



DE&S

Contract Number :
ACComm4/7132

Description:

**The Provision of Supply, Spares and Post Design
Services for Aircrew Protective Helmets**

Between the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland	And
Team Name and address: Air Commodities Team Walnut 3c #1335 MoD Abbey Wood Bristol BS34 8JH	Contractor Name and address: HELMET INTEGRATED SYSTEMS LTD Unit 3 Focus 4 Fourth Avenue Letchworth SG6 2TU
E-mail Address: Telephone Number: Facsimile Number:	E-mail Address: Telephone Number: Facsimile Number:

TABLE OF CONTENTS

1 SCHEDULE OF REQUIREMENTS

2 GENERAL CONDITIONS.....

DEFCON68 (EdN.11/14) - SUPPLY OF DATA FOR HAZARDOUS ARTICLES, MATERIALS AND SUBSTANCES	
DEFCON82 (EdN 07/13) - SPECIAL PROCEDURE FOR INITIAL SPARES	
DEFCON501 (EdN.03/15) - DEFINITIONS AND INTERPRETATIONS.....	
DEFCON503 (EdN.12/14) - FORMAL AMENDMENTS TO CONTRACT.....	
DEFCON515 (EdN.10/04) - BANKRUPTCY AND INSOLVENCY	
DEFCON516 (EdN.04/12) - EQUALITY	
DEFCON518 (EdN.11/12) - TRANSFER	
DEFCON520 (EdN.08/15) - CORRUPT GIFTS AND PAYMENTS OF COMMISSION	
DEFCON521 (EdN.04/12) - SUB-CONTRACTING TO SUPPORTED BUSINESSES	
DEFCON526 (EdN.08/02) - NOTICES	
DEFCON527 (EdN.09/97) - WAIVER.....	
DEFCON528 (EdN.05/12) - OVERSEAS EXPENDITURE, IMPORT AND EXPORT LICENCES	
DEFCON528App (EdN.) - APPENDIX TO DEFCON 528 – OVERSEAS EXPENDITURE, IMPORT AND EXPORT LICENCES	
DEFCON529 (EdN.09/97) - LAW (ENGLISH)	
DEFCON530 (EdN.12/14) - DISPUTE RESOLUTION (ENGLISH LAW)	
DEFCON531 (EdN.11/14) - DISCLOSURE OF INFORMATION	
DEFCON532A (EdN.06/10) - PROTECTION OF PERSONAL DATA (WHERE PERSONAL DATA IS NOT BEING PROCESSED ON BEHALF OF THE AUTHORITY)	
DEFCON537 (EdN.06/02) - RIGHTS OF THIRD PARTIES	
DEFCON538 (EdN.06/02) - SEVERABILITY	
DEFCON539 (EdN 08/13) - TRANSPARENCY	
DEFCON550 (EdN 02/14) - CHILD LABOUR AND EMPLOYMENT LAW	
DEFCON566 (EdN.04/15) - CHANGE OF CONTROL OF CONTRACTOR	
DEFCON620 (EdN.06/14) - CONTRACT CHANGE CONTROL PROCEDURE	
DEFCON656B (EdN.08/16) - TERMINATION FOR CONVENIENCE (CONTRACTS £5M AND OVER)	
DEFCON691 (EdN.03/15) - TIMBER AND WOOD – DERIVED PRODUCTS	
2.1. ENTIRE AGREEMENT	
2.2. PRECEDENCE	
2.3. DEFINITION OF REQUIREMENT	
2.4. DURATION.....	
2.5. PRECEDENCE	
2.6. ACCESS.....	
2.7. PLACE OF WORK.....	
2.8. SUSTAINABLE PROCURMENT - LEGISLATION REQUIREMENTS.....	
2.9. PUBLICITY AND COMMUNICATIONS WITH MEDIA.....	
2.10. FREEDOM OF INFORMATION.....	
2.11. TRANSFER OF UNDERTAKINGS PROTECTION OF EMPLOYMENT (TUPE) - EMPLOYEE TRANSFER ARRANGEMENTS ON EXIT.....	
2.12. SUSTAINABLE PROCUREMENT - BEST PRACTICE.....	
2.13. APPOINTMENT OF PRIME CONTRACTOR AND PLACING OF SUB-CONTRACTS.....	
2.14. EXISTING CONTRACTS CREATED OFF-LINE.....	
2.15. CONFLICT OF INTEREST.....	
2.16. DISCLOSURE OF INFORMATION.....	
2.17. AMENDMENTS TO CONTRACT.....	

3 SPECIFICATIONS AND PLANS.....

DEFCON117 (EdN.10/13) - SUPPLY OF INFORMATION FOR NATO CODIFICATION AND DEFENCE INVENTORY INTRODUCTION	
DEFCON502 (EdN.06/14) - SPECIFICATIONS CHANGES	
DEFCON601 (EdN.04/14) - REDUNDANT MATERIEL.....	
DEFCON602A (EdN.12/06) - DELIVERABLE QUALITY PLAN.....	
DEFCON608 (EdN.10/14) - ACCESS AND FACILITIES TO BE PROVIDED BY THE CONTRACTOR	
DEFCON624 (EdN.11/13) - USE OF ASBESTOS.....	
DEFCON627 (EdN.12/10) - QUALITY ASSURANCE - REQUIREMENT FOR A CERTIFICATE OF CONFORMITY	
DEFCON637 (EdN.11/16) - DEFECT INVESTIGATION AND LIABILITY	
DEFCON644 (EdN.05/15) - MARKING OF ARTICLES	
3.1. COMMERCIAL RISK	
3.2. QUALITY ASSURANCE REPRESENTATIVE.....	
3.3. QUALITY ASSURANCE REQUIREMENTS	
3.4. SAFETY CRITICAL ITEMS	
3.5. NATO QUALITY ASSURANCE REQUIREMENTS (DESIGN/DEVELOPMENT AND PRODUCTION)	

3.6.	INDEPENDENT SAFETY AUDITORS, ADVISORS, AND ASSESSORS
3.7.	MAA REGULATORY REQUIREMENTS
3.8.	COUNTERFEIT GOODS
3.9.	RETENTION OF QUALITY CONTROL/INSPECTION RECORDS
3.10.	DEFECTS AND NON CONFORMANCE
3.11.	FULL LOT TRACEABILITY AND CERTIFICATION OF CONFORMITY
3.12.	SECOND HAND MATERIAL.....
3.13.	PROVISION OF TASKING SERVICES - LINE ITEM 5.....
3.14.	SHELF LIFE.....
3.15.	WARRANTY.....
4	PRICE
	DEFCON619A (EdN.09/97) - CUSTOMS DUTY DRAWBACK.....
	DEFCON800 (EdN.12/14) - QUALIFYING DEFENCE CONTRACT
	DEFCON801 (EdN.12/14) - AMENDMENTS TO QUALIFYING DEFENCE CONTRACTS – CONSOLIDATED VERSIONS
	DEFCON802 (EdN.12/14) - QDC: OPEN BOOK ON SUB-CONTRACTS THAT ARE NOT QUALIFYING SUB-CONTRACTS
	DEFCON804 (EdN.03/15) - QDC: CONFIDENTIALITY OF SINGLE SOURCE CONTRACT REGULATIONS INFORMATION
	DEFCON647 (EdN 09/13) - FINANCIAL MANAGEMENT INFORMATION.....
	DEFCON513 (EdN.11/16) - VALUE ADDED TAX.....
4.1.	PRICING OF LINE ITEMS 1-4
4.2.	PRICING OF LINE ITEM 5.....
4.3.	GAINSHARE
5	INTELLECTUAL PROPERTY RIGHTS
	DEFCON14 (EdN.11/05) - INVENTIONS AND DESIGNS CROWN RIGHTS AND OWNERSHIP OF PATENTS AND REGISTERED DESIGNS
	DEFCON90 (EdN.11/06) - COPYRIGHT.....
	DEFCON632 (EdN.08/12) - THIRD PARTY INTELLECTUAL PROPERTY - RIGHTS AND RESTRICTIONS
5.1.	PROCEDURE FOR MAKING DIRECT AGREEMENTS WITH SUB-CONTRACTORS.....
5.2.	DESIGN RIGHTS AND RIGHTS TO USE DESIGN INFORMATION
6	LOANS.....
	DEFCON23 (EdN.08/09) - SPECIAL JIGS, TOOLING AND TEST EQUIPMENT
	DEFCON76 (EdN.12/06) - CONTRACTOR'S PERSONNEL AT GOVERNMENT ESTABLISHMENTS
	DEFCON611 (EdN.07/10) - ISSUED PROPERTY
	DEFCON694 (EdN.02/12) - ACCOUNTING FOR PROPERTY OF THE AUTHORITY
6.1	GOVERNEMENT FURNISHEDASSETS.....
7	DELIVERY
	DEFCON5J (EdN.11/16) - UNIQUE IDENTIFIERS
	DEFCON113 (EdN.10/04) - DIVERSION ORDERS.....
	DEFCON129 (EdN. 11/16) - PACKAGING (FOR ARTICLES OTHER THAN MUNITIONS).....
	DEFCON 129J (EdN. 11/16) - THE USE OF ELECTRONIC BUSINESS DELIVERY FORM.....
	DEFCON507 (EdN.10/98) - DELIVERY
	DEFCON524 (EdN.10/98) - REJECTION.....
	DEFCON525 (EdN.10/98) - ACCEPTANCE.....
	DEFCON612 (EdN.10/98) - LOSS OF OR DAMAGE TO THE ARTICLES
	DEFCON614 (EdN.08/15) - MATERIAL BREACH.....
	DEFCON 621A (EdN 06/97) - TRANSPORT (IF THE AUTHORITY IS RESPONSIBLE FOR TRANSPORT)
	DEFCON684 (EdN.01/04) - LIMITATION UPON CLAIMS IN RESPECT OF AVIATION PRODUCTS
7.1.	DELIVERY OF LINE ITEMS 1-4
7.2.	ACCEPTANCE OF LINE ITEMS 1 & 4 - DOCUMENTATION
7.3.	DELIVERY & ACCEPTANCE OF LINE ITEMS 2 & 3.....
7.4.	DELIVERY & ACCEPTANCE OF LINE ITEM 5.....
7.5.	SELF TO SELF DELIVERY.....
7.6.	PACKAGING, MARKING & LABELLING OF ARTICLES UNDER LINE ITEMS 2 & 3.....
7.7.	PRODUCT RECALLS FOR ARTICLES UNDER LINE ITEMS 2 & 3.....
7.8.	EXIT STRATEGY.....
7.9.	CONTRACTOR BREACH.....
8	PAYMENTS/RECEIPTS.....
	DEFCON5J (EdN 07/08) - UNIQUE IDENTIFIERS

DEFCON522 (EdN.11/16) - PAYMENT AND RECOVERY OF SUMS DUE
DEFCON649 (EdN 07/99) - VESTING
DEFCON670 (EdN 07/14) - TAX COMPLIANCE
.....
8.1. PAYMENT OF LINE ITEMS 1-5.....
8.2. COMPLIANCE WITH THE ELECTRONIC TRANSACTION AGREEMENT.....
8.3. PROMPT PAYMENT OF SUB-CONTRACTORS

9 CONTRACT ADMINISTRATION

DEFCON604 (EdN.06/14) - PROGRESS REPORTS
DEFCON609 (EdN.06/14) - CONTRACTOR'S RECORDS
DEFCON642 (EdN.06/14) - PROGRESS MEETINGS
9.1. MEETINGS.....
9.2. REPORTS.....
9.3. KEY PERFORMANCE INDICATOR.....

Annexes;

- Annex A – Statement of Work
- Annex B – Key Performance Indicators
- Annex C – Payment Plan
- Annex D – TAAF Rates
- Annex E – TUPE
- Annex F – GFA
- Annex G – CDD List
- Annex H – MOD FORM 760
- Annex I – MOD FORM 445
- Annex J – CoC FORM
- Annex K – Document Acceptance Form
- Annex L – MOF FORM 761
- Annex M – MOD FORM 765

1. SCHEDULE OF REQUIREMENTS

Name and Address of Contractor HELMET INTEGRATED SYSTEMS LTD Unit 3 Focus 4 Fourth Avenue Letchworth SG6 2TU	MINISTRY OF DEFENCE	Contract No ACComm4/7132
	Schedule of Requirements for The Provision of Supply, Spares and Post Design Services for Aircrew Protective Helmets	
Issued With DEFFORM 47ST	On	Previous Contract No

Requirements

Line Item Number	Description	Packaging	Total Price £ (ex-VAT) All Prices are Firm for 5 Years	Payment
1	The Contractor shall provide Programme Management in accordance with the Statement of Work (SOW) at Annex A. To commence from Contract Award	N/A		To be paid in accordance with Clause 8.1.
2	The Contractor shall provide ad hoc supply of Equipment in accordance with Section 4 of the Statement of Work at Annex A.	In accordance with Clause 8.4 and Annex A	Line Item 4 Authorities Total Limit of Liability is Monthly Price to be calculated in accordance with Clause 8.1	To be paid in accordance with Clause 8.1, using the prices at Appendix 4 to the SOW
3	The Contractor shall provide ad hoc supply of spares in accordance with Section 4 of the Statement of Work at Annex A.	In accordance with Clause 8.4 and Annex A	Line Item 4 Authorities Total Limit of Liability is Monthly Price to be calculated in accordance with Clause 8.1	To be paid in accordance with Clause 8.1, using the prices at Appendix 3 to the SOW
4	The Contractor shall provide Core Post Design Services in accordance the Statement of Work (SOW) at Annex A.	N/A		To be paid in accordance with Clause 8.1
5	The Contractor shall provide ad hoc Post Design Services in accordance with Section 6.4.3 of the Statement of Work at Annex A.	N/A	Line Item 4 Authorities Total Limit of Liability is	To be paid in accordance with Clause 8.1
	Total Firm Price (Line Item 1 and 4)			
	Total Limit of Liability (Line Item 3 & 5)			
	Total Price of Contract			

2 GENERAL CONDITIONS

DEFCON68 (Edn.06/15) - Supply of Data for Hazardous Articles, Materials and Substances
DEFCON82 (Edn 07/13) – Special Procedure for Initial Spares
DEFCON501 (Edn.03/15) - Definitions and Interpretations
DEFCON503 (Edn.12/14) - Formal Amendments To Contract
DEFCON515 (Edn.10/04) - Bankruptcy and Insolvency
DEFCON516 (Edn.04/12) - Equality
DEFCON518 (Edn.11/12) - Transfer
DEFCON520 (Edn.08/15) - Corrupt Gifts and Payments of Commission
DEFCON521 (Edn.04/12) - Sub-Contracting to Supported Businesses
DEFCON526 (Edn.08/02) – Notices
DEFCON527 (Edn.09/97) - Waiver
DEFCON528 (Edn.05/12) - Overseas Expenditure, Import and Export Licences

The Contractor's attention is drawn to clause 1 of DEFCON 528 requiring notification of overseas expenditure. In this connection, the Contractor shall, within one month of acceptance of the Contract, notify the Contracts Branch of details of any overseas sub-contract or order he has placed, or intends to place, in aid of the contract. Details to be provided are: Contract No; Country in which sub-contract placed/to be placed; Name, Division and full postal address of sub-contractor; Value of sub-contract as applicable to main contract; Date placed/to be placed. If no overseas orders are to be placed, the Contractor shall advise the Contracts Branch to this effect in the same timescale

DEFCON528 App (Edn.) - Appendix to DEFCON 528 – Overseas Expenditure, Import and Export Licences
DEFCON529 (Edn.09/97) - Law (English)
DEFCON530 (Edn.12/14) - Dispute Resolution (English Law)
DEFCON531 (Edn.11/14) - Disclosure of Information
DEFCON532A (Edn.06/10) - Protection Of Personal Data (Where Personal Data is not being processed on behalf of the Authority)
DEFCON537 (Edn.06/02) - Rights of Third Parties
DEFCON538 (Edn.06/02) – Severability
DEFCON539 (Edn 08/13) – Transparency
DEFCON550 (Edn 02/14) – Child Labour and Employment Law
DEFCON566 (Edn.04/15) - Change of Control of Contractor
DEFCON620 (Edn.06/14) - Contract Change Control Procedure
DEFCON656B (Edn 08/16) – Termination for Convenience (Contracts over £5M)
DEFCON691 (Edn.03/15) - Timber and Wood – Derived Products

2.1. 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 clause shall not exclude liability in respect of any fraudulent misrepresentation.

2.2. Precedence

a. In cases of conflict between the Contract Schedule, which together with the Clauses of Contract is hereinafter called "the Contract", and any documents called up by the Contract, the following order of precedence shall apply:

- i. Schedule of Requirements
- ii. The Terms and Conditions, including DEFCONs and narrative Clauses, of the Contract shall take precedence over all other documentation.
- iii. The Statement of Work at Annex A shall take precedence over all documents except the Terms and Conditions of the Contract.
- iv. All other Annexes to the Contract shall take equal precedence.

v. Reference Documents called up by the Contract shall take precedence over all applicable subsidiary documents referred to in the Reference Documents.

vi. All applicable subsidiary documents referred to in the Reference Documents shall take precedence over the Contractor's proposal.

b. In the event of any internal conflict in any document, or any conflict between any documents, DEFCONs or Narrative Clauses with the same order of precedence, the Authority shall be entitled to give directions as to which part of the relevant document or which documents (as the case may be) shall take precedence over which other part or which other document(s), as the case may be. The Authority's directions in the matter shall be final and conclusive and the Contractor agrees that the Contract shall be construed accordingly. The Authority shall act reasonably under this provision and, where possible, shall determine the direction to be taken with the agreement of the Contractor.

2.3. Definition of the Requirement

a. The requirements which the Contractor must meet under this Contract are set out in these Terms and Conditions and the Statement of Work at Annex A, including all appendices and standards contained herein. The Contractor shall comply with all of these requirements.

b. The plans and other documents listed within the Statement of Work at Annex A shall set out how the Contractor intends to satisfy his obligations under the Contract and the Contractor must conduct work in accordance with these plans. All plans and other documentation shall be maintained in a manner that provides the continued insight and confidence required by the Authority, in demonstration that the Contractor's obligations will be fulfilled.

c. Articles under Line Items 2 & 3 may be subject to change or new articles may be introduced during the period of the Contract. Any changes or additions shall be made via a Contract Amendment.

d. In the event that the Contractor becomes aware of changes to any of the Articles under Line Items 2 & 3, for example through changes to technical standards, he shall immediately advise the Authority of the full details, including a full description before manufacture to enable the item to be codified,. The Contractor shall not supply the item until the update is agreed and approved by the Authority.

2.4. Duration

a. The Contract shall commence on the date of award of the Contract and shall remain in force until delivery of all items within the Schedule of Requirements to the approval of the Authority, notwithstanding the Authority's rights for earlier termination.

b. Notwithstanding Clause 2.4.a above, the Contract shall end no later than 5 years from Contract Award Date.

c. All work authorised during the contract period shall be completed under the Contract. Both parties shall agree that any Articles delivered after Contract award shall be delivered and accepted in accordance with the terms and conditions of the Contract. The Contractor is required to notify the Commercial Branch (as specified in Box 1 of DEFFORM 111) of any work outstanding at the end of the Contract period. Where completion of work extends beyond the Contract expiry date the Contractor shall continue the work until these tasks are completed to the satisfaction of the Authority. For the avoidance of doubt, demands under Line Items 2 and 3 and tasks under Line Item 5 shall not be accepted after the date identified in Clause 2.4.b.

2.5 Resolution of Disputes.

a. The Authority and the Contractor aims to manage the operation of the Contract co-operatively and to use their reasonable endeavours to resolve any

disagreements, disputes or conflicts at the lowest possible level and to fully participate in the resolution of all issues.

b. For the purpose of resolving disputes referred to in this clause 0 and of Clause 1 of DEFCON 530, the Parties agree to the following procedure:

i. In the first instance, should a dispute arise at any time during the course of the Contract both parties shall use reasonable endeavours to resolve the dispute between the Contractor's and the Authority's Project Managers and Commercial Officers. Either Party shall be entitled to inform the other Party in writing of the nature of the dispute, the matter in dispute and request resolution of such matter pursuant to this Clause 0.

ii. In the event that the dispute cannot be resolved in accordance with Clause 2.5 b i, the dispute shall be escalated to the Contractor's and the Authority's Senior Project Manager and Senior Commercial Officer.

iii. In the event that process under clause 2.5 b i and/or 2.5 b ii fails to resolve the dispute the parties agree repeat this process and/or escalate the process to senior management level.

iv. In the event that the parties fail to agree the resolution of a dispute then it shall be escalated through the dispute resolution process in accordance with DEFCON 530.

v. Both parties should endeavour to allow one another a period of 14 working days at each stage above in which to seek to resolve the dispute before escalation of the issue. However, this does not limit the ability for either party to escalate the dispute before this conclusion of the 14 working days in the event that either party decides that this is required.

2.6 Access

a. The Contractor shall arrange for the Authority's Project Manager and his authorised representatives to have reasonable access to the premises where the work under the Contract is being undertaken and to technical information relevant to the Contract for the purposes of monitoring and overseeing progress of the work and to ensure consistency with the stated delivery requirements.

b. Visits by the Authority's Project Manager or his authorised representatives to Sub-Contractor's in accordance with this Clause shall only be made after consultation with the Contractor. In the event of visits to Sub-Contractor's' premises the Contractor shall be invited to attend.

2.7 Place of Work

Any change in the Contractor's or major sub-Contractor's' places of work during the currency of the Contract shall be notified to the Commercial Branch, with a copy to the Project Management Branch as detailed in the DEFFORM 111.

2.8. Sustainable Procurement - Legislative Requirements

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

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

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

2.9 Publicity and Communications with the Media

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

2.10 Freedom of Information

a. The Contractor acknowledges that the Authority is subject to the requirements of the Freedom of Information Act (FOIA) and the Environmental Information Regulations and shall facilitate the Authority's compliance with its information disclosure requirements in the manner provided for in Clauses 2.10.b to 2.10.d (inclusive) of the FOIA.

b. Where the Authority receives a request for information in relation to information that the Contractor is holding on its behalf under the Contract, the Contractor shall, at the Authority's request and as soon as is practicable, provide an estimate of the total time required for complying with the request to enable the Authority, in compliance with the FOIA, to assess the extent to which it wishes the Contractor to provide the Authority with support as set out in this Clause. The Contractor shall if requested by the Authority:

- i. Provide the Authority's Representative with a copy of all such Information in the form that the Authority's Representative requires; and
- ii. Provide all necessary assistance as reasonably requested by the Authority's Representative in connection with any such Information, to enable the Authority to respond to a Request for Information within the time for compliance set out in Section 10 of the FOIA or Regulation 5 of the Environmental Information Regulations.

c. Following notification under Clause 2.10.b of the FOIA and up until such time as the Contractor has provided the Authority's Representative with all the information specified in Clause 2.10.b.i of the FOIA, the Contractor may make representations to the Authority's Representative as to whether or not or on what basis the information requested should be disclosed, and whether further information should reasonably be provided in order to identify and locate the information requested, provided always that the Authority shall be responsible for determining at its absolute discretion:

- i. Whether Information is exempt from disclosure under the FOIA and the Environmental Information Regulations;
- ii. Whether Information is to be disclosed in response to a Request for Information, and in no event shall the Contractor respond directly, or allow its Sub-Contractor's to respond directly, to a Request for Information unless expressly authorised to do so by the Authority's Representative.

d. The Contractor acknowledges that any information provided identifying Confidential Information, are of indicative value only and that the Authority may nevertheless be obliged to disclose Confidential Information in accordance with the requirements of the FOIA and the Environmental Regulations. For the avoidance of doubt, the Authority shall not be in breach of Contract where it releases Confidential Information to comply with the requirements of the FOIA and the Environmental Regulations.

- e. The Contractor's contact for all Freedom of Information related issues is [to be inserted at Contract Award].

2.11 Transfer of Undertakings Protection of Employment (TUPE) - Employee Transfer Arrangements on Exit

The Contractor shall comply with all requirements of Annex E.

2.12 Sustainable Procurement - Best Practice

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

2.13 Appointment of Prime Contractor and Placing of Sub-Contracts

a. For the purposes of this Contract and the work to be performed there under, the Contractor shall be designated as the Prime Contractor, and shall accordingly be responsible to the Authority, subject to the provisions of the Contract, for the timely, economic and proper execution of the Contract as described in the SOW at Annex A, to meet all requirements of the Contract.

b. The Contractor's responsibilities referred to in Clause 2.13.d of this Condition shall apply equally to work carried out by Sub-Contractors in respect of the requirements of the Contract.

c. The Contractor shall ensure that the Terms and Conditions of this Contract are reflected in all Sub-Contracts, at whatever level, to the extent necessary to enable the Contractor to fully meet his obligations to the Authority under the Contract.

d. The Contractor's responsibilities shall also include but not be limited to:

i. The placing, administration, control and management of all Sub-Contracts required to meet the requirements defined in the Schedule of Requirements and SOW, regardless of the method by which the Sub-Contractor may be selected;

ii. Planning, programming and progressing of the work including provision of appropriate documentation;

iii. Financial management of the work including financial control and monitoring of all Sub-Contracts;

iv. Providing the Authority with the information he reasonably requires to satisfy itself throughout the life of the Contract that the work is proceeding to time and performance;

v. Ensuring that work performed as part of this Contract is carried out and/or performed in accordance with:

Good Industry Practice; and
All applicable legislation.

e. The Contractor shall furnish the Authority with the audit trail document set for any Sub-Contract(s) let by the Contractor and a copy of any Sub-Contract(s) as required by the Authority.

2.14 Existing Contracts Created Off-line

a. Where an offer and acceptance has already taken place off-line to establish the Contract, the Authority shall issue a Purchase Order Message in order to

establish Unique Order Identifiers for the Items on the Schedule of Requirements for the purpose of subsequent CP&F transactions. The Contractor shall respond with an Acknowledgement Message. In these circumstances, Purchase Order Messages serve only to convey to the Contractor the information necessary against which to supply an item prepare a delivery label and to submit an Invoice Message; the Purchase Order Acknowledgement Message serves only to confirm receipt of a Purchase Order Message. No new contract is understood to be formed by this Purchase Order transaction.

b. The Authority shall hold the Contractor harmless for any delay or failure by the Authority to issue a Purchase Order. However, any delay or failure to issue a Purchase Order shall not relieve the Contractor of his obligations under the Contract.

2.15 Conflict of Interest

a. The Contractor shall immediately notify the Authority of any potential conflicts of interest relating to the requirement and shall give particulars of every instance to the Authority. This notification must be provided to the Authority in advance of the Contractor entering into any contractual relationship to enable the Authority to carry out a risk assessment. The Authority reserves the right to direct the Contractor not to enter into a contract with the associated third party whereby the Authority assess the proposed measures will not mitigate the risk.

b. Where the Authority agrees to the arrangement the Contractor shall adopt a formally agreed, legally binding Compliance Regime between the Authority and the Contractor. This shall include, but not be limited to:

- i. Manner of operation and management;
- ii. Roles and responsibilities;
- iii. Standards for integrity and fair dealing;
- iv. Levels of access to and protection of sensitive information and Government Furnished Information;
- v. Confidentiality/Non-Disclosure agreements(e.g. DEFFORM 702);
- vi. The Authority rights of audit;
- vii. Physical and Managerial separation;
- viii. Identification of potential or actual Conflicts of Interest;
- ix. Investigation of any breaches of the Compliance Regime.

2.16 Disclosure of Information

a. In addition to the provisions of DEFCON 531, the Contractor shall take every precaution to ensure that information arising from, or connected with, the Contract is divulged only to the minimum number of employees, and then only to the extent essential to each person's action in carrying out the Contract. General information, such as lists of military units and their locations shall be restricted to those employees actually working on the Contract and shall not be provided to employees in business units that are not associated with the Contract.

b. No information regarding the services being provided under the Contract or facilities to photograph or film shall be given or permitted by the Contractor except with the prior written permission of the Authority. Any press or other enquiries on any such matter shall be referred to the Authority's Project Manager – Box 2 of DEFFORM 111.

c. It shall be the responsibility of the Contractor to ensure that his personnel in relation to documents, which bear privacy markings, whether classified, maintain the highest standards of privacy and confidentiality or not, with which they are entrusted. The same standards of privacy and confidentiality shall be applied to information acquired orally.

d. In addition to the provisions of DEFCON 531, any information received by either party which indicates a duty of confidence to a third party, as indicated by a commercial privacy marking, shall be equally respected.

e. Unless any limitations are agreed with the Contractor, the Authority shall be allowed to release information to third parties who are employed on behalf of the Authority in support of this project and for use in connection with this project.

f. Where the Authority is contemplating the Disclosure of Information, the Authority shall consult the Contractor to ascertain the degree of harm that would arise from the Disclosure of Information. Should the Authority decide to Disclose Information against the wishes of the Contractor, the Contractor shall be given prior notification. The final decision on the Disclosure of Information shall rest with and be at the sole discretion of the Authority and any decision to Disclose Information against the wishes of the Contractor shall not render the Authority in breach of Contract.

2.17 Amendments of Contract

a. Only the Authority's Commercial Officer detailed in the Appendix (DEFFORM 111) or his authorised representative, is authorised to vary the Terms and Conditions of the Contract. Such variations shall only have effect If agreed in writing.

b. Any technical or other proposal from the Contractor requiring an amendment to the Contract is to be submitted in writing to the Authority for consideration, together with the cost and timescale implications. Any such changes accepted by the Authority shall be notified to the Contractor by written amendment to the Contract and shall not be effective until accepted in writing by the Contractor.

c. Notwithstanding DEFCON 503, nothing said, done or written by any person nor anything omitted to be said, done or written by any person including, but without limitation, any servant or agent of the Authority which shall in any way affect the rights of the Authority to modify, affect, reduce or extinguish the obligations and liabilities of the Contractor under the Contract, or be deemed to be a waiver of rights of the Authority, unless stated in writing and signed by the Authority's Commercial Officer named in the Appendix (DEFFORM 111) to this Contract.

d. For the purpose of DEFCON 503, amendments to the Contract shall be serial numbered and issued only by the Commercial Branch specified in Box 1 to the Appendix to Contract (DEFFORM 111).

3. SPECIFICATIONS AND PLANS

DEFCON117 (Edn.10/13) - Supply Of Information For NATO Codification And Defence Inventory Introduction

DEFCON502 (Edn.06/14) - Specifications Changes

DEFCON601 (Edn.04/14) - Redundant Materiel

DEFCON602A (Edn.12/06) - Deliverable Quality Plan

Unless otherwise notified, the Quality Plan shall be delivered to the Quality Focal Point within 3 months of contract award.

DEFCON608 (Edn.10/14) - Access and Facilities to be Provided by the Contractor

DEFCON624 (Edn.11/13) - Use of Asbestos

DEFCON627 (Edn.12/10) - Quality Assurance - Requirement for a Certificate of Conformity

DEFCON637 (Edn.18/11/16) - Defect Investigation and Liability

DEFCON644 (Edn.05/15) - Marking of Articles

3.1 Commercial Risk

a. The Contractor acknowledges that any risk assessment which has been, or may be, undertaken in connection with this Contract has been, or will be, a project management function only. Such risk assessment does not affect the legal relationship between the parties. The issuing of any risk assessment questionnaire and the process of risk assessment generally, including without limitation, the identification of (or failure to identify):

- i. Particular risks and their impact; or
- ii. Risk reduction measures, contingency plans and remedial actions,

shall not in any way limit or exclude the Contractor's obligations under this Contract and shall be entirely without prejudice to the Authority's rights, privileges and powers under this Contract. The risks identified as a result of any risk assessment questionnaire and risk assessment process remain the risks of the Contractor.

3.2 Quality Assurance Representative (QAR)

All reference to the QAR in documents which form part of this Contract shall be read as referring to the Authority specified in Box 7 of DEFFORM 111.

3.3 Quality Assurance Requirements

a. The Contractor shall hold and maintain his ISO 9001:2008 accreditation throughout the life of the Contract. In the event that the accreditation lapses or is not renewed this shall be reported immediately to the Authority's Project Manager with an explanation of the reasons for the lapse/non-renewal and mitigation proposals.

b. In addition to any quality requirements or standards referenced elsewhere in this Contract, the Contractor shall comply with the following requirements:

AQAP 2110 Edition 3 – NATO quality Assurance Requirements for Design. Development and Production.

AQAP 2105 Edition 2 – NATO requirements for Deliverable Quality Plans.

Def Stan 05-61 – Part 1 Issue 5 - Quality Assurance Procedural Requirements – Concessions

Def Stan 05-61 - Part 4 Issue 3 - Quality Assurance Procedural Requirements - Contractor Working Parties

Def Stan 05-61 – Part 9 Issue 4 – Quality Assurance procedural Requirements – Independent Inspection requirements For Safety Critical items

RA4815(3) QOR

Def Stan 05-135 issue 1 – Avoidance of Counterfeit Material

Process Management for Avionics (DD IEC TS 62239:2008)

Rubber Products, Guidelines for Storage (BS ISO 2230.2002).

Controlled Storage of Vulcanised Rubbers for use in Aerospace Applications (BS4F 68:2002).

Packaging and Identification of Vulcanised Rubber Items (BS3F 69.1979).

Def Stan 05-57 issue 6 – Configuration Management of Defence Material

RA 5301(1) – Configuration Management of Design

Def Stan 05-99 - Managing Government Furnished Assets in Industry

Def Stan 05-56 Part 1 (Issue 4) – Safety Management requirements for Defence Systems

Def Stan 05-56 Part 3 - Requirements (Air Sector)

RA 1200(1) – Defence Air Safety Management

RA 1220(2) – Safety Case

3.4 Safety Critical Items

For the purposes of the Contract, Safety Critical Items shall be subject to independent inspection in accordance with Defence Standard 05-61 Part 9 (Issue 3) entitled "Quality Assurance Procedural Requirements – Independent Inspection Requirements for Safety Critical Items".

3.5 NATO Quality Assurance Requirements (Design/Development and Production)

For the purposes of the Contract AQAP2110 Edition 3 entitled "NATO Quality Assurance Requirement for Design/Development and Production" and Defence Standard 05-61 Part 1 (Concessions) Issue 4 shall apply.

3.6 Independent Safety Auditors, Advisors, and Assessors

The Contractor shall provide access to records, including sub-contractor records, for contract purposes; to enable the MOD appointed Independent Safety Auditor to carry out safety audits and other assessment activities to meet MOD safety requirements.

3.7 MAA Regulatory Requirements

a. The Contractor shall comply with the following MAA Regulatory Accreditations issued the Military Aviation Authority ("the Regulator"):

- i. MAA approved Design Accredited Organisation Structure (DAOS)
- ii. MAA approved Maintenance Accredited Organisation Structure (MAOS)
- iii. MAA approved Production Accredited Organisation Structure (PAOS)

b. The Contractor shall comply with the following MAA Regulatory Articles issued the Military Aviation Authority ("the Regulator"):

MAA RA 4815	Maintenance Procedures and Safety and Quality Policy
MAA RA 5101	DAOS Approval Procedures and Responsibilities
MAA RA 5300 Series	Modifications
MAA RA 5301 (1)	Configuration Management of Design
MAA RA 5302	Custody and Maintenance of Design Records
MAA RA 5306	Draft Modification Leaflets
MAA RA 5312	In-Service Design Changes
MAA RA 5400 Series	Replaces Def Stan 05-123
MAA RA 5401	Provision of Service Technical Publications
MAA RA 5404	Fault Reporting and Investigation
MAA RA 5405	Special Instructions (Technical)
MAA RA 1200(1)	Defence Air Safety Management
MAA RA 1220(2)	Safety Case
MAA MAP-01	Chap 15.1.1 QOR Management

c.. The Contractor shall comply with the Regulations set out in the above RA by following:

- i..the acceptable means of compliance ("AMC") prescribed therein;
- ii. where there is more than one AMC, an AMC or AMCs agreed by the Contractor with the Regulator; or
- iii. other alternative means as may be agreed by the Contractor with the Regulator.

d.. Complying with the MRP does not reduce or limit any statutory or legal obligation of the Contractor.

3.8 Counterfeit Goods

The Contractor shall ensure that Counterfeit Goods are not supplied in the Contract. In the event that the Contractor detects any such Counterfeit Goods he shall immediately quarantine the Article(s) and inform the Authority by writing to the Project Manager as

detailed in Box 2 of DEFFORM 111. The Contractor shall then await further instructions from the Authority.

3.9 Retention of Quality Control / Inspection Records

a. Unless otherwise directed in the Contract, the Contractor shall retain as per DEFCON 609 the Quality Control/Inspection Records or such of those records as may be agreed by the QAR for a period of four years from completion of all contract work and shall make them accessible to the Authority on request. At the end of this retention period, the Contractor shall seek advice from the QAR regarding the disposal/continued retention of the Quality Control/Inspection Records, and the Contractor shall not dispose of such records without the written authority of the QAR.

b. Exceptionally, when requested by the Contractor, earlier disposal may be authorised in writing by the QAR.

3.10 Defects and Non Conformance

a. A MOD Form 445 at Annex I will be raised and submitted where there is a discrepancy with the delivery and or packaging of the Articles. A MOD Form 760 at Annex H shall be raised and submitted where there is a fault with the Article. A MOD Form 765 at Annex M will be raised and submitted where there is a discrepancy with the documentation. The forms shall be raised and submitted by the Receipting Unit or the Authorised Demander and forwarded for action to the Contractor as a result of an Article or Service failing to meet its specified quality, delivery and or packaging requirements under the Contract. The Contractor shall forward all MOD Forms 445 and 760 raised to the Authority's Project Manager for information purposes only.

b. The Contractor shall respond to the MOD Form 445, MOD Form 760 (using the MOD Form 761 at Annex L) and MOD Form 765 within 5 Working Days of receipt. A full investigation of the contents of the MOD Form 445, MOD Form 760 and MOD Form 765 shall be completed within 10 Working Days of receipt. However, MOD Forms 445, MOD Form 760 and/or MOD Form 765 with Health and Safety implications shall be acknowledged immediately and fully investigated within 5 Working Days. The investigation shall not be considered complete until the Contractor has completed and returned the MOD Form 445, MOD Form 761 and/or MOD Form 765 to the Authority's Project Manager, detailing its findings, actions taken and any subsequent recommendations.

c. A copy of the completed MOD Form 445, MOD Form 761 and/or 765 shall be forwarded by the Contractor to the Authority's Project Manager, Authorised Demander/Receipting unit who raised the Defect Report (where applicable).

d. Failures in Articles or Services found to be the responsibility of the Contractor as a result of any MOD Form 445, MOD Form 760 and/or MOD Form 765 shall be put into action immediately upon agreement with the Authority's Project Manager or the Authorised Demander as appropriate. The Contractor shall either rectify the defect or provide a replacement Article at his own expense. Unless otherwise agreed by the Authority, it shall be the responsibility of the Contractor to collect and transport goods requiring return to the Contractor's, or any third party (as applicable), premises without charge and at a time to be agreed with the Authority. For the avoidance of doubt the Contractor is not liable to replace spares where the failure in the Article or Service is as a direct result of accident, misuse, neglect & damage by the Authority.

e. Where the Contractor and an Authorised Demander cannot reach agreement on a MOD Form 445, MOD Form 760 and/or MOD 765, it shall be

forwarded to the Authority's Project Manager for resolution in accordance with Clause 2.5.

3.11 Full Lot Traceability and Certification of Conformity

In addition to DEFCON 627, DEFCON 609 and the Quality Assurance requirements detailed in Clause 3.2 above, the Contractor shall, when required by the Authority's Project Manager, provide Traceability and Certification of Conformity for the Articles supplied under the Contract. Traceability and certification requirements are enumerated in Def Stan 05-123 Chapter 244 and Def Stan 00-970 Part 1 Section 4 Issue 11 (Standard Parts). For further advice the QA Representative nominated in the DEFFORM 111 should be contacted.

3.12 Second Hand Material

The Contractor shall not meet any of the requirements of this Contract by the supply or incorporation of materiel which is second hand or has previously been used in any application.

3.13 Provision of Tasking Services – Line Item 5

- a. All requests for tasking shall use the Task Approval (TAF) at Appendix 7 to Annex A.
- b. The Contractor shall quote for each task by completing the TAF and submitting it to the Authority's Project Manager for agreement and authorisation. The Contractor's quotation shall use the agreed rates at Annex D.
- c. Provision of the goods or service required shall only commence following receipt by the Contractor of a TAF which has been authorised in writing at Part 3 of the TAF by the Authority's Project Branch, or his nominated representative.
- d. For tasking Forms valued in excess of £5,000.00 ex VAT; the Authority's Commercial Branch must also sign part 4 prior to the Contractor commencing any work in connection with the task.
- e. TAFs shall be serially numbered by the Project Manager or his nominated representative.
- f. Any work carried out by the Contractor which has not been authorised in this manner shall be deemed to have been conducted outside the scope of this Contract and consequently entirely at his own risk.
- g. If, after authorisation, tasks require amendment, the relevant TAF shall be cancelled by the Project Manager, or his nominated representative, and a new one issued.
- h. Upon completion of the work, the Contractor shall complete Part 5 of the TAF and submit to the Authority's Project manager for approval. Following satisfactory completion of the work required against the Task, the Project Manager shall complete the TAF at Part 6 and forward the completed TAF to those specified on the distribution list at the bottom of the TAF and inform the Contractor that they may submit their invoice through P2P.

3.14 Shelf Life

Articles provided under Line Items 2, 3, and 5 with a limited shelf life, which are delivered to the Authority, shall have a remaining shelf life on the date of receipt by the Authority of no less than % of the shelf life of the Article.

3.15. Warranty

- a. For all equipment's, items and spares supplied by the Contractor during the provision of the service under the Contract, these items will be delivered to the Authority in a

factory "New" condition, free from any defects in their design, material and their workmanship and will conform to their design specifications. Furthermore, such supplied equipment's, items and spares will be of good merchantable quality, fit for their intended purpose and compliant with statutory requirements and regulations. Where any Contractor supplied equipment, item or spare is found to be defective or non-conforming within 12 months following its installation for operational use by the Authority then the Contractor will replace the equipment, item or spare at its cost and expense. Furthermore, where the defective equipment, item or spare to the Authority as part of a batch greater than one, the Contractor will identify the batch from where the defective item came and will replace all the items from that batch at its cost and expense. It shall be the responsibility of the Authority to return the defective equipment(s), item(s) or spare(s) to the Contractor's nominated place of business.

b. The Warranty provision above will not be applicable where:

- i. The Authority is unable to provide full traceability on the source of supply to the Contractor;
- ii. The equipment, item or spare has been improperly stored, handled or transported by the Authority;
- iii. The equipment, item or spare has been incorrectly stored or fitted by the Authority;
- iv. The equipment, item or spare has not been used for its intended purpose or use of the equipment, item or spare was beyond its recommended limits.
- v. There has been wilful damage to or neglect of the equipment, item or spare.
- vi. The Authority is unable to return the defective items.

c. If a warranty claim is rejected by the Contractor, it will inform the Authority of its decision and its reasons for rejection.

d. For items that are repairable and the subject of a successful warranty claim by the Authority, the Contractor will repair the item and its cost and expense, and will return the repaired item to the Authority.

4 PRICE

DEFCON619A (Edn.09/97) - Customs Duty Drawback
DEFCON800 (Edn.12/14) - Qualifying Defence Contract
DEFCON801 (Edn.12/14) - Amendments to Qualifying Defence Contracts – Consolidated Versions
DEFCON802 (Edn.12/14) - QDC: Open Book on sub-contracts that are not Qualifying Sub-contracts
DEFCON804 (Edn.03/15) - QDC: Confidentiality of Single Source Contract Regulations Information
DEFCON513 (Edn 06/10) – Value Added Tax
DEFCON647 (Edn 09/13) – Financial Management Information

4.1 Pricing of Line Items 1 to 4

Prices in respect of Line Items 1 to 4 of the Schedule of Requirements to this Contract shall be FIRM priced (not subject to variation of any kind) inclusive of all insurance costs, royalties, commercial agreements, licence fees and taxes with the exception of Value Added Tax (DEFCON 513). The prices shall include any packaging & handling costs and the cost of compliance with all the Clauses of the Contract. The actual monthly payment shall be calculated based on the Contractor's performance against the Key Performance Indicator (KPI) and associated criteria at Annex A and B of the Contract. For the first three months from contract award, the payment retention mechanisms shall only apply in the event that the contractor delivery performance falls below % (Red).

4.2 Pricing of Line Item 5

- a. Prices in respect of Line Item 5 in the Schedule of Requirements shall be agreed on a case by case basis using the Task Order Process at Appendix 6 to Annex A, using the agreed rates at Annex D.

4.3 Gainshare

a. At any point during the contract period, the contractor may propose alternative solutions which offer financial or performance benefits to the Authority. For example the contractor may propose to supply alternative spares which meet the specification criteria but manufactured by the contractor rather than purchased from a supplier, or purchased from another supplier. The Contractor shall formally communicate the alternate solution to the authority detailing the solution as detailed in SOW paragraph 6.7. The Contractor shall provide a full cost breakdown. If accepted the authority will undertake a contract amendment in accordance with Clause 2.17 to implement the change. If there is no current price against the spare item, it shall not be subject to gainshare.

b. The Authority and Contractor shall benefit equally from any gain share identified the split shall be. The following calculation will be used to calculate the gain share and revised sales price.

c. $\text{Gain share} = \text{Contracted Price of solution} - \text{Alternate price of Solution.}$

$\text{Revised sales price} = \text{Alternative price of solution} + \% \text{ of gain share.}$

5. INTELLECTUAL PROPERTY RIGHTS

DEFCON14 (Edn.11/05) - Inventions and Designs Crown Rights and Ownership of Patents and Registered Designs

DEFCON 15 (Edn.02/98) – Design Rights and Rights to Use Design Information

DEFCON 16 (Edn. 10/04) – Repair and Maintenance Information

DEFCON 21 (Edn. 10/04) – Retentions of Records

DEFCON 14, 15, 16 and 21 shall only be applicable to Articles specified in a Tasking Authorisation Form when selected in the Tasking Authorisation Form.

DEFCON90 (Edn.11/06) – Copyright

For the purposes of this condition, all documents delivered under Statement of Work at Annex A shall be subject to DEFCON 90.

DEFCON632 (Edn.08/12) - Third Party Intellectual Property - Rights and Restrictions

For the For the purposes of this Condition, Clause 6 of DEFCON 501 shall not apply. The processes described and documents required by this Condition are to be conducted or transmitted manually (i.e. not electronic) or as otherwise detailed in the Contract.

5.1. Procedure for Making Direct Agreements with Sub-Contractors

a. The Contractor shall not place any sub-contract or order involving the design or development of equipment required under this contract without the prior approval of the Authority.

b. The Contractor shall not enter into any commitment in relation to the equipment's specified at DEFFORM 177, as may be amended from time-to-time, until the sub-contractor has entered into an agreement with the Authority in the form set out at Annex N. Wherever possible the request for approval should be accompanied by two copies of the agreement signed by the sub-contractor. If, in any case the Contractor is unable to comply with this condition he shall report the matter to the Authority's Commercial Officer and await further instructions before placing the sub-contract or order.

5.2 Design Rights and Rights to Use Design Information

a. Where there is a modification to the build standard or fit, form and function, as defined in the NSN, of a Spare identified in Appendix 3 or 4 to the SOW at Annex A or where an Spare in Appendix 3 or 4 to the SOW at Annex A is to be replaced by another spare as a fit, form and function replacement due to obsolescence, or as otherwise agreed with the Authority, the Contractor shall furnish the Authority with:

- i. Updated drawings of the Spare with the fit, form and function amendments, identifying the changes to the characteristics; or
- ii. New drawings of the Spare to be supplied as a fit, form and function replacement for an obsolete Spare in Appendix 3 or 5 to the SOW at Annex A
- iii. All Relevant Technical Information relating to the Spare, processes or materials whether in human readable form or in machine readable form, or in any other form.

b. For the purposes of Clause 5.2,a,iii 'Relevant Technical Information' shall include all that information reasonably necessary for the Authority or a competent third party to operate the Spares and to perform all necessary assessment, testing and evaluation activities including those necessary to meet any relevant safety or airworthiness requirement or standard as directed by the Authority.

c. The Authority and any other United Kingdom Government Department shall have, during the period of the Contract and at all times thereafter, the right, anywhere in the world for the Services of the United Kingdom Government, to copy, in whole or in part, and use any of the information identified in Clause 5.2,a,iii. or 5.2, b above:

- i. To define the relevant interfaces to enable the Spare to interface or cooperate with other equipment and to use the resultant interfaces for the purposes of designing, developing and manufacturing such other equipment:
- ii. To dismantle, scrap or otherwise destroy any Spare:
- iii. To monitor work under the Contract and to inspect, test and evaluate the delivered Information and Spares, including for the purposes of complying with any relevant safety or airworthiness requirement or standard.

d. The rights set out in Clause 5.2,c may be exercised by the Authority itself, any other United Kingdom Government Department or any agent acting on behalf of, or a contractor in pursuance of a contract with, the Authority or any such Department.

e. The Contractor shall not be entitled to receive any royalty or other payment in respect of the exercise of the rights granted under Clause 5.2,c notwithstanding the existence of any Intellectual Property owned or controlled by the Contractor covering the Spares.

f. The Authority shall ensure that Information released to any third party under this Clause 5.2 is limited to that necessary for the task on which the third party is engaged. All Information which is provided to the Authority subject to this Clause 5.2 is disclosed in confidence and shall only be copied, disclosed and used in accordance with the provisions of this Clause 5.2. The Authority shall ensure that all disclosures of Information to any third party shall be under express conditions of confidentiality between the Authority and the third party.

g. Any information supplied subject to this Clause 5.2 may be marked by the Contractor with a copyright and/or other restrictive legend provided that the legend acknowledges the Authority's rights under this Clause 5.2. Any such marking shall be

perpetuated in any copies of the information made by the Authority or any other United Kingdom Government Department or its agents or Contractor's.

h. The Contractor shall not place any Sub-Contract or order, or supply a replacement Spare for an obsolete Spare or a Spare which has been subject to a modification to the build standard or fit, form and function of a Spare identified in Appendix 3 or 4 to the SOW at Annex A without prior approval from the Authority. Unless otherwise agreed such approval will be subject to the Contractor securing for the Authority the rights provided for in this Clause 5.2 in respect of the supplied Spare. If in any case the Contractor is unable to comply with this Clause 5.2 he shall report the matter to the Commercial Officer identified at Box 1 of the DEFFORM 111 and await further instructions before placing the Sub-Contract or order.

6 LOANS

DEFCON23 (Edn.08/09) - Special Jigs, Tooling and Test Equipment
DEFCON76 (Edn.12/06) - Contractor's Personnel at Government Establishments
DEFCON611 (Edn.07/10) - Issued Property
DEFCON694 (Edn.02/12) - Accounting For Property of the Authority
DEF STAN 05-99 Managing Government Furnished Assets in Industry

6.1. Government Furnished Assets

a. Any Government Furnished Equipment, Services, Facilities and Information (together referred to as Government Furnished Assets (GFA) supplied or to be supplied by the Authority to the Contractor under this Contract shall be recorded at Annex F to the Contract. Where GFA is made available to the Contractor by the Authority at Government Establishments the GFA shall be subject to the terms of DEFCON 76. Where GFA is issued to the Contractor and is not retained at Government Establishment, the requirements of DEFCON 611 shall apply.

b. The GFA detailed at Annex F to the Contract shall be made available to the Contractor under the terms of DEF STAN 05-99 Issue 4 as Contract Support Items for the purposes of the Contract only and shall be returned to the Authority on completion of the Contract.

c. The GFA List at Annex F to the Contract represents the identified GFA items as agreed between the Authority and Contractor at Contract signature. If the Contractor wishes the Authority to provide any further GFA which is not referred to in Annex F, he must give the Authority reasonable notice as is practicable in the circumstances and give details of his requirement. New requirements for GFA shall be subject to negotiation with the Authority. The Authority will endeavour to meet such requirements but there will be no obligation to do so. The GFA list will subsequently be revised to reflect the change via the Contract Amendment procedure.

d. If the requirement can be satisfied from within the Authority's existing resources, the appropriate terms shall be negotiated. The Contractor shall not request items of equipment on loan from Government Sources, except for those listed in Annex F, without first obtaining the written agreement of the Authority to do so.

e. The Authority shall have no liability to the Contractor if, when the equipment or services are made available or offered to be made available on the agreed date the Contractor fails to make use of them. In such circumstances the liability of the Authority shall cease with effect from the time the facility is made available or offered on the agreed dates.

f. The Contractor shall observe the instructions of the Authority regarding any Government owned equipment issued to him for the purpose of the Contract and shall be responsible for the safe custody of issued GFA throughout the duration of the

Contract. The Contractor shall observe any accounting instructions issued by the Authority (clause 12 of DEFCON 611 refers).

g. The Contractor shall not modify any GFA without the agreement of the Authority except for those items so identified in Annex F hereto. If he has any doubt about the suitability of any item, or has proposals for design changes, he shall advise the Authority accordingly at the earliest opportunity, preferably at the time of the agreement of the Specification for the main item of materiel. The Contractor shall ensure that the design of the installation using Government Furnished Assets is in accordance with the specific requirements of such equipment.

h. The Contractor shall take all steps that are necessary to ensure that it has brought to the notice of all sub-contractors and any other persons dealing with any GFA that the Authority or the supplying agency is the owner of the equipment. The Contractor shall notify the Authority immediately of any attempts by a third party to secure a lien or rights of a similar kind on any GFA. At the same time he shall notify the third party that the Authority or the supplying agency is the owner of the GFA. This shall not relieve the Contractor of his obligations under DEFCON 611.

i. The Contractor shall provide reasonable access to all GFA issued under the Contract for the Authority to inspect and undertake necessary servicing/maintenance work. The Contractor shall ensure a similar provision is included in any Sub-Contract under which GFA is issued.

j. As and when the Contractor no longer has a requirement under the Contract to hold GFA or otherwise on completion of all work under the Contract he shall seek disposal instructions from the Authority's Commercial Officer and confirm when the GFA has been returned / disposed of.

k. The Authority reserves the right to withhold Milestone Payment(s) under the Contract until such time as all GFA items due to be returned prior to completion of such milestones are returned.

l. The Authority reserves the right to withhold final payment under the Contract until the Contractor has returned all GFA, under the obligations of clause 8 of DEFCON 611, issued to him for the purpose of the Contract.

7. DELIVERY

DEFCON5J (Edn.18/11/16) - Unique Identifiers

Where used in conjunction with contracts for services, Clause 2 of the DEFCON shall not apply.

DEFCON113 (Edn.10/04) - Diversion Orders

DEFCON129 (Edn.18/11/16) - Packaging (For Articles other than Munitions

DEFCON129J (Edn.18/11/16) - The Use Of The Electronic Business Delivery Form

DEFCON507 (Edn.10/98) – Delivery

DEFCON524 (Edn.10/98) – Rejection

DEFCON525 (Edn.10/98) – Acceptance

DEFCON612 (Edn.10/98) - Loss of or Damage to the Articles

DEFCON514 (Edn.08/15) – Material Breach

DEFCON621A (Edn 06/97) – Transport (if the Authority is responsible for Transport)

DEFCON684 (Edn.01/04) - Limitation Upon Claims In Respect Of Aviation Products

7.1. Delivery of Line Items 1 & 4

Deliverables under Line Items 1 and 4 are identified in the Statement of Work at Annex A. The Contractor shall deliver all deliverables under Line Item 1 and 4 within the timeframes, to the addresses and/or addressee detailed in the Statement of Work at Annex A and to the satisfaction of the Authority's Project Manager.

7.2. Acceptance of Line Item 1 & 4 – Documentation

- a. All reports and other documentation required under the Contract shall be produced in accordance with the Statement of Work at Annex A to the Contract and the Contract Deliverable Document (CDD) at Annex G to the Contract.
- b. The Contractor shall identify his proprietary information within the documents as appropriate, any information not identified as proprietary shall be subject to the appropriate IPR provision(s).
- c. Acceptance of deliverable documents shall take place upon the issue of written confirmation, on the Document Acceptance Proforma at Annex K, of the Authority's satisfaction with those documents.
- d. Acceptance of technical publications shall take place upon the issue of written confirmation of the Authority's satisfaction with the delivered material.
- e. All reports and other documentation (where applicable) shall be delivered in a Microsoft Office format, compatible with Version 2003.
- f. The Authority shall be allowed 30 working days, from receipt of Contract deliverables, unless otherwise agreed in advance, to consider any data, reports or other detail required to satisfy itself that individual requirements have been met. Any evidence of acceptance rejected by the Authority shall be notified to the Contractor within this time period. Details of rejection shall be passed (in writing) to the Contractor, who will duly carry out the corrective action at no extra cost to the Authority. Post-corrective action compliance evidence shall then be submitted to the Authority for acceptance.

7.3. Delivery & Acceptance of Line Item 2 and 3

- a. Each demand will specify a Required Delivery Date (RDD). The Contractor notify the Authority when the Articles are ready to be collected. The shall deliver Articles to the Demanding Unit by the Required Delivery Date and to satisfy Key Performance Indicator (KPI) 1 at Annex B to this Contract.
- c. The Contractor shall inform the Authorised Demander and the Authority's Project Manager electronically of any unexpected delays to delivery times. For the avoidance of doubt this shall not constitute the Authority's acceptance of late delivery.
- d. All Articles delivered under Line Item 2 and 3 shall be delivered to the satisfaction of the Authority's Project Manager and the Authorised Demander and to the standard defined in the NSN for the item. Upon receipt of an Article the Authorised Demander shall inspect the Articles, the packaging & paperwork. Where there is a discrepancy with the delivery of any Article under Line Item 2 and 3 it shall be managed in accordance with Clause 3.10.
- e. All Articles delivered under Line Item 2 and 3 shall be delivered with a Certificate of Conformity, compliant with DEFCON 627. An example template of the Certificate of Conformity can be found at Annex J, however the Contractor can use their own template providing the layout and content is approved by the Authority's Project Manager (at Box 2 of DEFFORM 111).
- f. Each consignment of the Deliverables under line item 2 and 3 shall be accompanied by a DEFFORM 129J.

7.4 Delivery & Acceptance of Line Item 5

Tasks under Line Item 5 shall be demanded on a task by task basis and will be delivered and accepted in accordance with the process at Clause 3.13 and Appendix 6 to Annex A.

7.5. Self-To-Self Delivery

Where any Article to be supplied under the Contract is to be delivered otherwise than being handed over by the Contractor to the Authority, as where an Article is to be delivered by the Contractor to his own premises or to those of a sub-contractor ('self-to-self delivery'), the risk in such Article shall (notwithstanding the provisions of DEFCON 612) remain vested in the Contractor until such time as the Article is handed over to the Authority.

7.6. Packaging, Marking & Labelling of Articles under Line Item 2 and 3

a. All Articles shall be packaged, marked & labelled in accordance with the requirements of the Statement of Work at Annex A. The cost of packaging, marking & labelling Articles shall be included within the firm price of the Article under Line Item 2 and 3.

b. In addition to the requirements specified in DEFCON129, each primary package shall be marked, with a label containing the following information as a minimum:

- i. Domestic Management Code (DMC)
- ii. Demand Number
- iii. Shelf life of the Article(s)

7.7. Product Recalls for Articles under Line Item 2 and 3

a. Should any Article delivered under Line Item 2 and 3 be recalled by the Contractor, he shall notify the Authority's Project Manager immediately to inform the Authority of:

- i. Which Articles are being recalled:
- ii. Why the Article is being recalled:
- iii. The Contractor's rectification plan for the replacement of the Article.

b. Should the Contractor recall an Article it shall be the Contractor's responsibility to replace the Article at no cost to the Authority within a timeframe agreed with the Authority's Project Manager.

c. Any Articles that are withdrawn due to a recall message shall be rejected Articles and the terms of DEFCON 524 shall apply.

7.8. Exit Strategy

a. In the event that the Authority terminates the Contract using any of its rights under the Contract, the Authority shall have the right to require the Contractor to continue to deliver its Contractual obligations for a termination notice period of 6 months and this will be at no additional cost to the Authority above the defined Contract value and Contract provisions regarding Payment.

b. To provide for the possibility of a hand-over to another Contractor or the transfer back of responsibility for the work to the Authority on expiry of the Contract or on termination of the Contract throughout the duration of the Contract, the Contractor shall maintain records, in a manner suitable to facilitate such a handover. The minimum requirement is that the following should be available at hand-over:

- i. A list of all Sub-Contractors and suppliers used by the Contractor in performance of this Contract including details of products and existing Contracts;

- ii. Warranty, guarantee and certification documentation, including test certificates as appropriate;
- iii. Reports & minutes of meetings produced for the Authority during the Contract period (including supporting information referenced therein);
- iv. Up to date Obsolescence Management Plan including Obsolescence Log;
- v. Up to date Risk & Issues Log;
- vi. Up to date Export License Register;
- vii All GFA in the Contractor's possession;
- viii. Certificates of Conformity for all Items/Spares delivered under the Contract.

c. In the event that the Authority terminates the Contract using any of its rights under the Contract, or the Contract expires, the Authority shall have the right to request the Contractor to furnish the Authority with all the relevant data as defined in Clause 7.8.b above. The Contractor shall furnish the Authority with the data within 30 calendar days of the request at nil cost to the Authority.

d. The Authority shall have the right to purchase any Articles which remain in the Contractor's possession at the point of termination or expiry of the Contract. Should the Authority elect to purchase the Articles in the Contractor's possession it shall agree a fair and reasonable price for the Articles. Should a fair and reasonable price not be agreed the Authority shall be under no obligation to take or pay for the Articles.

7.9 Contractor Breach

a. In addition to the Authority's rights to terminate the Contract, the Authority shall also have the right to terminate the contract in the following circumstances:

i. Receives a red performance indicator in a Contract month for KPI 1, followed by another red performance indicator for KPI 1 in any one of the next two Contract months following the first red performance indicator, or;

iii. Receives a red and/or amber performance indicator followed by any combination of a red and/or amber performance indicator in three of the next five Contract months following the first amber or red performance indicator.

iv. No reasonable delay by the Authority in exercising any entitlement to terminate the Contract nor anything said by any representative of the Authority shall amount to a waiver of the Authority's right to terminate the Contract except where such waiver is confirmed by written notice from the Authority's Commercial Branch at Box 2 of the DEFFORM 111.

v. Nothing in the Contract, nor the exercise of any rights or remedies (including but not limited to Clause 7.8) shall prejudice any rights or remedies which the Authority may have at common law or the right of the Authority to withhold payment under Clause 7.9.

vii. Should the Authority exercise its rights under the Contract to terminate the Contract, the Authority shall not be liable for any additional charge(s), other than those the Clauses make the Authority liable to in respect of the winding-up of the Contract.

b. The Authority at its sole discretion shall have the right to request a Rectification Plan in the event that the Contractor fails to achieve a green for KPI 1 in one or more instances in a Contract month. Request of a Rectification Plan will not prejudice the Authority's rights to terminate the Contract.

c. The Contractor shall within 10 Business Days of receipt of this request provide a Rectification Plan to the Authority setting out the steps which the Contractor intends to take in order to rectify the performance issues outlined in the request, and the date (the "Rectification Date") by which the Contractor will have taken those steps.

d. Where a Rectification Plan has been provided by the Contractor, the Authority may ;

i. Accept the Rectification Plan in writing;

ii. inform the Contractor in writing that it does not consider that the Rectification Plan will be sufficient to rectify the situation.

iii. request in writing that amendments are made to the Rectification Plan and specify the date by which the revised Rectification Plan must be provided to the Authority and on receipt of such revised Rectification Plan this Clause shall apply to the Rectification Plan as amended.

e. Where Clause 7.9.d applies, the Contractor shall implement the Rectification Plan by the Rectification Date. Implementation of a Rectification Plan by the Contractor shall be at the Contractors sole cost.

8 PAYMENTS/RECEIPTS

DEFCON513 (Edn.06/10) - Value Added Tax

DEFCON522 (Edn.18/11/16) – Payment and Recovery of Sums Due

DEFCON 649 (Edn 07/99) – Vesting

DEFCON 670 (Edn 07/14) – Tax Compliance

8.1 Payment of Line Items 1 to 5

a. Payment for Line Items 1 and 4 shall be in accordance with the core payments shown in the payment plan at Annex C to the Contract, payment is based on successful completion of the activities detailed in the SOW.

b. Payment for Line Items 2 and 3 shall be monthly in arrears based on the deliveries made during that monthly period, using firm prices agreed at Appendix 3 and 4 of the SOW. The actual payment shall be calculated based on the Contractor's performance against the Key Performance Indicator (KPI) and associated criteria at Annex A and B of the Contract. For the first three months from contract award, the payment retention mechanisms shall only apply in the event that the contractor delivery performance falls below % (Red)..

c. Payment for Line Item 5 shall be upon completion of tasks using the firm priced rates at Annex D to the Contract.

8.2. Compliance with the Electronic Transactions Agreement

Not used

8.3. Prompt Payment of Sub-Contractors

The Contractor shall ensure that all sub-contractors are paid within the timescales defined in their sub-contracts. The Contractor shall not unreasonably withhold money from sub-contractors where the activity has been completed.

9 CONTRACT ADMINISTRATION

DEFCON604 (Edn.06/14) - Progress Reports
DEFCON609 (Edn.06/14) - Contractor's Records
DEFCON642 (Edn.06/14) - Progress Meetings

9.1. Meetings

In order to monitor performance under the Contract, the Authority and the Contractor shall hold a series of meetings throughout the period of the Contract in accordance with the Statement of Work at Annex A to the Contract.

9.2. Reports

In addition to DEFCON 604, all other reports required for this Contract are identified within the Statement of Work at Annex A to the Contract. The Contractor shall deliver the reports to the Authority's Project Manager in line with the dates identified in the Statement of Work at Annex at A to the Contract, and to the acceptance of the Authority's Project Manager. If the Authority requires any report to be amended, the Contractor shall incorporate the comments and resubmit the report to the Authority within five working days of request for the Authority's approval.

9.3 Key Performance Indicator

The Key Performance Indicator applicable to Line Items 2 and 3 of this Contract is outlined at Annex B to the Contract.

Appendix - Addresses and Other Information

1. Commercial Officer

DES AS AC-ComrclCM2a
Walnut 3c, #1335
Abbey Wood
Bristol
BS30 8DL

Email: DESASAC-ComrclCM2a@mod.uk

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

AES AEA5

Email: DESASAC-AES-AN@mod.uk

3. Packaging Design Authority

(where no address is shown please contact the Project Team in Box 2)

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

DES AS-AC-SCM-AES2A

Tel No:

(b) U.I.N.

5. Drawings/Specifications are available from

6. For contracts containing DEFCON 5, mauve Copies of MOD Form 640 are to be sent to

DES AS-AC-SCM-AES2, Walnut 3A#1316, ABW, Bristol BS34 8JH

(where no address is shown the mauve copy should be destroyed)

7. Quality Assurance Representative:

Commercial staff are reminded that all Quality Assurance requirements should be listed under the General Contract Conditions.

AQAPS and **DEF STANs** are available from UK Defence Standardization, for access to the documents and details of the helpdesk visit <http://dstan.uwh.diif.r.mil.uk/> [intranet] or <https://www.dstan.mod.uk/> [extranet, registration needed]

8. Public Accounting Authority

1. Returns under DEFCON 694 (or SC equivalent) should be sent to DBS Finance ADMT – Assets In Industry 1, Level 4 Piccadilly Gate, Store Street, Manchester, M1 2WD



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



9. Consignment Instructions

The items are to be consigned as follows:

10. Transport. The appropriate Ministry of Defence Transport Offices are:

A. DSCOM, DE&S, DSCOM, MoD Abbey Wood, Cedar 3c, Mail Point 3351, BRISTOL BS34 8JH

Air Freight Centre

IMPORTS ☎ / Fax

EXPORTS ☎ / Fax

Surface Freight Centre

IMPORTS ☎ / / Fax

EXPORTS ☎ / / Fax

B. JSCS JSCS Helpdesk Tel (option 2, then option 3); JSCS Fax No www.freightcollection.com

11The Invoice Paying Authority (see Note 1)

Ministry of Defence



DBS Finance

Walker House, Exchange Flags Fax:

Liverpool, L2 3YL

Website is:

<https://www.gov.uk/government/organisations/ministry-of-defence/about/procurement#invoice-processing>

12. Forms and Documentation are available through *:

Ministry of Defence, Forms and Pubs Commodity Management
PO Box 2, Building C16, C Site
Lower Arcott

Bicester, OX25 1LP (Tel. Fax:)

Applications via fax or email:

NOTES

1. Forms. Hard copies, including MOD Form 640 are available from address in Box 12. , All other invoicing forms e.g. AG Forms 169 and 173, are available from the website address shown at Box 11.

2.* Many DEFCONs and DEFFORMs can also be obtained from the MOD Internet Website;

<https://www.aof.mod.uk/aofcontent/tactical/toolkit/index.htm>