

Microsoft Enterprise Services Work Order

Work Order Number

(Microsoft Affiliate to complete)

6GBR255-488189-627730

This Work Order consists of the terms and conditions below, and the provisions of the Microsoft Business and Services Agreement (MBSA) reference **U5950965**, effective as of **30th January 2018** (the "Agreement"), the provisions of the Unified Enterprise Support Services Description applicable to the Professional Services identified in this Work Order, and any attachments or exhibits referenced in this Work Order, all of which are incorporated herein by this reference. In this Work order 'Customer', 'you', or 'your' means the undersigned customer or its affiliate and 'Microsoft', 'we', 'us', or 'our' means the undersigned Microsoft affiliate.

By signing below the parties acknowledge and agree to be bound to the terms of this Work Order, the Agreement and all other provisions incorporated in them. This Work Order is effective as of the date that Microsoft signs this Work Order. Regardless of any terms and conditions contained in a purchase order, if any, the terms of this Work Order apply.

Customer	Microsoft Affiliate
Name of Customer (please print) Secretary of State for Defence	Name Microsoft Limited
Signature REDACTED TEXT under FOIA Section 40,	Signature REDACTED TEXT under FOIA Section 40,
Name of person signing (please print) REDACTED TEXT under FOIA Section 40,	Name of person signing (please print) REDACTED TEXT under FOIA Section 40,
Title of person signing (please print) REDACTED TEXT under FOIA Section 40,	Title of person signing (please print) REDACTED TEXT under FOIA Section 40,
Signature date	Signature date (effective date)
Name of Customer or its Affiliate that executed the Agreement (if different from Customer above) Crown Commercial Service	

Does Customer issue or require a Customer purchase order for the payment of Microsoft Services? ☐Yes or ☐No

If "No" is selected above, Customer represents and warrants that it does not require purchase order(s) be submitted to Microsoft for payment of the Microsoft Services Fees listed herein. Customer will not withhold payment of Microsoft's invoice due to the absence of a purchase order reference.

If no purchase order is required, Customer must complete "Customer invoice information" below and ensure it is accurate or revised in a timely manner. Further, the below "Customer

invoice information" must be completed prior to: (a) Customer signing this Work Order; and (b) Microsoft invoicing Customer.

Customer invoice information		
Name of Customer Secretary of State for Defence		Contact name (Receives invoices under this Work Order) REDACTED TEXT under FOIA Section 40,
Street address REDACTED TEXT under FOIA Section 40,		Contact e-mail address REDACTED TEXT under FOIA Section 40,
City REDACTED TEXT under FOIA Section 40,	State/Province REDACTED TEXT under FOIA Section 40,	Phone REDACTED TEXT under FOIA Section 40,
Country REDACTED TEXT under FOIA Section 40,	Postal code REDACTED TEXT under FOIA Section 40,	Fax REDACTED TEXT under FOIA Section 40,

Customer invoice information		
Name of Customer REDACTED TEXT under FOIA Section 40,		Contact name (Receives invoices under this Work Order) REDACTED TEXT under FOIA Section 40,
Street address REDACTED TEXT under FOIA Section 40,		Contact e-mail address REDACTED TEXT under FOIA Section 40,
City REDACTED TEXT under FOIA Section 40,	State/Province REDACTED TEXT under FOIA Section 40,	Phone REDACTED TEXT under FOIA Section 40,
Country REDACTED TEXT under FOIA Section 40,	Postal code REDACTED TEXT under FOIA Section 40,	Fax REDACTED TEXT under FOIA Section 40,

Customer invoice information		
Name of Customer REDACTED TEXT under FOIA Section 40,		Contact name (Receives invoices under this Work Order) REDACTED TEXT under FOIA Section 40,
Street address REDACTED TEXT under FOIA Section 40,		Contact e-mail address REDACTED TEXT under FOIA Section 40,
City REDACTED TEXT under FOIA Section 40,	State/Province REDACTED TEXT under FOIA Section 40,	Phone REDACTED TEXT under FOIA Section 40,

Country	Postal code	Fax
REDACTED TEXT under FOIA Section 40,	REDACTED TEXT under FOIA Section 40,	REDACTED TEXT under FOIA Section 40,

1. Consulting Services and Fees.

1.1. Term.

The consulting services will commence on **1st June 2025** or the date Microsoft begins providing the services, whichever is earlier (the "Consulting Commencement Date"), and will expire on **30th April 2028** or the date Microsoft concludes the services, whichever is later (the "Consulting Expiration Date").

1.2. Description of the Services.

Microsoft will perform the work described in the Statement of Work:

Title: **Microsoft Core Delivery Programme (2025-2028)**

Version: **1.0**

Date: **23/04/2025**

Any dates provided for consulting services are estimates only.

1.3. Consulting Services Fees.

Microsoft will invoice Customer on a monthly basis and Customer will pay the following rates and any reasonable out of pocket travel and living expenses (if any, which may be defined in the table below as "Other Charges"). Any total fee stated is an estimate only. Customer is responsible for paying all fees incurred in connection with these consulting services under this Work Order. The fees do not include fees for Products. Unless otherwise specified in the invoice, Customer will pay Microsoft within 30 calendar days of the date of Microsoft invoice.

Year 1 Consulting Services 1 st June 2025 – 31 st May 2026			
Role	Total Hours	Hourly Rate GBP	Subtotal GBP
Domain Solution Architect	1652	REDACTED TEXT under FOIA Section 43 Commercial Information	
Security & Identity Architect	882		
Senior Project Manager	1536		
Project Manager	1152		
Project Manager - Project Management Office	1152		
Senior Domain Solution Architect	1536		
Delivery Management Executive	294		

Senior Consultant	2956	
Security & Identity Consultant	392	
Subtotal		REDACTED TEXT under FOIA Section 43 Commercial Information
Estimated Expenses		
Total Estimated Fees (excluding taxes)		

Year 2 Consulting Services 1 st June 2026 – 31 st May 2027			
Role	Total Hours	Hourly Rate GBP	Subtotal GBP
Domain Solution Architect	1802	REDACTED TEXT under FOIA Section 43 Commercial Information	
Security & Identity Architect	864		
Senior Project Manager	1536		
Project Manager	1536		
Project Manager - Project Management Office	1152		
Senior Domain Solution Architect	1536		
Delivery Management Executive	288		
Senior Consultant	3174		
Security & Identity Consultant	1152		
Subtotal			REDACTED TEXT under FOIA Section 43 Commercial Information
Estimated Expenses			
Total Estimated Fees (excluding taxes)			

Year 3 Consulting Services 1 st June 2027 – 30 th April 2028			
Role	Total Hours	Hourly Rate GBP	Subtotal GBP
Domain Solution Architect	1816	REDACTED TEXT under FOIA Section 43 Commercial Information	
Security & Identity Architect	792		
Senior Project Manager	1408		
Project Manager	1416		
Project Manager - Project Management Office	1056		
Senior Domain Solution Architect	1408		
Delivery Management Executive	264		
Senior Consultant	3012		
Security & Identity Consultant	1072		
Subtotal			

Estimated Expenses	REDACTED TEXT under FOIA Section 43 Commercial Information
Total Estimated Fees (excluding taxes)	

1.3.1. Expenses.

Microsoft will charge for the following expenses incurred in connection with this engagement:

Accommodation, seeking (where reasonable and practical):

- a) reasonably priced (in any case not to exceed **REDACTED TEXT under FOIA Section 43 Commercial Information** per night, excluding London), conveniently located lodging in relation to the traveller's work.
- b) single room rates, using corporately negotiated rates where practical; and
- c) weekly/monthly accommodation rates for long term assignments to save cost.

Flights on commercial carriers, including airport transfers in accordance with "3. Transport" below, in:

- a) economy class or comparably priced fare types for all flights.

Transport (other than flights) including:

- a) mileage for personal vehicles at a rate of 45p per mile.
- b) standard class public transportation.
- c) reasonably necessary short taxi fares where public transportation is not practical,
- d) reasonable, or cost effective as an alternative; and
- e) hire cars, by agreement with customer.

Meals up to a maximum daily allowable amount per person of REDACTED TEXT under FOIA Section 43 Commercial Information when working away from normal business. This assumes a full 24-hour period and would include breakfast, lunch and evening meal, including tips, taxes, and any other meal-related charges. Upon written agreement, exceptions shall be made when traveling to high-cost areas.

Any ancillary expenses reasonably incurred in connection with the foregoing (e.g. WiFi for work purposes, baggage fees, tolls, parking, fuel (where not covered by mileage), locally customary tipping etc.) will also be reimbursable at cost.

Any changes to the MoD expenses policy during the engagement will be reviewed and may result in amendments as agreed by both parties.

Customer may review expenses claims to ensure alignment with policy at reasonable request.

1.4. Consulting Services Rate Card

The future purchase price for additional Consulting Services roles for the periods of the agreement is set out in the table below. Rates do not include taxes.

Consulting Services Rate Card			
Role	Year 1 1st June 2025 - 31st May 2026 GBP	Year 2 1st June 2026 - 31st May 2027 GBP	Year 3 1st June 2027 – 30th April 2028 GBP
Domain Solution Architect	REDACTED TEXT under FOIA Section 43 Commercial Information		
Security & Identity Architect			
Associate Architect			
Senior Project Manager			
Project Manager			
Associate Project Manager			
Project Manager - Project Management Office			
Senior Domain Solution Architect			
Delivery Management Executive			
Senior Consultant			
Associate Senior Consultant			
Consultant			
Associate Consultant			
Data Scientist			
Security & Identity Consultant			
Security Assurance Coordinator			

1.5. Changes to the Work Order Term.

Changes to the Consulting Commencement Date.

Microsoft has committed resources to perform the consulting services described herein based on the dates set forth above. Given this commitment, Customer agrees to provide Microsoft no less than 10 business days' notice of any anticipated delay of the Consulting Commencement Date, regardless of cause. If Customer fails to provide such notice, Microsoft reserves the right to invoice Customer for an amount reflecting the actual amount of time Microsoft resource(s) cannot be engaged or an amount equal to 40 hours of Microsoft resource time at billing rate(s) listed in this Work Order associated with the applicable Microsoft resource(s), whichever is less. In the alternative, and at Microsoft's sole discretion, Microsoft may elect to re-assign Microsoft resource(s) to other projects for Microsoft customers and re-staff Customer project when possible. If this occurs, Microsoft cannot guarantee when resource(s) will again be available for Customer project.

1.6. Work Order Termination.

1.6.1. Termination.

Either party may terminate this Work Order if the other party is in material breach or default of any obligation that is not cured within 30 days' written notice of such breach or default.

1.6.2. Termination for Convenience.

Customer may terminate this Work Order at any time for convenience by providing Microsoft with 60 days prior written notice, "Notice Period".

Effect of Termination.

In case of termination for convenience, Customer will pay Microsoft for:

- Any completed, partially completed and planned Services up to the end of the Notice Period;
- All reasonable committed costs, non-refundable travel expenses and any non-cancellable fees specifically detailed in a Work Order or Statement of Work

1.7. Acceptable Use Policy

Customer must not (and is not licensed to) use the Services Deliverables:

- in a way prohibited by law, regulation, governmental order or decree;
- to violate the rights of others; or
- in any application or situation where use of the Service Deliverables could lead to the death or serious bodily injury of any person, or to severe physical or environmental damage, except in accordance with the High Risk Use section below.

High Risk Use

WARNING: Modern technologies may be used in new and innovative ways, and Customer must consider whether its specific use of these technologies is safe. The Services Deliverables are not designed or intended to support any use in which a service interruption, defect, error, or other failure of a Services Deliverable could result in the death or serious bodily injury of any person or in physical or environmental damage (collectively, "High Risk Use"). Accordingly, Customer must design and implement the Services Deliverables such that, in the event of any interruption, defect, error, or other failure of the Services Deliverables, the safety of people, property, and the environment are not reduced below a level that is reasonable, appropriate, and legal, whether in general or for a specific industry. Customer's High Risk Use of the Services Deliverables is at its own risk. Customer agrees to defend, indemnify and hold Microsoft harmless from and against all damages, costs and attorneys' fees in connection with any claims arising from a High Risk Use associated with the Services Deliverables, including any claims based in strict liability or that Microsoft was negligent in designing or providing the Services Deliverables to Customer in accordance with Customer's specifications. The foregoing indemnification obligation is in addition to any defense obligation set forth in Customer's Agreement and is not subject to any limitation of, or exclusion from, liability contained in such agreements.

1.8. Online Services Engagements.

For applicable Online Services engagements, to assist in evaluating Professional Services delivery, Customer agrees to provide Microsoft access to usage metrics within their Online Services. No Personal Data from the Online Service is included within the metrics.

1.9. Customer feedback

You agree, where possible, to respond to customer satisfaction surveys that we may provide from time to time regarding the services.

2. Support Services and Fees

2.1. Term.

Microsoft Enterprise Support Services will commence on **1st May 2025** (the "Support Commencement Date") and will expire on **30th April 2028** (the "Support Expiration Date").

2.2. Description of the Services.

Please refer to the current Unified Support Services Description ("USSD") which will be incorporated by reference and is published by Microsoft from time to time at www.microsoft.com/unified-support-services-description. Microsoft may update the support services you purchase under this agreement from time to time, provided that the level of support services you purchase will not materially decrease during the current Term.

Services by Support Location

REDACTED TEXT under FOIA Section 43 Commercial Information

2.3. Support Services Fees.

The items listed in the table above represent the services that Customer has purchased for use during the term of this Work Order, and applicable fees are shown in the table below. Microsoft Support Services are non-refundable and prepaid at year one and subsequent anniversaries of the Support Commencement Date. Before Microsoft commences provision of Microsoft Support Services, Microsoft must receive a signed copy of this Work Order and Customer's payment, purchase order or, if applicable, completed Customer invoice information above. Microsoft will invoice Customer, and Customer agrees to pay Microsoft within 30 calendar days of the date of Microsoft invoice. Please note that failure of payment to Microsoft may result in service suspension. Microsoft reserves the right to adjust Microsoft fees in connection with implementing any changes requested by Customer to the Microsoft Support Services ordered herein. Any modified fees will be documented in an amendment.

Support Services Fee Summary	Year 1 01-05-2025 – 30-04-2026	Year 2 01-05-2026 – 30-04-2027	Year 3 01-05-2027 – 30-04-2028	Total
Appraised Product Spend	REDACTED TEXT under FOIA Section 43 Commercial Information			
Microsoft Unified Enterprise				
Adjustments				

Sub-Total: Microsoft Unified Enterprise	
EUS Add-ons	
AWE Add-ons	
OXY/MAB Add-ons	
OpNet Add-ons	
DE&S Add-ons	
RAF Add-ons	
DSTL Add-ons	
DMICP Add-ons	
MI Data Add-ons	
Army Add-ons	
RMP Add-ons	
Sub-Total Add-Ons (after discounts)	
Flex Allowance (applied to EUS billing)	
Total Fees (excluding taxes)	

*The Microsoft Unified Enterprise fees described above are based on the Unified Enterprise Graduated Pricing Rate Table below along with the total value each year for Customer's validly licensed, commercially released and generally available Microsoft products, and cloud services subscriptions as identified in Appendix A of this Work Order (collectively, the "Appraised Product Spend") to calculate Customer's Microsoft Unified fees for the 3 Years Support Term.

Prior to each contract anniversary of the Support Commencement Date, Customer's Appraised Product Spend will be re-calculated for the upcoming contract year based on the previous 12 months ("Actual Product Spend"). If Customer's Actual Product Spend is more than **ten percent (10%)** above the Appraised Product Spend shown for that upcoming contract year in the Support Services Fee Summary table above, Microsoft will recalculate the associated Microsoft Unified Enterprise fees for the upcoming contract year. The recalculated Microsoft Unified Enterprise fees will be based on the Actual Product Spend and the Unified Enterprise Graduated Pricing Rate Table. Microsoft will invoice the customer for the difference between the re-calculated price and the original scheduled Microsoft Unified Enterprise fees sub-total from the Support Services Fee Summary table above. Customer agrees to pay Microsoft such additional amounts within 30 calendar days of the date of Microsoft's invoice. Please note that failure of payment to Microsoft may result in service suspension. Enterprise Customer may receive additional Flex Allowance which may be applied towards new proactive services, enhanced services and solutions services, and/or custom proactive services. Should Customer fail to allocate the Flex Allowance

prior to the contract anniversary, Microsoft may apply the additional Flex Allowance towards new proactive credits.

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REDACTED TEXT under FOIA Section 43 Commercial Information

All product spend amounts in the Unified Enterprise Graduated Pricing Rate Table are shown in USD. The minimum recalculated Microsoft Unified Enterprise fees is REDACTED TEXT under FOIA Section 43 Commercial Information

Billing Schedule

REDACTED TEXT under FOIA Section 43 Commercial Information

2.4. Support Rate Card.

The future purchase price for Unified Support Services roles are stated in the table below:

Location	Service Type	Year 1 Rate (1st May 2025 - 30 th April 2026)	Year 2 Rate (1st May 2026 - 30 th April 2027)	Year 3 Rate (1st May 2027 - 30 th April 2028)
United Kingdom	Enhanced Designated Engineering (including Service Delivery Management)	REDACTED TEXT under FOIA Section 43 Commercial Information		

Support for Microsoft Products

Microsoft will provide support for Customer's licensed, commercially released, and generally available Microsoft products, and cloud services subscriptions purchased by Customer or Customer's Affiliate: i) under the licensing enrollments and agreements, as indicated in Appendix A; and ii) during the Term of this Work Order. Such products and subscriptions exclude those purchased by any party that is not Customer's Affiliate as of the Support Commencement Date.

2.5. Customer Named Contacts.

Any changes to the named contacts should be submitted to Microsoft Contact.

Name of Customer Support Service Administrator - REDACTED TEXT under FOIA Section 40,		
Street Address REDACTED TEXT under FOIA Section 40,		Contact E-Mail Address REDACTED TEXT under FOIA Section 40,
City REDACTED TEXT under FOIA Section 40,	State/Province REDACTED TEXT under FOIA Section 40,	Phone REDACTED TEXT under FOIA Section 40,
Country REDACTED TEXT under FOIA Section 40,	Postal Code REDACTED TEXT under FOIA Section 40,	Fax REDACTED TEXT under FOIA Section 40,

3 Microsoft Professional Services Data Protection Addendum and Confidentiality.

"Professional Services Data" means all data, including all text, sound, video, image files, or software, that are provided to Microsoft by, or on behalf of, Customer (or that Customer authorizes Microsoft to obtain from an Online Service) or otherwise obtained or processed by or on behalf of Microsoft through an engagement with Microsoft to obtain Professional Services.

The data protection terms applying to Professional Services in effect on the effective date of this Work Order and available at <https://aka.ms/eswodpa> are incorporated herein by this reference.

For liability arising out of either party's confidentiality obligations relating to Professional Services Data provided under this Work Order, each party's maximum, aggregate liability to the other is limited to direct damages finally awarded in an amount not to exceed the amounts Customer paid for the applicable Professional Services under this Work Order.

4 Attachments.

The following documents are attached at the execution of this Work Order:

Statement of work:

Title: **Microsoft Core Delivery Programme (2025-2028)**

Version: **1.0**

Date: **23/04/2025**

5 Microsoft Contact

Customer contact for questions and notices about this Work Order.

Microsoft contact name REDACTED TEXT under FOIA Section 40,	
Phone REDACTED TEXT under FOIA Section 40,	Contact e-mail address REDACTED TEXT under FOIA Section 40,

6 Additional Terms.

For this work order only, the following terms apply:

6.1 Not a Qualifying Defence Contract

Customer is responsible for determining the appropriate procurement path for these services and have deemed that this contract is exempt from being a Qualifying Defence Contract as defined under the Single Source Contract Regulations 2014 (SSCRs), and the SSCRs do not apply.

6.2 Future Pricing

In case Customer, during the term of this Work Order, becomes eligible to a separate Microsoft framework under which the same scope of Services can be ordered, then Customer may elect to terminate the Consulting Services, at no additional cost, by providing Microsoft with 30 days prior written notice. For Support services then Customer may elect to terminate the Support Services at the end of the then current yearly period, at no additional cost, by providing Microsoft with 30 days prior written notice.

6.3 Contractors on Deployed Operations (CONDO) Resources

Although Microsoft is capable of supporting customer CONDO operations, no CONDO requirements are applicable to this Work Order.

6.4 List X Facility

Services under this Work Order may be carried out within the Microsoft MOD & CPNI List X Accredited facility as agreed between parties.

7 DEFCONs

The terms set out in Schedule 1: (i) are incorporated into this Work Order; and (ii) constitute the terms of Defence Conditions (DEFCONs), incorporating amendments, which apply to this Work Order.

Schedule [1]

DEFCONs

The DEFCONs specified by the Customer for the Utopia Contract have been reviewed by Microsoft. When entering into any Work Orders and Statements of Work for individual packages of work under this contract, both parties will need to review and assess the relevance and suitability of each DEFCON once the relevant scope of work is known before the relevant DEFCON is incorporated by reference within the relevant Work Order. This Schedule sets out the principles that the parties will consider as a base during this review process.

1. Definitions:

References in this Schedule to:

"Associated Company" means:

- a. any associated company of the Contractor from time to time within the meaning of Section 449 of the Corporate Tax Act 2010 or any subordinate legislation; and
- b. any parent undertaking or subsidiary undertaking of the Contractor from time to time within the meaning of section 1162 Companies Act 2006 and it is further agreed that where the ownership of shares in any such undertaking have been pledged or transferred to a third party by way of security, the original parent shall still be considered a member of the subsidiary undertaking;

"Authority" means the Customer;

"Authority Identifiable Information" means all Electronic Information which is attributed to or could identify an existing or proposed Authority capability, defence activities or personnel and which the Authority requires to be protected against loss, misuse, corruption, alteration and unauthorised disclosure;

"Contract" means the relevant Work Order in which the relevant DEFCON has been explicitly incorporated by reference;

"Contract Price" means the fees specified in the relevant Work Order;

"Contractor" means Microsoft;

"Contractor Deliverables" means the Services Deliverables;

"Sub-contract" means any sub-contract awarded directly by the Contractor as a consequence of or in connection with this Contract; and

"Sub-contractor" means a sub-contractor or any Associated Company of the Contractor who provides Contractor Deliverables in connection with this Contract, but only to the extent that the Sub-contractor processes, stores or transmits Authority Identifiable Information under their Sub-contract.

2. Contractor's Personnel at Government Establishments (DEFCON 76, Ed 11/22)

[Microsoft Note: At the time of entering into this Work Order, the statement made in relation to this DEFCON acknowledges Microsoft may work remotely, on Customer site or a blend of locations based on the scope being delivered. Therefore once the scope of a future Work Order

becomes known, parties will review this DEFCON and consider any derogations which may be required for the project delivery.

Definitions

1. Reference in this Condition to:
 - a. **'Government Establishment'** or **'site'** shall be deemed to include any of His Majesty's Ships or Vessels and Service Stations;
 - b. **'Officer in Charge'** shall be deemed to include Officers Commanding Service Stations, Ships' Masters or Senior Officers, and Heads of Government Establishments; and
 - c. **'Contractor's Representative(s)'** shall be deemed to include the Contractor's employees, agents and subcontractors.

General

2. The following general provisions apply:
 - a. The Officer in Charge shall provide such available administrative and technical facilities for the Contractor's Representatives employed at Government Establishments for the purpose of the Contract as may be necessary for the effective and economical discharge of work under the Contract. These facilities will be provided free of charge unless otherwise stated in the Contract. The status to be accorded to the Contractor's Representatives for messing purposes will be at the discretion of the Officer in Charge.
 - b. 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, unless otherwise stated in the Contract, 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 in the Contract. c. The Contractor shall have no claim against the Authority for any additional cost or delay occasioned by the closure for holidays of Government Establishments, where this is made known to them prior to entering into the Contract.
 - c. The Contractor shall have no claim against the Authority for any additional cost or delay occasioned by the closure for holidays of Government Establishments, where this is made known to them prior to entering into the Contract.

Liability In Respect Of Damage To Government Property

3. Without prejudice to the provisions of DEFCON 611 (Issued Property), the Contractor shall, except as otherwise provided for in the Contract, make good or, at the option of the Authority, pay compensation for all damage occurring to any Government Property, which includes land or buildings, occasioned by the Contractor, or by any of their Representatives, arising from the Contractor's or their Representatives' presence on a Government Establishment in connection with the Contract, provided that this Condition shall not apply to the extent that the Contractor is able to show that any

such damage was not caused or contributed to by any circumstances within the Contractor's or their Representatives' reasonable control.

4. The total liability of the Contractor under paragraph 2.3 herein shall be subject to any limitation specified in the Contract.

Contractor's Property

5. All property of the Contractor and their Representatives shall be at the risk of the Contractor whilst it is on any Government Establishment, and the Authority shall accept no liability for any loss or damage howsoever occurring thereto or caused thereby, except as follows:
 - a. where any such loss or damage was caused or contributed to by any act, neglect or default of any Government Servant, agent or contractor then the Authority shall accept liability therefor to the extent to which such loss or damage is so caused or contributed to as aforesaid; and
 - b. where any property of the Contractor has been taken on charge by the Officer in Charge, and a proper receipt has been given therefor, then the Authority shall be liable for any loss or damage occurring to that property while held on such charge as aforesaid.

Contractor's Representative

6. The Contractor shall submit in writing to the Authority for approval, initially and as necessary from time to time, a list of their Representatives who may need to enter a Government Establishment for the purpose of, or in connection with, work under the Contract, giving such particulars as the Authority may require, including full details of birthplace and parentage of any such Representative who:
 - a. was not born in the United Kingdom; or
 - b. if they were born in the United Kingdom, were born of parents either or both of whom were not born in the United Kingdom.
7. The Authority shall issue passes for those Representatives who are approved by it in accordance with paragraph 2.6 herein for admission to a Government Establishment and a Representative shall not be admitted unless in possession of such a pass. Passes shall remain the property of the Authority and shall be surrendered on demand or on completion of the work.
8. Notwithstanding the provisions of paragraphs 2.6 and 2.7 hereof if, in the opinion of the Authority, any Representative of the Contractor shall misconduct themselves, or it shall not be in the public interest for any person to be employed or engaged by the Contractor, the Contractor shall remove such person without delay on being required to do so and shall cause the work to be performed by such other person as may be necessary.
9. The decision of the Authority upon any matter arising under paragraphs 2.6 to 2.8 inclusive shall be final and conclusive.

Observance of Regulations

10. The following provisions apply:

- a. The Contractor shall ensure that their Representatives have the necessary probity (by undertaking the Government's Baseline Personnel Security Standard) and, where applicable, are cleared to the appropriate level of security when employed within the boundaries of a Government Establishment.
- b. Where the Contractor requires information on the Government's Baseline Personnel Security Standard (the Standard) or security clearance for their Representatives or is not in possession of the relevant rules, regulations or requires guidance on them, they shall apply in the first instance to the Project Manager/Equipment Support Manager.
- c. On request, the Contractor shall be able to demonstrate to the Authority that the Contractor's processes to assure compliance with the standard have been carried out satisfactorily. Where that assurance is not already in place, the Contractor shall permit the Authority to inspect the processes being applied by the Contractor to comply with the Standard.
- d. The Contractor shall comply and shall ensure that their Representatives comply with the rules, regulations and requirements that are in force whilst at that Establishment which shall be provided by the Authority on request.
- e. When on board ship, compliance with the rules, regulations, and requirements shall be in accordance with the Ship's Regulations as interpreted by the Officer in Charge. Details of those rules, regulations and requirements shall be provided on request by the Officer in Charge.

Transport Overseas

11. Where the Contractor's Representatives are required by the Contract to join or visit a Government Establishment overseas, transport between the United Kingdom and the place of duty (but excluding transport within the United Kingdom) shall be provided free of charge by the Authority whenever possible, normally by Royal Air Force or by MOD chartered aircraft. The Contractor shall make such arrangements through the Project Manager/Equipment Support Manager named for this purpose in the Contract. When such transport is not available within a reasonable time, or in circumstances where the Contractor wishes their Representatives to accompany materiel for installation which they are to arrange to be delivered, the Contractor shall make their own transport arrangements. The Authority shall reimburse the Contractor's costs for such transport of their Representatives on presentation of evidence supporting the use of alternative transport and of the costs involved. Transport of the Contractor's Representatives locally overseas which is necessary for the purposes of the Contract shall be provided wherever possible by the Authority and, where so provided, will be free of charge.

Medical Treatment Overseas

12. Out-patient medical treatment given to the Contractor's Representatives by a Service Medical Officer or other Government Medical Officer at a Government Establishment overseas shall be free of charge. Treatment in a Service hospital or medical centre, dental treatment, the provision of dentures or spectacles, conveyance to and from a hospital, medical centre or surgery not within the Establishment, and transportation

of the Contractor's Representatives back to the United Kingdom, or elsewhere, for medical reasons, shall be charged to the Contractor at the appropriate local rate.

Injuries, Disease and Dangerous Occurrences

13. The Contractor shall report any injury, disease or dangerous occurrence at any Government Establishment arising out of the performance of this Contract, which is required to be reported under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR) to the Officer in Charge of the relevant Government Establishment. This would be in addition to any report, which the Contractor may be required to submit under RIDDOR to the relevant enforcing authority (e.g. Health and Safety Executive or Local Authority).

Dependants of Contractor's Representatives

14. No assistance from public funds, and no messing facilities, accommodation or transport overseas shall be provided for dependants or members of the families of the Contractor's Representatives. Medical or necessary dental treatment may, however, be provided for dependants or members of families on repayment at current MOD rates.

Provision of Funds Overseas

15. The Contractor shall, wherever possible, arrange for funds to be provided to their Representatives overseas through normal banking channels (e.g. by travellers cheques). If banking or other suitable facilities are not available, the Authority shall, upon request by the Contractor and subject to any reasonable limitation required by the Contractor, make arrangements for payments, converted at the prevailing rate of exchange (where applicable), to be made by the Establishment to which the Contractor's Representatives are attached. All such advances made by the Authority shall be recovered from the Contractor.

Health And Safety Hazard Control

16. Where the Contractor enters a Government Establishment for the purpose of performing work under the Contract:
 - a. The Contractor shall notify the Officer in Charge or the site project liaison officer or overseeing officer nominated in the Contract of:
 - i. any health and safety hazards associated with the work to be performed by them or any of their Representatives;
 - ii. any foreseeable risks to the health and safety of all persons associated with such hazards; and
 - iii. any precautions to be taken by them as well as any precautions which, in their opinion, ought to be taken by the Authority, in order to control such risks.
 - b. The Authority shall notify the Contractor of:
 - i. any health and safety hazards which may be encountered by the Contractor or any of their Representatives on the Government Establishment;
 - ii. any foreseeable risks to the health and safety of the Contractor or any of their Representatives, associated with such hazards; and

- iii. any precautions to be taken by the Authority as well as any precautions which, in its opinion, ought to be taken by the Contractor, in order to control such risks.
- c. The Contractor shall notify their Representatives of and, where appropriate, provide adequate instruction in relation to:
 - i. the hazards, risks and precautions notified by them to the Authority under paragraph 2.16(a);
 - ii. the hazards, risks and precautions notified by the Authority to the Contractor under paragraph 2.16(b); and
 - iii. the precautions which, in their opinion, ought to be taken by their Representatives in order to control those risks.
- d. The Contractor shall provide the Officer in Charge or the site project liaison officer or overseeing officer nominated in the Contract with:
 - i. copies of those sections of their own and, where appropriate, their Representatives' Safety Policies which are relevant to the risks notified under sub- paragraph 2.16(a);
 - ii. copies of any related risk assessments; and
 - iii. copies of any notifications and instructions issued by them to their Representatives under paragraph 2.16(c).
- e. The Authority shall provide the Contractor with:
 - i. copies of those sections of its own Safety Policies which are relevant to the risks notified under paragraph 2.16(b));
 - ii. copies of any related risk assessments; and
 - iii. copies of any notifications and instructions issued by it to its employees similar to those called for from the Contractor under paragraph 2.16(c).

3. The Use of The Electronic Business Delivery Form (DEFCON 129J, Ed 18/11/16)

Form Usage

- 1. The Contractor must use the electronic business delivery form for all deliveries of Articles and performance of Services.
- 2. The electronic business delivery form, DEFFORM 129J, must accompany the package or consignment to which it applies. The Contractor must either
 - a. attach the form as a label, directly to the package surface, or
 - b. forward the form in a document envelope

as provided in paragraphs 3.3 and 3.4 of this Condition.

Form Structure

For the provision of Articles

- 3. Where delivery is for a physical Article, the following criteria apply:
 - a. The nominal label size is A6 (102 mm x 152 mm) but A5 (148 mm x 210 mm) is acceptable. If required by package size, the Contractor may use other label sizes, but

only if no degradation to the text, bar code legibility and quality occurs, see paragraph 3.6.

- b. The Contractor must use the bar coded Unique Identifier as defined in DEFCON 5J, unless specified otherwise in the Contract.
- c. The Contractor must attach two labels to each package or consignment delivered. One label must be detachable for use in processing the information through the appropriate MOD receipting system.

For the provision of Services

- 4. Where performance is for a Service, the following criteria apply:
 - a. Standard size is A4 (210 mm x 297 mm).
 - b. The Contractor must use the bar coded Unique Identifier as defined in DEFCON 5J unless specified otherwise in the Contract.
 - c. The Contractor must provide one form either on completion of the Service or on completion of each agreed stage of the Service.

Bar Code Symbolology and Print Quality

- 5. The bar code symbolology used shall meet the requirements of STANAG 4329, "NATO Standard Bar Code Symbolologies", specifically Code 39 (ISO/IEC 16388), unless otherwise specified.
- 6. The barcode print quality shall be as defined in ISO/IEC 16388 (Information technology – Automatic identification and data capture techniques – Code 39 bar code symbolology specification). The Overall Grade shall be at least Grade B at point of printing and not less than Grade C at final point of receipt.

Methods of Printing

- 7. For method of printing the DEFFORM 129J, electronic business delivery form, see DefStan 81-041 (Part 6). Laser printing is preferred.

4. Equality (DEFCON 516, Ed 04/12)

- 1. The Contractor shall not unlawfully discriminate either directly or indirectly on the grounds of age, disability, gender (including re-assignment), sex or sexual orientation, marital status (including civil partnerships), pregnancy and maternity, race, or religion or belief.
- 2. Without prejudice to the generality of the obligation in paragraph 4.1 above, the Contractor shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010 (or any statutory modification or re-enactment thereof) or other relevant or equivalent legislation in the country where the Contract is being performed.
- 3. The Contractor agrees to take reasonable efforts to secure the observance of the provisions of this Condition by any of its employees, agents or other persons acting under its direction or control who are engaged in the performance of the Contract.
- 4. The Contractor agrees to take reasonable efforts to reflect this Condition in any Sub-contract that it enters into to satisfy the requirements of the Contract and to require

its Sub-contractors to reflect this paragraph 4 in their subcontracts that they enter into to satisfy the requirements of the Sub-contract.

5. Transfer (DEFCON 518, Ed 02/17)

1. Subject to paragraph 5.2, neither party to the Contract shall give, bargain, sell, assign, or otherwise dispose of the Contract or any part thereof, or the benefit or advantage of the Contract or any part thereof, without the prior consent in writing of the other party.
2. The Contractor may assign the right to receive payment of the Contract Price or any part thereof due to the Contractor under this Contract (including any interest incurred by the Authority under any Contract clause concerning the late payment of debts) to [Microsoft Ireland Operations Limited] ("**the Assignee**") without further consent provided the Contractor notifies the Authority of assignment in writing. The Contractor will need to obtain the prior written consent of the Authority in accordance with paragraph 5.1 above to any other proposed assignment.
3. Any assignment of the right to receive payment of the Contract Price (or any part thereof) under paragraph 5.2 above shall be subject to:
 - a. reduction of any sums in respect of which the Authority exercises its right of recovery under DEFCON 522 (Payment and Recovery of Sums Due), or any narrative clause concerning recovery of sums due;
 - b. all related rights of the Authority under the Contract in relation to the recovery of sums due but unpaid; and
 - c. the Authority receiving notification under both paragraph 5.4 and paragraph 5.5(b) below.
4. In the event that the Contractor obtains from the Authority the consent to assign the right to receive the Contract Price (or any part thereof) under paragraph 5.2 above, the Contractor shall notify the Authority in writing of the assignment and the date upon which the assignment becomes effective.
5. The Contractor shall ensure that the Assignee:
 - a. is made aware of the Authority's continuing rights under paragraphs 5.3(a) and 5.3(b) of this DEFCON 518; and
 - b. notifies the Authority of the Assignee's contact information and bank account details, to which the Authority shall make payment, subject to any reduction made by the Authority in accordance with paragraphs 5.3(a) and 5.3(b) above.
6. The provisions of the Contract, including any clauses concerning payment, shall continue to apply in all other respects after the assignment and shall not be amended without the prior approval of the Authority.

6. Corrupt Gifts and Payments of Commission (DEFCON 520, Ed 10/23)

1. The Contractor shall not do, and warrants that in entering the Contract they have not done any of the following (hereafter referred to as 'prohibited acts'):
 - a. offer, promise or give to any Crown servant any gift or financial or other advantage of any kind as an inducement or reward:

- i. for doing or not doing (or for having done or not having done) any act in relation to the obtaining or execution of this or any other contract with the Crown; or
 - ii. for showing or not showing favour or disfavour to any person in relation to this or any other Contract with the Crown.
- b. enter into this or any other Contract with the Crown in connection with which commission has been paid or has been agreed to be paid by them or on their behalf, or to their knowledge, unless before the Contract is made particulars of any such commission and of the terms and conditions of any such agreement for the payment thereof have been disclosed in writing to the Authority.
- 2. If the Contractor, their employees, agents or any subcontractor (or anyone acting on their behalf or any of their employees) does any of the prohibited acts or commits any offence under the Bribery Act 2010 with or without the knowledge or authority of the Contractor in relation to this Contract or any other contract with the Crown, the Authority shall be entitled:
 - a. to terminate the Contract and recover from the Contractor the amount of any loss resulting from the termination;
 - b. to recover from the Contractor the amount or value of any such gift, consideration or commission; and
 - c. to recover from the Contractor any other loss sustained in consequence of any breach of this Condition, where the Contract has not been terminated.
 - 3. In exercising its rights or remedies under this Condition, the Authority shall:
 - a. act in a reasonable and proportionate manner having regard to such matters as the gravity of, and the identity of the person performing, the prohibited act or committing of any offence under the Bribery Act 2010;
 - b. give all due consideration, where appropriate, to action other than termination of the Contract, including (without being limited to):
 - i. requiring the Contractor to procure the termination of a subcontract where the prohibited act or committing of any offence under the Bribery Act 2010 is that of a subcontractor or anyone acting on their behalf;
 - ii. requiring the Contractor to procure the dismissal of an employee (whether their own or that of a subcontractor or anyone acting on their behalf) where the prohibited act or committing of any offence under the Bribery Act 2010 is that of such employee.
 - 4. Recovery action taken against any person in His Majesty's service shall be without prejudice to any recovery action taken against the Contractor pursuant to this Condition.

7. Payment and Recovery of Sums Due (DEFCON 522, Ed 02/25)

- 1. Payment for Contractor Deliverables will be made by electronic transfer and prior to submitting any claims for payment under paragraph 7.2 the Contractor will be required to register their details (Supplier on-boarding) on the Contracting, Purchasing and Finance (CP&F) electronic procurement tool via the current supported CP&F gateway.

2. Where the Contractor submits an invoice to the Authority in accordance with paragraph 7.1, the Authority will consider and verify that invoice without undue delay.
3. The Authority shall pay the Contractor any sums due to be paid under the invoice before the end of the period of 30 days beginning with the day on which a valid and undisputed invoice is received by the Authority in respect of the sum or, if later, the day on which the payment falls due in accordance with the invoice.
4. Where the Authority fails to comply with paragraph 7.2 and there is an undue delay in considering and verifying the invoice, the invoice shall be regarded as valid and undisputed for the purposes of paragraph 7.3 after a reasonable time has passed.
5. The approval for payment of a valid and undisputed claim for payment by the Authority shall not be construed as acceptance by the Authority of the performance of the Contractor's obligations nor as a waiver of its rights and remedies under this Contract.
6. Without prejudice to any other right or remedy, the Authority reserves the right to set off any amount agreed or determined as owing at any time from the Contractor to the Authority under the Contract against any amount payable by the Authority to the Contractor under the Contract.

8. Waiver (DEFCON 527, Ed 09/97)

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

9. Disclosure of Confidential Information (DEFCON 531, Ed 09/21)

1. Subject to paragraphs 9.4 to 9.9 each Party:
 - a. shall treat in confidence all Confidential Information it receives from the other;
 - b. shall not disclose any of that Confidential Information to any third party without the prior written consent of the other party, which consent shall not unreasonably be withheld, except that the Contractor may disclose Confidential Information in confidence, without prior consent, to such persons and to such extent as may be necessary for the performance of this Contract;
 - c. shall not use any of that Confidential Information otherwise than for the purpose of this Contract; and
 - d. shall not copy any of that Confidential Information except to the extent necessary for the purpose of exercising its rights of use and disclosure under the Contract.
2. The Parties shall take all reasonable precautions necessary to ensure that all Confidential Information disclosed to it under or in connection with this Contract:
 - a. is disclosed to their employees and sub-contractors, only to the extent necessary for the performance of the Contract; and

- b. is treated in confidence by them and not disclosed except with prior written consent or used otherwise than for the purpose of performing work or having work performed for the Authority under the Contract or any sub-contract under it.
 - 3. The Parties shall ensure that their employees are aware of their arrangements for discharging the obligations at paragraphs 9.1 and 9.2 before they receive Confidential Information and take such steps as may be reasonably practical to enforce such arrangements.
 - 4. A Party shall not be in breach of paragraphs 9.1, 9.2, 9.6, 9.7 and 9.8 to the extent that either Party:
 - a. exercises rights of use or disclosure granted otherwise than in consequence of, or under, this Contract;
 - b. has the right to use or disclose the Confidential Information in accordance with other conditions of this Contract; or
 - c. can show:
 - i. that the Confidential Information was or has become published or publicly available for use otherwise than in breach of any provision of the Contract or any other agreement between the Parties;
 - ii. that the Confidential Information was already known to it (without restrictions on disclosure or use) prior to it receiving it under or in connection with the Contract;
 - iii. that the Confidential Information was received without restriction on further disclosure from a third party who lawfully acquired it and who is under no obligation restricting its disclosure; or
 - iv. from its records that the same information was derived independently of that received under or in connection with this Contract;
- provided the relationship to any other Confidential Information is not revealed.
- 5. Neither Party shall be in breach of this paragraph 9 where it can show that any disclosure of Confidential Information was made solely and to the extent necessary to comply with a statutory, judicial or parliamentary obligation. Where such a disclosure is made, the Party making the disclosure shall ensure that the recipient of the Confidential Information is made aware of and asked to respect its confidentiality. Such disclosure shall in no way diminish the obligations of the parties under this paragraph 9.
 - 6. The Authority may disclose the Confidential Information:
 - a. to any Central Government Body for any proper purpose of the Authority or of the relevant Central Government Body, which shall include disclosure to the Cabinet Office and / or HM Treasury for the purpose of ensuring effective cross-Government procurement processes, including value for money and related purposes. Where such a disclosure is made the Authority shall ensure that the recipient is made aware of its confidentiality;
 - b. to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;

- c. subject to paragraph 9.7 below, to the extent that the Authority (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;

and the Contractor or the Authority may disclose the Confidential Information:

- d. subject to paragraph 9.7 below, on a confidential basis to a professional adviser, consultant or other person engaged by any of the entities described in a. above (including any benchmarking organisations) for any purpose relating to or connected with this Contract;
- e. on a confidential basis for the purpose of the exercise of the Authority's rights under the Contract (as applicable);
- f. on a confidential basis to a proposed body in connection with any assignment, novation or disposal of any of the Authority's rights, obligations or liabilities under this Contract (as applicable); or
- g. to each other in connection with the Contract or as otherwise permitted by the Contract,

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

- 7. Where the Authority intends to disclose Confidential Information to a commercial entity which is not a Central Government Body in accordance with paragraphs 9.6(c) or 9.6(d) above, the Authority will provide the Contractor with 3 Business Days' notice in advance of such disclosure. In relation to a disclosure of Confidential Information made under paragraph 9.6(c) above, if reasonably requested by the Contractor within 2 Business Days of such notice being given, where the Authority has not already done so, the Authority will procure from the intended recipient of the Confidential Information an agreement containing confidentiality terms the same as, or substantially similar to, those placed on the Authority under this Contract.
- 8. Before sharing any Confidential Information in accordance with paragraph 9.6 above, the Contractor or the Authority may redact the Confidential Information. Any decision to redact information made by the Authority shall be final.
- 9. The Authority shall not be in breach of this Contract where it can show that any disclosure of Confidential Information is made by the Authority solely and to the extent necessary to comply with the Freedom of Information Act 2000 ("**the Act**") or the Environmental Information Regulations 2004 ("**the Regulations**"). To the extent permitted by the time for compliance under the Act or the Regulations, the Authority shall consult the Contractor where it is considering the disclosure of Confidential Information under the Act or the Regulations and, in any event, shall provide notification to the Contractor of any prior notification it receives from the Authority of any decision to disclose the Confidential Information. The Contractor acknowledges and accepts that its representations on disclosure during consultation may not be determinative and that the decision whether to disclose Confidential Information in order to comply with the Act or the Regulations is a matter in which the Authority shall exercise its own discretion, subject always to the provisions of the

Act or the Regulations. For the avoidance of doubt, nothing in this paragraph 9 shall affect the Contractor's rights at law.

10. Nothing in this paragraph 9 shall affect the Parties' obligations of confidentiality where information is disclosed orally in confidence.

10. Protection of Personal Data ((Where Personal Data is not Being Processed on Behalf of the Authority) (DEFCON 532A, Ed 05/22)

1. In this paragraph 10, the following words and expressions shall have the meanings given to them, except where the context requires a different meaning:
 - a. **"Controller"**, **"Data Subject"**, **"Personal Data"**, **"Personal Data Breach"** and **"Processor"** shall have the same meanings as in Article 4 of the UK GDPR;
 - b. **"Data Protection Legislation"** means all applicable Law in force from time to time in the UK relating to the processing of personal data and privacy, including but not limited to:
 - i. UK GDPR;
 - ii. the Data Protection Act 2018; and
 - iii. the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426) as amended;

each to the extent that it relates to the processing of personal data and privacy,

- c. **"Law"** means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which a party to this Contract is bound to comply;
 - d. **"UK GDPR"** means the General Data Protection Regulation (Regulation (EU) 2016/679) as retained in UK law by the EU (Withdrawal) Act 2018 and the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019.
2. Both Parties acknowledge that there is no processing of Personal Data associated with or intrinsic to the performance of this Contract. The incidental exchange of Personal Data for the purpose of communication to give effect to this Contract or the business relationship is not considered to be processing of Personal Data by either Party on behalf of the other.
3. The Contractor shall notify the Authority promptly if it considers that any of the Authority's instructions obligate the Contractor to take on the role of Processor under the Data Protection Legislation beyond that which is contemplated in paragraph 10.2 and the Parties shall reasonably consider an amendment to the Contract in accordance with paragraph 10.4. The Authority agrees that the Contractor shall not be required to provide legal advice to the Authority and that such notification (or absence of notification) by the Contractor will not be construed as legal advice or representation by the Contractor.
4. Should the Contract be amended to require the Contractor to process Personal Data as a Processor on behalf of the Authority as a result of paragraph 10.3 or otherwise

the Contract will be amended to include DEFCON 532B and DEFFORM 532 (but subject to appropriate amendments) in accordance with the provisions of DEFCON 503. Where the Contract is amended to include processing of Personal Data as a Joint Controller, the Parties agree that they shall amend the Contract to include appropriate contractual clauses, including but not limited to clauses dealing with notification in the event of a Personal Data Breach and requests from Data Subjects for access to their Personal Data.

5. Notwithstanding paragraph 10.2, each Party undertakes to comply with its obligations as Controller under the Data Protection Legislation.

11. Subcontracting and Prompt Payment (DEFCON 534, Ed 02/25)

1. In this DEFCON 534 'Subcontract' means a contract substantially for the purpose of performing (or contributing to the performance of) all or any part of a public contract and 'Subcontractor' shall be interpreted accordingly.
2. Subcontracting any part of the Contract shall not relieve the Contractor of any of their obligations, duties or liabilities under the Contract.
3. Where the Contractor enters into a Subcontract they shall cause a term to be included in the Subcontract:
 - a. providing that the Contractor shall pay the Subcontractor any sums due to be paid under the Contract before the end of the period of 30 days beginning with the day on which an invoice is received by the Contractor in respect of the sum or, if later, the day on which the payment falls due in accordance with the invoice;
 - b. providing that the terms in paragraph 11.3(a) do not apply if the Contractor considers the invoice invalid or disputes the invoice;
 - c. providing that on receiving the invoice from the Subcontractor, the Contractor must notify the Subcontractor without undue delay if they consider the invoice invalid or disputes the invoice; and
 - d. requiring the counterparty to include in any Subcontract which they award, provisions having the same effect as paragraphs 11.3(a) to 11.3(d) of this DEFCON 534.
4. Nothing in this DEFCON prevents the Contractor from agreeing that a sum due under a Subcontract must be paid earlier than would be required under the terms set out in paragraph 11.3(a).

12. Transparency (DEFCON 539, Ed 20/25)

[Microsoft Note: As well as information designed as Sensitive Information in this Utopia Contract, it may be necessary for additional information to be designated as Sensitive information in respect of a particular work package within the relevant Work Order. Microsoft and Customer will also need to discuss and agree the key performance indicators which may be relevant to a particular work package and which will be contained in DEFFORM 539B.]

Definitions

1. For the purpose of this Condition:
 - a. "Covered Procurement" has the same meaning as in section 1 of the Procurement Act 2023;

- b. "Publishable Performance Information" means any of the information in the DEFFORM 539B KPI Data Report as it relates to a Key Performance Indicator where it is expressed as publishable in the table in DEFFORM 539B and which does not constitute Sensitive Information;
- c. "Sensitive Information" means the information listed in the DEFFORM 539A Schedule to the Contract, being information notified by the Contractor to the Authority, which is acknowledged by the Authority as being sensitive, at the point at which the Contract is entered into or amended (as relevant) and remains Sensitive Information at the time of publication, being information which is either:
 - i. exempt from disclosure (in the Authority's sole determination) in accordance with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004 (EIR); or
 - ii. information which has been notified to the Authority by the Contractor under a Covered Procurement as sensitive commercial information and the Authority determines (in its sole discretion) that such information:
 - A. constitutes a trade secret; or
 - B. would be likely to prejudice the commercial interests of the Contractor if it were published or disclosed,
 - C. and there is an overriding public interest in withholding its publication; or
 - D. information which is exempt from disclosure on national security grounds;
- d. "Transparency Information" means the content of the Contract in its entirety, including from time to time agreed changes to the Contract, except for any Sensitive Information.

Transparency Information

- 2. Notwithstanding any other term of the Contract, including DEFCON 531 where applicable, the Contractor agrees that the Authority may publish the Publishable Performance Information and the Transparency Information to the general public.
- 3. The Authority shall publish and maintain an up-to-date version of the Transparency Information and Publishable Performance Information in a format readily accessible and reusable by the general public under an open licence where applicable.
- 4. The Contractor shall assist and co-operate with the Authority as reasonably required to enable the Authority to publish the Transparency Information and Publishable Performance Information, including through compliance with the requirements relating to the preparation of Publishable Performance Information set out in the Annex to this Condition. Where the Authority publishes Transparency Information, it shall redact any Sensitive Information and, where reasonably practicable, consult with the Contractor on the proposed redactions prior to its publication.
- 5. The Authority shall present information in a format that assists the general public in understanding the relevance and completeness of the information being published to ensure the public obtain a fair view on how the Contract is being performed.

Data Protection

6. The parties agree that they will not disclose information in relation to this Contract in contravention of their obligations under data protection legislation. In this clause "data protection legislation" has the same meaning as in the Data Protection Act 2018.
7. Annex A to DEFCON 539 - Publishable Performance Information
 - a. Within three (3) months of the effective date of the Contract, the Contractor shall provide to the Authority for its approval (such approval shall not be unreasonably withheld or delayed) a draft Publishable Performance Information KPI Data Report consistent with the content requirements of DEFFORM 539B.
 - b. If the Authority rejects any draft Publishable Performance Information the Contractor shall submit a revised version of the relevant KPI Data Report for further approval by the Authority with [five (5) business days] of receipt of any notice or rejection, taking account of any recommendations for revision and improvement to the report provided by the Authority. This process shall be repeated until the parties have an agreed version of the Publishable Performance Information.
 - c. The Contractor shall provide an accurate and up-to-date version of the KPI Data Report to the Authority for each quarter at the frequency referred to in the agreed DEFFORM 539B.
 - d. Any dispute in connection with the preparation and/or approval of Publishable Performance Information, other than under paragraph 12.7(b), shall be resolved in accordance with the dispute resolution procedure provided for in the Contract.
 - e. The requirements of this paragraph 12.7 are in addition to any other reporting requirements in the Contract.

13. Conflicts of Interest (DEFCON 540, Ed 05/23)

1. In this Condition, the following words and expressions shall have the meanings set out below:
 - a. "Conflict of Interest" means a conflict between the financial or personal interests of the Contractor or the Contractor's Personnel and the duties owed to the Authority under the Contract;
 - b. "Contractor's Personnel" means all directors, officers, employees, agents, consultants and contractors of the Contractor and/or of any sub- contractor engaged in the performance of the Contractor's obligations under the Contract.
2. The Contractor:
 - a. must promptly notify and provide details to the Authority if an actual, potential or perceived Conflict of Interest arises or it is anticipated may arise in the future; and
 - b. must take steps to ensure that neither the Contractor nor the Contractor's Personnel are placed in the position of an actual, potential or perceived Conflict of Interest.
3. Where the Contractor provides a notification in accordance with paragraph 13.2(a) above the Authority shall inform the Contractor if, in its reasonable opinion, the subject matter of the notification constitutes a Conflict of Interest.

4. In the event of a perceived Conflict of Interest the Contractor shall provide the Authority with such reasonable support and assistance as maybe required in order to enable the Authority to manage the perceived Conflict of Interest.
5. In the event of an actual or potential Conflict of Interest the Contractor shall provide the Authority with a written proposal informing the Authority how they intend to manage the Conflict of Interest. Where:
 - a. the Contractor notifies the Authority of a Conflict of Interest in accordance with paragraph 13.2(a) above the written proposal shall be provided by the Contractor within 15 business days, or such other time as agreed in writing between both parties, of the confirmation being provided by the Authority in accordance with paragraph 13.3; or
 - b. the Authority otherwise becomes aware of an actual or potential Conflict of Interest the written proposal shall be provided by the Contractor within 15 business days, or such other time as agreed in writing between both parties, of the Contractor receiving written notice from the Authority.
6. The Authority will notify the Contractor as to whether it considers the measures proposed by the Contractor in accordance with paragraph 13.5 are sufficient to appropriately manage the Conflict of Interest and whether there are any additional reasonable measures that should be put in place.
7. The Contractor shall put into place all measures reasonably required by the Authority to actively manage any Conflict of Interest as notified by the Authority in writing.
8. Where:
 - a. the Contractor has notified the Authority of a potential or actual Conflict of Interest in accordance with paragraph 13.2(a); or
 - b. the Authority has otherwise become aware of an actual or potential Conflict of Interest and has notified the Contractor in writing,

but, in the reasonable opinion of the Authority there are no sufficient measures available to manage the Conflict of Interest, the Authority may terminate the Contract (in whole or in part) immediately by giving notice in writing to the Contractor. If the Authority exercises its right to terminate in accordance with this paragraph 13.8, the Contractor shall be entitled to be paid an amount equal to any and all charges payable (but as yet unpaid) for Contractor Deliverables delivered up to the date of termination.

9. Any request for payment under paragraph 13.8 must be fully supported by documentary evidence.
10. If the Contractor:
 - a. fails to notify the Authority of an actual or potential Conflict of Interest in accordance with paragraph 13.2(a); or
 - b. fails to put into place those measures reasonably required by the Authority to manage the Conflict of Interest, as notified to the Contractor in accordance with paragraph 13.7,

this shall constitute a material breach of the Contractor's obligations under the Contract and the Authority shall have the right to terminate the Contract (in whole or in part) with immediate effect by giving written notice to the Contractor in accordance with DEFCON 514 (Material Breach) or DEFCON 514A (Failure of Performance under Research and Development Contracts), (whichever is applicable).

14. Child Labour and Employment Law (DEFCON 550, Ed 02/14)

1. In this section, "**Child Labour Legislation**" means those International Labour Law Conventions concerning economic exploitation of children through the performance of work which is likely to be hazardous or to interfere with a child's health or development, including but not limited to slavery, trafficking, debt bondage or forced labour, which are ratified and enacted into domestic law and directly applicable to the Contractor in the jurisdiction(s) in which it performs the the Contract.
2. The Contractor shall comply in all material respects with Child Labour Legislation and applicable employment legislation of those jurisdiction(s) where the Contract is being performed.
3. The Contractor agrees to take reasonable efforts to reflect this paragraph 14 in any Sub-contract that it enters into to satisfy the requirements of the Contract and to require its Sub-contractors to reflect this paragraph 14 in their subcontracts that they enter into to satisfy the requirements of the Sub-Contract.

15. Sub-Contracting with Suppliers on Debarment List (DEFCON 564, Ed 02/25)

1. In this Condition the following words and expressions shall, except where the context otherwise requires, have the following meanings:
 - a. "the Act" means the Procurement Act 2023;
 - b. "Debarment List" means the list of debarred suppliers kept by a Minister of Crown for the purposes of section 62 of the Act;
 - c. "Sub-Contractor" means any Sub-Contractor engaged by the Contractor or by any other Sub-Contractor of the Contractor at any level of sub-contracting to provide any goods, works of services required by the Contractor to provide the whole or any part of the Contractor Deliverables under this Contract and 'Sub-Contract' shall be interpreted accordingly.
2. The Contractor shall not Sub-Contract (shall procure that none of their Sub-Contractors shall Sub-Contract) any part of the Contract to a supplier whose name appears on the Debarment List, without the prior written consent of the Authority. If the Contractor or any of its Sub-Contractors enter into a Sub- Contract with a supplier whose name appears on the Debarment List, without prior approval, this shall constitute a material breach of this Contract.
3. Where the Contractor enters into a Sub-Contract they shall cause a term to be included in such Sub-Contract requiring the counterparty to that Sub-Contract to include in any Sub-Contract which they award, provisions providing for termination of the contract and notification obligations contained within paragraph 15.4, in the event either party to the Sub-Contract is added to the Debarment List.

4. Where a Sub-Contractor is added to the Debarment List, at any level of the supply chain, during the term of this Contract, the Contractor shall notify the Authority within five (5) Business Days of the Sub-Contractor being added, or made aware, and the Authority shall reasonably determine (in its sole discretion) whether it requires the contract with the Sub-Contractor to be terminated.
5. Where the Authority requires a Sub-Contract to be terminated in accordance with paragraph 15.4, the Contractor shall procure that the Sub-Contract is terminated as soon as is reasonably practicable. Such termination shall not relieve the Contractor of the performance of their obligations under this Contract and the Authority shall not be liable for any costs, liabilities, expenses, damages and/or losses arising from, or in connection with, such termination.

16. Issued Property (DEFCON 611, Ed 12/22)

[Microsoft Note: *At the time of entering into this Utopia Contract, Microsoft's expectation is that Issued Property will not be required to deliver the Services. To the extent that a specific work package involves Issued Property, Microsoft will consider this DEFCON 611 and any derogations which may be required for the specific work package once known.]*

General

1. All Issued Property shall remain the property of the Authority. It shall be used in the execution of the Contract and for no other purpose, without the prior approval in writing of the Authority.
2. Neither the Contractor, nor any subcontractor, nor any other person, shall have a lien on Issued Property, for any sum due to the Contractor, subcontractor or other person, and the Contractor shall take all such steps as may be necessary to ensure that the title of the Authority, and the exclusion of any such lien, are brought to the notice of all subcontractors and other persons dealing with any Issued Property.

Receipt

3. Subject to paragraphs 16.4 and 16.7 below, within 14 days of receipt of Issued Property, or such other longer period as may be specified in the Contract, the Contractor shall:
 - a. check the Issued Property to verify that it corresponds with the Issued Property specified in the Contract;
 - b. conduct a reasonable visual inspection; and
 - c. conduct any additional inspection and testing as may be necessary and practicable to check that the Issued Property is not defective or deficient for the purpose for which it has been provided;
 - d. and notify the Authority of any defects, deficiencies or discrepancies discovered.
4. Where Issued Property is packaged it shall not be unpacked earlier than is necessary. The period identified at paragraph 16.3 above shall count from the date on which packages are opened.

5. The Authority shall within a reasonable time after receipt of any notice under paragraph 16.3 of this Condition replace, re-issue or authorise repair of Issued Property agreed to be defective or deficient and, if appropriate, the Authority shall revise the Contract Price, delivery schedule or both. If appropriate, it shall also issue written instructions for the return or disposal of the defective or deficient Issued Property.
6. In the event that the Authority fails to provide, replace, or authorise repair of defective or deficient Issued Property within a reasonable time of receipt of a notice in accordance with paragraph 16.3, fair and reasonable revisions of the Contract Price, delivery schedule or both shall be made as may be appropriate provided that the Contractor has taken all reasonable measures to mitigate the consequences of any such delay.
7. Paragraph 16.3 – 16.6 do not apply in the following circumstances:
 - a. where Issued Property is issued for the purpose of repair, overhaul, conversion or other work to be performed on the Issued Property, inspection of such property shall be as specified in the Contract;
 - b. where the Contractor can show that the Issued Property cannot be fully tested until it has been integrated with other items, inspection of such property shall be as specified in the Contract;
 - c. where Special Jigs and Tools etc. become Issued Property under DEFCON 23.

Custody

8. Subject to paragraph 16.11 below and any limitation or exclusion of liability as may be specified in the Contract, the Contractor shall be responsible for the safe custody and due return of Issued Property, whether or not incorporated into the Articles, and shall be responsible for all loss or damage thereto, until re-delivered in accordance with the Authority's instructions or until the expiry of the period specified in paragraph 16.14.
9. The Contractor shall be responsible for such calibration and maintenance of the Issued Property as is specified in the Contract.
10. If requested, the Authority, within a reasonable time, and where practicable before delivery of the Issued Property, shall notify the Contractor of the value of the Issued Property.
11. The Contractor shall not be liable in respect of:
 - a. defects or deficiencies notified to the Authority in accordance with paragraph 16.3 of this Condition or latent defects which the Contractor can show could not reasonably have been discovered by means of the activities described at paragraph 16.3 of this Condition;
 - b. fair wear and tear in Issued Property resulting from its normal and proper use in the execution of the Contract (except insofar as the deterioration is contributed to by any misuse, lack of care or want of maintenance by the Contractor);
 - c. Issued Property rendered unserviceable as a direct result of ordinary performance of the Contract;

- d. any loss or damage to Issued Property arising from:
 - i. aircraft or other aerial devices or objects dropped from them, including pressure waves caused by aircraft or such devices whether travelling at sonic or supersonic speeds;
 - ii. ionising radiation or contamination by radioactivity from any nuclear fuel or from nuclear waste from the combustion of nuclear fuel;
 - iii. the radioactive, toxic, explosive or other hazardous properties of any nuclear assembly or nuclear component thereof;
 - iv. riot, civil commotion, civil war, rebellion, revolution, insurrection, military or usurped power or acts of the King's enemies.

Accounting and Return of Issued Property

- 12. The Contractor shall:
 - a. open and maintain a Public Store Account (PSA) in accordance with DEF STAN 05-099;
 - b. ensure that all property of the Authority recorded in the PSA, including but not limited to Issued Property, is available for inspection by the Authority at any reasonable time;
 - c. on being given two months' notice or such other period as has been stated in the Contract permit, and co-operate with, the Authority to conduct audits of the property of the Authority recorded in the PSA in a manner to be determined by the Authority; where the Authority has reasonable grounds to believe that the property of the Authority has not been used in accordance with the terms of issue then these audits may be conducted without notice.
- 13. Once title in Special Jigs, Tools etc has passed to the Authority in accordance with Clause 6 of DEFCON 23 the Contractor shall record that equipment in the PSA in accordance with DEF STAN 05-099.
- 14. At Contract completion the Contractor shall forward a list of Issued Property still held to the Authority's Commercial Officer named in the Contract. Return or disposal of such Issued Property will be as specified in the Contract, or as instructed by the Authority at Contract completion. If no disposal instructions are specified in the Contract the Authority shall provide such instructions within two months of the Contractor's written request to do so.

17. Security Measures (DEFCON 659A, Ed 02/24)

Definition

- 1. In this Condition:
 - a. 'Secret Matter' means any matter connected with the Contract, or its performance which is designated by the Authority in the security aspects letter annexed to the Contract or otherwise in writing as "Top Secret" or "Secret", and shall include any information concerning the content of such matter and anything which contains or may reveal that matter;

- b. 'Employee' shall include any person who is an employee or director of the Contractor or who occupies the position of a director of the Contractor, by whatever title given;
- c. 'GovS 007: Security' means the Government Functional Standard GovS 007: Security relating to the government's expectations for protecting:
 - i. the government's people, information and assets;
 - ii. visitors to government property, and third-party suppliers while engaged on government business; and
 - iii. citizen data.

The Official Secrets Act and National Security

- 2. The Contractor shall:
 - a. take all reasonable steps to ensure that all Employees engaged on any work in connection with the Contract have notice that the Official Secrets Act 1989 and National Security Act 2023 apply to them and will continue so to apply after the completion or termination of the Contract; and
 - b. if directed by the Authority, ensure that any Employee shall sign a statement acknowledging that, both during the term of the Contract and after its completion or termination, they are bound by the Official Secrets Act 1989 and National Security Act 2023 (and where applicable any other legislation).

Security Measures

- 3. Unless they have the written authorisation of the Authority to do otherwise, neither the Contractor nor any of their Employees shall, either before or after the completion or termination of the Contract, do or permit to be done anything which they know or ought reasonably to know may result in Secret Matter being disclosed to or acquired by a person in any of the following categories:
 - a. who is not a British citizen;
 - b. who does not hold the appropriate authority for access to the protected matter;
 - c. in respect of whom the Authority has notified the Contractor in writing that the Secret Matter shall not be disclosed to or acquired by that person;
 - d. who is not an Employee of the Contractor;
 - e. who is an Employee of the Contractor and has no need to know the information for the proper performance of the Contract.
- 4. Unless they have the written authorisation of the Authority to do otherwise, the Contractor and their Employees shall, both before and after the completion or termination of the Contract, take all reasonable steps to ensure that:
 - a. no photograph of, or pertaining to, any Secret Matter shall be taken and no copy of or extract from any Secret Matter shall be made except to the extent necessary for the proper performance of the Contract;
 - b. any Secret Matter is at all times strictly safeguarded in accordance with the GovS 007: Security (as amended from time to time) and upon request, is delivered up to the Authority who shall be entitled to retain it.

A decision of the Authority on the question of whether the Contractor has taken or is taking reasonable steps as required by this paragraph, shall be final and conclusive.

5. The Contractor shall:
 - a. provide to the Authority:
 - i. upon request, such records giving particulars of those Employees who have had at any time, access to any Secret Matter that is required to be kept in accordance with paragraph 18.4(b);
 - ii. upon request, such information as the Authority may from time to time require so as to be satisfied that the Contractor and their Employees are complying with their obligations under this Condition, including the measures taken or proposed by the Contractor so as to comply with their obligations and to prevent any breach of them;
 - iii. full particulars of any failure by the Contractor and their Employees to comply with any obligations relating to Secret Matter arising under this Condition immediately upon such failure becoming apparent;
 - b. ensure that, for the purpose of checking the Contractor's compliance with the obligation in paragraph 18.4(b), a representative of the Authority shall be entitled, at any time, to enter and inspect any premises used by the Contractor, which are in any way connected with the Contract, and inspect any document or thing in any such premises which is being used, or made for the purposes of the Contract (save that the Authority will not be permitted to inspect the Contractor's technical infrastructure). Such representative shall be entitled to all such information as it may reasonably require.
6. If at any time either before or after the completion or termination of the Contract, the Contractor or any of their Employees discovers or suspects that an unauthorised person is seeking or has sought to obtain information directly or indirectly concerning any Secret Matter, the Contractor shall forthwith inform the Authority of the matter with full particulars thereof.

Subcontracts

7. If the Contractor proposes to make a sub-contract which will involve the disclosure of Secret Matter to the sub-contractor, the Contractor shall:
 - a. submit for approval of the Authority the name of the proposed subcontractor, a statement of the work to be carried out and any other details known to the Contractor which the Authority shall reasonably require;
 - b. incorporate into the sub-contract the terms of the Appendix to DEFCON 659A and such secrecy and security obligations as the Authority shall direct. In the appendix "Agreement" shall mean the "Sub-Contract", "First Party" shall mean the "Contractor" and "Second Party" shall mean the "Sub- Contractor";
 - c. inform the Authority immediately if they become aware of any breach by the sub-contractor of any secrecy or security obligation and, if requested to do so by the Authority, terminate the sub-contract.

Termination

8. The Authority shall be entitled to terminate the Contract immediately if:
 - a. the Contractor is in breach of any obligation under this Condition; or
 - b. the Contractor is in breach of any secrecy or security obligation imposed by any other contract with the Crown;

where the Authority consider the circumstances of the breach jeopardise the secrecy or security of the Secret Matter and claim such damages as may have been sustained as a result of the Contractor's breach of this Condition.

18. Official-Sensitive Security Requirements (DEFCON 660, Ed 12/15)

1. In this Section "Information" means information recorded in any form disclosed or created in connection with the Contract.
2. The Contractor shall protect all Information relating to the aspects designated OFFICIAL-SENSITIVE as identified in the security aspects letter annexed to this Contract, in accordance with the official security conditions contained in the Contract or annexed to the Security Aspects Letter.
3. The Contractor shall include the requirements and obligations set out in paragraph 19.2 in any sub-contract placed in connection with or for the purposes of the Contract which requires disclosure of OFFICIAL-SENSITIVE Information to the subcontractor or under which any Information relating to aspects designated as OFFICIAL-SENSITIVE is created by the subcontractor. The Contractor shall also include in the sub-contract a requirement for the subcontractor to flow the requirements of this section to its subcontractors and through all levels of the supply chain to the lowest level where any OFFICIAL-SENSITIVE Information is handled.

19. Tax Compliance (DEFCON 670, Ed 02/17)

Definitions

- 19.1 In this Condition, unless the context otherwise requires, the following words and expressions have the following meanings:
- (a) "DOTAS" means the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to:
 - (i) tell HM Revenue & Customs of any specified notifiable arrangements or proposals; and
 - (ii) provide prescribed information on those arrangements or proposals within set time limits as:
 - (A) contained in Part 7 of the Finance Act 2004 and in secondary legislation made under powers contained in Part 7 of the Finance Act 2004; and as
 - (B) extended to National Insurance Contributions by the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012, SI 2012/1868 made under s.132A Social Security Administration Act 1992.

- (b) "General Anti-Abuse Rule" means:
 - (i) the legislation in Part 5 of the Finance Act 2013; and
 - (ii) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions.
- (c) "Halifax Abuse Principle" means the principle explained in the CJEU Case C-255/02 Halifax and others.
- (d) "Relevant Tax Authority" means HM Revenue & Customs, or, if applicable, a tax authority in the jurisdiction in which the Contractor is established.
- (e) "Occasion Of Tax Non-Compliance (OOTNC)" means:
 - (i) any tax return of the Contractor submitted to a Relevant Tax Authority on or after 1 October 2012 is found on or after 1 April 2013 to be incorrect as a result of:
 - (A) a Relevant Tax Authority successfully challenging the Contractor under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;
 - (B) the failure of an avoidance scheme which the Contractor was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime; or
 - (ii) any tax return of the Contractor submitted to a Relevant Tax Authority on or after 1 October 2012 gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent at the date this Contract came into effect or to a civil penalty for fraud or evasion.

Warranty

- 19.2 The Contractor represents and warrants that at the date this Contract came into effect, it has notified the Authority in writing of any OOTNC or any litigation that it is involved in that is in connection with any OOTNC.

Duty of the Contractor to notify OOTNC

- 19.3 If, at any point during the performance of this Contract, an OOTNC occurs, the Contractor shall:
- (a) notify the Authority in writing of such fact within 20 Working Days of its occurrence; and
 - (b) promptly provide to the Authority:
 - (i) details of the steps which the Contractor is taking to address the OOTNC and to prevent the same from recurring, together with any mitigating factors that it considers relevant; and

- (ii) such other information in relation to the OOTNC as the Authority may reasonably require.

- 19.4 For the avoidance of doubt, the obligation at paragraph 20.3 also applies to OOTNC in non-UK jurisdictions. If the OOTNC occurred in non-UK jurisdictions, the notification must be accompanied by a full explanation of the OOTNC and any relevant tax laws and administrative provisions so the Authority can understand the nature and seriousness of the OOTNC.
- 19.5 The duty to notify does not substitute the Contractor's obligations under DEFCON 605 (Financial Reports) when used.

Default

- 19.6 The Authority shall be entitled to terminate the Contract in the event that:
- (a) the warranty given by the Contractor pursuant to paragraph 20.2 is materially untrue; or
 - (b) the Contractor commits a material breach of its obligation to notify the Authority of any OOTNC as required by paragraph 20.3; or
 - (c) the Contractor fails to provide details of proposed mitigating factors which in the reasonable opinion of the Authority, are acceptable.
- 19.7 In the event that the Authority terminates the Contract under paragraph 20.6, the Authority shall be entitled to recover from the Contractor:
- (a) the amount of any loss resulting from the termination; and
 - (b) any other loss sustained in consequence of any breach of this Condition, where the Contract has not been terminated.

Duties of the Authority

- 19.8 In exercising its rights or remedies under this Condition, the Authority shall:
- (a) act in a reasonable and proportionate manner taking into account, among other things:
 - (i) the gravity and duration of the OOTNC and any sanctions imposed by a court or tribunal; and
 - (ii) any remedial action taken by the Contractor to prevent reoccurrence of the OOTNC.
 - (b) Without prejudice to paragraph 20.7, seriously consider, where appropriate, action other than termination of the Contract to deal with the failure by the Contractor to comply with this Condition.

20. Accounting for Property of the Authority (DEFCON 694, Ed 07/21)

[Microsoft Note: *At the time of entering into this Utopia Contract, Microsoft's expectation is that GFA will not be required to deliver the Services. To the extent that a specific work package requires GFA, Microsoft will consider this DEFCON and any derogations which may be required for the specific work package once details are known.*]

1. The Contractor shall:
 - a. maintain a Public Store Account (PSA), as defined in DEFSTAN 05-099, which shall include a complete list of all property of the Authority, as defined in paragraph 21.2, and record for that property all transactions or other accounting information specified at 21.8 to this Condition;
 - b. supply to the Authority quarterly reports on the current PSA holdings. At least one report in any twelve-month accounting period or part thereof shall be a reconciled report. This shall be submitted with the Annual Certificate Form AAC 32 as required in DEFSTAN 05-099. The other three reports submitted in the period may be un-reconciled advisory reports. The submission by the Contractor and receipt by the Authority of these reports shall not prejudice any rights or obligations of the Authority or the Contractor under the Contract;
 - c. ensure that the PSA is available for inspection by the Authority at any reasonable time;
 - d. on being given two months' notice or any other period as has been stated in the Contract permit, and co-operate with, the Authority to conduct audits of the PSA in a manner to be determined by the Authority; where the Authority has reasonable grounds to doubt the integrity of the PSA to the extent that the Authority is not satisfied of the proper use of property of the Authority, an audit may be conducted without notice;
 - e. retain the PSA for a period of three years after disposal of the last item of the property of the Authority, or for any other period as may be specified in the Contract;
 - f. if the Authority agrees that a subcontractor at whatever level of subcontracting shall have responsibility in the subcontractor's PSA for property of the Authority issued in aid of the Contract, the Contractor shall include in any subcontract with those subcontractors only the provisions corresponding to those set out in this Condition that apply to property of the Authority issued in aid of the subcontract, in particular paragraphs 21.1, 21.2, 21.4 and 21.7; and
 - g. manage the Government Furnished Assets (GFA) component of the PSA in accordance with the provisions of DEFSTAN 05-099; and implement any new edition of or amendment to DEFSTAN 05-099 subject to DEFCON 503 within three months of the publication date of the new edition. These amendments shall not have retrospective effect.
2. For the purposes of this Condition 'property of the Authority' means GFA and fixed assets, including property issued under DEFCON 611 and property of the Authority issued to the Contractor under any other authorising document except for property vested in the Authority under clause 1 of DEFCON 649.
3. For the avoidance of doubt, it is a condition of this Contract that this Condition shall apply to all property issued to the Contractor from the date of this Contract, whether in aid of the Contract, any other contract or other agreement with the Authority. Property of the Authority issued prior to the date of this Contract may be subject to separate contractual arrangements.

4. The obligations of the Contractor arising under this Condition in respect of property of the Authority issued in aid of the Contract shall survive completion of the Contract and shall not be completed until all such obligations are fulfilled including the provisions of paragraph 21.1(e).
5. The obligations of the Contractor arising, under this Condition, in respect of property of the Authority unconnected with the Contract, shall survive completion of the Contract and shall not be completed until all those obligations are fulfilled. Including the provisions of sub-Clause 1.e unless and until a subsequent contract containing DEFCON 694 is placed with the Contractor, at which time obligations, in respect of any remaining property of the Authority, unconnected with the Contract, shall be subsumed in the subsequent contract.
6. If, after completion of the Contract, no subsequent contract is placed containing DEFCON 694 within the period detailed at paragraph 21.1(e) then the obligations of the Contractor arising under this Condition in respect of property of the Authority unconnected with the Contract shall cease on expiry of the period detailed at paragraph 21.1(e).
7. The Authority reserves the right to amend Annex A without further consultation where the amendments arise from the Authority's proper and reasonable accounting requirements. For the purposes of this Clause, Annex A shall be regarded as a Specification and subject to the terms of DEFCON 503. If the Authority exercises this right:
 - a. the Contractor shall implement the amendment to Annex A at the commencement of the Authority's next accounting year provided that a notice of six months or such other period as may expressly be agreed between the Authority and Contractor is given to the Contractor. These amendments shall not have retrospective effect; and
 - b. the Contractor shall inform the Authority as soon as practicable, but in any event within three months of notice having been given, if the Contractor cannot comply with the amendment to Annex A.
8. Annex A to DEFCON 694 -

Accounting for Property of the Authority – Data & Format Requirements for PSA Records

Format

The Contractor is not obliged to maintain and report on their PSA records in a format that is different from their original records. The Contractor shall use electronic format for reporting under paragraph 21.1(b). of this Condition using an unformatted MS Excel Spreadsheet.

A downloadable template is available from the Government Furnished Equipment Industry Portal - see Box 8 of DEFFORM 111.

The Contractor shall submit reports required under paragraph 21.1(b). of this Condition directly to the Government Furnished Equipment Industry Portal.

Item Record Information

A record is required for each item of GFA held by the Contractor from information available to the Contractor provided by the Authority and from the Contractor's own inventory management systems.

REDACTED TEXT under FOIA Section 41

Transactional Information

Transactional information enables Resource Accounting and Budgeting compliant accounting and informs decisions on future requirements and any assessment for disposal, either to scrap or return to a MOD Depot or Unit. A transactional information record is required for each item held by the Contractor, comprising Serial Nos 1, 2, 3, 4 and 6 identified as the **Key Data Fields**, which will form the unique record identifier that will be used by the Assets in Industry Data Centre and are mandatory. No aggregation of individual line entries is required to be undertaken by the Contractor for transactional returns.

REDACTED TEXT under FOIA Section 41

21. Intellectual Property Rights DEFCON 705 (Edn 06/21)

The terms of "Intellectual Property Rights – Research And Technology DEFCON 705 Edition 06/21" are incorporated by reference herein for this engagement only, subject to clauses 5.5.1 and 5.5.2 below. For the purposes of this this Work Order clause 1(j) of DEFCON 705 (Edn 06/21) shall be amended accordingly: j) 'UK National Defence Agreement' means any invitation to tender, agreement, or contract, issued or entered into by or on behalf of the Authority or any other UK Government Department in any territory pursuant to its own defence, civil defence, or security or intelligence purposes and which may provide, without limitation, for information awareness or assessment, or research, or design development, integration, manufacture, provision or support of any equipment materials tools or services

5.5.1. "Azure Platform" means: a) the cloud computing platform service operated for customers globally by [Microsoft], which provides cloud computing services (including software as a service, platform as a service and infrastructure as a service) for purposes including (i) building, testing, deploying, using, hosting and managing applications; and (ii) storing, managing and processing data, and all products and services made available to [Microsoft's] customers thereon; b) the supporting infrastructure or software or processes by and through which [Microsoft] provides Azure cloud computing services; c) improvements to or developments of the platform itself other than those which are delivered with express written agreement that they will only ever be for the sole benefit of the Authority; and d) any successor or similar platform which Microsoft may develop.

5.5.2. Technical Deliverables under DEFCON 705 (Edn 06/21)

In relation to Technical Information as defined in DEFCON 705 (Edn 06/21):

a) [Microsoft] confirms that technical information which is in, and which will continue to be in, the public domain:

- i) Describes the functions and roles that are performed by [Microsoft's] Azure Platform, which [Microsoft] will be using for this engagement.
- ii) Details the input and output interfaces for [Microsoft's] Azure Platform. This publicly available technical information details how software, such as that which may be written for this engagement, can connect to and utilise the Azure Platform functionality.
- iii) For the avoidance of doubt, [Microsoft] confirms that, by virtue of the information being in the public domain, the Authority's rights in relation to the technical information of the type set out in [i and ii] above will be no less than the rights which it has in respect of Full Rights Information under DEFCON 705 (Edn 06/21).

b) The Parties agree that technical information regarding how [Microsoft's] Azure Platform functions is excluded from the meaning of Limited Rights Information (and, for the avoidance of doubt, from the meaning of Full Rights Information) within DEFCON 705 (Edn 06/21) and shall not be provided. This information is distinct from the Azure Platform function, role, input, output and interface information (referred to in clause 5.5.1 above), which will be available solely as Full Rights Version deliverables both to the Authority and to third parties which the Authority may involve at a later point in time regarding use and further development of this engagement. No Limited Rights Version deliverables shall be provided.

Appendix A

As of the Support Commencement Date, below is a list of your declared licensing enrollments and agreements for which Microsoft will provide support services as defined within this Work Order.

REDACTED TEXT under FOIA Section 43, Commercial Information