



Ministry
of Defence



**MINISTRY OF DEFENCE
DEFENCE EQUIPMENT & SUPPORT**

Contract Number:

701575511
(TSSP/134)

Description:

Defence Virtual Simulation 2 (DVS 2)

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Annex B to Terms and Conditions – Pricing Template and Assumptions

SCHEDULES

Schedule 01 – DVS 2 Statement of Requirement (SOR)

Annexes to Schedule 01:

- Annex A – Systems Requirement Document (SRD)
- Annex B – Integrated Test, Evaluation and Acceptance Plan (ITEAP)
- Annex C – VVRM Template & Technical Compliance Matrix
- Annex D – Product Description Templates
- Annex E – Safety and Environmental level 4 Safety Statement
- Annex F – Safety and Environmental Management Plan (SEMP)
- Annex G – Integrated Logistics Support Plan
- Annex H – Initial Reliability and Maintainability Case
- Annex I – MDAL/Risk/Opportunity Template
- Annex J – Initial Supportability Case
- Annex K – Configuration Management Plan
- Annex L – Human Factors Integration (HFI)
- Annex M – Outstanding SR Roadmap

Schedule 02 – Contractor's DVS 2 Statement of Work (SOW)

Schedule 03 – Key Performance Indicators (KPIs)

Schedule 04 – Management Information (MI)

Schedule 05 – Payment Plan

Schedule 06 – List of Deliverables

Schedule 07 – Government Furnished Assets (GFA)

Schedule 08 – Tasking Approval Form (TAF)

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Schedule 10 – Labour Rate Card

Schedule 11 – Change Proposal Form

Schedule 12 – Security Aspects Letter (SAL)

Schedule 13 – Commercial Exploitation Levy

Schedule 14 – EVM DE&S Project Controls Guide

Schedule 15 – Equality of Information

Schedule 16 – Relationship Management Plan

Schedule 17 – Transfer of Undertakings (Protection of Employment) TUPE

Schedule 18 – DEFFORM 68 Hazardous Articles

Schedule 19 – DEFFORM 94 Confidentiality Agreement

Schedule 20 – DEFFORM 528 Import and Export Controls

Schedule 21 – DEFFORM 532 Personal Data Particulars

Schedule 22 – DEFFORM 539A Tenderer's Commercially Sensitive Information Form
Schedule 23 – DEFFORM 539B Publishable Performance Information – KPI Data Report
Schedule 24 – DEFFORM 177 Design Rights And Patents (Subcontractor's Agreement)
Schedule 25 – DEFFORM 701 Software License Agreement
Schedule 26 – DEFFORM 702 Employee's Acknowledgement To Employer Of Obligations Relating To Confidentiality
Schedule 27 – DEFFORM 111 Addresses and Other Information

1. SCHEDULE OF REQUIREMENTS

Name and Address of Company Bohemia Interactive Simulations (UK) Ltd. 31 Hercules Way, Hampshire, GU14 6UU Farnborough Aerospace Centre United Kingdom	MINISTRY OF DEFENCE	Contract No 701575511 (TSSP/134)
	Schedule of Requirements for Defence Virtual Simulation 2	
Issued With Offer of Contract	On 11th April 2022	Previous Contract No TSSP/0070

Requirements

Line Item Number	Description	Quantity	Delivery Date	Notes to Supplier	Price £ (ex-VAT)
Core Requirement					
1	Provision of unlimited enterprise licences for the DVS 2 software including an independent image generator and managed service support in accordance with the Statement of Requirement (SOR) (Schedule 01) and the Systems Requirement Document (SRD) (Annex A to Schedule 01).	N/A	Year 1: 20 April 2022 – 31 March 2023	In accordance with Statement of Requirement (Schedule 01 to the Terms & Conditions) & Payment Plan (Schedule 05 to the Terms and Conditions).	Year 1 Firm Price: <i>REDACTED: COMMERCIALLY-SENSITIVE INFORMATION</i>
2	Provision of DVS 2 managed service support in accordance with the Statement of Requirement (SOR) (Schedule 01) and the Systems Requirement Document (SRD) (Annex A to Schedule 01).	N/A	Year 2: 1 April 2023 – 31 March 2024	In accordance with Statement of Requirement Schedule 01 to the Terms & Conditions) & Payment Plan (Schedule 05 to the Terms and Conditions)	Year 2 Firm Price: <i>REDACTED: COMMERCIALLY-SENSITIVE INFORMATION</i>

3	Provision of DVS 2 managed service support in accordance with the Statement of Requirement (SOR) (Schedule 01) and the Systems Requirement Document (SRD) (Annex A to Schedule 01).	N/A	Year 3: 1 April 2024 – 31 March 2025	In accordance with Statement of Requirement (Schedule 01 to the Terms & Conditions) & Payment Plan (Schedule 05 to the Terms and Conditions)	Year 3 Firm Price: <i>REDACTED: COMMERCIALLY-SENSITIVE INFORMATION</i>
4	Provision of DVS 2 managed service support in accordance with the Statement of Requirement (SOR) (Schedule 01) and the Systems Requirement Document (SRD) (Annex A to Schedule 01).	N/A	Year 4: 1 April 2025 – 31 March 2026	Year 4: Fixed Price in accordance with Condition 4.4 VOP & in accordance with Statement of Requirement (Schedule 01 to the Terms & Conditions) & Payment Plan (Schedule 05 to the Terms and Conditions)	Year 4 Fixed Price: <i>REDACTED: COMMERCIALLY-SENSITIVE INFORMATION</i>
5	Provision of DVS 2 managed service support in accordance with the Statement of Requirement (SOR) (Schedule 01) and the Systems Requirement Document (SRD) (Annex A to Schedule 01).	N/A	Year 5: 1 April 2026 – 31 March 2027	Year 5: Fixed Price in accordance with Condition 4.4 VOP & in accordance with Statement of Requirement (Schedule 01 to the Terms & Conditions) & Payment Plan (Schedule 05 to the Terms and Conditions)	Year 5 Fixed Price: <i>REDACTED: COMMERCIALLY-SENSITIVE INFORMATION</i>

6	Bespoke tasking to be carried out in accordance with Condition 2.16 for the period 20/04/22 to 31/03/2027	In accordance with Condition 2.16	N/A	Anticipated annual capability sustainment programme from Year 2 onwards	Price per TAF in accordance with rates shown in Schedule 10 of 701575511 (TSSP/134)
Options Years – In accordance with Condition 4.2 ‘Options’					
7	Option Year 6: Provision of DVS 2 managed service support in accordance with the Statement of Requirement (SOR) (Schedule 01) and the Systems Requirement Document (SRD) (Annex A to Schedule 01).	N/A	01 Apr 2027 up to 31 Mar 2028	Year 6: Fixed Price in accordance with Condition 4.4 VOP & in accordance with Statement of Requirement (Schedule 01 to the Terms & Conditions) & Payment Plan (Schedule 05 to the Terms and Conditions)	Year 6 Fixed Price: <i>REDACTED: COMMERCIALLY-SENSITIVE INFORMATION</i>
8	Bespoke tasking to be carried out in accordance with Condition 2.16 for the period 01/04/27 to 31/03/2028 – Yr. 6	In accordance with Condition 2.16	N/A	Anticipated annual capability sustainment programme	Price per TAF in accordance with rates shown in Schedule 10 of 701575511 (TSSP/134)
9	Option Year 7: Provision of DVS 2 managed service support in accordance with the Statement of Requirement (SOR) (Schedule 01) and the Systems Requirement Document (SRD) (Annex A to Schedule 01).	N/A	01 Apr 2028 up to 31 Mar 2029	Year 7: Fixed Price in accordance with Condition 4.4 VOP & in accordance with Statement of Requirement (Schedule 01 to the Terms & Conditions) & Payment Plan (Schedule 05 to	Year 7 Fixed Price: <i>REDACTED: COMMERCIALLY-SENSITIVE INFORMATION</i>

				the Terms and Conditions)	
10	Bespoke tasking to be carried out in accordance with Condition 2.16 for the period 01/04/28 to 31/03/2029 – Yr. 7	In accordance with Condition 2.16	N/A	Anticipated annual capability sustainment programme	Price per TAF in accordance with rates shown in Schedule 10 of 701575511 (TSSP/134)
11	Option Year 8: Provision of DVS 2 managed service support in accordance with the Statement of Requirement (SOR) (Schedule 01) and the Systems Requirement Document (SRD) (Annex A to Schedule 01).	N/A	01 Apr 2029 up to 31 Mar 2030	Year 8: Fixed Price in accordance with Condition 4.4 VOP & in accordance with Statement of Requirement (Schedule 01 to the Terms & Conditions) & Payment Plan (Schedule 05 to the Terms and Conditions)	Year 8 Fixed Price: <i>REDACTED: COMMERCIALLY-SENSITIVE INFORMATION</i>
12	Bespoke tasking to be carried out in accordance with Condition 2.16 for the period 01/04/29 to 31/03/2030 – Yr. 8	In accordance with Condition 2.16	N/A	Anticipated annual capability sustainment programme	Price per TAF in accordance with rates shown in Schedule 10 of 701575511 (TSSP/134)
Additional Option Pricing (in accordance with Condition 4.2 'Options') – see Annex A to Terms and Conditions for Priced Additional Options					

2 GENERAL CONDITIONS

DEFCON 501 (Edn.10/21) - Definitions And Interpretations

- For the purposes of Sub-Clause 1(e), reference to 'special conditions of contract' shall be taken to mean the narrative conditions of the Contract.
- For the purposes of Sub-Clause 1(v) and Clause 5 of DEFCON501, the persons designated to act on the behalf of the Authority shall be the Commercial Manager and Project Manager as detailed at Boxes 1 & 2 of DEFFORM 111.

DEFCON 503 (Edn.07/21) - Formal Amendments to Contract

- For the purposes of Clause 1 of DEFCON 503, the duly authorised representatives are:
 - a) for the Authority, the Commercial Manager identified at Box 1 of the DEFFORM 111 or any Commercial authorised representative from Training & Simulation Systems Portfolio.
 - b) for the Contractor, the Contractor's head of Commercial or their authorised representative.

DEFCON 515 (Edn.06/21) - Bankruptcy and Insolvency

DEFCON 516 (Edn.04 /12) - Equality

DEFCON 518 (Edn.02/17) - Transfer

DEFCON 520 (Edn.08/21) - Corrupt Gifts and Payments of Commission

DEFCON 526 (Edn.08/02) - Notices

- For the purposes of this Contract, Sub-Clause 2(e) shall be acceptable as a means of delivery notice.

DEFCON 527 (Edn.09/97) - Waiver

DEFCON 528 (Edn.07/21) - Import and Export Licences

DEFCON 529 (Edn.09/97) - Law (English)

DEFCON 530 (Edn.12/14) - Dispute Resolution (English Law)

DEFCON 531 (Edn.09/21) - Disclosure of Information

DEFCON 532B (Edn.09/21) - Protection of Personal Data (Where Personal Data isn't being processed on behalf of the Authority)

- For the purpose of this Contract, all personal data identified within DEFFORM 532 at Schedule 21 to the Contract shall be subject to this condition (To be completed if thought data will be held by Contractor)

DEFCON 537 (Edn.12/21) - Rights of Third Parties

DEFCON 538 (Edn.06/02) - Severability

DEFCON 539 (Edn. 01/22) - Transparency

DEFCON 550 (Edn.02/14) - Child Labour and Employment Law

DEFCON 566 (Edn.10/20) - Change of Control of Contractor

DEFCON 620 (Edn.08/21) - Contract Change Control Procedure

DEFCON 625 (Edn.06/21) - Co-Operation on Expiry of Contract

DEFCON 646 (Edn.10/98) - Law and Jurisdiction (Foreign Suppliers)

- The Contractor's attention is drawn to Clause 5 of DEFCON 646. The Contractor shall, within one (1) month of Contract award, notify the Authority's Commercial Manager (see Box 1 of the DEFFORM 111) of the details of its appointed agents in England and Wales.

DEFCON 656B (Edn.08/16) - Termination for Convenience – Over £5M

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

DEFCON 697 (Edn.06/21) - Contractors on Deployed Operations

- Where the Authority has a requirement for the Contractor, a sub-contractor or both, to Deploy to undertake a task at an expected work location in a CONDO applicable area, the provisions of DEFCON 697 shall apply. DEFCON 697 shall become effective when such a task is included in the Contract.

2.1. Definitions and Interpretations

Notwithstanding, and in addition to, the provisions contained in DEFCON 501 (Definitions and Interpretations), the following expressions shall, in the Contract, have the meaning hereby respectively assigned to them, except where the context requires otherwise.

“Authority's Commercial Manager” means the official named in Box 1 of Schedule 27 to Contract (DEFFORM 111).

“Authority's Project Manager” means the official named in Box 2 of Schedule 27 to Contract (DEFFORM 111).

“Background IPR” or “Background Intellectual Property Rights” means all Intellectual Property Rights, including patents for any inventions, not generated in the performance of the work under the Contract.

“Business Days” means any day excluding:

- a) Saturdays, Sundays and public and statutory holidays in the jurisdiction of either party;
- b) privilege days notified in writing by the Authority at least ten (10) Business Days in advance; and
- c) such periods of holiday closure of the Contractor's premises of which the Authority is given written notice by the Contractor at least ten (10) Business Days in advance.

“Change in Law” means the coming into effect after the Effective Date of:

- a) Legislation, other than any Legislation which on the Effective Date has been published:
 - i. in a draft Bill as part of a Government Departmental Consultation Paper;
 - ii. in a Bill;
 - iii. in a draft statutory instrument; or
 - iv. published as a proposal in the Official Journal of the European Union; or

b) any applicable judgment of a relevant court of law, which changes a binding precedent

“Contract Effective Date” means the date on which the Contract has been signed by both parties.

“Critical Sub-contract” means a sub-contract that is key to the success of the requirement.

“Critical sub-contractor” means a sub-contractor that is key to the success of the requirement.

“CP&F” means the Contracting, Purchasing and Finance tool.

“Data Protection Legislation” means: (i) Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (the "General Data Protection Regulation"); (ii) the Data Protection Act 2018 to the extent that it relates to processing of personal data and privacy; and (iii) all applicable Law about the processing of personal data and privacy.

“Deliverable(s)” means all Articles and Services required to be delivered by the Contractor to the Authority under this Contract.

“DVS 2 Requirement” means all Contractor Deliverables including Articles & Services required to be delivered by the Contractor to the Authority under this Contract.

“Foreground IPR” or **“Foreground Intellectual Property Rights”** means all Intellectual Property Rights, including patents, for any inventions generated in the performance of work under the Contract, and patents for any inventions conceived out of the technical requirements of the Contract if these have been first enabled in the performance of work under the Contract.

“Key Performance Indicators” are the performance metrics that the Contractor shall be measured against. This procedure is set out in Schedule 03 to the Contract – Key Performance Indicators.

“Management Information” is the information the Contractor shall deliver to the Authority in accordance with Schedule 04 – Management Information (MI) to the Contract Conditions.

“New Provider” means any replacement service provider or providers engaged to provide the Services (or part thereof) or substantially similar services or the Authority itself where the Services or substantially similar services or part thereof continue to be provided by the Authority after partial termination, termination or expiry of this Contract

“Option Year(s)” means those requirements detailed in the Schedule of Requirements to this Contract which may be enacted by the Authority in adherence to Condition 4.2 (Options) of this Contract.

“Party” means either the Contractor or the Authority.

“Parties” means the Contractor and the Authority.

“Prime Contractor” means the “Contractor”, who has responsibility for performance of the Contract.

“Schedule of Requirements Item(s)” means the item(s) listed in the Schedule of Requirements of this Contract.

“Services” shall have the meaning specified in the Statement of Requirement as at Schedule 01 to the contract.

“Statement of Requirement” means the Statement of Requirement as at Schedule 01 to the Contract Conditions.

“Sub-contract” or **“sub-contract”** means a sub-contract of any tier.

“Sub-contractor” means a sub-contractor of the Contractor of any tier.

“Sub-contractor’s Employees” means those employees of any Sub-contractor.

“Terms and Conditions” means the contractual terms and conditions detailed here for the Provision of DVS 2 and all accompanying Schedules and annexes.

2.2. Scope of Work

2.2.1 The Contractor shall undertake all work and provide a managed service to meet the DVS 2 requirement in accordance with the Contract Terms and Conditions and associated Schedules.

2.3. Contractor’s Responsibility

2.3.1 For the purposes of this Contract and the work performed thereunder, the Contractor shall be designated as the Prime Contractor, and shall accordingly be wholly responsible to the Authority, subject to the provisions of the Contract, for the timely, economic and proper execution of the Contract as described in the Schedule of Requirements.

2.3.2 The Contractor’s responsibilities referred to in Condition 2.3.1 above shall apply equally to work carried out by Sub-Contractors in respect of the requirements of the Contract.

2.3.3 Notwithstanding any official approval of, or expression of satisfaction with any Drawings, Specifications, Schedules or any other relevant technical, administrative or other Documents or Data by the Authority, the Contractor shall be wholly responsible for the efficient and accurate functioning as required by the Contract of all Articles/Services supplied under it, and for ensuring that any design is wholly complete, accurate and meets the specifications of the Contract, such that articles manufactured to such Design shall similarly meet the Technical Specifications and other requirements of the Contract.

2.4. Precedence of Documents

2.4.1 In the event of a conflict or inconsistency between the Terms and Conditions of the Contract and other referenced documentation notwithstanding the terms in DEFCON 501 (Definitions and Interpretations), the conflict or inconsistency shall be resolved according to the following descending order of precedence:

- a) Narrative Conditions of the Contract
- b) DEFCONS of the Contract and any documents expressly called up by these
- c) Schedule 01 to Contract Conditions – Statement of Requirement & associated annexes
- d) All other associated Schedules to the Contract
- e) Any other documents incorporated as/by reference of the Schedule of Requirements

2.4.2 The Contractor is required to meet all requirements of the Contract, in total.

2.4.3 In the event of any internal conflict in any document, or any conflict between any documents with the same order of precedence, the Authority shall be entitled to give directions as to which part of the relevant document or which document (as the case may be) shall take precedence over which other part or which other document (as the case may be).

2.5. Sub-Contracting

2.5.1 For the purposes of this Contract and the work to be performed hereunder, the Contractor is designated as Prime Contractor and shall accordingly be responsible to the Authority, subject to the provisions of this Contract, for the timely, economic and proper execution of the work under the Contract as described in the Schedule of Requirements. The Contractor's responsibilities shall apply equally to work carried out by Sub-contractors in respect of the requirements of the Contract. Nomination of a Sub-contractor does not relieve the Contractor of his responsibilities. The Contractor shall make such arrangements with his Sub-contractor, and they with theirs, to ensure that the Sub-contracted elements are satisfactory and meet the requirements of the Contract.

2.5.2 The Contractor shall ensure that the Terms and Conditions of this Contract are reflected in all Sub-Contracts at whatever level to the extent necessary to enable the Contractor to meet his obligations to the Authority under the Contract. The Contractor shall ensure that the sub-contracts contain provisions which are substantially the same as the provisions in this Contract to the extent relevant to the sub-contract and necessary to enable the Contractor to fully meet its obligations under this Contract, and the Contractor shall ensure the sub-contractors comply with such provisions.

2.5.3 Where the Contractor proposes to enter into a Sub-contract and/or to materially amend or terminate any existing Sub-contract which is a Critical Sub-contract, the Contractor shall inform the Authority in writing, which shall include sufficient details of the proposed Sub-contract, amendment or reasons for termination to enable the Authority to understand:

- a) the identity of the proposed Sub-contractor;
- b) the value of the proposed Sub-contract or amendment and the pricing mechanism on which such value is based;
- c) the proposed Sub-contractor's or existing Sub-contractor's current, complete and accurate cost and pricing data;
- d) a description of the supplies or services to be Sub-contracted;
- e) confirmation that the relevant provisions of this Contract have been flowed down into the proposed Sub-contract or amendment to an existing Sub-contract;
- f) the reasons for termination and the alternative arrangements proposed to be put in place by the Contractor in relation to the relevant activities;
- g) information to allow the Authority to assess any interest of national security or operational sovereignty;

2.5.4 Notwithstanding any concerns that the Authority may raise regarding changes to critical Sub-contractors, the Contractor shall remain responsible and liable to the Authority at all times for the performance of its obligations under the Contract.

2.5.5 Informing the Authority of the award of a Sub-contract or an amendment to a Sub-contract shall not constitute the Authority's agreement:

- a) to the acceptability of any Terms and Conditions of the proposed Sub-contract or amendment which could not in the reasonable opinion of the Authority be ascertained from the information provided by the Contractor pursuant to Condition 2.5.4 above;

or

- b) relieve the Contractor of any responsibility for performing those aspects of the Contractor's obligations under this Contract which form the subject matter of the proposed Sub-contract or amendment.

2.5.6 The obligations of the Contractor under this Contract shall not be affected or reduced in any way by the Authority entering into any agreement directly with a Sub-contractor or proposed Sub-contractor in connection with intellectual property rights or otherwise and/ or by the Authority giving its approval to the pricing or other terms of any Sub-contract or proposed Sub-contractor to the identity of any Sub-contract or proposed Sub-contractor.

2.5.7 Without prejudice to the generality of Condition 2.5.6 above, the Contractor shall as a minimum ensure that the provisions of this Contract specified in sub-Conditions 2.5.7.a to 2.5.7.f below are incorporated in all Critical Sub-contracts so as to enable such provision to operate as between the Contractor and each relevant Sub-contractor (or as between relevant Sub-contractors of lower tiers as applicable) and be enforced by the Contractor (or relevant Sub-contractor as applicable):

- a) Intellectual Property Rights;
- b) Sub-contracting;
- c) Termination;
- d) Variation of Price;
- e) Earned Value Management;
- f) Security Measures;

2.6. Duration

2.6.1 The Contract shall commence on 20 April 2022 and shall expire at midnight on 31 March 2027, unless extended under the terms of Condition 2.6.2 or terminated earlier in accordance with the provisions herein.

2.6.2 The Authority has the unilateral irrevocable right to extend the duration of the Contract by the Option Year periods specified in Condition 4.2 (Options).

2.6.3 The Contractor shall be required to fulfil his obligations under the Contract should a requirement extend beyond the duration of the Contract.

2.6.4 Any work against the Schedule of Requirements shall be raised within the period above. For work raised prior to this date, it is recognised that the actual work may continue on past the date specified. The Terms and Conditions of this Contract shall survive for the duration of this Contract for those tasks that may continue past the date of the Contract.

2.7. Official and Official-Sensitive Security Conditions

2.7.1 Definitions

The term "Authority" for the purposes of this Schedule means Her Majesty's Government Contracting Authority. The term "Classified Material" for the purposes of this Schedule means classified information and assets.

2.7.2 Security Grading

The SENSITIVE caveat is used to denote UK OFFICIAL material that is of a particular sensitivity and where there is a need to reinforce the 'need to know'. The Security Aspects Letter (SAL) at Schedule 12, issued by the Authority shall define the UK OFFICIAL-SENSITIVE material that is provided to the Contractor, or which is to be developed by it, under this Contract. The Contractor shall mark all UK OFFICIAL and UK OFFICIAL-SENSITIVE documents which it originates or copies during the Contract with the applicable security grading. Any changes in these classifications will be notified by the Authority with an amendment to the SAL.

2.7.3 Security Conditions

The Contractor shall take all reasonable steps to adhere to the provisions specified in the Contract. The Contractor shall make sure that all individuals employed on any work in connection with the Contract have notice that these provisions apply to them and shall continue so to apply after the completion or earlier termination of the Contract. The Authority must state the data retention periods to allow the Contractor to produce a data management policy. If you are a Contractor located in the UK your attention is also drawn to the provisions of the Official Secrets Acts 1911 to 1989 in general, and to the provisions of Section 2 of the Official Secrets Act 1911 (as amended by the Act of 1989) in particular.

2.7.4 Protection of UK OFFICIAL and UK OFFICIAL-SENSITIVE Classified Material

The Contractor shall protect UK OFFICIAL and UK OFFICIAL-SENSITIVE material provided to or generated by it in accordance with the requirements detailed in this Security Condition and any other conditions that may be specified by the Authority. The Contractor shall take all reasonable steps to prevent the loss or compromise of classified material whether accidentally or from deliberate or opportunist attack.

Once the Contract has been awarded, where Contractors are required to store or process UK MOD classified information electronically, they are required to register the IT system onto the Defence Assurance Risk Tool (DART). Details on the registration process can be found in the 'Industry Security Notices (ISN)' on Gov.UK website. ISNs 2017/01, 04 and 06, Defence Condition 658 and Defence Standard 05-138 details the DART registration, IT security accreditation processes, risk assessment/management and Cyber security requirements which can be found in the following links:

<https://www.gov.uk/government/publications/industry-security-notices-isns>.
<http://dstan.gateway.isg-r.r.mil.uk/standards/defstans/05/138/000002000.pdf>
<https://www.gov.uk/government/publications/defence-condition-658-cyber-flow-down>

All UK classified material including documents, media and other assets must be physically secured to prevent unauthorised access. When not in use UK OFFICIAL and UK OFFICIAL-SENSITIVE material shall be handled with care to prevent loss or inappropriate access. As a minimum UK OFFICIAL-SENSITIVE material shall be stored under lock and key and shall be placed in a lockable room, cabinets, drawers or safe and the keys/combinations shall be subject to a level of control.

Disclosure of UK OFFICIAL and UK OFFICIAL-SENSITIVE material must be strictly controlled in accordance with the "need to know" principle. Except with the written consent of the Authority, the Contractor shall not disclose the Contract or any provision thereof to any person other than to a person directly employed by the Contractor or sub-Contractor.

Except with the consent in writing of the Authority the Contractor shall not make use of the Contract or any information issued or provided by or on behalf of the Authority otherwise than for the purpose of the Contract, and, same as provided for in paragraph 8 above, the Contractor shall not make use of any article or part thereof similar to the articles for any other purpose.

Subject to any intellectual property rights of third parties, nothing in this Security Condition shall restrict the Contractor from using any specifications, plans, drawings and other documents generated outside of this Contract.

Any samples, patterns, specifications, plans, drawings or any other documents issued by or on behalf of the Authority for the purposes of the Contract remain the property of the Authority and must be returned on completion of the Contract or, if directed by the Authority, destroyed in accordance with paragraph 2.7.13.

2.7.5 Access

Access to UK OFFICIAL and UK OFFICIAL-SENSITIVE material shall be confined to those individuals who have a "need-to-know", have been made aware of the

requirement to protect the information and whose access is essential for the purpose of their duties.

The Contractor shall ensure that all individuals requiring access to UK OFFICIAL-SENSITIVE information have undergone basic recruitment checks. This should include establishing proof of identity; confirming that they satisfy all legal requirements for employment by the Contractor; and verification of their employment record. Criminal record checks should also be undertaken where permissible under national/local laws and regulations. This is in keeping with the core principles set out in the UK Government (HMG) Baseline Personnel Security Standard (BPSS) which can be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/714002/HMG_Baseline_Personnel_Security_Standard_-_May_2018.pdf

2.7.6 Hard Copy Distribution

UK OFFICIAL and UK OFFICIAL-SENSITIVE documents may be distributed, both within and outside Contractor premises in such a way as to make sure that no unauthorised person has access. It may be sent by ordinary post in a single envelope. The words UK OFFICIAL or UK OFFICIAL-SENSITIVE must not appear on the envelope. The envelope must bear a stamp or marking that clearly indicates the full address of the office from which it was sent. Commercial Couriers may be used.

Advice on the distribution of UK OFFICIAL-SENSITIVE documents abroad or any other general advice including the distribution of UK OFFICIAL-SENSITIVE shall be sought from the Authority.

2.7.7 Electronic Communication and Telephony and Facsimile Services

UK OFFICIAL information may be emailed unencrypted over the internet. UK OFFICIAL-SENSITIVE information shall normally only be transmitted over the internet encrypted using either a National Cyber Security Centre (NCSC) Commercial Product Assurance (CPA) cryptographic product or a UK MOD approved cryptographic technique such as Transmission Layer Security (TLS). In the case of TLS both the sender and recipient organisations must have TLS enabled. Details of the required TLS implementation are available at:

<https://www.ncsc.gov.uk/guidance/tls-external-facing-services>

Details of the CPA scheme are available at:

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

Exceptionally, in urgent cases UK OFFICIAL-SENSITIVE information may be emailed unencrypted over the internet where there is a strong business need to do so, but only with the prior approval of the Authority. However, it shall only be sent when it is known that the recipient has been made aware of and can comply with the requirements of these Security Conditions and subject to any explicit limitations that the Authority require. Such limitations including any regarding publication, further circulation or other handling instructions shall be clearly identified in the email sent with the material.

UK OFFICIAL information may be discussed on fixed and mobile telephones with persons located both within the country of the Contractor and overseas. UK OFFICIAL-SENSITIVE information may be discussed on fixed and mobile telephones only where there is a strong business need to do so and only with the prior approval of the Authority.

UK OFFICIAL information may be faxed to recipients located both within the country of the Contractor and overseas, however UK OFFICIAL-SENSITIVE information may be transmitted only where there is a strong business case to do so and only with the prior approval of the Authority.

2.7.8 Use of Information Systems

The detailed functions that must be provided by an IT system to satisfy the minimum requirements cannot all be described here in specific detail; it is for the implementers to identify possible means of attack and ensure proportionate security mitigations are applied to prevent a successful attack.

The Contractor should ensure 10 Steps to Cyber Security (Link below) is applied in a proportionate manner for each IT and communications system storing, processing or generating UK OFFICIAL or UK OFFICIAL-SENSITIVE information. The Contractor should ensure competent personnel apply 10 Steps to Cyber Security.

<https://www.ncsc.gov.uk/guidance/10-steps-cyber-security>.

As a general rule, any communication path between an unauthorised user and the data can be used to carry out an attack on the system or be used to compromise or ex-filtrate data.

Within the framework of the 10 Steps to Cyber Security, the following describes the minimum security requirements for processing and accessing UK OFFICIAL-SENSITIVE information on IT systems.

- a) Access. Physical access to all hardware elements of the IT system is to be strictly controlled. The principle of "*least privilege*" will be applied to System Administrators. Users of the IT System (Administrators) should not conduct 'standard' User functions using their privileged accounts.
- b) Identification and Authentication (ID&A). All systems are to have the following functionality:
 - i. Up-to-date lists of authorised users.
 - ii. Positive identification of all users at the start of each processing session.
- c) Passwords. Passwords are part of most ID&A security measures. Passwords are to be "*strong*" using an appropriate method to achieve this, e.g. including numeric and "*special*" characters (if permitted by the system) as well as alphabetic characters.
- d) Internal Access Control. All systems are to have internal Access Controls to prevent unauthorised users from accessing or modifying the data.
- e) Data Transmission. Unless the Authority authorises otherwise, UK OFFICIAL-SENSITIVE information may only be transmitted or accessed electronically (e.g. point to point computer links) via a public network like the Internet, using a CPA product or equivalent as described in paragraph 2.7.7 above.
- f) Security Accounting and Audit. Security relevant events fall into two categories, namely legitimate events and violations.
 - i. The following events shall always be recorded:
 - (a) All log on attempts whether successful or failed,
 - (b) Log off (including time out where applicable),
 - (c) The creation, deletion or alteration of access rights and privileges,
 - (d) The creation, deletion or alteration of passwords.

- ii. For each of the events listed above, the following information is to be recorded:

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

The accounting records are to have a facility to provide the System Manager with a hard copy of all or selected activity. There also must be a facility for the records to be printed in an easily readable form. All security records are to be inaccessible to users without a need to know. If the operating system is unable to provide this then the equipment must be protected by physical means when not in use i.e. locked away or the hard drive removed and locked away.

- g) Integrity & Availability. The following supporting measures are to be implemented:

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

- h) Logon Banners. Wherever possible, a “*Logon Banner*” will be provided to summarise the requirements for access to a system which may be needed to institute legal action in case of any breach occurring. A suggested format for the text (depending on national legal requirements) could be:

“Unauthorised access to this computer system may constitute a criminal offence”

- i) Unattended Terminals. Users are to be automatically logged off the system if their terminals have been inactive for some predetermined period of time, or systems must activate a password protected screen saver after 15 minutes of inactivity, to prevent an attacker making use of an unattended terminal.
- j) Internet Connections. Computer systems must not be connected direct to the Internet or “*un-trusted*” systems unless protected by a firewall (a software based personal firewall is the minimum but risk assessment and management must be used to identify whether this is sufficient).
- k) Disposal. Before IT storage media (e.g. disks) are disposed of, an erasure product must be used to overwrite the data. This is a more thorough process than deletion of files, which does not remove the data.

2.7.9 Laptops

Laptops holding any UK OFFICIAL-SENSITIVE information shall be encrypted using a CPA product or equivalent as described in paragraph 2.7.7.

Unencrypted laptops and drives containing personal data are not to be taken outside of secure sites¹. For the avoidance of doubt the term “drives” includes all removable, recordable media e.g. memory sticks, compact flash, recordable optical media (CDs and DVDs), floppy discs and external hard drives.

Any token, touch memory device or password(s) associated with the encryption package is to be kept separate from the machine whenever the machine is not in use, left unattended or in transit.

Portable CIS devices holding the Authorities’ data are not to be left unattended in any public location. They are not to be left unattended in any motor vehicles either in view or in the boot or luggage compartment at any time. When the vehicle is being driven the CIS is to be secured out of sight in the glove compartment, boot or luggage compartment as appropriate to deter opportunist theft.

2.7.10 Loss and Incident Reporting

The Contractor shall immediately report any loss or otherwise compromise of any OFFICIAL or OFFICIAL-SENSITIVE material to the Authority. In addition any loss or otherwise compromise of any UK MOD owned, processed or UK MOD Contractor generated UK OFFICIAL or UK OFFICIAL-SENSITIVE material is to be immediately reported to the UK MOD Defence Industry Warning, Advice and Reporting Point (WARP), within the Joint Security Co-ordination Centre (JSyCC) below. This will assist the JSyCC in formulating a formal information security reporting process and the management of any associated risks, impact analysis and upward reporting to the UK MOD’s Chief Information Officer (CIO) and, as appropriate, the Contractor concerned. The UK MOD WARP will also advise the Contractor what further action is required to be undertaken.

JSyCC WARP Contact Details

Email: DefenceWARP@mod.gov.uk (OFFICIAL with no NTK restrictions)

RLI Email: defencewarp@modnet.rli.uk (MULTIUSER)

Telephone (Office hours): +44 (0) 30 6770 2185

JSyCC Out of hours Duty Officer: +44 (0) 7768 558863

Mail: JSyCC Defence Industry WARP
X007 Bazalgette Pavilion,
RAF Wyton,
HUNTINGDON,
Cambridgeshire,
PE28 2EA.

Reporting instructions for any security incidents involving MOD classified material can be found in Industry Security Notice 2017/03 as may be subsequently updated at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/651683/ISN_2017-03_-_Reporting_of_Security_Incidents.pdf

2.7.11 Sub-Contracts

Where the Contractor wishes to sub-contract any elements of a Contract to sub-Contractors within its own country or to Contractors located in the UK such sub-contracts will be notified to the Contracting Authority. The Contractor shall ensure that these Security Conditions are incorporated within the sub-contract document.

The prior approval of the Authority shall be obtained should the Contractor wish to sub-contract any UK OFFICIAL-SENSITIVE elements of the Contract to a sub-Contractor facility located in another (third party) country. The first page of Appendix 5 (MOD Form

¹ Secure Sites are defined as either Government premises or a secured office on the contractor premises.

1686 (F1686) of the Security Policy Framework Contractual Process chapter is to be used for seeking such approval. The MOD Form 1686 can be found at Appendix 5 at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/710891/2018_May_Contractual_process.pdf

If the sub-contract is approved, the Contractor will flow down the Security Conditions in line with paragraph 2.7.11 above to the sub-Contractor. Contractors located overseas may seek further advice and/or assistance from the Authority with regards the completion of F1686.

2.7.12 Publicity Material

Contractors wishing to release any publicity material or display hardware that arises from a Contract to which these Security Conditions apply must seek the prior approval of the Authority. Publicity material includes open publication in the Contractor's publicity literature or website or through the media; displays at exhibitions in any country; lectures or symposia; scientific or technical papers, or any other occasion where members of the general public may have access to the information even if organised or sponsored by the UK Government.

2.7.13 Physical Destruction

As soon as no longer required, UK OFFICIAL and UK OFFICIAL-SENSITIVE material shall be destroyed in such a way as to make reconstitution very difficult or impossible, for example, by burning, shredding or tearing into small pieces. Advice shall be sought from the Authority when information/material cannot be destroyed or, unless already authorised by the Authority, when its retention is considered by the Contractor to be necessary or desirable. Unwanted UK OFFICIAL-SENSITIVE information/material which cannot be destroyed in such a way shall be returned to the Authority.

2.7.14 Interpretation/Guidance

Advice regarding the interpretation of the above requirements should be sought from the Authority.

Further requirements, advice and guidance for the protection of UK classified information at the level of UK OFFICIAL-SENSITIVE may be found in Industry Security Notices at:

<https://www.gov.uk/government/publications/industry-security-notices-isns>

2.7.15 Audit

Where considered necessary by the Authority the Contractor shall provide evidence of compliance with this Security Condition and/or permit the inspection of the Contractors processes and facilities by representatives of the Contractors' National/Designated Security Authorities or the Authority to ensure compliance with these requirements.

2.8. Controlled Information

2.8.1 This Condition shall apply in addition to and notwithstanding DEFCON 531 (Disclosure of Information) or any other confidentiality condition of the Contract.

2.8.2 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.

2.8.3 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:
 - i. Controlled Information is disclosed to its employees only to the extent necessary for the purpose of discharging its obligations under the Contract;
 - ii. employees to whom Controlled Information is disclosed are made aware of and required to comply with the terms of this Condition.

2.8.4 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.

2.8.5 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.

2.9. Amendments to Contract

2.9.1 In addition to the terms of DEFCON 503 (Formal Amendments to Contract) only the Authority's Commercial Manager (or authorised representative) detailed at Box 1 of DEFFORM 111 shall be authorised to vary the terms and conditions of the Contract, including but not limited to specifications, standards of drawings which form part of the Contract.

2.10. Contractor's Personnel

2.10.1 Key personnel identified in the Statement of Requirement shall have the appropriate qualifications and competences for this Contract.

2.10.2 The Contractor shall take all reasonable steps to avoid changes of key personnel assigned for work under the Contract. Except whenever changes are unavoidable or of a temporary nature caused by sickness or other circumstances, the Contractor shall give at least one month's notice, in writing, to the Authority and the provisions of this Condition shall apply to the replacement personnel. The Authority shall have the right, in its sole discretion, to reject any replacement personnel proposed by the Contractor.

2.11. Exit Strategy

2.11.1 The Exit Period, as identified in the Disposal & Exit Management Plan, shall commence on the earliest of the following events:

- a) the latest date that meets the contract end date; or
- b) on receipt of a notice of termination for Contractor default in accordance with Condition 7.2 (Default & Termination) or
- c) on written notice of termination given by the Authority.

2.11.2 The Exit Period shall be for no less than three (3) calendar months following its commencement in accordance with 2.11.1 following which the Contract shall be deemed to have expired.

2.12. Disposal & Exit Management Plan

2.12.1 The Contractor shall develop and maintain a Disposal and Exit Management Plan (D&EMP) in accordance with Section 14 of Schedule 01 (Statement of Requirement).

2.12.2 The Contractor shall comply with the Contractor's D&EMP for the Exit Period to ensure that the Contractor can at all times satisfy its obligations following the termination or expiry of the Contract.

2.12.3 The Contractor shall continually review and when necessary update the D&EMP. All such updates must be approved by the Authority.

2.12.4 The Contractor shall promptly comply with all reasonable instructions from the Authority with regards to the implementation of the D&EMP, including co-operating with any replacement Contractor and in relation to transfer of Contractor personnel.

2.12.5 All costs incurred in developing, updating and implementing the D&EMP shall be payable by the Contractor.

2.12.6 The Contractor shall organise a D&EMP review meeting with the Authority eighteen (18) months prior to the expiry of the Contract to finalise the D&EMP.

2.12.7 On expiration of the Contract, at any time and for whatever reason, the Authority shall not be liable for additional charge(s) other than those the Contract Conditions that apportion liability to the Authority in respect of the winding up of the Contract, for the handover by the Contractor, to any successor Contractor or the Authority, of all the data relevant to the performance of this work by that successor Contractor.

2.13. Obligation to Assist

2.13.1 Following termination or expiry of this Contract, the Contractor shall continue to implement the D&EMP during the Exit Period to ensure the orderly and efficient transition of all activities undertaken or to be undertaken by the Contractor and Sub-Contractors under this Contract to the Authority. The Contractor and Sub Contractors shall co-operate with all reasonable instructions of the Authority in connection with this transition.

2.13.2 The Contractor shall also provide any reasonable assistance requested by the Authority to allow the Services to continue without interruption following the expiry date or termination date and to satisfy the obligations under Condition 2.13.1.

2.13.3 The Contractor shall also make key personnel reasonably available, during the Exit Period, to the Authority and / or any replacement Contractor, in order to affect the orderly and timely transfer of provision of the Services.

2.13.4 During the Exit Period the Contractor shall make available, in a format which they would expect were they the successor, to either a successor Contractor, the Authority or Managing Agent the following:

- a) Any Intellectual Property Rights ("IPR") acquired from any third party as a direct result of the performance of this Contract;
- b) Any IPR created by the Contractor during the performance of the Contract (foreground IPR);
- c) Any IPR owned by the Contractor that existed prior to the date of this Contract (background IPR) that is used in the performance of this Contract;
- d) All GFA used by the Contractor in the performance of this Contract.
- e) All reports, updated requirements, databases, software etc produced over the period of the Contract.

2.13.5 The Contractor shall include a handover provision within the Exit Period, for any successor Contractor or the Authority to be directly briefed by the present Contractor, in all matters that the successor Contractor or Authority may raise as relevant to the past and/or future performance of work under the Contract. The handover will be carried out at a location most advantageous to its purpose and shall be agreed to by the Authority. The handover duration shall be defined in the D&EMP and agreed with the Authority.

2.14. Re-Competition Data

2.14.1 Where the Authority requests it either as a separate deliverable or as part of the D&EMP, the Contractor shall provide to the Authority the following information for the purpose of actual or potential re-competition of, and managing transition to any potential replacement Contractor of the provision of, the DVS 2 Requirement or similar to the DVS 2 Requirement (in whole or in part):

- a) without prejudice to the timetable for, and provisions relating to, delivery of information relating to potential transferring employees as defined within the TUPE provisions within the Contract;
- b) the Management Information, less the Commercially Sensitive Information, from the date of the award of this Contract to the end of the expiry of the Contract (in accordance with Condition 2.11); and
- c) such other information used by the Contractor in its performance of its duties and obligations under the Contract, including (without limitation) processes, procedures, manuals, guides, instructions, repair and maintenance information, technical documentation in relation to software and equipment and configuration control documentation.

2.15. Continued Performance

2.15.1 Save as expressly specified in the D&EMP, the Contractor shall at all times during the Exit Period continue to perform its obligations in accordance with the provisions of this Contract.

2.16. Tasking Procedures for Additional Work (Bespoke Tasking)Minor Tasks

2.16.1 For additional work called for under Schedule of Requirements Line Items 6, 8, 10 & 12 with the estimated value of which is less than £25,000 (twenty five thousand pounds) per Task, the following procedure shall apply:

- a) A sequentially numbered Tasking Approval Form (TAF) (as attached at Schedule 08), approved by the Authority's Project Manager and Commercial Officer summarising the work required, shall be issued to the Contractor.
- b) Within two (2) weeks from receipt of an appropriately approved Tasking Order, the Contractor shall forward their firm priced proposal for the work which shall detail the capabilities the Contractor will deliver through the Tasking Order, the deliverables the Contractor proposes to provide and an installation programme with timescales where appropriate. In the event of a unique task, the schedule for receipt shall be mutually agreed between the Contractor and the Authority. The Contractor shall also forward the firm price quotation for the work, in accordance with the provisions of DEFCON 643 (Price Fixing – Non-Qualifying Contracts) supported by full breakdown of costs under the headings of Direct Labour including the associated Man hour/Wages rates (as listed in Schedule 10, Materials, Bought out Parts/Proprietary items, PVR&D, Sub-Contract costs, Overheads and Profit etc.
- c) Approved Tasking Forms shall be returned to the Contractor, detailing the Firm price and shall be the authority to proceed with the work. Following completion of the task, the Contractor shall complete part 4 of the Tasking Form to show

that the work has been undertaken, and forward this to the Authority's Project Manager for approval.

- d) For the purposes of administration, the Agreement shall be amended periodically, in accordance with the provisions of DEFCON 503 (Formal Amendments to Contract), to reflect the Minor tasks brought under the Agreement in the preceding period. Any Amendments raised shall incorporate any new TAFs into Schedule 09, no later than four (4) months after each Task Order's formal issuance.

2.16.2 Any work undertaken on a minor task without prior approval from the Authority, shall be undertaken at the Contractor's risk.

Major Tasks

2.16.3 For additional work called for under Schedule of Requirements Line Items 6, 8, 10 & 12 estimated to exceed £25,000 (twenty five thousand pounds) DEFCON 643 (Price Fixing) and the following procedure shall apply:

- a) The Commercial Officer named in the DEFFORM 111 shall write to the Contractor outlining the Authority's requirement.
- b) Within five (5) Business Days from receipt of the request, except where the Contractor notifies the Commercial Officer in writing (and thereafter the parties shall determine a mutually agreed date), the Contractor shall submit a date for which the proposal will be submitted to the Authority. On this date the Contractor shall submit the proposal for the work intended to be undertaken to meet the requirement, together with a Firm price quotation supported by full breakdown of costs under the headings of, if applicable:
 - Direct Labour including the associated Man hour/Wages rates (in accordance with those detailed in Schedule 10)
 - Materials,
 - Bought out Parts/Proprietary items,
 - PVR&D,
 - Sub-Contract costs
 - Overheads and Profit etc.
 - Statement of Requirements
 - Draft Project Schedule
 - Key Milestones
 - GFA list
 - Training and installation – Concept
 - Options - listed separately
 - Contractor Logistics Support including concept and pricing
 - Compliance with SRD provided by MOD.
 - Full breakdown of hours – clearly identifiable to justify pricing and cost drivers
 - Costed Risk Register
 - Assumptions and Exclusions
 - Payment profile

2.16.4 The Contractor shall not undertake any work on a Major Task until authorised to do so. Costs associated with any work undertaken prior to their acceptance of a formal written amendment to the Agreement shall be the liability of the Contractor.

2.16.5 The Authority reserves the right to seek competitive tenders for additional work called for under Schedule of Requirements Line Items 6, 8, 10 & 12 as effective competitive procurement will continue to be an important tool for achieving best value for money.

2.16.6 In the event the Authority invokes the right to seek competitive tenders, the Contractor will be entitled to participate in the competitive procurement activity, subject to the provisions therein.

2.17. Contract Change Procedure

2.17.1 This Condition describes the procedure to be used for implementing changes to the Contract.

2.17.2 Changes may include, but shall not be limited, to the following:

- a) Changes to Deliverables in accordance with SOR and SoR;
- b) Changes to Requirements in accordance with the SOR and SRD.
- c) Flexing of funding to facilitate the curtailment or expansion of activities being undertaken;
- d) Introduction of new work as a result of the identification of new technologies or the work of other programmes;
- e) Removal of work that is unnecessary to achieve Contract outcomes or for which better value for money can be achieved through a decision to allocate the cost of that work to other Contract outcomes;
- f) Changes in Law, noting that the Contractor shall not be relieved of its obligations to supply the Services in accordance with the terms of this Agreement as a result of any Change in Law;
- g) Changes in Authority policy.

2.17.3 Changes to Contract requirements may be proposed by the Authority, or by the Contractor, using Schedule 11 – Change Proposal Form. For Contractor initiated changes the Contractor shall be responsible for the preparation and submission of a Change Proposal. For Authority initiated changes, the Authority shall submit in writing, details of the change required and the reason for the change.

2.17.4 For any change identified by either Party as an urgent change, both Parties shall use reasonable endeavours to meet and agree the urgent change as soon as reasonably practicable.

2.17.5 Any Change Proposal submitted by the Contractor shall contain sufficient information to enable the Authority to make a decision on whether or not to proceed on the proposed change.

2.17.6 Should the Contractor have insufficient information about the impact of the proposed change they may propose that the Authority allocate funds in order that the Contractor can undertake a study to investigate the potential impact of the proposed change.

2.17.7 Where a study is required, the Contractor shall not proceed until authority to proceed with the study has been provided by the Authority's Commercial Manager.

2.17.8 For proposed contractual changes, the Change Proposal submissions shall include a breakdown of all costs and other factors affected by the proposed change. These shall include, but not be limited to:

- a) Breakdown of all pricing of the proposed change;
- b) Programme Schedules;
- c) Statements of Work;
- d) Deliverables;
- e) System Requirements;
- f) Commonality;
- g) Any other input that may result

This information shall contain sufficient detail as to allow the Authority accurately to assess the extent to which the price quoted for the revised requirement is fair and reasonable.

2.17.9 The firm price shall not only include those cost changes directly relating to the change itself but also any consequential cost changes that may arise elsewhere under the Contract. The Authority shall not be liable for any consequential costs that were not identified prior to approval of the Change Proposal Form concerned.

2.17.10 Where a change has originated from the Authority, the Contractor shall provide in response a proposal in accordance with this full Condition 2.17. No preparation costs shall be allowable for a Contractor originated Change Proposal Form.

2.17.11 Any changes initiated by the Contractor which are necessary to ensure compliance with the requirements of the Contract shall be the liability of the Contractor.

2.17.12 In accordance with DEFCON 643 (Price Fixing), the price submitted in the Change Proposal shall be supported by details of the rationale used to determine the proposed costs, including a detailed breakdown (embracing all levels of the supply chain). If required, the Contractor shall also provide the Authority with full visibility of the costs of any part of the original work to which the proposed change relates.

2.17.13 All labour rates used shall be those set out in Schedule 10 to the Contract.

2.17.14 Work in connection with any proposed change shall not commence until the Authority's Commercial Officer (see Box 1 of DEFFORM 111) or their authorised representative formally offers the change as a contract amendment in accordance with the requirements of Condition 2.9 (Amendments to the Contract). Any work undertaken or costs incurred in advance of the acceptance of any Change Proposal will be entirely at the Contractor's own risk. Once a proposed change has been agreed and a contract amendment to incorporate it has been accepted by the Contractor, then the Contractor shall implement the change in accordance with the duly amended terms and conditions of the Contract.

2.17.15 All price changes shall be subject to DEFCONs 643 (Price Fixing – Non-Qualifying Contracts), 127 (Price Fixing Condition for Contracts of Lesser Value) and 647 (Financial Management Information) as appropriate.

2.17.16 The Authority reserves the right to reject or not take forward any proposed change contained in a Change Proposal Form. In the case of rejection or non-adoption the Authority shall give the Contractor reasons for that rejection.

2.17.17 Where, under exceptional circumstances, it is necessary for work to commence prior to an agreed price, the Authority may agree a maximum price limiting the Authority's liability.

2.18. Sustainable Procurement – Best Practice

2.18.1 The Contractor is encouraged to bring to the attention of the Authority any measures which might promote sustainable procurement from a social, economic and environmental point of view.

2.18.2 The Contractor shall take all reasonable steps to procure the observance of the economic, social and environmental legislation related to the subject matter or the execution of the contract by any servants, employees or agents of the Contractor and any sub-contractors engaged in the performance of the Contract.

2.18.3 If the Contractor becomes aware of any prosecution or proceedings, for criminal breaches of the economic, social and environmental legislation related to the subject matter or the execution of the Contract, against the Contractor, any servants, employees or agents of the Contractor and any Sub-Contractors engaged in the performance of the Contract, the Contractor shall notify the Authority at the address specified in the Contract.

2.18.4 Any convictions during the period of the Contract for criminal breaches of the economic, social and environmental legislation related to the subject matter or the execution of the Contract by the Contractor or by any of the Contractor's directors, partners or senior management who have powers of representation, decision or control, shall be regarded as material breach of this Contract.

2.19. Import and Export Licences

2.19.1 The Contractor shall be responsible for securing any licences or security clearances necessary to enable him to meet his obligations under the terms of the Contract and shall confirm to the Authority, with supporting evidence that such licences and clearances have been secured. No addition to the Contract price shall be accepted by the Authority in respect of these activities.

2.19.2 The Contractor shall make sure any Non-Disclosure Agreement, Technical Assistance Agreement or International Traffic in Arms Regulations Requirements or similar are in place to allow the Contract to be performed on time.

2.20. Capital Facilities

2.20.1 The Contractor shall provide all resources necessary for the purposes of carrying out the requirements of this Contract other than those agreed as Government Furnished Assets at Schedule 07 to the Contract.

2.21. Authority's Personnel

2.21.1 The Authority may engage organisations to assist it with the Contract. In such circumstances these parties (known as "Authority's Representatives") shall be deemed to be approved representatives of the Authority to whom the Contractor shall co-operate fully and provide all reasonable assistance to them in performing the roles and responsibilities assigned to them by the Authority.

2.21.2 Any contract placed by the Authority for the services mentioned in Condition 2.21.1 above shall include suitable provisions for the protection of the confidentiality of any information released under the said contract.

3 SPECIFICATIONS, PLANS, ETC

DEFCON 68 (Edn.05/21) - Supply of Data for Hazardous Articles, Materials and Substances

- For the purpose of this contract, Schedule 18 to the Contract (DEFFORM 68) shall be used to document all Safety Data Sheet (SDS) relating to any article provided under this contract.

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

DEFCON 595 (Edn. 03/19) - Automatic Test Equipment Data Requirements

DEFCON 602A (Edn.12/17) - Quality Assurance (With Deliverable Quality Plan)

DEFCON 606 (Edn. 07/21) - Change and Configuration Control Procedure

DEFCON 608 (Edn.07/21) - Access and Facilities to be Provided by the Contractor

DEFCON 627 (Edn.11/21) – Requirement for a Certificate of Conformity

DEFCON 637 (Edn.05/17) - Defect Investigation and Liability

DEFCON 658 (Edn. 09/21) - Cyber

- Further to DEFCON 658 the Cyber Risk Profile of the Contract is Moderate, as defined in Def Stan 05-138 (Reference – RAR-BA339KDZ).

3.1. Quality Management

3.1.1 The Contractor shall maintain a certified Quality Management System (QMS). Certification shall be maintained throughout the duration of the Contract.

3.1.2 The Contractor shall ensure Quality Management is carried out in accordance with the Quality Assurance requirements and if applicable their own certificated QMS.

3.1.3 The Contractor shall undertake Government Quality Assurance Surveillance (GQAS) the guidance of which can be found in STANAG 4107 and AQAP 4107. The Contractor shall provide reasonable access to the Government Quality Assurance Representative (GQAR) to undertake QA surveillance activities in accordance with the Quality requirements in the Contract.

3.1.4 The Contractor shall operate and maintain its Quality Management System (QMS) throughout the duration of the Contract. The Authority must be notified of any changes to the QMS certification.

3.1.5 The Contractor shall immediately inform the Authority of any amendments to the QMS certification scope or if it is revoked or suspended with immediate effect.

3.1.6 The Authority if deemed necessary, retains the right to carry out audits pertaining to the Contract.

3.1.7 The Contractor shall comply with the requirements of AQAP 2110 Edition D v1 - NATO Quality Assurance Requirements for Design, Development and Production.

3.1.8 The Contractor shall comply with the requirements of Def Stan 05-57 issue 7.

3.1.9 A deliverable Quality Plan is required in accordance with DEFCON 602A and AQAP 2105 Edition C Version 1 NATO Requirements for Quality Plans. The Quality Plan shall be delivered to Quality Assurance Representative as per the details in DEFFORM 111 (Schedule 27) in accordance with the Statement of Requirement (Schedule 01).

3.2 Developmental Software

3.2.1 The Contractor shall comply with the requirements of AQAP 2210 Edition A Version 2 – NATO Supplementary Software Quality Assurance Requirements to AQAP 2110 OR AQAP 2310.

3.3 Concessions

3.3.1 Concessions shall be managed in accordance with Def Stan 05-061 Part 1, Issue 6 – Quality Assurance Procedural Requirements.

3.4 Contractor Working Parties

3.4.1 Where the Contractor is required to undertake specific tasks at a MOD establishment, facility or at locations external to the Contractor's premises, the requirements of Def Stan 05-61 Part 4 - Contractor Working Parties shall be complied with.

3.5 Avoidance of Counterfeit Material

3.5.1 For the purposes of this Contract the requirements of Def Stan 05-135 Avoidance of Counterfeit Materiel shall apply.

3.6 Informative Quality Assurance Standards

3.6.1 Where Government Quality Assurance (GQA) is performed against this contract it will be in accordance with AQAP 2070 Edition B V4.

3.6.2 For the purposes of this contract ISO 25051:2014 Software Engineering – Software Product Quality Requirements and Evaluation (SQuaRE)- Requirements for Quality of COTS software product and instructions for testing shall apply.

3.7. Integrated Logistics Support (ILS)

3.7.1 The Contractor shall be responsible for complying and delivering against the ILS requirements in the SOR (Schedule 01), the SRD (Annex A to Schedule 01), the ITEAP (Annex B to Schedule 01), the Integrated Logistics Support Plan (Annex G to Schedule 01), the Initial Reliability and Maintainability Case (Annex H to Schedule 01) and the Initial Supportability Case (Annex J to Schedule 01).

3.8. Safety and Environment

3.8.1 The Contractor shall conduct the DVS 2 managed service in accordance with:

- a) Health & Safety at Work Act 1974
- b) Environmental Protection Act 1990
- c) DEFSTAN 00-055
- d) DEFSTAN 00-056
- e) Schedule 01 to Contract Conditions – Statement of Requirement
- f) Annex E to Schedule 01 – Safety and Environmental level 4 Safety Statement
- g) Annex F to Schedule 01 – Safety and Environmental Management Plan (SEMP)

3.8.2 The Contractor shall provide access to records, including Sub-Contractor records, for Contract purposes; to enable the MOD appointed Independent Safety

Auditor, Advisor or Assessor to carry out safety audits and other assessment activities to meet MOD safety requirements.

3.9. Risk & Opportunity Management

3.9.1 The Contractor shall produce and manage the risk registers, reports and processes in accordance with the Statement of Requirement at Schedule 01 to the Contract. The Risk & Opportunity Register shall be maintained by the Contractor for the duration of the Contract and shall include all risks in the supply chain including those of their sub-contractors.

3.10. Accident, Misuse & Neglect (AM&N)

3.10.1 The Authority reserves the right to update the Terms and Conditions with an AM&N conditions and associated process. Should it decide to do so an amendment to the Contract will be issued.

3.11. Configuration Control

3.11.1 For the purposes of the Contract, Defence Standard 05-057 titled 'Configuration Management of Defence Materiel' shall apply.

3.12. Notice of Accident

3.12.1 The Authority and Contractor will give immediate notice to each other by telephone and confirm in writing if the equipment is involved in an accident resulting in injury to persons or damage to property. In giving that notification the Authority and Contractor, both recognise that no admission of liability, offer, promise of payment or indemnity can be agreed without formal notification to the Authority's Commercial Manager. Responsibility will be determined as set out in Condition 7.3.

4 PRICE

DEFCON 643 (Edn.12/21) - Price Fixing Non Qualifying Contracts

- For this Contract, this DEFCON shall apply for the purposes of amendments, TAFs and extensions to the Contract only

DEFCON 647 (Edn.05/21) - Financial Management Information

- For this Contract, this DEFCON shall apply in conjunction with Earned Value Management requirements as stated in Condition 9.5.

DEFCON 654 (Edn.10/98) - Government Reciprocal Audit Arrangements

4.1. Price – Contract Years 1- 5 (Core)

4.1.1 All work carried out under Schedule of Requirements; line items 1 - 3 shall be firm priced from the outset. The payment will be paid quarterly in arrears subject to Schedule 03 – Key Performance Indicators (KPIs). Each quarter an invoice should be raised on CP&F, for a quarter of the annual price in line with Schedule 05 – Payment Plan, minus any service credits incurred.

4.1.2 Schedule of Requirements, line items 4 & 5 shall be Fixed price and shall be subject to indexation in accordance with Condition 4.4 (Variation of Price) of this Contract. The payment will be paid quarterly in arrears subject to Schedule 03 – Key Performance Indicators (KPIs). Each quarter an invoice should be raised on CP&F, for a quarter of the annual price in line with Schedule 05 Payment Plan, minus any service credits incurred.

4.1.3 All work carried out under Schedule of Requirements line item 6, following an approved Tasking Form being issued by the Authority, shall be firm priced from the outset utilising the rates detailed in Schedule 10 – Labour Rate Card.

4.1.4 The prices shall include all costs of the Contractor satisfying their obligations under these Items in accordance with the Terms and Conditions of the Contract. The prices are inclusive of all royalties, licences, and taxes (excluding Value Added Tax).

4.2. Options

4.2.1 The Authority shall have the unilateral irrevocable right to extend the Contract by three (3) twelve (12) month periods known as the 'Option Years'. These Option Years are detailed in the Schedule of Requirements at line item 7, 9 & 11. The Authority shall have the right to invoke these Option Years individually, as three (3) individual twelve (12) month periods, as one collective thirty-six (36) month period, or any such combination of Option Years.

4.2.2 Should the Authority require to enact any combination of Option Years, then the Authority shall invoke the option(s) in writing to the Contractor, no less than three (3) calendar months before the expiry date of the Contract.

4.2.3 Should the Authority invoke any option to extend the contract in line with Condition 4.2.1 the ability to carry out additional Bespoke Tasking, for the same time period will also be invoked, as per Schedule of Requirements Line Items 8, 10 & 12.

4.2.4 Should the Authority require to enact any of the Options detailed at Annex A to the Terms and Conditions, then the Authority shall invoke the option(s) in writing to the Contractor, no less than ten (10) Business Days before the commencement of the requirement and will be raised as an amendment to Contract, in line with DEFCON 503 (Formal Amendments to Contract).

4.2.5 The Terms and Conditions of this Contract shall apply to any Option Year(s) or other Options detailed in the Schedule of Requirements and Annex A to the Terms and Conditions, that are taken up by the Authority.

4.2.6 The Authority reserves the rights to seek competitive tenders for the option requirement(s) of this Contract. In such event, the Contractor shall not relinquish any of his obligations to supply the core services of the Contract.

4.2.7 The Authority shall not be obliged to exercise the options.

4.3. Options – Pricing

4.3.1 The Option years, Schedule of Requirements line items 7, 9 & 11, shall be Fixed price and if invoked by the Authority, shall be subject to indexation in accordance with Condition 4.4 (Variation of Price) of this Contract. Other than this indexation the price shall not be subject to variation.

4.3.2 Schedule of Requirements line items 8, 10 & 12, shall be firm priced at the time each Tasking is raised in line with Schedule 10 – Labour Rate Card.

4.4. Variation of Price

4.4.1 The prices stated in the Schedule of Requirements for articles and services being provided after March 31st 2025 (completion of three (3) years of Service) should be fixed at Contract start price levels 2022. The prices do not include provision beyond this date for increases or decreases in the market price of the articles being purchased. Any such variation shall be calculated in accordance with the following formula:

$$V = P (a + b (O_i/O_o)) - P$$

Where:

V represents the variation of price

P represents the FIXED price as stated in the Schedule of Requirements

O represents the index. For the purposes of this Contract the following indices shall be utilised:

HQTI – Top Level SPPI, Sections H to U excl. Section K)

O_o represents the average Price Index for the twelve (12) months immediately prior to the Contract start date.

O_i represents the average Price Index for the twelve (12) months immediately prior to the payment date period.

a represents the Non-Variable Element 0% or 0

b represents the Variable Element 100% or 1

a+b=1

4.4.2 The Index referred to in this Condition 4.4. shall be taken from the Office of National Statistics (ONS) website: <http://www.ons.gov.uk/>

4.4.3 Indices published with a B or F marker or a suppressed value, in the last three (3) years are not valid for Variation of Price Conditions and shall not be used. Where the price index has an 'F' marker or suppression applied to it during the term of the Contract, the Authority and the Contractor shall agree an appropriate replacement index or indices. The replacement index or indices shall cover, to the maximum extent possible, the same economic activities as the original index or indices.

4.4.4 In the event that any material changes are made to the indices (e.g. a revised statistical base date) during the period of the contract and before final adjustment of the final contract price, then the re-basing methodology outlined by the Office for National Statistics (ONS) to match the original index to the new series shall be applied.

4.4.5 In the event the agreed index or indices cease to be published (e.g. because of a change in the Standard Industrial Classification (SIC) System) the Authority and the Contractor shall agree an appropriate replacement index or indices, which shall cover to the maximum extent possible the same economic activities as the original index or indices. The methodology outlined by the Office for National Statistics used for rebasing indices shall then be applied.

4.4.6 Notwithstanding the above, any extant index / indices agreed in the Contract shall continue to be used as long as it is / they are available and subject to ONS revisions policy. Payments calculated using the extant index / indices during its / their currency shall not be amended retrospectively as a result of any change to the index or indices.

4.4.7 The Contractor shall notify the Authority of any significant changes in the purchasing / manufacturing plan on the basis of which these provisions were drawn up and agreed, or of any other factor having a material bearing on the operation of these provisions such as to cause a significant divergence from their intended purpose, in order that both parties may consider whether any change in this provision would be appropriate.

4.4.8 Prices shall be adjusted taking into account the effect of the above formula as soon as possible after publication of the relevant indices or at a later date if so agreed between the Authority and the Contractor. Where an index value is subsequently amended, the Authority and the Contractor shall agree a fair and reasonable adjustment to the price, as necessary.

4.4.9 Claims under this Condition shall be submitted to The Invoice Paying Authority, as stated at Box 11 of DEFFORM 111, certified to the effect that the "requirements of this Condition 4.4 (Variation of Price) have been met.

4.4.10 Claims for adjustment to agreed payments under the Variation of Price circumstances detailed in Condition 4.4 (Variation of Price) shall be submitted annually at the end of March each year.

4.5. Pricing of Changes to the Requirement

4.5.1 Where a change in requirement as detailed in the Contract change procedure at Condition 2.17 necessitates an adjustment to an agreed price under the Contract, or a new price to be added to the Contract, the Contractor shall submit to the Authority within ten (10) Business Days (or such other period of time as agreed with the Authority) of the request the following information in support of the price quoted:

- a) A firm price quotation, utilising the agreed labour rates detailed at Schedule 10 to the Contract, for the work required to be carried out under the proposed amendment. The quotation should provide to the Authority full visibility of the build-up of the price. This information, shall contain sufficient detail as to allow the Authority accurately to assess the extent to which the price quoted for the revised requirement is fair and reasonable.

4.5.2 All price changes shall be subject to DEFCONs 643 (Price Fixing) and 647 (Financial Management Information) as appropriate.

4.5.3 Using Schedule 15 to the Contract, the Contractor shall complete an E of I Pricing Statement for all Contract amendments in relation to Changes to the Requirement in accordance with DEFCON 643 (Price Fixing). Once completed the E of I Pricing Statement shall be added to Schedule 15 as an appendix.

4.5.4 Timely pricing of a proposed amendment is essential to the efficient execution of the Contract. The Contractor shall make all reasonable endeavours to supply information and negotiate within thirty (30) calendar days of the provision of the change by the Authority. The price within the Contractor's proposal shall be a fair and reasonable price, and the Contractor shall adopt a system of parallel working with the Authority (and his representatives) when preparing his quotation.

4.5.5 Unless otherwise agreed at Condition 4.6.6 below, no work under the proposed amendment shall commence until a price has been agreed.

4.5.6 Where, under exceptional circumstances, it is necessary for work to commence prior to an agreed price, the Authority may agree a maximum price limiting the Authority's liability.

4.5.7 The Authority, may at its own discretion, use an independent contractor to aid with the assessment of pricing.

4.5.8 In the event the change to the requirement is anticipated to be above £5M, the contractor shall price the change in accordance with the Single Source Contract Regulations 2014.

4.6. Gainshare

4.6.1 The Authority and the Contractor shall review the Contract and the work carried out under the Tasking Orders for gainshare opportunities. This review shall seek to identify improvements in performance, time and cost to the mutual benefit of both parties.

4.6.2 Both parties agree that gainshare will be reviewed as part of the Quarterly Performance Meetings (QPMs) and will form part of the standard agenda of the QPMs. Findings will be recorded in the minutes of that meeting, along with the decision as to whether to implement the proposed change. Both parties may identify gainshare proposals and their practicality will be investigated jointly as a team approach.

4.6.3 A successful gainshare initiative will result in an amendment to the Contract or a Tasking Order by the mutual agreement of both parties.

4.6.4 Any gainshare not claimed by the final payment of the Contract shall be forfeited by the Contractor.

5 INTELLECTUAL PROPERTY RIGHTS

DEFCON 14 (Edn.06/21) - Inventions and Designs Crown Rights and Ownership of patents and registered designs

DEFCON 90 (Edn.06/21) - Copyright

DEFCON 91 (Edn.06/21) - Intellectual Property Rights in Software

DEFCON 632 (Edn.06/21) - Third Party Intellectual Property - Rights and Restrictions

DEFCON 703 (Edn.06/21) - Intellectual Property Rights - Vesting in the Authority

If it is deemed that a sub-contractor will generate the IP a DEFFORM 177 – Design Rights and Patents (Subcontractor's Agreement) will need to be raised.

5.1. Marking of Deliverables

5.1.1 This Condition 5.1 shall apply in addition to and notwithstanding DEFCON 90 (Copyright). All Deliverable materials, documents and or works, including progress reports, shall be marked in accordance with the relevant Intellectual Property Rights (IPR) provision against which they are delivered under this Contract. Failure to do so shall be valid grounds for the rejection by the Authority of any such Deliverable.

5.1.2 In the event that any Deliverable by the Contractor or his sub-contractor or any tier is identified incorrectly as containing or comprising Background Intellectual PR or otherwise subject to third party rights (and such Intellectual Property Rights are Foreground IPR) then the Authority shall nevertheless be entitled to exercise its rights in relation to Foreground IPR.

5.1.3 In the case of single ownership of the Intellectual Property Rights (including copyright, design right and the information) in any Deliverable document, the body text shall be marked to indicate Background IPR and Foreground IPR and a key relating to such marking shall be provided by the Contractor.

5.1.4 In the case of any Deliverable document comprising or containing more than one copyright work, or the inclusion of any third party Background IPR (including copyright or design right), the copyright work, the work in which design right subsists and/or the Background IPR shall be further marked to indicate the individual owners of each IPR (including design right) and/or copyright work including the relevant section, part, paragraph, diagram and or drawing and a key relating to such marking shall be provided by the Contractor.

5.2. Confidentiality

5.2.1 Notwithstanding any other term of this Contract, the Contractor shall ensure all information released to Sub-contractors and any third parties for the performance of this contract shall be in accordance with DEFCON 531 (Disclosure of Information) and Condition 2.7 of this Contract. An endorsed confidentiality agreement (Schedule 19 to the Contract) will be submitted to the commercial representative of the Authority identified in Schedule 27 to this Contract (DEFFORM 111) before any information is transferred or released from the Contractor to sub-contractors and third-party suppliers.

5.3 Commercial Exploitation

5.3.1 The Contractor shall, subject to security considerations that will be assessed by the Authority, have the right to sell any Articles developed under the Contract. Prior to any sale of the Articles developed under the Contract, the Contractor shall agree with the Authority the levy payable, and conclude a Commercial Exploitation Agreement in the form of Schedule 13 to the Contract.

6 LOANS

DEFCON 76 (Edn.06/21) - Contractor's Personnel at Government Establishments

DEFCON 611 (Edn.02/16) - Issued Property

DEFCON 694 (Edn.07/21) - Accounting for Property of the Authority

6.1. Licences

6.1.1 Any land or premises (including temporary buildings) made available to the Contractor by the Authority in connection with the Contract shall be made available to the Contractor free of charge and shall be used by the Contractor solely for the purposes of performing the Contract. The Contractor shall have the use of such land or premises as Licensee and shall vacate the same upon completion of the Contract. Any utilities required by the Contractor shall be subject to the charges set out elsewhere in the Contract.

6.2. Supply of Government Furnished Assets (GFA)

6.2.1 The Authority will provide the Contractor with access to the Government Furnished Assets, Equipment and Services listed at Schedule 07 to the Contract, for the sole purposes of carrying out any activities linked to the achievement of the Deliverables and outputs set out in the Statement of Requirement, Terms and Conditions and associated Schedules to this Contract.

6.2.2 The Authority does not give any warranty or undertaking as to the completeness, accuracy, or fitness for any purpose of any of the Authority provided information. Neither the Authority nor its agents or employees shall be liable to the contractor in contract (save as expressly provided elsewhere in the Contract), tort, statute nor otherwise, as a result of any inaccuracy, omission, unfitness for any purpose, or inadequacy of any kind, in the Authority provided information.

6.2.3 The Authority is under no obligation to provide any GFA which is not included in Schedule 07 to the Contract. In the event that the Contractor identifies GFA additional to that detailed at Schedule 07 to the Contract to enable him to perform this Contract he may submit a written request to the Authority. Additional GFA may be supplied by the Authority on loan, providing that they are reasonable for the Authority to provide, are available during the requested periods of use, and that the Contractor can demonstrate that the GFA is relevant to the Contract and cannot be reasonably procured/supplied elsewhere by the Contractor. Any additional GFA which is agreed by the Authority will be added to the Contract by contract amendment in accordance with DEFCON 503 (Formal Amendments to Contract).

6.2.4 The Contractor shall notify the Authority when GFA supplier warranty is due to expire or when software licences require renewal. All issued GFA shall remain the property of the Authority.

6.2.5 The Contractor will not be held liable for a failure to deliver his contracted services arising as a consequence of a failure by the Authority, for whatever reason, to supply any items of the GFA list, provided the contractor has taken all reasonable steps to mitigate the impact of such a failure.

6.3 Limitation Of Contractor's Liability

6.3.1 Neither Party limits its liability for:

- a) death or personal injury caused by its negligence, or that of its employees, agents or sub-contractors (as applicable);

- b) fraud or fraudulent misrepresentation by it or its employees;
- c) 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
- d) any liability to the extent it cannot be limited or excluded by law.

6.3.2 The financial caps on the Contractor's liability set out in Condition 6.3.4 below shall not apply to the following:

- a) for any indemnity given by the Contractor to the Authority under this Contract.
- b) the Contractor's indemnity in relation to DEFCON 632 (Third Party IP - Rights and Restrictions);
- c) the Contractor's indemnity in relation to TUPE at Schedule 17 - Transfer of Undertakings (Protection of Employment) TUPE
- d) breach by the Contractor of DEFCON 532B (Protection of Personal Data and Data Protection Legislation).

6.3.3 The financial caps on the Authority's liability set out in Condition 6.3.4 below shall not apply to the following:

- a) for any indemnity given by the Authority to the Contractor under this Contract, including but not limited to all DEFCONS listed in this document
- b) the indemnity given by the Authority in relation to TUPE at Schedule 17 – Transfer of Undertakings (Protection of Employment) TUPE shall be unlimited.

6.3.4 Financial limits. Subject to Conditions 6.3.1 and 6.3.2 and to the maximum extent permitted by Law:

- a) Throughout the Term of the contract, the Contractor's total liability in respect of losses that are caused by Defaults of the Contractor shall in no event exceed:
 - i. in respect of DEFCON 76 (Contractor's Personnel at Government Establishments) [REDACTED-COMMERCIALLY SENSITIVE] in aggregate;
 - ii. in respect of DEFCON 514 (Material Breach) [REDACTED-COMMERCIALLY SENSITIVE] in aggregate;
 - iii. in respect of DEFCON 611 (Issued Property) [REDACTED-COMMERCIALLY SENSITIVE] in aggregate.
 - iv. in respect of DEFCON 612 (Loss of or Damage to Articles) [REDACTED-COMMERCIALLY SENSITIVE] in aggregate.
- b) without limiting Condition 6.3.4. and subject always to Condition 6.3.1, 6.3.2 and 6.3.4.c, the Contractor's total liability throughout the Term in respect of all other liabilities (but excluding any Service Credits paid or payable in accordance with Schedule 03 – Key Performance Indicators) whether in contract, in tort (including negligence), arising under warranty, under statute or otherwise under or in connection with this Contract shall be [REDACTED-COMMERCIALLY SENSITIVE] in aggregate.
- c) on the exercise of any and, where more than one, each option period or agreed extension to the Term, the limitation of the Contractor's total liability (in aggregate) set out in Conditions 6.3.4(a) and 6.3.4(b) above shall be fully replenished such that on and from each such exercise or extension of the Term, the Authority shall be able to claim up to the full value of the limitation set out in Conditions 6.3.4 of this Contract.

6.3.5 Subject to Conditions 6.3.1, 6.3.3 and 6.3.6, 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.

6.3.6 Condition 6.3.5 shall not exclude or limit the Contractor's right under this Contract to claim for the Charges.

6.3.7 Consequential loss. Subject to Conditions 6.3.1, 6.3.2 and 6.3.8, 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:

- a) indirect loss or damage;
- b) special loss or damage;
- c) consequential loss or damage;
- d) loss of profits (whether direct or indirect);
- e) loss of turnover (whether direct or indirect);
- f) loss of business opportunities (whether direct or indirect); or
- g) 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.

6.3.8 The provisions of Condition 6.3.7 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:

- a) any additional operational and administrative costs and expenses arising from the Contractor's Default, including any costs paid or payable by the Authority:
 - i. to any third party;
 - ii. for putting in place workarounds for the Contractor Deliverables and other deliverables that are reliant on the Contractor Deliverables; and
 - iii. relating to time spent by or on behalf of the Authority in dealing with the consequences of the Default
- b) any or all wasted expenditure and losses incurred by the Authority arising from the Contractor's Default, including wasted management time;
- c) 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, re-procurement 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);
- d) 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;
- e) damage to the Authority's physical property and tangible assets, including damage under DEFCON 76 (Contractor's Personnel at Government Establishments) and 611 (Issued Property);
- f) 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;
- g) 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);
- h) 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

- i) 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.

6.3.9 Invalidity. If any limitation or provision contained or expressly referred to in this Condition (6.3) 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 (6.3) .

6.3.10 Third party claims or losses. Without prejudice to any other rights or remedies the Authority may have under this Contract (including but not limited to any indemnity claim under DEFCON 632 (Third Party Intellectual Property - Rights and Restrictions) 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:

- a) 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
- b) 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.

6.3.11 No double recovery. 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.

7 DELIVERY/ACCEPTANCE

DEFCON 113 (Edn.02/17) - Diversion Orders

DEFCON 507 (Edn.07/21) - Delivery

DEFCON 514 (Edn.08/15) - Material Breach

DEFCON 524 (Edn.12/21) - Rejection

DEFCON 525 (Edn.10/98) - Acceptance

DEFCON 612 (Edn.06/21) - Loss of or Damage to Articles

7.1 Key Performance Indicators (KPIs)

7.1.1 The Contractor shall meet all of the stated KPIs as outlined in Schedule 03 – Key Performance Indicators, in accordance with Schedule 01 – SOR and Schedule 04 – Management Information to the Contract Conditions.

7.1.2 Performance against the KPIs shall be captured and fed back to the Authority's Commercial Manager and Project Manager in accordance with Schedule 03 – Key Performance Indicators and Schedule 04 – Management Information to the Contract.

7.1.3 When authorising payment, the Authority will review the Contractor's Management Information to ensure satisfactory performance against the KPI requirements.

7.1.4 If the Contractor fails to meet the agreed KPI, the Authority shall be entitled to reduce the total payment value in accordance with the Performance Deductions detailed at Schedule 03 – Key Performance Indicators to the Contract.

7.1.5 The Contractor shall maintain records that shall be identified with each payment claim and subject to audit by the Authority.

7.1.6 Performance against the KPIs will be captured and monitored in accordance with Condition 9.1 (Performance Reports) and Condition 9.2 (Management Information).

7.2 Default & Termination

7.2.1 In this Condition Contractor Default means:

- a) Any failure by the Contractor to deliver the DVS 2 Requirement within the timescales specified;
- b) Any material breach other than a failure to deliver the DVS 2 Requirement under the Contract;
- c) Any persistent breach of any of the Contractor's obligations under the Contract. For the purposes of the Contract a persistent breach shall be a breach of the Contract by the Contractor as measured by the Performance Indicators in accordance with Schedule 03 - Key Performance Indicators of the Contract other than a breach or event which falls into any of the categories of default set out in a,b,d of this Condition;
- d) Breach of the requirements of DEFCON 68 (Supply of Data for Hazardous Articles, Materials and Substances), DEFCON 515 (Bankruptcy and insolvency), DEFCON 518 (Transfer), DEFCON 520 (Corrupt Gifts), and DEFCON 660 (Official-Sensitive Security Requirements).

7.2.2 The Authority retains the right to issue a notice (a "Rectification Notice") to the Contractor that will detail any Contractor default in accordance with Condition 7.2.1.

7.2.3 If the Authority has elected for a Rectification Notice in accordance with Condition 7.2.2. within twenty (20) Business Days (or such longer period as the Authority may specify) of the receipt of the Rectification Notice, the Contractor shall make a proposal (a "rectification proposal") to the satisfaction of the Authority which shall, as a minimum, specify:

- a) The extent to which the Contractor proposes to rectify the Contractor Default;
- b) Details of all measures the Contractor proposes to take to rectify the Contractor Default, and
- c) The timescale within which the Contractor proposes to rectify the Contractor Default.

7.2.4 If the Authority receives the Contractor's rectification proposal under Condition 7.2.3 within twenty (20) Business Days (or such longer period as the Authority may specify) of the receipt by the Contractor of the Rectification Notice, the Authority shall consider the proposal and may accept, reject or amend the proposal.

7.2.5 If the Authority accepts or amends the Contractor's rectification proposal under 7.2.4, the Contractor shall rectify the Contractor Default in accordance with the proposal as accepted, and the Contractor shall take such action without imposing any additional charge on the Authority.

7.2.6 The Authority shall have the right to terminate the Contract by providing notice in writing, if:

- a) The Contractor fails to make a rectification proposal or fails to implement the rectification proposal in accordance with Condition 7.2.3, within the timescale and in the manner agreed in the rectification proposal, or
- b) The Contractor does not take the remedial action as the Authority has specified in accordance with Condition 7.2.5; or
- c) The Authority and the Contractor cannot agree a mutually acceptable rectification proposal; or
- d) The Authority does not deem it appropriate to request a rectification plan in accordance with Condition 7.2.2.

7.2.7 The termination of the Contract shall be without prejudice to the rights, obligations and liabilities of the Parties which have accrued or become due prior to the date of termination.

7.2.8 In addition to the Authority's rights of termination under other conditions/clauses, the Contract or any part thereof may be terminated by the Authority at any time subject to three (3) months' notice in writing to the Contractor. Where appropriate, the Authority may require the Contractor to furnish a report covering work to be done to the date of termination, with such recommendations as may be possible to make at that stage. The Authority's liability shall be confined to payment, within the provisions of the Contract, for work done to the date of termination.

7.3 Alternative Dispute Resolution

7.3.1 The Parties agree to try and resolve any dispute arising under the Contract initially by discussion with the end user. A local ad hoc meeting may be convened for the purposes of attempting to resolve the dispute in the first instance.

7.3.2 In the event that the dispute remains unresolved, it shall be referred to Authority's Project Manager (PM) detailed at Box 2 of DEFFORM 111 and Commercial Manager (CM) for consideration. A meeting between the Authority's CM, PM and their counterparts in the Contractor's organisation may be held for further clarification on the dispute.

7.3.3 In the event the dispute continues to remain unresolved, it shall be referred to the Authority's Senior Commercial and Portfolio Lead. A meeting between the two and

their counterparts in the Contractor's organisation may be held for further clarification on the dispute.

7.3.4 If after the above referrals and any subsequent meetings with the Contractor as detailed above, the dispute remains unresolved, the dispute shall be dealt with in accordance with DEFCON 530 (Dispute Resolution).

7.4 Deliverables

7.4.1 The acceptance procedures that apply to the articles and services in the Schedule of Requirements and Statement of Requirements (Schedule 01) are set out in Annex B to Schedule 01 of the Contract (ITEAP) and Schedule 06 - List of Deliverables

7.4.2 The services are required to be provided in accordance with the timescales detailed in the Schedule of Requirements and Statement of Requirements (Schedule 01) to the Contract Conditions.

7.4.3 The Contractor shall inform the Authority as soon as he becomes aware of any event or reasons likely to result in failure to meet the delivery of any articles or services detailed in the Schedule of Requirements and Statement of Requirements (Schedule 01) to the Contract Conditions.

8 PAYMENTS/RECEIPTS

DEFCON 5J (Edn.18/11/16) - Unique Identifiers

DEFCON 35 (Edn.06/21) - Progress Payments

DEFCON 513 (Edn.04/22) - Value Added Tax and Other Taxes

DEFCON 522 (Edn.11/21) - Payment and Recovery of Sums Due

DEFCON 534 (Edn.06/21) - Subcontracting and Prompt Payment (Sub-Contracts)

DEFCON 649 (Edn.12/21) - Vesting

DEFCON 670 (Edn.02/17) - Tax Compliance

8.1. Payment

8.1.1 The Contractor shall be paid Quarterly in arrears as detailed at Schedule 05 – Payment Plan to the Contract in line with Schedule 03 – Key Performance Indicators.

8.1.2 The Contractor shall have rendered, to the satisfaction of the Authority's Project Manager, complete performance of his contractual obligations in accordance with the Schedule of Requirements, the Statement of Requirements (Schedule 01) and the Contract Terms and Conditions in their entirety against which the claim is being sought, during the period to which the payment applies.

8.1.3 Claims for payment shall be submitted to the Authority via CP&F and will be authorised providing they have been completed in accordance with Conditions 8.1.1 & 8.1.2.

9 CONTRACT ADMINISTRATION

DEFCON 604 (Edn.06/14) - Progress Reports

- For the purposes of the Contract, the frequency of reports shall be quarterly.

DEFCON 609 (Edn.07/21) - Contractor's Records

DEFCON 642 (Edn.07/21) - Progress Meetings

9.1 Performance Reports

9.1.1 The Contractor will provide to the Authority on a quarterly basis, within ten (10) Business Days of the end of the Contract quarter, a report in accordance with the Statement of Requirement showing its performance against Schedule 03 – Key Performance Indicators and Schedule 04 – Management Information .

9.1.2 The sentencing committee, which comprises of members of the Authority's DVS 2 Project Team and the Contractor's DVS 2 Project Team shall meet between ten (10) and fifteen (15) Business Days after the provision of this report and seek to agree the Service Credits and Service Failure Points which are to be applied on the basis of the report provided. Records of Actions and Decisions (RoADs) from the sentencing committee shall be distributed by the Contractor to the Authority within five (5) Business Days of its meeting.

- a) If the sentencing committee cannot reach agreement having consulted as appropriate the matter shall be referred to the Alternative Dispute Resolution procedure at Condition 7.3.
- b) The Service Credits shall be applied to the following quarters total amount by the Contractor in accordance with Schedule 03 – Key Performance Indicators and Schedule 05 – Payment Plan, or if the matter has been referred, the Service Credits shall be applied to the quarterly total amount next following the resolution of the matter.

9.2. Management Information (MI)

9.2.1 The Contractor shall deliver to the Authority the MI, as described in Schedule 04 to the Contract.

9.3 Meetings

9.3.1 The Contractor shall attend meetings in person, in accordance with Schedule 01 (Statement of Requirement) wherever possible.

9.3.2 Other meetings are to be held at a convenient and mutually agreed time and location in association with the requirement.

9.4 Relationship Management Plan

9.4.1 The Contractor and the Authority shall maintain the Relationship Management Plan, at Schedule 16 to the Contract, throughout the duration of the Contract which shall be reviewed at twelve (12) monthly intervals in order to maintain and improve the relationship wherever possible. The outcome of the measurements and the steps taken for improvement will be subject to independent assurance from outside of the project at the Authority's discretion.

9.5 Earned Value Management

9.5.1 The Contractor shall implement and maintain an Earned Value Management System (EVMS) to be used in the management of the Contract in accordance with the Statement of Requirement (Schedule 01 to the Contract). The EVMS for this Contract shall comply with the Level 4 Contract Requirements in the DE&S Project Controls Guide, at Schedule 14 to the Contract, and compliance shall be maintained for the duration of the Contract.

9.5.2 The Contractor shall make available to the Authority the reports in accordance with the EVMS Plan. The reports shall be made available to the Authority on a monthly basis and report current and cumulative project status information.

9.5.3 The Contractor shall report all variances which exceed the thresholds agreed between the Contractor and Authority. Reports on variances shall clearly state:

- a) The cause of the variance and the potential impact of the variance on the overall project cost and schedule.
- b) All corrective actions taken and scheduled to mitigate the variance.
- c) State the new risks associated with this course of action that have been identified.

9.6 Publicity

9.6.1 The Contractor shall not issue or otherwise publish any publicity or advertising material, or provide any information to journalists concerning this Contract without the Authority's express consent.

9.6.2 The Contractor shall ensure that the DVS 2 software shall not use as its product name on the open market the term "Defence Virtual Simulation 2", the DVS 2 acronym or any name with substantial similarities such that it may cause confusion between the Authority capability project title and the product itself.

9.7 Transfer of Undertakings (Protection of Employment) (TUPE)

9.7.1 The TUPE conditions relating to the provision of Employee Information at termination, partial termination or Contract expiry are specified at Schedule 17 to the Contract terms and conditions.

701575511 (TSSP/134) for the Supply of Defence Virtual Simulation 2 (DVS 2)

This Contract shall come into effect on the date of signature by both parties.

For and on behalf of the Contractor:

[REDACTED-PERSONAL INFORMATION]

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

[REDACTED-PERSONAL INFORMATION]