 REDACTED

3. Packaging Design Authority Organisation & point of contact:

See Box 2 above

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

Branch/Name:

Torpedoes and Maritime Strike (TMS)Team

Contact via Project Manager detailed at Box 2 above

(b) U.I.N. P2499A

5. Drawings/Specifications are available from

The Project Manager, see Box 2 above.

6. Intentionally Blank

7. Quality Assurance Representative:

Name: REDACTED, DE&S Weapons Operating Centre Engineering, Quality Assurance

Address: MOD Abbey Wood, #4304, Fir3b, Bristol, BS34 8JH

Email: REDACTED

8. **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].

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

See Boxes 28b and 28c of Schedule 3 (Contract Data Sheet)

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 Arnclott, 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.kid.mod.uk/maincontent/business/commercial/index.htm>

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

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

Contract No: 706125450

Authority Changes

1. The Authority shall be entitled to propose any change to the Contract (a "Change") or (subject to Clause 2) Changes in accordance with this Schedule 4.
2. Nothing in this Schedule shall operate to prevent the Authority from specifying more than one Change in any single proposal, provided that such changes are related to the same or similar matter or matters.

Notice of Change

3. If the Authority wishes to propose a Change or Changes, it shall serve a written notice (an "Authority Notice of Change") on the Contractor.
4. The Authority Notice of Change shall set out the Change(s) proposed by the Authority in sufficient detail to enable the Contractor to provide a written proposal (a "Contractor Change Proposal") in accordance with clauses 7 to 9 (inclusive).
5. The Contractor may only refuse to implement a Change or Changes proposed by the Authority, if such change(s):
 - a. would, if implemented, require the Contractor to deliver any Contractor Deliverables under the Contract in a manner that infringes any applicable law relevant to such delivery; and/or
 - b. would, if implemented, cause any existing consent obtained by or on behalf of the Contractor in connection with their obligations under the Contract to be revoked (or would require a new necessary consent to be obtained to implement the Change(s) which, after using reasonable efforts, the Contractor has been unable to obtain or procure and reasonably believes it will be unable to obtain or procure using reasonable efforts); and/or
 - c. would, if implemented, materially change the nature and scope of the requirement (including its risk profile) under the Contract;

and:

 - d. the Contractor notifies the Authority within 10 (ten) Business Days (or such longer period as shall have been agreed in writing by the parties) after the date of the Authority Notice of Change that the relevant proposed Change or Changes is/are a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c providing written evidence for the Contractor's reasoning on the matter; and
 - e. further to such notification:
 - (1) either the Authority notifies the Contractor in writing that the Authority agrees, or (where the Authority (acting reasonably) notifies the Contractor that the Authority disputes the Contractor's notice under Clause 5.d) it is determined in accordance with Condition 40 (Dispute Resolution), that the relevant Change(s) is/are a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c; and

(2) (where the Authority either agrees or it is so determined that the relevant Change(s) is/are a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c) the Authority fails to make sufficient adjustments to the relevant Authority Notice of Change (and issue a revised Authority Notice of Change) to remove the Contractor's grounds for refusing to implement the relevant Change under Clauses 5.a, 5.b and/or 5.c within 10 (ten) Business Days (or such longer period as shall have been agreed in writing by the parties) after:

i) the date on which the Authority notifies in writing the Contractor that the Authority agrees that the relevant Change(s) is/are a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c); or

ii) the date of such determination.

6. The Contractor shall at all times act reasonably, and shall not seek to raise unreasonable objections, in respect of any such adjustment.

Contractor Change Proposal

7. As soon as practicable, and in any event within:

a. (where the Contractor has not notified the Authority that the relevant Change or Changes is/are a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c in accordance with Clause 5) fifteen (15) Business Days (or such other period as the Parties agree (acting reasonably) having regard to the nature of the Change(s)) after the date on which the Contract shall have received the Authority Notice of Change; or

b. (where the Contractor has notified the Authority that the relevant Change or Changes is/are a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c in accordance with Clause 5 and:

(1) the Authority has agreed with the Contractor's conclusion so notified or it is determined under Condition 40 (Dispute Resolution) that the relevant Change(s) is/are a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c and the Authority has made sufficient adjustments to the relevant Authority Notice of Change (and issued a revised Authority Notice of Change(s)) to remove the Contractor's grounds for refusing to implement the relevant Change(s) under Clauses 5.a, 5.b and/or 5.c) fifteen (15) Business Days (or such other period as the parties shall have agreed (both parties acting reasonably) having regard to the nature of the Change(s)) after the date on which the Contractor shall have received such revised Authority Notice of Change; or

(2) the Authority has disputed such conclusion and it has been determined in accordance with Condition 40 (Dispute Resolution) that the relevant Change(s) is/are not a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c) fifteen (15) Business Days (or such other period as the parties shall have agreed (both parties acting reasonably) having regard to the nature of the Change(s)) after the date of such determination,

the Contractor shall deliver to the Authority a Contractor Change Proposal. For the avoidance of doubt, the Contractor shall not be obliged to deliver to the Authority a Contractor Change Proposal where the Contractor notifies the Authority, and the Authority agrees or it is determined further to such notification in accordance with Clause 5, that the relevant Change or Changes is/are a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c.

8. The Contractor Change Proposal shall comprise in respect of each and all Change(s) proposed:

a. the effect of the Change(s) on the Contractor's obligations under the Contract;

- b. a detailed breakdown of any costs which result from the Change(s);
- c. the programme for implementing the Change(s);
- d. any amendment required to this Contract as a result of the Change(s), including, where appropriate, to the Contract Price; and
- e. such other information as the Authority may reasonably require.

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

Contractor Change Proposal – Process and Implementation

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

- a. evaluate the Contractor Change Proposal; and
- b. where necessary, discuss with the Contractor any issues arising (and (in relation to a Change(s) proposed by the Authority) 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 shall have agreed in writing) after receipt of such modification, submit an amended Contractor Change Proposal.

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

- a. either indicate its acceptance of the Change Proposal by issuing a DEFFORM10B in accordance with Condition 6 (Formal Amendments to the Contract), whereupon the Contractor shall promptly sign and return to the Authority the Contractor's DEFFORM 10B indicating their unqualified acceptance of such amendment in accordance with, and otherwise discharge their obligations under, such Condition and implement the relevant Change(s) in accordance with such proposal; or
- b. serve Notice on the Contractor rejecting the Contractor Change Proposal and withdrawing (where issued in relation to a Change or Changes proposed by the Authority) the Authority Notice of Change (in which case such notice of change shall have no further effect).

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

13. The Authority shall not be liable to the Contractor for any additional work undertaken or expense incurred in connection with the implementation of any Change(s), unless a Contractor Change Proposal has been accepted by the Authority in accordance with Clause 11a. and then subject only to the terms of the Contractor Change proposal so accepted.

Contractor Changes

14. If the Contractor wishes to propose a Change or Change(s), they shall serve a Contractor Change Proposal on the Authority. Such proposal shall be prepared and reviewed in accordance with and otherwise be subject to the provisions of Clauses 8 to 13 (inclusive).

Schedule 5 - Contractor's Commercial Sensitive Information Form (i.a.w. condition 12)

Contract No: 706125450
<p>Description of Contractor's Sensitive Information:</p> <p>a) Routine information of a private nature that would be expected to be kept private, including general correspondence that includes private company information or representations, proposals and responses to enquiries.</p> <p>b) Information whose unauthorised access or disclosure would cause significant harm to the interests of the Contractor and/or its third parties. This would normally inflict harm by virtue of financial loss; loss of profitability or opportunity; or loss of reputation. This information may include but is not limited to:</p> <ul style="list-style-type: none">i) marketing information (other than publicity materials);ii) information on applications for grants, launch aid and loans for research, technology and product development;iii) information on applications for export licences including MoD Form 680 information, specific export sales information relating to products and countries or customers;iv) information about the Contractor's customers/suppliers and their performance;v) responses to invitations to negotiate, tenders made, competitor assessments and negotiating positions;vi) estimating, costing and pricing (excluding Contract price) information, including unit prices and price breakdown information, labour rates, overheads and price breaks;vii) technology strategy and key technologies for future exploitation;viii) details of how requirements are met or tasks are carried out;ix) research methodologies, tools and results;x) engineering development processes and tools;xi) product design and engineering records;xii) product design and production test and evaluation results;xiii) manufacturing methods, tools and processes, including plant layouts;xiv) service, product support, logistics management methods, processes and delivery methodology;xv) product disassembly and disposal methods, tools and processes;xvi) non-standard commercial terms of trading, guarantees (including PCGs), indemnities, liability caps, incentive provisions, payment arrangements, IP licensing arrangements, social value arrangements;xviii) strategies, policies and processes for information and physical security, emergencies and

waste management;

xix) budgets, financial performance, commitments and liabilities, asset holdings and their location and disposition, books of account, banking arrangements, risk mitigation schemes, insurance arrangements and policies;

xx) personnel information, including resourcing/redundancy decisions;

xxi) business policies and processes, governance;

c) Information whose unauthorised access or disclosure would cause serious damage to the interests of the owner/author. It would inflict harm by virtue of serious financial loss, severe loss of profitability or opportunity, grave loss of reputation. This information may include:

i) details of acquisitions, divestments, and mergers

ii) high-level business and competition strategy

iii) sensitive competitor, partner or supplier assessments

iv) high-level business plans and potential options

v) trade secrets and inventions (prior to patent grant).

d) Notwithstanding the above, any electronic or hard copy media marked as, BAE Systems Sensitive or BAE Systems Highly Sensitive.

Cross Reference(s) to location of Sensitive Information:

Condition 35 Price

Condition 60 Limit of Contractors Liability

Schedule 10 Notification of IPR

Annex A, and Appendix – Statement of Work

Annex B – MDAL

Annex C – Charging Rates

Annex E – DEFFORM 177 & DEFFORM 315

Annex F - Milestone Payment Plan

Annex G – Deliverable Quality Plan

Annex J – TAF Register

Annex K – Earned Value Management and Project Controls

Annex L – Commercial Exploitation Levies

Annex O – Social Value Plan

All cost and financial data supplied and exchanged with the Authority, and/or its representatives, for the purposes of Financial reporting including the Single Source Regulation cost investigation pre and post Contract award.

All approved Tasking Approval Forms.

Explanation of Sensitivity:

Release of such confidential and commercially sensitive data may cause harm to the negotiating position of the Contractor trading in the UK and overseas markets.
<p>Details of potential harm resulting from disclosure:</p> <p>The Contractor wishes to avoid its competitors or other third parties having sight of competitively negotiated positions which could be commercially damaging and affect the competitiveness in open markets, in addition would give away Intellectual Property of the Contractor. The same applies to the Contractor's suppliers' information, and that of third parties.</p>
Period of Confidence (if applicable): Term of the Contract, plus 7 years
<p>Contact Details for Transparency / Freedom of Information matters:</p> <p>Name: REDACTED</p> <p>Position: Legal Counsel</p> <p>Address: Broad Oak, The Airport, Portsmouth, Hampshire PO3 5PQ</p> <p>Telephone Number: REDACTED</p> <p>Email Address: REDACTED</p>

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

Hazardous and Non-Hazardous Substances, Mixtures or Articles Statement by the Contractor

Contract No: 706125450

Contract Title: Sting Ray Mid Life Upgrade (SRMLU) Assessment Phase

Contractor: BAE Systems Surface Ships Limited

Date of Contract: TBC

To the best of our knowledge the hazards associated with Substances, Mixtures or Articles in the Contractor Deliverables to be supplied under the Contract are identified in the Safety Data Sheets or UK REACH Communication attached in accordance with Condition 24.

Contractor's Signature:

Name: REDACTED on behalf of REDACTED (SRMLU Project Manager)

Job Title: Torpedoes Environmental Manager

Date: 14/9/23

.....

To be completed by the Authority
Domestic Management Code (DMC):

NATO Stock Number:

Contact Name:

Contact Phone Number:

Contact Address:

Copy to be forwarded to:

Hazardous Stores Information System (HSIS)
Spruce 2C, #1260
MOD Abbey Wood (South)
Bristol BS34 8JH

Email: DESEngSfty-QSEPSEP-HSISMulti@mod.gov.uk

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

NOT USED

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

Contract No: 706125450

1. Acceptance of all Contractor Deliverables defined within the Specification at Annex A to the Contract will be in accordance with the process defined in the Acceptance Processes described in Schedule 8 clause 6 . Each deliverable defined within the Specification at Annex A to the Contract shall have an Acceptance Process (AP) in accordance with Schedule 8 clause 6, clearly specified to that deliverable. Where no Acceptance Process is specified within the Specification at Annex A to the Contract, Acceptance will be in accordance with Condition 29.
2. Acceptance of all Contractor Deliverables defined within an Exceptional Tasking will be in accordance with the Acceptance Criteria detailed within Part 1 of the Tasking Approval Form (TAF). Where no Acceptance procedure is specified within the TAF, Acceptance will be in accordance with Condition 29.
3. Acceptance of all Contractor Deliverables shall occur in accordance with condition 29 if no acceptance procedure is specified in this Schedule 8 (Acceptance Procedure).
4. Acceptance by the Authority of any of the Contractor's Plans or Reports as listed and defined within the Specification at Annex A of this Contract does not signify acceptance of liability for their accuracy, suitability or applicability. Acceptance only signifies the Authority's acknowledgement of the Contractor's delivery of those Plans or Reports and thereafter the Contractor's intention to implement the provisions of those Plans.
5. Acceptance by the Authority of any of the Contractor's Plans or Reports as listed and defined within the Specification at Annex A of this Contract does not signify an agreement to change the Master Schedule. Where any of the Contractor's Plans or Reports delivered under the obligations detailed in the Specification detail a requirement to change the Master Schedule, the Contractor shall submit a Contractor Change Proposal in accordance with Schedule 4 of this Contract.

Acceptance Processes

6. Acceptance Process 1 (AP1): The Deliverable must be delivered to the Authority SRMLU Project Manager, Deputy Project Manager and Technical Lead by the Contractor no later than the Due Date. Delivery method will be via email for Deliverables up to and including OFFICIAL-SENSITIVE classification. Deliverables classified SECRET and above must be delivered using SECRET channels. Acceptance or Rejection of the Deliverable will be notified, by email, to the Contractor by the SRMLU Project Manager or Deputy Project Manager within 5 Business Days of receipt of the Deliverable by the Authority. If rejected, the Authority will provide reasons for the rejection in the notification email. The Contractor shall have 3 Business Days to amend and resubmit the Deliverable to the Authority and this AP1 will repeat in line with the process above for the resubmitted Deliverable.

Acceptance Process 2 (AP2): The Deliverable must be delivered to the Authority SRMLU Project Manager, Deputy Project Manager and Technical Lead by the Contractor no later than the Due Date. Delivery method will be via email for Deliverables up to and including OFFICIAL-SENSITIVE classification. Deliverables classified SECRET and above must be delivered using SECRET channels. Acceptance or Rejection of the Deliverable will be notified, by email, to the Contractor by the SRMLU Project Manager or Deputy Project Manager within 15 Business Days of receipt of the Deliverable by the Authority. If rejected, the Authority will provide reasons for the rejection in the notification email. The Contractor shall have 7 Business Days to amend and resubmit the Deliverable to the Authority and this AP2 will repeat in line with the process above for the resubmitted Deliverable.

Acceptance Process 3 (AP3): The Deliverable must be delivered to the Authority SRMLU Project Manager, Deputy Project Manager and Technical Lead by the Contractor no later than the Due Date. Delivery method will be via email for Deliverables up to and including OFFICIAL-SENSITIVE classification. Deliverables classified SECRET and above must be delivered using SECRET channels. Acceptance or Rejection of the Deliverable will be notified, by email, to the Contractor by the SRMLU Project Manager or Deputy Project Manager within 30 Business Days of receipt of the Deliverable by the Authority. If rejected, the Authority will provide reasons for the rejection in the notification email. The Contractor shall have 15 Business Days to amend and resubmit the Deliverable to the Authority and this AP3 will repeat in line with the process above for the resubmitted Deliverable.

7. Where Deliverables comprise one or more reports, subject to prior approval from the Authority, they may be combined into a single document, provided this does not negatively impact the timescales and conforms to the Acceptance Criteria of any Deliverables.
8. Where Deliverables are in the form of documents, the Contractor shall first send them to the Authority in MS Word format. The Authority will then add review comments within the document to send back to the Contractor. The Contractor shall respond to comments in a similar embedded way. Once comments have been addressed to the satisfaction of the Authority, the document will be converted into PDF and baselined.

Schedule 9 Publishable Performance Information

Publishable Performance Information - shall be managed in accordance with Condition 12 and Annex D to the Contract

Schedule 10 – Notification of Intellectual Property Rights (IPR) Restrictions for Contract No. 706125450

PART A – Notification of IPR Restrictions

PART A REDACTED

PART B – System / Product Breakdown Structure (PBS)

Part B REDACTED