



**Strategic Command**  
**Defence Digital**

# **SATCOM Private Sector Support (SPSS) Contract**

**Contract No: 706401454**



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## **SCHEDULES**

Schedule 1 – STATEMENT OF REQUIREMENTS  
Schedule 2 – DEFINITIONS AND INTERPRETATION  
Schedule 3 – COMMERCIAL SENSITIVE INFORMATION  
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**GENERAL CONDITIONS OF CONTRACT****1. DEFENCE CONDITIONS (DEFCONS)**

The Defence Conditions (DEFCONS) listed hereunder shall apply to the Contract:

<b>DEFCON</b>	<b>EDN</b>	<b>TITLE</b>
5J	18/11/16	Unique Identifiers
76	11/22	Contractor's Personnel at Government Establishments
129J	18/11/16	The Use of Electronic Business Delivery Form.
501	10/21	Definitions and Interpretations. In addition to the definitions within this DEFCON and other DEFCONS called up in the Contract, the definitions at Schedule 2 apply. In addition to the order of precedence at paragraph 1e of this DEFCON, the further order of precedence is at condition 5 of the Contract.
503	12/1406/22	Formal Amendments to Contract
507	07/21	Delivery
513	11/1604/22	Value Added Tax (VAT)
514	08/15	Material Breach
515	06/21	Bankruptcy and Insolvency
516	04/12	Equality
518	02/17	Transfer
520	08/21	Corrupt Gifts and Payments of Commission
522	11/21	Payment and Recovery of Sums Due
525	10/98	Acceptance
526	08/02	Notices
527	09/97	Waiver
529	09/97	Law (English)
530	12/14	Dispute Resolution (English Law)
531	11/14	Disclosure of Information
532A	05/22	Protection of Personal Data (Where Personal Data is not being processed on behalf of the Authority)
534	06/21	Subcontracting and Prompt Payment
537	12/21	Rights of Third Parties
538	06/02	Severability
539	01/22	Transparency. The DEFFORM 539A mentioned in paragraph 1b of this DEFCON is at Schedule 3.
540	05/23	Conflicts of Interest
550	02/14	Child Labour and Employment Law
566	10/20	Change of Control of Contractor
604	06/14	Progress Reports (see Paragraph 13 for more detail)
605	06/14	Financial Reports
606	07/21	Change and Configuration Control Procedure
609	07/21	Contractor's Records
611	12/22	Issued Property
620	06/20	Contract Change Control Procedure. Applicable to contract changes that are not the subject of the Tasking Procedure under Condition 17 of the Contract.
625	06/21	Co-operation on expiry of Contract (see also Condition 22 and 23 of the Contract)
632	11/21	Third Party Intellectual Property Rights – Rights and Restrictions

643	12/21	Price Fixing (non-qualifying contracts). For the purpose of valued amendments and pricing of Contracted Taskings under condition 17 of the Contract.
647	05/21	Financial Management Information
649	12/21	Vesting.
656B	08/16	Termination for Convenience – Over £5M
658	10/22	Cyber. The Cyber Risk Level for this Contract is considered <b>Low</b> as defined in Def-Stan 05-138
659A	09/21	Security Measures
660	12/15	Official-Sensitive Security Requirements. The Security Aspects Letter (SAL) and Security conditions referred in paragraph 2 of this DEFCON are at Schedules 4 and 5 respectively.
670	02/17	Tax Compliance
671	10/22	Plastic Packaging Tax
694	07/21	Accounting for Property of the Authority
703	06/21	Intellectual Property Rights – Vesting in the Authority.

**SPECIAL CONDITIONS OF CONTRACT****2. ENTIRE AGREEMENT**

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

**3. CONTRACTOR'S WARRANTIES**

a. The Contractor warrants and represents that:

- (1) It has the full capacity and authority to enter into, and to exercise its rights and perform its obligations under the Contract.
- (2) From the Effective Date of Contract and for so long as the Contract remains in force it shall give the Authority notice of any litigation, arbitration (unless expressly prohibited from doing so in accordance with the terms of the arbitration), administrative or adjudication or mediation proceedings before any court, tribunal, arbitrator, administrator or adjudicator or mediator or relevant authority against itself or a Subcontractor which would adversely affect the Contractor's ability to perform its obligations under the Contract.
- (3) At the Effective Date of Contract, no proceedings or other steps have been taken and not discharged (nor, to the best of the knowledge of the Contractor, threatened) for its winding-up or dissolution or for the appointment of a receiver, administrative receiver, administrator, liquidator, trustee or similar officer in relation to any of its assets or revenues.
- (4) For so long as the Contract remains in force it shall give the Authority notice of any proceedings or other steps that have been taken but not discharged (nor to the best of the knowledge of the Contractor, threatened) for its winding-up or dissolution or for the appointment of a receiver, administrator, liquidator, trustee, or similar officer in relation to any of its assets or revenues.

**4. PUBLICITY AND COMMUNICATIONS WITH THE MEDIA**

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

**5. ORDER OF PRECEDENCE**

a. The different provisions of the Contract are prioritised in the following descending order of precedence:

- (1) Conditions 2 to 26;
- (2) The DEFCONs listed within Condition 1
- (3) Para 1e of DEFCON 501
- (4) Section 1 of Schedule 1 (Statement of Requirements)
- (5) Section 2 of Schedule 1 (Statement of Requirements) and the remaining Schedules to the Contract
- (6) The Contract Strategies
- (7) The remainder of the Contractor's proposal reference SATCOM PRIVATE SECTOR SUPPORT - P061542 dated 15 September 2023
- (8) Any other documents expressly referred to in the Contract

b. If either Party becomes aware of any inconsistency within or between the documents referred to in Condition 5a such Party shall notify the other Party forthwith and the Parties will seek to resolve that inconsistency based on the order of precedence set out in Condition 5a. Where the Parties fail to reach agreement, and if either Party considers the inconsistency to be material to its

rights and obligations under the Contract, then the matter will be referred to the dispute resolution procedure in accordance with DEFCON 530.

## 6. LIMITATIONS ON LIABILITY

### Unlimited liabilities

a. Neither Party limits its liability for:

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

b. The financial caps on liability set out in Conditions 6c and 6d below shall not apply to the following:

- (1) for any indemnity given by the Contractor to the Authority under this Contract, including but not limited to:
  - i. the Contractor's indemnity in relation to DEFCON 91 (Intellectual Property in Software) and DEFCON 632 (Third Party IP - Rights and Restrictions);
  - ii. the Contractor's indemnity in relation to TUPE in Schedule 8;
- (2) for any indemnity given by the Authority to the Contractor under this Contract, including but not limited to:
  - i. the Authority's indemnity in relation to TUPE under Schedule 8;
- (3) breach by the Contractor of DEFCON 532A/532B and Data Protection Legislation; and
- (4) to the extent it arises as a result of a Default by either Party, any fine or penalty incurred by the other Party pursuant to Law and any costs incurred by such other Party in defending any proceedings which result in such fine or penalty.

### Financial limits

c. Subject to Conditions 6a and 6b and to the maximum extent permitted by Law:

- (1) Throughout the Contract Period, the Contractor's total liability in respect of losses that are caused by Defaults of the Contractor shall in no event exceed:
  - i. in respect of DEFCON 76: [REDACTED] in aggregate;
  - ii. in respect of DEFCON 514: [REDACTED] in aggregate;
  - iii. in respect of DEFCON 611 [REDACTED] in aggregate; and
- (2) without limiting Condition 6c(1) and subject always to Conditions 6a, 6b and 6c(3), the Contractor's total liability throughout the Contract Period in respect of all other liabilities whether in contract, in tort (including negligence), arising under warranty, under statute or otherwise under or in connection with this Contract shall be [REDACTED] in aggregate;
- (3) on the exercise of any and, where more than one, each option period or agreed extension to the Contract Period, the limitation of the Contractor's total liability (in aggregate) set out in Conditions 6c(1) and (2) above shall be fully replenished such that on and from each such exercise or extension of the Term, the Authority shall be able to claim up to the full value of the limitation set out in Conditions 6c(1) and (2) .

d. Subject to Conditions 6a, 6b and 6e, and to the maximum extent permitted by Law the Authority's total liability (in aggregate) whether in contract, in tort (including negligence), under warranty, under statute or otherwise under or in connection with this Contract shall in respect of all liabilities (taken together) be limited to the Charges paid by the Authority in the relevant Contract Year in respect of any and all claims in that Contract Year.

e. Condition 6d shall not exclude or limit the Contractor's right under this Contract to claim for the Charges.

**Consequential loss**

f. Subject to Conditions 6a, 6b and 6g, neither Party shall be liable to the other Party or to any third party, whether in contract (including under any warranty), in tort (including negligence), under statute or otherwise for or in respect of:

- (1) indirect loss or damage;
- (2) special loss or damage;
- (3) consequential loss or damage;
- (4) loss of profits (whether direct or indirect);
- (5) loss of turnover (whether direct or indirect);
- (6) loss of business opportunities (whether direct or indirect); or (7) damage to goodwill (whether direct or indirect), even if that Party was aware of the possibility of such loss or damage to the other Party.

g. The provisions of Condition 6f shall not restrict the Authority's ability to recover any of the following losses incurred by the Authority to the extent that they arise as a result of a Default by the Contractor:

- (1) any additional operational and administrative costs and expenses arising from the Contractor's Default, including any costs paid or payable by the Authority:
  - i. to any third party;
  - ii. for putting in place workarounds for the Contractor Deliverables and other deliverables that are reliant on the Contractor Deliverables; and
  - iii. relating to time spent by or on behalf of the Authority in dealing with the consequences of the Default
- (2) any or all wasted expenditure and losses incurred by the Authority arising from the Contractor's Default, including wasted management time;
- (3) the additional cost of procuring and maintaining in place transitional assistance and replacement deliverables for the remainder of the Contract Period and any option period or agreed extension to the Contract Period (including legal and other consultants' fees, repurchase project costs, other expenses associated with such exercise and any increase in the fees for the replacement services over and above the Contract Price that would have been payable for the relevant Contractor Deliverables);
- (4) any losses arising in connection with the loss, destruction, corruption, inaccuracy or degradation of Authority data, or other data or software, including, to the extent the Authority data, other data or software can be recovered or reconstituted, the fees, costs and expenses of reconstituting such Authority data, data or software;
- (5) damage to the Authority's physical property and tangible assets, including damage under DEFCON 76 and 611;
- (6) costs, expenses and charges arising from, or any damages, account of profits or other award made for, infringement of any third-party Intellectual Property Rights or breach of any obligations of confidence;
- (7) any additional costs incurred by the Authority in relation to the Authority's contracts with a third party (including any compensation or interest paid to a third party by the Authority) as a result of the Default (including the extension or replacement of such contracts);
- (8) any fine or penalty incurred by the Authority pursuant to Law and any costs incurred by the Authority in defending any proceedings which result in such fine or penalty; or
- (9) any savings, discounts or price reductions during the Contract Period and any option period or agreed extension to the Contract Period committed to by the Contractor pursuant to this Contract.

**Invalidity**

g. If any limitation or provision contained or expressly referred to in this Condition 6 is held to be invalid under any Law, it will be deemed to be omitted to that extent, and if any Party becomes liable for loss or damage to which that limitation or provision applied, that liability will be subject to the remaining limitations and provisions set out in this Condition 6.



**Third party claims or losses**

h. Without prejudice to any other rights or remedies the Authority may have under this Contract (including but not limited to any indemnity claim under DEFCONs 91 and 632 or at Law), the Authority shall be entitled to make a claim under this Contract against the Contractor in respect of any losses incurred by the Authority which arise out of a claim made against the Authority by a third party under any contract with that third party provided that such third party claim:

- (1) arises naturally and ordinarily as a result of the Contractor's failure to provide the Contractor Deliverables or failure to perform any of its obligations under this Contract; and
- (2) is a type of claim or loss that would have been recoverable under this Contract if the third party were a party to this Contract (whether as the Authority or the Contractor), such claim to be construed as direct losses for the purpose of this Contract.

**No double recovery**

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

**7. PERFORMANCE OF WORK UNDER THE CONTRACT**

- a. All work under the Contract shall meet the provisions of the Contract.
- b. The Contractor shall:
  - (1) comply with all relevant Legislation; and
  - (2) discharge its obligations under the Contract with all due skill, care, diligence and operating practice by appropriately experienced, qualified and trained personnel.
- c. This Condition 7 shall survive any performance, acceptance or payment pursuant to the Contract and shall extend to any remedial services provided by the Contractor.
- d. The Contractor shall:
  - (1) observe, and ensure that the Contractor's team observe, all health and safety rules and regulations and any other security requirements that apply at any of the Authority's premises;
  - (2) notify the Authority in writing as soon as it becomes aware of any health and safety hazards or issues which arise in relation to the Services; and
  - (3) obtain, and at all times maintain, all necessary licences and consents.
- e. The Contractor's performance under the Contract will be monitored by the Authority's Project Manager in accordance with Condition 8 and Schedule 6 (Performance Measurement).

**8. PERFORMANCE MEASUREMENT (KPIs)**

- a. The Contractor's performance under each Contracted Tasking and its overall performance under this Contract shall be measured by the Authority against the Key Performance Indicators (KPIs) detailed in Schedule 6 (Performance Measurement).
- b. Nothing in this Condition 8 shall affect the Authority's rights or remedies as expressly set out in the Contract or other rights in law.

**9. CONTRACT PERIOD**

This Contract comes into effect on the Effective Date and will expire automatically at 2359 hours on the day immediately preceding the fifth anniversary of the Effective Date unless otherwise extended by agreement of the Parties or terminated in accordance with the provisions of this Contract, or otherwise lawfully terminated.

## 10. RECORDS

- a. The Contractor shall maintain relevant records of all Contracted Taskings and/or change requests from the Effective Date until two years after the expiry or termination of this Contract.
- b. The Authority, or its representatives, may examine relevant records maintained by the Contractor where reasonably required for one or more of the following purposes:
  - (1) auditing;
  - (2) verifying whether a cost of the Contractor is an appropriate, attributable and reasonable cost;
  - (3) verifying the reason for any difference between an estimated and actual cost;
  - (4) verifying any other matter relating to the price payable under the Contract; and
  - (5) monitoring the Contractor's performance of its obligations under the Contract.

## 11. PERSONNEL

- a. Throughout the Contract Period, the Contractor shall provide an adequate number of suitably qualified, skilled and experienced personnel to deliver the Contracted Taskings. In particular, all personnel shall be fluent in English. In addition, the Contractor shall ensure that any dealings with the Authority, other contractors to the Authority, their personnel or members of the public which occur in the course of delivering the Contracted Taskings are conducted in a professional, courteous and competent manner.
- b. The Contractor shall ensure that the personnel are suitably vetted to meet the security requirements of the Contract. The Contractor shall ensure that all personnel comply with any security checks or other clearances required by the Authority and sign any confidentiality or security documents presented by the Authority (including agreements in respect of the Official Secrets Act 1989), in each case from time to time.
- c. The Contractor acknowledges that its personnel shall not become employees of the Authority and any instruction issued by the Authority is issued to the Contractor and not directly to such personnel.
- d. The Contractor shall use its best endeavours to keep the turnover rate of personnel to a minimum to ensure there is no disruption to the Contracted Taskings.
- e. The Contractor shall not remove any personnel from the Services or significantly reduce their time spent in the performance of the Services without the Authority's prior written consent, except where such removal or reduction is reasonably necessitated by termination of employment, illness, maternity leave, death, bereavement or retirement. The Contractor shall notify the Authority's Commercial Officer in writing of any proposed removal of personnel at least one (1) month in advance of the date of proposed removal, or in any event, shall notify the Authority's Commercial Officer of such proposed removal as soon as reasonably possible.
- f. If any of the personnel ceases to be involved in the provision of the Services under the Contract (or the Contractor becomes aware that any personnel will cease to be so involved), then the Contractor shall promptly nominate another employee of the Contractor to replace that person and shall ensure that such replacement does not result in disruption to the Services. Prior to doing so, the Contractor shall:
  - (1) ensure that the individual has the appropriate ability, security clearance and qualifications
  - (2) notify the Authority's Commercial Officer of its intention to appoint that individual
  - (3) introduce the individual to appropriate representatives of the Authority's team, and provide the Authority's Commercial Officer with such information about the individual as is reasonably requested.

- g. If the Authority's Commercial Officer reasonably and promptly (within 5 business days of the notification) objects in writing to the individual proposed under Condition 11f, the Contractor shall not assign that individual to the position and shall propose to the Authority's Commercial Officer another individual of suitable ability and qualifications. If the Authority's Commercial Officer does not object to that individual promptly in writing, then they shall become personnel for the purposes of the Contract.
- h. All costs of training any replacement personnel under the Contract, or other handover costs, shall be borne by the Contractor.
- i. The Authority may require the Contractor to remove any personnel from the Contract where it can demonstrate reasonable grounds for that personnel's unsuitability. If any personnel are removed under these circumstances, the Contractor shall promptly replace them with suitable alternatives and the provisions of Conditions 11f, 11g and 11h shall apply.
- j. The Contractor shall not, and shall ensure that its Group Companies and its Subcontractors shall not, at any time during the Contract Period or for twelve (12) months after termination of the Contract, solicit or endeavour to entice away from, or discourage from being employed or hired by the Authority, any person who is an employee of the Authority and who, to the Contractor's, Group Companies' and Subcontractors' knowledge, is or was engaged in the Services delivered under the Contract, in the previous twelve (12) months whether or not such person would thereby commit a breach of their contract of service and save that this restriction shall not apply to any person who has received a notice of redundancy or dismissal. The restrictions in this Condition 11j shall not apply if a person who is or was an employee of the Authority is employed as a result of a response by that person to a public advertisement.

## **12. MEETINGS**

- a. The Contractor shall attend a Monthly Performance Review, an Annual Performance Review and any ad hoc meetings reasonably requested by the Authority.
- b. The meetings will be held at the MOD establishment in Corsham, Wiltshire, or at any other appropriate location agreed between the Parties.
- c. The Contractor shall attend each meeting supported by personnel suitably qualified to respond to the areas of expertise notified by the Authority's Project Manager.
- d. The Authority's Project Manager or a nominated deputy, will chair all meetings.
- e. The Authority shall provide the secretariat for the meetings to take the minutes and record actions. The Authority shall issue a calling notice and provide an agenda five (5) business days before each meeting to all attendees of the meeting. A copy of the draft minutes shall be distributed by the Authority to all attendees no later than five (5) business days after each meeting.
- f. The Contractor will produce a Monthly Progress Report as per condition 13a to support the Monthly Performance Review.
- g. The Contractor will produce an Annual Progress Report as per condition 13c to support the Annual Contract Review.

## **13. REPORTING**

- a. The Contractor shall provide a Monthly Progress Report to the Authority's Project Manager which will provide a position against any Contracted Tasking in accordance with DEFCON 604,

Condition 17 and the KPIs. Further to DEFCON 604, the reports shall detail the service delivery performance, and shall as a minimum include:

- (1) an overall executive summary on the month covering, successes, opportunities (including those opportunities to save on costs and time but without detrimental impact on performance), failings, threats, escalation and communication (SOFTEC);
  - (2) any deviations from the agreed Project Strategies;
  - (3) commercial position/updates/issues including, but not limited to Tasks raised, completed, pending, amendments to Contract raised, agreed, pending; and
  - (4) financial position, including but not limited to payments due, invoices raised, outstanding invoices/payments.
- b. The Monthly Progress Report shall be delivered to the Authority's Project Manager five (5) business days before the Monthly Performance Review.
- c. The Annual Progress Report shall be used as the basis of the discussions at the Annual Performance Review meetings. The report shall as a minimum include:
- (1) an overall executive summary of the year's successes, opportunities (including those opportunities to save on costs and time but without detrimental impact on performance), failings, threats, escalation and communication (SOFTEC);
  - (2) summary report on the year's Contracted Taskings in accordance with Condition 17;
  - (3) forward view of anticipated tasking requirements in the upcoming year;
  - (4) proposed changes to Contract Strategies if agreed;
  - (5) summary of the annual financial position, including but not limited to payments due, invoices raised, outstanding invoices/payments; and
  - (6) agreement of the following year's indexed Day Rates.
- d. The Annual Progress Report shall be delivered to the Authority's Project Manager (10) business days before the Annual Performance Review
- e. The provision of the reports by the Contractor and receipt by the Authority shall be in accordance with DEFCON 604. The reports shall not prejudice any rights or obligations of the Authority or the Contractor under the Contract.

#### **14. CONTRACT STRATEGIES**

- a. The Contractor shall provide the Contract Strategies in draft format (updated to reflect those changes identified during the Contractor procurement process) within two (2) weeks from the Effective Date to the Authority's Project Manager for review. The Authority's Project Manager shall provide feedback within two (2) weeks from receipt of the drafts from the Contractor and the Contractor shall provide the formal strategies within two (2) weeks from receipt of the feedback from the Authority's Project Manager.
- b. Contract Strategies will not be constrained to page limits.
- c. The Contract Strategies shall include the provision for review and update at monthly intervals throughout the Contract Period, which updates shall be subject to the formal agreement of the Authority's Project Manager. The Contract Strategies shall become contractually binding once endorsed by the Authority's Project Manager. This endorsement shall not signify acceptance of liability for accuracy, suitability or applicability and only signifies acknowledgement of the Contractor's contractual intention to implement their provisions and that they will only be changed by mutual agreement between the Parties.
- d. The Contract Strategies shall be implemented and maintained by the Contractor throughout the Contract Period.

- e. Acceptance of the Contract Strategies shall be following the Project Manager's approval. The provision of the Contract Strategies by the Contractor and receipt by the Authority shall be in accordance with DEFCON 525.

## **15. ACCEPTANCE**

- a. Acceptance of work called for under a Tasking Form shall be in accordance with the acceptance criteria set out in the Tasking Form for the task in question.
- b. The Authority's Project Manager may reject, in whole or in part, any Contractor Deliverable within the Contracted Tasking which does not conform to the acceptance criteria.
- c. Rejection of a Contractor Deliverable by the Authority's Project Manager will be in writing and will be accompanied by the rationale behind the rejection. Within such period as agreed between the Parties, and at no additional cost to the Authority, the Contractor shall complete delivery of the rectified Contractor Deliverable.
- d. If the Contractor objects to the rejection, he shall give the Authority's Project Manager written notice of the objection within five (5) business days from receipt of the Notice of rejection from the Authority's Project Manager. The objection shall constitute a dispute between the Authority and the Contractor and, if not resolved, shall be referred to dispute resolution under the provisions of DEFCON 530.
- e. Should rejection of the rectified Contractor Deliverable not occur within five (5) business days from delivery, it will be considered accepted.

## **16. DISRUPTION**

- a. The Contractor shall take reasonable care to ensure that in the performance of its obligations under the Contract it does not disrupt the operations of the Authority, its employees or any other contractor employed by the Authority.
- b. The Contractor shall inform the Authority's Commercial Officer in writing, of any actual or potential industrial action which affects or might affect its ability at any time to perform its obligations under the Contract as soon as they become aware of the actual or potential industrial action and in any event no later than seven (7) business days before the action is due to take place, whether such action be by its own employees or others.
- c. The Contractor shall have robust contingency plans in place to ensure that, in the event of industrial action by the Contractor's personnel, provision of the Services or Contractor Deliverables is maintained and such contingency plans shall be available for the Authority to inspect and/or comment on at any reasonable time and shall be updated and revised as necessary by the Contractor throughout the Contract Period.

## **17. TASKING PROCEDURE**

- a. Work against the Statement of Requirements shall be defined and authorised on a Tasking Form in accordance with the following procedure:
  - (1) Either Party may initiate a Tasking Form by completing Part A of the Tasking Form and forwarding it to the other Party for review.
  - (2) When the Contractor initiates a Tasking Form, they shall complete Part A and Part B to show the work proposed to be undertaken and the associated cost breakdown to meet the requirement and

submit the form to the Authority's Project Manager and Authority's Commercial Officer for consideration.

- (3) When the Authority initiates a Tasking Form, within twenty (20) business days from receipt of the Tasking Form from the Authority, the Contractor shall either reject the Tasking Form or complete Part B to show the work proposed to be undertaken and the associated cost breakdown to meet the requirement and return the form to the Authority's Project Manager and Commercial Officer for further consideration. The Contractor may only reject a Tasking Form if it can provide to the Authority along with such rejection written evidence satisfactory to the Authority (acting reasonably) that such Tasking Form:
    - i. requires the Services to be performed in a way that infringes any Legislation;
    - ii. would materially and adversely affect the Contractor's ability to perform the Services (except those Services which have been specified in such Tasking Form) in a manner not compensated pursuant to such Tasking Form; iii.
    - iii. would materially and adversely affect the health and safety of any person; and/or
    - iv. would, if implemented, materially and adversely change the nature of this Contract (including its risk profile) in a manner not compensated pursuant to such Tasking Form.
  - (4) During the 20 business days, curricula vitae for those resources being identified as supporting the tasking must be provided to the Authority for approval.
  - (5) During the 20 business days an agreement on the pricing mechanism and the justification for the proposed resourcing will be negotiated and agreed before a final proposal is submitted by the Contractor
  - (6) When the details of the Tasking Form are agreed by the Authority's Project Manager and the associated price is agreed as being fair and reasonable by the Authority's Commercial Officer, a duly completed Tasking Form, signed by the relevant representatives of the Authority as required on the form, shall be returned to the Contractor. Once the Contractor is in receipt of a duly authorised Tasking Form, it shall proceed with the work called for thereunder.
- b. No work associated with a Tasking Form, other than that related to the preparation of the Tasking Form shall be undertaken by the Contractor prior to his receipt of a duly signed Tasking Form from the Authority as prescribed in Condition 17a (6). Any work undertaken by the Contractor on any Tasking Form prior to receiving a duly signed Tasking Form shall be done at the Contractor's own risk.
  - c. For audit purposes, details of completed Tasking Forms, i.e. shall be added to Schedule 13 (Agreed Tasking Forms), by way of an amendment issued by the Authority's Commercial Officer in accordance with the provision in DEFCON 503 following the Annual Performance Review.

## **18. TERMINATION OF WORK UNDER INDIVIDUAL TASKING FORMS**

- a. In addition to the Authority's rights of termination under any other Conditions, any Tasking Form entered into under the Contract, (i.e., where the Authority has signed a Tasking Form giving authority to proceed), may be terminated by the Authority at any time subject to one (1) calendar month's notice (or as otherwise agreed between the Parties) in writing to the Contractor. In addition to completing Part D of the Tasking Form, where appropriate, the Authority may require the Contractor to furnish a report covering work done to the date of termination, with such recommendations as may be possible at that stage. The Authority's total liability under this Condition 18 in respect of such terminated Tasking Form shall be limited to the total price of the work performed under the Tasking Form up to the effective date of such termination.
- b. The termination of a Tasking Form or Tasking Forms, however arising, shall be without prejudice to the rights and duties of either Party accrued prior to termination. The Conditions that expressly or by implication have effect after termination shall continue to be enforceable even after termination.

**19. PAYMENT**

- a. Payment will be in accordance with the payment plan authorised under the agreed Tasking Form minus any Permanent Deductions applied as a result of KPI Failures in accordance with Schedule 6 (Performance Measurement).
- b. The monthly payment in respect of each Contract Month ("Contract Month n") during the Contract Period shall be calculated in accordance with the following formula:
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
- c. If the Contractor objects to the Authority's decision to apply a Permanent Deduction, the Contractor shall give the Authority written notice of objection within ten (10) business days from receipt of the notice from the Authority of its intention to apply such Permanent Deduction. The objection shall constitute a dispute between the Authority and the Contractor and shall be managed in accordance with the provisions of DEFCON 530.
- d. Claims for travel and subsistence costs legitimately incurred by the Contractor for visits made by the Contractor personnel engaged under the Contract from their Primary Work Location to another establishment in the course of them performing their duties approved under a Contracted Tasking shall be submitted by the Contractor to the Authority's Commercial Officer monthly in arrears. Following endorsement by the Authority's Commercial Officer in writing of the amount to be claimed, the Contractor may submit his invoice for payment in accordance with DEFCON 522. Claims for travel and subsistence shall be accompanied by the prior written approval from the Authority's Project Manager of the need for the visit for which the travel and subsistence is being claimed.

**20. VARIATION OF PRICE**

- a. The Day Rates stated in Schedule 11 (Day Rates) are fixed at the Effective Date price levels. The Day Rates do not include provision beyond this date for increases or decreases in the market price of the Contractor Roles. Any such variation to each Day Rate shall be calculated in accordance with the following formula on each anniversary of the Effective Date (each an "**Indexation Date**"):
 
$$V = P ((O_i/O_0)) - P \text{ Where:}$$

V represents the variation of price

P represents each Day Rate as stated in Schedule 11 (Day Rates)

O represents the index "Top Level Services Producer Price Index (HQTl)" (the "**Relevant Index**")

O<sub>0</sub> represents the 12-month average Relevant Index figure for the base period being the 12 month period from the date that is 12 months prior to Effective Date to the Effective Date

O<sub>i</sub> represents the 12-month average Relevant Index figure for the 12 month period prior to the relevant Indexation Date
- b. The Relevant Index referred to in Condition 20a. above shall be taken from the following Table:

OUTPUT Price Index - ONS Data Set – Top Level Service Producer Price Index (TLSP) (HQTl).



- c. Indices published with a 'B' or 'F' marker, or a suppressed value, in the last 3 years are not valid for variation of price clauses and shall not be used. Where the Relevant Index has an 'F' marker or suppression applied to it during the term of the Contract, the Authority and the Contractor shall agree an appropriate replacement index or indices. The replacement Relevant Index or Relevant Indices shall cover, to the maximum extent possible, the same economic activities as the original Relevant Index.
- d. In the event that any material changes are made to the Relevant Index (e.g. a revised statistical base date) during the Contract Period and before final adjustment of the final Contract price, then the re-basing methodology outlined by the Office for National Statistics (ONS, the series providers) to match the original index to the new series shall be applied.
- e. In the event the Relevant Index ceases to be published (e.g. because of a change in the Standard Industrial Classification) the Authority and the Contractor shall agree an appropriate replacement Relevant Index or Relevant Indices, which shall cover to the maximum extent possible the same economic activities as the original Relevant Index. The methodology outlined by the Office for National Statistics used for rebasing indices (as in Condition 20 d above) shall then be applied.
- f. Notwithstanding the above, any extant index / indices agreed in the Contract shall continue to be used as long as it is / they are available and subject to ONS revisions policy. Payments calculated using the extant index / indices during its / their currency shall not be amended retrospectively as a result of any change to the index or indices.
- g. The Contractor shall notify the Authority of any significant changes in the purchasing / manufacturing plan on the basis of which these provisions were drawn up and agreed, or of any other factor having a material bearing on the operation of these provisions such as to cause a significant divergence from their intended purpose, in order that both parties may consider whether any change in this provision would be appropriate.
- h. Prices shall be adjusted taking into account the effect of the above formula as soon as possible after publication of the relevant indices or at a later date if so agreed between the Authority and the Contractor. Where an index value is subsequently amended, the Authority and the Contractor shall agree a fair and reasonable adjustment to the price, as necessary.
- i. Claims under this Condition 20 shall be submitted to the Bill Paying Branch, certified to the effect that the "requirements of this Condition 20" have been met.
- j. Where a Tasking Form is priced on a FIRM price basis and an Indexation Date will occur during the period to which such Tasking Form and Firm price relate, the Contractor shall in providing details of the basis on which it has calculated such FIRM price demonstrate that any indexation applied to the Day Rates has been calculated by applying the indexation formula in this Condition save that  $O_i$  represents the average Relevant Index figure for period from the previous Indexation Date until the date on which such FIRM price is calculated. Unless otherwise agreed between the Parties, there shall not be any reconciliation of the FIRM price on the relevant Indexation Date, recognising that the Relevant Index could increase or decrease, being a shared risk. Alternatively, the Parties may agree to split the tasking into two separate taskings, the first ending, and the second commencing, at such Indexation Date.

## 21. CONSEQUENCES OF TERMINATION

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

## **22. TRANSFER REGULATIONS – EMPLOYEE TRANSFER ARRANGEMENTS ON EXIT**

The provisions set out in Schedule 8 shall apply.

## **23. EXIT STRATEGY**

At the expiry date of the Contract as set out in Condition 9 of the Contract or upon notification by the Authority in writing of termination of the Contract, including but not limited to, under the provisions of DEFCONs 514, 515, 520, 656B, or the provisions in Schedule 5 (OFFICIAL and OFFICIALSENSITIVE Security Condition for UK Contractors), the Contractor shall work with the Authority on the closure of the Contract, and fulfil the elements of the Exit & Transition Strategy and:

- (1) ensure all payments due, have been claimed.
- (2) ensure all GFA is returned or otherwise disposed of as set out in DEFCON 611, or securely delivered to a follow-on contractor or third-party supplier if required.
- (3) ensure all deliveries and work up to the expiry date have been identified and completed.
- (4) ensure a robust governance and management strategy/ plan for exiting is in place
- (5) ensure all Contractor passes and other forms of access to Authority sites have been returned

## **24. ASSISTANCE WITH RE-COMPETITION**

- a. Notwithstanding the provisions of DEFCON 625, within ten (10) business days of the commencement of any re-competition period, the Contractor shall, and shall procure that each Subcontractor shall, provide notice in writing to the Authority stating whether the Contractor, a Subcontractor or any Group Company of the Contractor or Subcontractor intends to bid to be the provider of any services similar to the Services that, if not supplied by the Contractor, a Subcontractor or any of their Group Companies, would otherwise be provided by a New Provider (replacement services).
- b. If the Contractor, a Subcontractor or any of their Group Companies are involved in any actual or potential bid to supply the replacement services, the Contractor shall ensure that (except with the Authority's prior written consent), no member of the personnel engaged or previously engaged by the Contractor, such Subcontractor or any such Group Company in delivering any part of the Services, shall be part of the relevant Contractor's or Subcontractor's or Group Company's bid team, and nor shall any member of the personnel engaged or previously engaged by the Contractor, any Subcontractor or any of their Group Companies in delivering any part of the Services, supply information gained through the provision of the Services to such bid team. The Contractor shall, and shall ensure that its Subcontractors and each of their Group Companies shall, implement all reasonable measures to ensure separation (including by implementing appropriate information barriers) between the relevant bid team and the personnel engaged or previously engaged by the Contractor, such Subcontractor or such Group Company in delivering any part of the Services, with a view to ensuring that information gained from the supply of the Services is not used to put the Contractor's, the Subcontractors' or Group Company's bid(s) in a better position than they would have been in, had the Contractor, Subcontractor or Group Company not provided the Services. Where required by the Authority, the Contractor shall (and shall procure that its Subcontractors and/or their Group Companies shall) enter into a binding agreement established to ensure appropriate information barriers are in place during any re-competition of the Services or services similar to the Services.
- c. During the re-competition period, the Contractor shall provide to the Authority and any relevant potential New Providers, at the Authority's written request:

- (1) any assistance reasonably required to procure safely, efficiently and successfully, a New Provider for the supply of services similar to all or part of the Services;
  - (2) all information and assistance reasonably required to enable any potential New Provider:
    - i. to carry out appropriate due diligence on the nature of the relevant Services;
    - ii. to prepare an informed, non-qualified offer for the provision of services similar to all or part of the Services; and
    - iii. not to be disadvantaged in the procurement process in comparison to the Contractor Group or any Subcontractor (or its Group Companies).
- d. The Contractor shall provide such information in the format reasonably requested in writing by the Authority (including in an electronic format capable of being read by Microsoft Office or Adobe reader applications). From time to time, the Contractor shall also notify the Authority's Commercial Officer of any likely changes to such information and update it within five (5) business days of receiving a written request from the Authority's Commercial Officer to do so. The Contractor warrants to the Authority that the information provided pursuant to this Condition 24e shall be complete and accurate in all material respects.
- e. The Authority shall be entitled to carry out an audit of any information provided by the Contractor on not less than five (5) business days' prior written notice. The Contractor shall provide all reasonable assistance to and co-operate with the Authority, including providing access to its premises, personnel, the system, documents and any other relevant information. If the Authority identifies any inaccuracies in the audited information, the Contractor shall promptly correct these.

**Contract 706401454 for the Provision of SATCOM Private Sector Support (SPSS)**

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

**For and on behalf of PA Consulting Services Limited (the “Contractor”):**

Name and Title	[REDACTED] A Member of PA's Management Group
Signature	[REDACTED]
Date	06 June 2024

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

Name and Title	[REDACTED] [REDACTED] [REDACTED]
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Signature	[REDACTED]
Date	24 May 2024