



Ministry
of Defence

CONTRACT **704340453** – SUPPORT FOR DEVNUSCOT AND SOUTH RPT'S

01 August 2022 to 31 December 2023

**Between the Secretary of State for Defence of
the United Kingdom of Great Britain and
Northern Ireland**

And

Thales UK Limited

Team Name and Address:
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Contractor Name and Address:
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Standardised Conditions (SC2)

General Conditions

1) General

- a) The defined terms in the Contract shall be as set out in Schedule 1.
- b) The Contractor shall comply with all applicable Legislation, whether specifically referenced in this Contractor or not.
- c) The Contractor warrants and represents, that:
 - (1) they have the full capacity and authority to enter into, and to exercise their rights and perform their 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 themselves or a Subcontractor which would adversely affect the Contractor's ability to perform their obligations under the Contract;
 - (3) as at the Effective Date of Contract no proceedings or other steps have been taken and not discharged (nor, to the best of the knowledge of the Contractor, threatened) for the winding-up of the company or dissolution or for the appointment of a receiver, administrative receiver, administrator, liquidator, trustee or similar officer in relation to any of its assets or revenues;
 - (4) for so long as the Contract remains in force they shall give the Authority Notice of any proceedings or other steps that have been taken but not discharged (nor to the best of the knowledge of the Contractor, threatened) for the winding-up of the company or dissolution or for the appointment of a receiver, administrator, liquidator, trustee or similar officer in relation to any of its assets or revenues.
- d) Unless the context otherwise requires:
 - (1) The singular includes the plural and vice versa, and the masculine includes the feminine and vice versa.
 - (2) The words "include", "includes", "including" and "included" are to be construed as if they were immediately followed by the words "without limitation", except where explicitly stated otherwise.
 - (3) The expression "person" means any individual, firm, body corporate, unincorporated association or partnership, government, state or agency of a state or joint venture.
 - (4) References to any statute, enactment, order, regulation, or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation, or instrument as amended, supplemented, replaced or consolidated by any subsequent statute, enactment, order, regulation, or instrument.
 - (5) The heading to any Contract provision shall not affect the interpretation of that provision.
 - (6) Any decision, act or thing which the Authority is required or authorised to take or do under the Contract may be taken or done only by the person (or its nominated deputy) authorised in Schedule 3 (Contract Data Sheet) to take or do that decision, act, or thing on behalf of the Authority.
 - (7) Unless excluded within the Conditions of the Contract or required by law, references to submission of documents in writing shall include electronic submission.

2) Duration of Contract

This Contract comes into effect on the Effective Date of Contract and will expire automatically on the date identified in Schedule 3 (Contract Data Sheet) unless it is otherwise terminated in accordance with the provisions of the Contract, or otherwise lawfully terminated.

3) Entire Agreement

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

4) Governing Law

- a) Subject to clause 4.d, the Contract shall be considered as a contract made in England and subject to English Law.
- b) Subject to clause 4.d and Condition 39 (Dispute Resolution) and without prejudice to the dispute resolution process set out therein, each Party submits and agrees to the exclusive jurisdiction of the Courts of England to resolve, and the laws of England to govern, any actions proceedings, controversy or claim of whatever nature arising out of or relating to the Contract or breach thereof.
- c) Subject to clause 4.d any dispute arising out of or in connection with the Contract shall be determined within the English jurisdiction and to the exclusion of all other jurisdictions save that other jurisdictions may apply solely for the purpose of giving effect to this Condition 4 and for the enforcement of any judgment, order or award given under English jurisdiction.

- d) If the Parties pursuant to the Contract agree that Scots Law should apply then the following amendments shall apply to the Contract:
- (1) Clause 4.a, 4.b and 4.c shall be amended to read:
 "a. The Contract shall be considered as a contract made in Scotland and subject to Scots Law.
 b. Subject to Condition 39 (Dispute Resolution) and without prejudice to the dispute resolution process set out therein, each Party submits and agrees to the exclusive jurisdiction of the Courts of Scotland to resolve, and the laws of Scotland to govern, any actions, proceedings, controversy or claim of whatever nature arising out of or relating to the Contract or breach thereof.
 c. Any dispute arising out of or in connection with the Contract shall be determined within the Scottish jurisdiction and to the exclusion of all other jurisdictions save that other jurisdictions may apply solely for the purpose of giving effect to this Condition 4 and for the enforcement of any judgment, order or award given under Scottish jurisdiction."
 - (2) Clause 39.b shall be amended to read:
 "In the event that the dispute or claim is not resolved pursuant to clause 39.a the dispute shall be referred to arbitration. Unless otherwise agreed in writing by the Parties, the arbitration and this clause 39.b shall be governed by the Arbitration (Scotland) Act 2010. The seat of the arbitration shall be Scotland. For the avoidance of doubt, for the purpose of arbitration the tribunal shall have the power to make provisional awards pursuant to Rule 53 of the Scottish Arbitration Rules, as set out in Schedule 1 to the Arbitration (Scotland) Act 2010."
- e) Each Party warrants to each other that entry into the Contract does not, and the performance of the Contract will not, in any way violate or conflict with any provision of law, statute, rule, regulation, judgement, writ, injunction, decree or order applicable to it. Each Party also warrants that the Contract does not conflict with or result in a breach or termination of any provision of, or constitute a default under, any mortgage, contract or other liability, charge or encumbrance upon any of its properties or other assets.
- f) Each Party agrees with each other Party that the provisions of this Condition 4 shall survive any termination of the Contract for any reason whatsoever and shall remain fully enforceable as between the Parties notwithstanding such a termination.
- g) Where the Contractor's place of business is not in England or Wales (or Scotland where the Parties agree pursuant to the Contract that Scots Law should apply), the Contractor irrevocably appoints the solicitors or other persons in England and Wales (or Scotland where the Parties agree pursuant to the Contract that Scots Law should apply) detailed in Schedule 3 (Contract Data Sheet) as their agents to accept on their behalf service of all process and other documents of whatever description to be served on the Contractor in connection with any litigation or arbitration within the English jurisdiction (or Scottish jurisdiction where the Parties agree pursuant to the Contract that Scots Law should apply) arising out of or relating to the Contract or any issue connected therewith.

5) Precedence

- a) If there is any inconsistency between the different provisions of the Contract the inconsistency shall be resolved according to the following descending order of precedence:
- (1) Conditions 1 - 43 (and 44 - 46, if included in the Contract) of the Conditions of the Contract shall be given equal precedence with Schedule 1 (Definitions of Contract) and Schedule 3 (Contract Data Sheet);
 - (2) Schedule 2 (Schedule of Requirements) and Schedule 8 (Acceptance Procedure);
 - (3) the remaining Schedules; and
 - (4) 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 clause 5.a such Party shall notify the other Party forthwith and the Parties will seek to resolve that inconsistency on the basis of the order of precedence set out in clause 5.a. Where the Parties fail to reach agreement, and if either Party considers the inconsistency to be material to its rights and obligations under the Contract, then the matter will be referred to the dispute resolution procedure in accordance with Condition 39 (Dispute Resolution).

6) Formal Amendments to the Contract

- a) Except as provided in Condition 30 and subject to clause 6.c, the Contract may only be amended by the written agreement of the Parties (or their duly authorised representatives acting on their behalf). Such written agreement shall consist of:
- (1) the Authority Notice of Change under Schedule 4 (Contract Change Control Procedure) (where used);
 - (2) the Contractor's unqualified acceptance of the contractual amendments as evidenced by the DEFFORM 10B duly signed by the Contractor.
- b) Where required by the Authority in connection with any such amendment, the Contractor shall (as so required) confirm that any existing Parent Company Guarantee is sufficiently comprehensive so as to cover and support all of the Contractor's liabilities and obligations under and in connection with the Contract (as amended by such amendment) or provide a revised Parent Company Guarantee with such DEFFORM 10B to achieve the same purposes.

- c) Where the Authority wishes to amend the Contract to incorporate any work that is unpriced at the time of amendment:
- (1) if the Contract is not a Qualifying Defence Contract, the Authority shall have the right to settle with the Contractor a price for such work under the terms of DEFCON 643 (SC2) or DEFCON 127. Where DEFCON 643 (SC2) is used, the Contractor shall make all appropriate arrangements with all its Subcontractors affected by the Change or Changes in accordance with clause 5 of DEFCON 643 (SC2); or
 - (2) if the Contract is a Qualifying Defence Contract, the Contract Price shall be redetermined on amendment in accordance with the Defence Reform Act 2014 and Single Source Contract Regulations 2014 (each as amended from time to time).

Changes to the Specification

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

7) Authority Representatives

- a) Any reference to the Authority in respect of:
- (1) the giving of consent;
 - (2) the delivering of any Notices; or
 - (3) the doing of any other thing that may reasonably be undertaken by an individual acting on behalf of the Authority, shall be deemed to be references to the Authority's Representatives in accordance with this Condition 7.
- b) The Authority's Representatives detailed in Schedule 3 (Contract Data Sheet) (or their nominated deputy) shall have full authority to act on behalf of the Authority for all purposes of the Contract. Unless notified in writing before such act or instruction, the Contractor shall be entitled to treat any act of the Authority's Representatives which is authorised by the Contract as being expressly authorised by the Authority and the Contractor shall not be required to determine whether authority has in fact been given.
- c) In the event of any change to the identity of the Authority's Representatives, the Authority shall provide written confirmation to the Contractor, and shall update Schedule 3 (Contract Data Sheet) in accordance with Condition 6 (Formal Amendments to the Contract).

8) Severability

- a) If any provision of the Contract is held to be invalid, illegal or unenforceable to any extent then:
- (1) such provision shall (to the extent that it is invalid, illegal or unenforceable) be given no effect and shall be deemed not to be included in the Contract but without invalidating any of the remaining provisions of the Contract; and
 - (2) the Parties shall use all reasonable endeavours to replace the invalid, illegal or unenforceable provision by a valid, legal and enforceable substitute provision the effect of which is as close as possible to the intended effect of the invalid, illegal or unenforceable provision.

9) Waiver

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

10) Assignment of Contract

Neither Party shall be entitled to assign the Contract (or any part thereof) without the prior written consent of the other Party.

11) Third Party Rights

Notwithstanding anything to the contrary elsewhere in the Contract, no right is granted to any person who is not a Party to the Contract to enforce any term of the Contract in its own right and the Parties to the Contract declare that they have no intention to grant any such right.

12) Transparency

- a) Notwithstanding any other term of this Contract, including Condition 13 (Disclosure of Information), the Contractor understands that the Authority may publish the Transparency Information and Publishable Performance Information to the general public.
- b) Subject to clause 12.c the Authority shall publish and maintain an up-to-date version of the Transparency Information and Publishable Performance Information in a format readily accessible and reusable by the general public under an open licence where applicable.

- c) If, in the Authority's reasonable opinion, publication of any element of the Transparency Information and Publishable Performance Information would be contrary to the public interest, the Authority shall be entitled to exclude such Information from publication. The Authority acknowledges that it would expect the public interest by default to be best served by publication of the Transparency Information and Publishable Performance Information in its entirety. Accordingly, the Authority acknowledges that it shall only exclude Transparency Information and Publishable Performance Information from publication in exceptional circumstances and agrees that where it decides to exclude Information from publication on that basis, it will provide a clear statement to the general public explaining the categories of information that have been excluded from publication and reasons for withholding that information.
- d) The Contractor shall assist and co-operate with the Authority as reasonably required to enable the Authority to publish the Transparency Information and Publishable Performance Information, in accordance with the principles set out above, including through compliance with the requirements relating to the preparation of Publishable Performance Information set out in clauses 12.e to 12.i. Where the Authority publishes Transparency Information, it shall:
 - (1) before publishing, redact any Information that would be exempt from disclosure if it was the subject of a request for information under the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004 (EIR), for the avoidance of doubt, including Sensitive Information;
 - (2) taking account the Sensitive Information set out in Schedule 5, consult with the Contractor where the Authority intends to publish Information which has been identified as Sensitive Information. For the avoidance of doubt the Authority, acting reasonably, shall have absolute discretion to decide what information shall be published or be exempt from disclosure in accordance with the FOIA and/or the EIR; and
 - (3) present information in a format that assists the general public in understanding the relevance and completeness of the Information being published to ensure the public obtain a fair view on how this Contract is being performed.

13) Disclosure of Information

- a) Subject to clauses 13.d to 13.i and Condition 12 each Party:
 - (1) shall treat in confidence all Information it receives from the other;
 - (2) shall not disclose any of that Information to any third party without the prior written consent of the other Party, which consent shall not unreasonably be withheld, except that the Contractor may disclose Information in confidence, without prior consent, to such persons and to such extent as may be necessary for the performance of the Contract;
 - (3) shall not use any of that Information otherwise than for the purpose of the Contract; and
 - (4) shall not copy any of that Information except to the extent necessary for the purpose of exercising its rights of use and disclosure under the Contract.
- b) The Contractor shall take all reasonable precautions necessary to ensure that all Information disclosed to the Contractor by or on behalf of the Authority under or in connection with the Contract:
 - (1) is disclosed to their employees and Subcontractors, only to the extent necessary for the performance of the Contract; and
 - (2) is treated in confidence by them and not disclosed except with the prior written consent of the Authority or used otherwise than for the purpose of performing work or having work performed for the Authority under the Contract or any subcontract.
- c) The Contractor shall ensure that their employees are aware of the Contractor's arrangements for discharging the obligations at clauses 13.a and 13.b before receiving Information and shall take such steps as may be reasonably practical to enforce such arrangements.
- d) A Party shall not be in breach of clauses 13.a, 13.b, 13.f, 13.g and 13.h to the extent that either Party:
 - (1) exercises rights of use or disclosure granted otherwise than in consequence of, or under, the Contract;
 - (2) has the right to use or disclose the Information in accordance with other Conditions of the Contract; or
 - (3) can show:
 - (a) that the Information was or has become published or publicly available for use otherwise than in breach of any provision of the Contract or any other agreement between the Parties;
 - (b) that the Information was already known to it (without restrictions on disclosure or use) prior to receiving the Information under or in connection with the Contract;
 - (c) that the Information was received without restriction on further disclosure from a third party which lawfully acquired the Information without any restriction on disclosure; or
 - (d) from its records that the same Information was derived independently of that received under or in connection with the Contract;

provided that the relationship to any other Information is not revealed.
- e) Neither Party shall be in breach of this Condition where it can show that any disclosure of Information was made solely and to the extent necessary to comply with a statutory, judicial or parliamentary obligation. Where such a disclosure is made, the Party making the disclosure shall ensure that the recipient of the

Information is made aware of and asked to respect its confidentiality. Such disclosure shall in no way diminish the obligations of the Parties under this Condition.

f) The Authority may disclose the Information:

- (1) to any Central Government Body for any proper purpose of the Authority or of the relevant Central Government Body, which shall include: disclosure to the Cabinet Office and/or HM Treasury for the purpose of ensuring effective cross-Government procurement processes, including value for money and related purposes. Where such a disclosure is made the Authority shall ensure that the recipient is made aware of its confidentiality;
- (2) to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;
- (3) to the extent that the Authority (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;
- (4) subject to clause 13.g below, on a confidential basis to a professional adviser, consultant or other person engaged by any of the entities defined in Schedule 1 (including benchmarking organisations) for any purpose relating to or connected with the Contract;
- (5) subject to clause 13.g below, on a confidential basis for the purpose of the exercise of its rights under the Contract; or
- (6) on a confidential basis to a proposed body in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under the Contract;

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

g) Where the Authority intends to disclose Information to a commercial entity which is not a Central Government Body in accordance with clauses 13.f.(4) or 13.f.(5) above, the Authority will endeavour to provide the Contractor with 3 Business Days' notice in advance of such disclosure. In relation to a disclosure of Information made under clause 13.f.(3) above, if reasonably requested by the Contractor within 2 Business Days of such notice being given, where the Authority has not already done so, it will endeavour to procure from the intended recipient of the Information an agreement containing confidentiality terms the same as, or substantially similar to, those placed on the Authority under this Condition.

h) Before sharing any Information in accordance with clause 13.f, the Authority may redact the Information. Any decision to redact Information made by the Authority shall be final.

i) The Authority shall not be in breach of the Contract where disclosure of Information is made solely and to the extent necessary to comply with the Freedom of Information Act 2000 (the "Act") or the Environmental Information Regulations 2004 (the "Regulations"). To the extent permitted by the time for compliance under the Act or the Regulations, the Authority shall consult the Contractor where the Authority is considering the disclosure of Information under the Act or the Regulations and, in any event, shall provide prior notification to the Contractor of any decision to disclose the Information. The Contractor acknowledges and accepts that their representations on disclosure during consultation may not be determinative and that the decision whether to disclose Information in order to comply with the Act or the Regulations is a matter in which the Authority shall exercise its own discretion, subject always to the provisions of the Act or the Regulations.

j) Nothing in this Condition shall affect the Parties' obligations of confidentiality where Information is disclosed orally in confidence.

14) Publicity and Communications with the Media

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

15) Change of Control of Contractor

- a) The Contractor shall notify the Representative of the Authority at the address given in clause 15.b, as soon as practicable, in writing of any intended, planned or actual change in control of the Contractor, including any Subcontractors. The Contractor shall not be required to submit any notice which is unlawful or is in breach of either any pre-existing non-disclosure agreement or any regulations governing the conduct of the Contractor in the UK or other jurisdictions where the Contractor may be subject to legal sanction arising from issuing such a notice.
- b) Each notice of change of control shall be taken to apply to all contracts with the Authority. Notices shall be submitted to:
- Mergers & Acquisitions Section
Strategic Supplier Management Team
Spruce 3b # 1301
MOD Abbey Wood,
Bristol, BS34 8JH
and emailed to: DefComrclSSM-MergersandAcq@mod.gov.uk
- c) The Representative of the Authority shall consider the notice of change of control and advise the Contractor in writing of any concerns the Authority may have. Such concerns may include but are not

- limited to potential threats to national security, the ability of the Authority to comply with its statutory obligations or matters covered by the declarations made by the Contractor prior to contract award.
- d) The Authority may terminate the Contract by giving written notice to the Contractor within six months of the Authority being notified in accordance with clause 15.a. The Authority shall act reasonably in exercising its right of termination under this Condition.
 - e) If the Authority exercises its right to terminate in accordance with clause 15.d the Contractor shall be entitled to request the Authority to consider making a payment representing any commitments, liabilities or expenditure incurred by the Contractor in connection with the Contract up to the point of termination. Such commitments, liabilities or expenditure shall be reasonably and properly chargeable by the Contractor, and shall otherwise represent an unavoidable loss by the Contractor by reason of the termination of the Contract. Any payment under this clause 15.e must be fully supported by documentary evidence. The decision whether to make such a payment shall be at the Authority's sole discretion.
 - f) Notification by the Contractor of any intended, planned or actual change of control shall not prejudice the existing rights of the Authority or the Contractor under the Contract nor create or imply any rights of either the Contractor or the Authority additional to the Authority's rights set out in this Condition.

16) Environmental Requirements

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

17) Contractor's Records

- a) The Contractor and their Subcontractors shall maintain all records specified in and connected with the Contract (expressly or otherwise) and make them available to the Authority when requested on reasonable notice.
- b) The Contractor and their Subcontractors shall also permit access to relevant records that relate to the contractual obligations to supply goods or services under the Contract, held by or controlled by them and reasonably required by the Comptroller and Auditor General, their staff and any appointed representative of the National Audit Office, and provide such explanations and information as reasonably necessary for the following purposes:
 - (1) to enable the National Audit Office to carry out the Authority's statutory audits and to examine and/or certify the Authority's annual and interim report and accounts; and
 - (2) to enable the National Audit Office to carry out an examination pursuant to Part II of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources.
- c) With regard to the records made available to the Authority under clause 17.a of this Condition, and subject to the provisions of Condition 13 (Disclosure of Information), the Contractor shall permit records to be examined and if necessary copied, by the Authority, or Representative of the Authority, as the Authority may require.
- d) Unless the Contract specifies otherwise the records referred to in this Condition shall be retained for a period of at least 6 years from:
 - (1) the end of the Contract term;
 - (2) the termination of the Contract; or
 - (3) the final payment,
 whichever occurs latest.

18) Notices

- a) A Notice served under the Contract shall be:
 - (1) in writing in the English language;
 - (2) authenticated by signature or such other method as may be agreed between the Parties;
 - (3) sent for the attention of the other Party's Representative, and to the address set out in Schedule 3 (Contract Data Sheet);
 - (4) marked with the number of the Contract; and
 - (5) delivered by hand, prepaid post (or airmail), facsimile transmission or, if agreed in Schedule 3 (Contract Data Sheet), by electronic mail.
- b) Notices shall be deemed to have been received:
 - (1) if delivered by hand, on the day of delivery if it is the recipient's Business Day and otherwise on the first Business Day of the recipient immediately following the day of delivery;
 - (2) if sent by prepaid post, on the fourth Business Day (or the tenth Business Day in the case of airmail) after the day of posting;
 - (3) if sent by facsimile or electronic means:
 - (a) if transmitted between 09:00 and 17:00 hours on a Business Day (recipient's time) on completion of receipt by the sender of verification of the transmission from the receiving instrument; or

- (b) if transmitted at any other time, at 09:00 on the first Business Day (recipient's time) following the completion of receipt by the sender of verification of transmission from the receiving instrument.

19) Progress Monitoring, Meetings and Reports

- a) The Contractor shall attend progress meetings at the frequency or times (if any) specified in Schedule 3 (Contract Data Sheet) and shall ensure that their Contractor's representatives are suitably qualified to attend such meetings.
- b) The Contractor shall submit progress reports to the Authority's Representatives at the times and in the format (if any) specified in Schedule 3 (Contract Data Sheet). The reports shall detail as a minimum:
 - (1) performance/Delivery of the Contractor Deliverables;
 - (2) risks and opportunities;
 - (3) any other information specified in Schedule 3 (Contract Data Sheet); and
 - (4) any other information reasonably requested by the Authority.

Supply of Contractor Deliverables

20) Supply of Contractor Deliverables and Quality Assurance

- a) The Contractor shall provide the Contractor Deliverables to the Authority, in accordance with the Schedule of Requirements and the Specification, and shall allocate sufficient resource to the provision of the Contractor Deliverables to enable it to comply with this obligation.
- b) The Contractor shall:
 - (1) comply with any applicable quality assurance requirements specified in Schedule 3 (Contract Data Sheet) in providing the Contractor Deliverables; and
 - (2) discharge their obligations under the Contract with all due skill, care, diligence and operating practice by appropriately experienced, qualified and trained personnel.
- c) The provisions of clause 20.b. 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 as soon as they become aware of any health and safety hazards or issues which arise in relation to the Contractor Deliverables; and
 - (3) before the date on which the Contractor Deliverables are to start, obtain, and at all times maintain, all necessary licences and consents in relation to the Contractor Deliverables.

21) Marking of Contractor Deliverables

- a) Each Contractor Deliverable shall be marked in accordance with the requirements specified in Schedule 3 (Contract Data Sheet), if no such requirement is specified, the Contractor shall mark each Contractor Deliverable clearly and indelibly in accordance with the requirements of the relevant DEF-STAN 05-132 as specified in the contract or specification. In the absence of such requirements, the Contractor Deliverables shall be marked with the MOD stock reference, NATO Stock Number (NSN) or alternative reference number specified in Schedule 2 (Schedule of Requirements).
- b) Any marking method used shall not have a detrimental effect on the strength, serviceability or corrosion resistance of the Contractor Deliverables.
- c) The marking shall include any serial numbers allocated to the Contractor Deliverable.
- d) Where because of its size or nature it is not possible to mark a Contractor Deliverable with the required particulars, the required information should be included on the package or carton in which the Contractor Deliverable is packed, in accordance with Condition 22 (Packaging and Labelling (excluding Contractor Deliverables containing Munitions)).

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

- a) Packaging responsibilities are as follows:
 - (1) The Contractor shall be responsible for providing Packaging which fully complies with the requirements of the Contract.
 - (2) The Authority shall indicate in the Contract the standard or level of Packaging required for each Contractor Deliverable, including the PPQ. If a standard or level of Packaging (including the PPQ) is not indicated in the Contract, the Contractor shall request such instructions from the Authority before proceeding further.
 - (3) The Contractor shall ensure all relevant information necessary for the effective performance of the Contract is made available to all Subcontractors.
 - (4) Where the Contractor or any of their Subcontractors have concerns relating to the appropriateness of the Packaging design and or MPL prior to manufacture or supply of the Contractor Deliverables they shall use DEFFORM 129B to feedback these concerns to the Contractor or Authority, as appropriate.
- b) The Contractor shall supply Commercial Packaging meeting the standards and requirements of Def Stan 81 -041 (Part 1). In addition, the following requirements apply:
 - (1) The Contractor shall provide Packaging which:

- (a) will ensure that each Contractor Deliverable may be transported and delivered to the consignee named in the Contract in an undamaged and serviceable condition; and
 - (b) is labelled to enable the contents to be identified without need to breach the package; and
 - (c) Is compliant with statutory requirements and this Condition.
- (2) The Packaging used by the Contractor to supply identical or similar Contractor Deliverables to commercial customers or to the general public (i.e. point of sale packaging) will be acceptable, provided that it complies with the following criteria:
 - (a) reference in the Contract to a PPQ means the quantity of a Contractor Deliverable to be contained in an individual package, which has been selected as being the most suitable for issue(s) to the ultimate user;
 - (b) Robust Contractor Deliverables, which by their nature require minimal or no packaging for commercial deliveries, shall be regarded as "PPQ packages" and shall be marked in accordance with clauses 22.i to 22.l. References to "PPQ packages" in subsequent text shall be taken to include Robust Contractor Deliverables; and
 - (c) for ease of handling, transportation and delivery, packages which contain identical Contractor Deliverables may be bulked and overpacked, in accordance with clauses 22.i to 22.k.
- c) The Contractor shall ascertain whether the Contractor Deliverables being supplied are, or contain, Dangerous Goods, and shall supply the Dangerous Goods in accordance with:
 - (1) The Health and Safety At Work Act 1974 (as amended);
 - (2) The Classification Hazard Information and Packaging for Supply Regulations (CH IP4) 2009 (as amended);
 - (3) The REACH Regulations 2007 (as amended); and
 - (4) The Classification, Labelling and Packaging Regulations (CLP) 2009 (as amended).
- d) The Contractor shall package the Dangerous Goods as limited quantities, excepted quantities or similar derogations, for U K or worldwide shipment by all modes of transport in accordance with the regulations relating to the Dangerous Goods and:
 - (1) The Safety Of Lives At Sea Regulations (SOLAS) 1974 (as amended); and
 - (2) The Air Navigation (Amendment) Order 2019.
- e) As soon as possible, and in any event no later than one month before delivery is due, the Contractor shall provide a Safety Data Sheet in respect of each Dangerous Good in accordance with the REACH Regulations 2007 (as amended) and the Health and Safety At Work Act 1974 (as amended) and in accordance with Condition 23 (Supply of Hazardous Materials or Substances in Contractor Deliverables).
- f) The Contractor shall comply with the requirements for the design of MLP which include clauses 22.f and 22.g as follows:
 - (1) Where there is a requirement to design UK or NATO MLP, the work shall be undertaken by an MPAS registered organisation, or one that although non-registered is able to demonstrate to the Authority that their quality systems and military package design expertise are of an equivalent standard.
 - (a) The MPAS certification (for individual designers) and registration (for organisations) scheme details are available from:
 DES LSOC SpSvcs--SptEng-Pkg1
 MOD Abbey Wood
 Bristol, BS34 8JH
 Tel. +44(0)30679-35353
DESLSOC-SpSvcs-SptEng-Pkg1@mod.gov.uk
 - The MPAS Documentation is also available on the DStan website.
 - (2) MLP shall be designed to comply with the relevant requirements of Def Stan 81-041, and be capable of meeting the appropriate test requirements of Def Stan 81-041 (Part 3). Packaging designs shall be prepared on a SPIS, in accordance with Def Stan 81-041 (Part 4).
 - (3) The Contractor shall ensure a search of the SPIS index (the 'SPIN') is carried out to establish the SPIS status of each requirement (using DEFFORM 129a 'Application for Packaging Designs or their Status').
 - (4) New designs shall not be made where there is an existing usable SPIS, or one that may be easily modified.
 - (5) Where there is a usable SFS, it shall be used in place of a SPIS design unless otherwise stated by the Contract. When an SFS is used or replaces a SPIS design, the Contractor shall upload this information on to SPIN in Adobe PDF.
 - (6) All SPIS, new or modified (and associated documentation), shall, on completion, be uploaded by the Contractor on to SPIN. The format shall be Adobe PDF.
 - (7) Where it is necessary to use an existing SPIS design, the Contractor shall ensure the Packaging manufacturer is a registered organisation in accordance with clause 22.f(1) above, or if un-registered, is compliant with MPAS ANNEX A Supplement (Code) M. The Contractor shall ensure, as far as possible, that the SPIS is up to date.
 - (8) The documents supplied under clause 22.f(6) shall be considered as a contract data requirement and be subject to the terms of DEFCON 15 and DEFCON 21.

- g) Unless otherwise stated in the Contract, one of the following procedures for the production of new or modified SPIS designs shall be applied:
- (1) If the Contractor or their Subcontractor is the PDA they shall:
 - (a) On receipt of instructions received from the Authority's representative nominated in Box 2 Annex A to Schedule 3 (Contract Data Sheet), prepare the required package design in accordance with clause 22.f.
 - (b) Where the Contractor or their Subcontractor is registered, they shall, on completion of any design work, provide the Authority with the following documents electronically:
 - (i) a list of all SPIS which have been prepared or revised against the Contract; and
 - (ii) a copy of all new / revised SPIS, complete with all continuation sheets and associated drawings, where applicable, to be uploaded onto SPIN.
 - (iii) Where the PDA is not a registered organisation, then they shall obtain approval for their design from a registered organisation before proceeding, then follow clause 22.g(1)(b).
 - (2) Where the Contractor or their Subcontractor is not the PDA and is un-registered, they shall not produce, modify, or update SPIS designs. They shall obtain current SPIS design(s) from the Authority or a registered organisation before proceeding with manufacture of Packaging. To allow designs to be provided in ample time, they should apply for SPIS designs as soon as practicable.
 - (3) Where the Contractor or their Subcontractor is un-registered and has been given authority to produce, modify, and update SPIS designs by the Contract, they shall obtain approval for their design from a registered organisation using DEFFORM 129a before proceeding, then follow clause 22.g(1)(b).
 - (4) Where the Contractor or their Subcontractor is not a PDA but is registered, they shall follow clauses 22.g(1)(a) and 22.g(1)(b).
 - h) If special jigs, tooling etc., are required for the production of MLP, the Contractor shall obtain written approval from the Commercial Officer before providing them. Any approval given will be subject to the terms of DEFCON 23 (SC2) or equivalent condition, as appropriate.
 - i) In addition to any marking required by international or national legislation or regulations, the following package labelling and marking requirements apply:
 - (1) If the Contract specifies UK or NATO MPL, labelling and marking of the packages shall be in accordance with Def Stan 81-041 (Part 6) and this Condition as follows:
 - (a) Labels giving the mass of the package, in kilograms, shall be placed such that they may be clearly seen when the items are stacked during storage.
 - (b) Each consignment package shall be marked with details as follows:
 - (i) name and address of consignor;
 - (ii) name and address of consignee (as stated in the Contract or order);
 - (iii) destination where it differs from the consignee's address, normally either:
 1. delivery destination / address; or
 2. transit destination, where delivery address is a point for aggregation / disaggregation and / or onward shipment elsewhere, e.g. railway station, where that mode of transport is used;
 - (iv) the unique order identifiers and the CP&F Delivery Label / Form which shall be prepared in accordance with DEFFORM 129J.
 - (v) If aggregated packages are used, their consignment marking and identification requirements are stated at clause 22.l.
 - (2) If the Contract specifies Commercial Packaging, an external surface of each PPQ package and each consignment package, if it contains identical PPQ packages, shall be marked, using details of the Contractor Deliverables as shown in the Contract schedule, to state the following:
 - (a) description of the Contractor Deliverable;
 - (b) the full thirteen digit NATO Stock Number (NSN);
 - (c) the PPQ;
 - (d) maker's part / catalogue, serial and / or batch number, as appropriate;
 - (e) the Contract and order number when applicable;
 - (f) the words "Trade Package" in bold lettering, marked in BLUE in respect of trade packages, and BLACK in respect of export trade packages;
 - (g) shelf life of item where applicable;
 - (h) for rubber items or items containing rubber, the quarter and year of vulcanisation or manufacture of the rubber product or component (marked in accordance with Def Stan 81-041);
 - (i) any statutory hazard markings and any handling markings, including the mass of any package which exceeds 3kg gross; and
 - (j) any additional markings specified in the Contract.
 - j) Bar code marking shall be applied to the external surface of each consignment package and to each PPQ package contained therein. The default symbology shall be as specified in Def Stan 81-041 (Part 6). As a minimum the following information shall be marked on packages:
 - (1) the full 13-digit NSN;

- (2) denomination of quantity (D of Q);
 - (3) actual quantity (quantity in package);
 - (4) manufacturer's serial number and / or batch number, if one has been allocated; and
 - (5) the CP&F-generated unique order identifier.
- k) Requirements for positioning bar codes in relation to related text, as well as positioning on package etc., are defined in Def Stan 81-041 (Part 6). If size of the bar code does not allow a label to be directly attached, then a tag may be used. Any difficulties over size or positioning of barcode markings shall initially be referred to the organisation nominated in Box 3 of Annex A to Schedule 3 (Contract Data Sheet).
- l) The requirements for the consignment of aggregated packages are as follows:
- (1) With the exception of packages containing Dangerous Goods, over-packing for delivery to the consignee shown in the Contract may be used by the consignor to aggregate a number of packages to different Packaging levels, provided that the package contains Contractor Deliverables of only one NSN or class group. Over-packing shall be in the cheapest commercial form consistent with ease of handling and protection of over-packed items.
 - (a) Two adjacent sides of the outer container shall be clearly marked to show the following:
 - (b) class group number;
 - (c) name and address of consignor;
 - (d) name and address of consignee (as stated on the Contract or order);
 - (e) destination if it differs from the consignee's address, normally either:
 - (i) delivery destination / address; or
 - (ii) transit destination, if the delivery address is a point of aggregation / disaggregation and / or onward shipment e.g. railway station, where that mode of transport is used;
 - (2) where applicable, the reference number of the delivery note produced by CP&F relating to the contents. The consignee's copy of each delivery note shall be placed in the case / container. If the Contractor Deliverables listed in the delivery note are packed in several cases, the consignee's copy shall be placed in the first case and a separate list detailing the contents shall be prepared for each case after the first and placed in the case to which it relates. Each case is to be numbered to indicate both the number of the case and the total number of cases concerned e.g. 1/3, 2/3, 3/3;
 - (3) the CP&F-generated shipping label; and
 - (4) any statutory hazard markings and any handling markings.
- m) Authorisation of the Contractor to undertake Packaging design, or to use a packaging design, that was not part of the original requirement under the Contract, shall be considered as an alteration to the specification in accordance with Condition 6 (Formal Amendments to the Contract).
- n) The Contractor shall ensure that timber and wood-containing products supplied under the Contract comply with the provisions of Condition 24 (Timber and Wood-Derived Products) and Annex I and Annex II of the International Standards for Phytosanitary Measures, "Guidelines for Regulating Wood Packaging Material in International Trade", Publication No 15 (ISPM 15).
- o) All Packaging shall meet the requirements of the Packaging (Essential Requirements) Regulations 2003 (as amended) where applicable.
- p) In any design work the Contractor shall comply with the Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (as amended) or equivalent legislation. Evidence of compliance shall be a contractor record in accordance with Condition 17 (Contractor's Records).
- q) This Condition is concerned with the supply of Packaging suitable to protect and ease handling, transport and storage of specified items. Where there is a failure of suitable Packaging (a design failure), or Packaging fails and this is attributed to the Packaging supplier, then the supplier shall be liable for the cost of replacing the Packaging.
- r) Liability for other losses resulting from Packaging failure or resulting from damage to Packaging, (such as damage to the packaged item etc.), shall be specified elsewhere in the Contract.
- s) General requirements for service Packaging, including details of UK and NATO MLP and Commercial Packaging descriptions, are contained in Def Stan 81-041 (Part 1) "Packaging of Defence Materiel". Def Stans, NATO Standardisation Agreements (STANAGs), and further information are available from the DStan internet site at: <https://www.dstan.mod.uk/>
- t) Unless specifically stated otherwise in the invitation to tender or the Contract, reference to any standard including Def S tans or STANAGs in any invitation to tender or Contract document means the edition and all amendments extant at the date of such tender or Contract.
- u) In the event of conflict between the Contract and Def Stan 81-041, the Contract shall take precedence.

23) Supply of Data for Hazardous Materials or Substances in Contractor Deliverables

- a) The Contractor shall provide to the Authority:
- (1) for each hazardous material or substance supplied, a Safety Data Sheet (SDS) in accordance with the extant Classification, Labelling and Packaging (GB CLP) Regulation; and
 - (2) for each Contractor Deliverable containing hazardous materials or substances, safety information as required by the Health and Safety at Work, etc Act 1974, at the time of supply.
- Nothing in this Condition shall reduce or limit any statutory duty or legal obligation of the Authority or the Contractor.

- b) If the Contractor Deliverable contains hazardous materials or substances, or is a substance falling within the scope of the extant UK REACH Regulation:
 - (1) the Contractor shall provide to the Authority an SDS for the substance in accordance with the Regulation. If the Contractor becomes aware of new information which may affect the risk management measures or new information on the hazard, the Contractor shall update the SDS and forward it to the Authority and to the address listed in clause 23.h below; and
 - (2) the Authority, if it becomes aware of new information regarding the hazardous properties of the substance, or any other information that might call into question the appropriateness of the risk management measures identified in the SDS supplied, shall report this information in writing to the Contractor.
- c) If the Contractor is required, under, or in connection with the Contract, to supply Contractor Deliverables or components of Contractor Deliverables that, in the course of their use, maintenance, disposal, or in the event of an accident, may release hazardous materials or substances, they shall provide to the Authority a list of those hazardous materials or substances, and for each hazardous material or substance listed, provide an SDS.
- d) The Contractor shall provide to the Authority a completed Schedule 6 (Hazardous Contractor Deliverables, Materials or Substances Supplied under the Contract: Data Requirements) in accordance with Schedule 3 (Contract Data Sheet).
- e) If the Contractor Deliverables, materials or substances are ordnance, munitions or explosives, in addition to the requirements of the GB CLP and UK REACH the Contractor shall comply with hazard reporting requirements of DEF STAN 07-085 Design Requirements for Weapons and Associated Systems.
- f) If the Contractor Deliverables, materials or substances are or contain or embody a radioactive substance as defined in the extant Ionising Radiation Regulations, the Contractor shall additionally provide details of:
 - (1) activity; and
 - (2) the substance and form (including any isotope);
- g) If the Contractor Deliverables, materials or substances have magnetic properties, the Contractor shall additionally provide details of the magnetic flux density at a defined distance, for the condition in which it is packed.
- h) Any SDS to be provided in accordance with this Condition, including any related information to be supplied in compliance with the Contractor's statutory duties under clause 23.a(1) and 23.b(1), any information arising from the provisions of clauses 23.e, 23.f and 23.g and the completed Schedule 6, shall be sent directly to the Authority's Representative (Commercial) as soon as practicable, and no later than one (1) month prior to the Contract delivery date, unless otherwise stated in Schedule 3 (Contract Data Sheet). In addition, so that the safety information can reach users without delay, a copy shall be sent preferably as an email with attachment(s) in Adobe PDF or MS WORD format, or, if only hardcopy is available, to the addresses below:
 - (1) Hard copies to be sent to:
 - Hazardous Stores Information System (HSIS)
 - Department of Safety & Environment, Quality and Technology (DS & EQT)
 - Spruce 2C, #1260,
 - MOD Abbey Wood (South)
 - Bristol BS34 8JH
 - (2) Emails to be sent to:
 - DESTECH-QSEPEnv-HSISMulti@mod.gov.uk
- i) Failure by the Contractor to comply with the requirements of this Condition shall be grounds for rejecting the affected Contractor Deliverables. Any withholding of information concerning Hazardous Contractor Deliverables, materials or substances shall be regarded as a material breach of Contract under Condition 42 (Material Breach) for which the Authority reserves the right to require the Contractor to rectify the breach immediately at no additional cost to the Authority or to terminate the Contract in accordance with Condition 42.
- j) Where delivery is made to the Defence Fulfilment Centre (DFC) and / or other Team Leidos location / building, the Contractor must comply with the Logistic Commodities and Services Transformation (LCST) Supplier Manual.

24) Timber and Wood-Derived Products

- a) All Timber and Wood-Derived Products supplied by the Contractor under the Contract:
 - (1) shall comply with the Contract Specification; and
 - (2) must originate either:
 - (a) from a Legal and Sustainable source; or
 - (b) from a FLEGT-licensed or equivalent source.
- b) In addition to the requirements of clause 24.a, all Timber and Wood-Derived Products supplied by the Contractor under the Contract shall originate from a forest source where management of the forest has full regard for:
 - (1) identification, documentation and respect of legal, customary and traditional tenure and use rights related to the forest;

- (2) mechanisms for resolving grievances and disputes including those relating to tenure and use rights, to forest management practices and to work conditions; and
 - (3) safeguarding the basic labour rights and health and safety of forest workers.
- c) If requested by the Authority, the Contractor shall provide to the Authority Evidence that the Timber and Wood-Derived Products supplied to the Authority under the Contract comply with the requirements of clause 24.a or 24.b or both.
- d) The Authority reserves the right at any time during the execution of the Contract and for a period of five (5) years from final Delivery under the Contract to require the Contractor to produce the Evidence required for the Authority's inspection within fourteen (14) days of the Authority's request.
- e) If the Contractor has already provided the Authority with the Evidence required under clause 24.c, the Contractor may satisfy these requirements by giving details of the previous notification and confirming the Evidence remains valid and satisfies the provisions of clauses 24.a or 24.b or both.
- f) The Contractor shall maintain records of all Timber and Wood-Derived Products delivered to and accepted by the Authority, in accordance with Condition 17 (Contractor's Records).
- g) Notwithstanding clause 24.c, if exceptional circumstances render it strictly impractical for the Contractor to record Evidence of proof of timber origin for previously used Recycled Timber, the Contractor shall support the use of this Recycled Timber with:
 - (1) a record tracing the Recycled Timber to its previous end use as a standalone object or as part of a structure; and
 - (2) an explanation of the circumstances that rendered it impractical to record Evidence of proof of timber origin.
- h) The Authority reserves the right to decide, except where in the Authority's opinion the timber supplied is incidental to the requirement and from a low risk source, whether the Evidence submitted to it demonstrates compliance with clause 24.a or 24.b, or both. In the event that the Authority is not satisfied, the Contractor shall commission and meet the costs of an Independent Verification and resulting report that will:
 - (1) verify the forest source of the timber or wood; and
 - (2) assess whether the source meets the relevant criteria of clause 24.b.
- i) The statistical reporting requirement at clause 24.j applies to all Timber and Wood-Derived Products delivered under the Contract. The Authority reserves the right to amend the requirement for statistical reporting, in the event that the UK Government changes the requirement for reporting compliance with the Government Timber Procurement Policy. Amendments to the statistical reporting requirement will be made in accordance with Condition 6 (Formal Amendments to the Contract).
- j) The Contractor shall provide to the Authority, a completed Schedule 7 (Timber and Wood -Derived Products Supplied under the Contract: Data Requirements), the data or Information the Authority requires in respect of Timber and Wood -Derived Products delivered to the Authority under the Contract, or in respect of each order in the case of a Framework Agreement, or at such other frequency as stated in the Contract. The Contractor shall send all completed Schedule 7s (Timber and Wood -Derived Products Supplied under the Contract: Data Requirements), including nil returns where appropriate, to the Authority's Representative (Commercial).
- k) The Schedule 7 (Timber and Wood-Derived Products Supplied under the Contract: Data Requirements) may be amended by the Authority from time to time, in accordance with Condition 6 (Formal Amendments to the Contract).
- l) The Contractor shall obtain any wood, other than processed wood, used in Packaging from:
 - (1) companies that have a full registered status under the Forestry Commission and Timber Packaging and Pallet Confederation's UK Wood Packaging Material Marking Programme (more detailed information can be accessed at www.forestry.gov.uk) and all such wood shall be treated for the elimination of raw wood pests and marked in accordance with that Programme; or
 - (2) sources supplying wood treated and marked so as to conform to Annex I and Annex II of the International Standard for Phytosanitary Measures, "Guidelines for Regulating Wood Packaging Material in International Trade", Publication No 15 published by the Food and Agricultural Organisation of the United Nations (ISPM15) (more detailed information can be accessed at www.fao.org).

25) Certificate of Conformity

- a) Where required in Schedule 3 (Contract Data Sheet) the Contractor shall provide a Certificate of Conformity (CofC) in accordance with Schedule 2 (Schedule of Requirements) and any applicable Quality Plan. One copy of the CofC shall be sent to the Authority's Representative (Commercial) upon Delivery, and one copy shall be provided to the Consignee upon Delivery.
- b) Each CofC should include the wording "Certificate of Conformity" in the title of the document to allow for easy identification. One CofC is to be used per NSN/part number; a CofC must not cover multiple line items.
- c) The Contractor shall consider the CofC to be a record in accordance with Condition 17 (Contractor's Records).
- d) The Information provided on the CofC shall include:
 - (1) Contractor's name and address;

- (2) Contractor unique CofC number;
- (3) Contract number and where applicable Contract amendment number;
- (4) details of any approved concessions;
- (5) acquirer name and organisation;
- (6) Delivery address;
- (7) Contract Item Number from Schedule 2 (Schedule of Requirements);
- (8) description of Contractor Deliverable, including part number, specification and configuration status;
- (9) NATO Stock Number (NSN) (where allocated);
- (10) identification marks, batch and serial numbers in accordance with the Specification;
- (11) quantities;
- (12) a signed and dated statement by the Contractor that the Contractor Deliverables comply with the requirements of the Contract and approved concessions.

Exceptions or additions to the above are to be documented.

- e) Where Schedule 2 (Schedule of Requirements) and any applicable Quality Plan require demonstration of traceability and design provenance through the supply chain the Contractor shall include in any relevant subcontract the requirement for the Information called for at clause 25.d. The Contractor shall ensure that this Information is available to the Authority through the supply chain upon request in accordance with Condition 17 (Contractor Records).

26) Access to Contractor's Premises

- a) The Contractor shall provide to the Authority's Representatives following reasonable Notice, relevant accommodation/facilities, at no direct cost to the Authority, and all reasonable access to their premises for the purpose of monitoring the Contractor's progress and quality standards in performing the Contract.
- b) As far as reasonably practical, the Contractor shall ensure that the provisions of clause 26.a are included in their subcontracts with those suppliers identified in the Contract. The Authority, through the Contractor, shall arrange access to such Subcontractors.

27) Delivery / Collection

- a) Schedule 3 (Contract Data Sheet) shall specify whether the Contractor Deliverables are to be Delivered to the Consignee by the Contractor or Collected from the Consignor by the Authority.
- b) Where the Contractor Deliverables are to be Delivered by the Contractor (or a third party acting on behalf of the Contractor), the Contractor shall, unless otherwise stated in writing:
 - (1) contact the Authority's Representative as detailed in Schedule 3 (Contract Data Sheet) in advance of the Delivery Date in order to agree administrative arrangements for Delivery and provide any Information pertinent to Delivery requested;
 - (2) comply with any special instructions for arranging Delivery in Schedule 3 (Contract Data Sheet);
 - (3) ensure that each consignment of the Contractor Deliverables is accompanied by, (as specified in Schedule 3 (Contract Data Sheet)), a DEFFORM 129J in accordance with the instructions;
 - (4) be responsible for all costs of Delivery; and
 - (5) Deliver the Contractor Deliverables to the Consignee at the address stated in Schedule 2 (Schedule of Requirements) by the Delivery Date between the hours agreed by the Parties.
- c) Where the Contractor Deliverables are to be Collected by the Authority (or a third party acting on behalf of the Authority), the Contractor shall, unless otherwise stated in writing:
 - (1) contact the Authority's Representative (Transport) as detailed in box 10 of Annex A to Schedule 3 (Contract Data Sheet) in advance of the Delivery Date in order to agree specific arrangements for Collection and provide any Information pertinent to the Collection requested;
 - (2) comply with any special instructions for arranging Collection in Schedule 3 (Contract Data Sheet);
 - (3) ensure that each consignment of the Contractor Deliverables is accompanied by, (as specified in Schedule 3 (Contract Data Sheet)), a DEFFORM 129J in accordance with the instructions;
 - (4) ensure that the Contractor Deliverables are available for Collection by the Authority from the Consignor (as specified in Schedule 3 (Contract Data Sheet)) by the Delivery Date between the hours agreed by the Parties; and
 - (5) in the case of Overseas consignments, ensure that the Contractor Deliverables are accompanied by the necessary transit documentation. All Customs clearance shall be the responsibility of the Authority's Representative (Transport).
- d) Title and risk in the Contractor Deliverables shall only pass from the Contractor to the Authority:
 - (1) on the Delivery of the Contractor Deliverables by the Contractor to the Consignee in accordance with clause 27.b; or
 - (2) on the Collection of the Contractor Deliverables from the Consignor by the Authority once they have been made available for Collection by the Contractor in accordance with clause 27.c.

28) Acceptance

- a) Acceptance of the Contractor Deliverables shall occur in accordance with any acceptance procedure specified in Schedule 8 (Acceptance Procedure). If no acceptance procedure is so specified acceptance shall occur when either:
 - (1) the Authority does any act in relation to the Contractor Deliverable which is inconsistent with the Contractor's ownership; or
 - (2) the time limit in which to reject the Contractor Deliverables defined in clause 29.b has elapsed.

29) Rejection and Counterfeit Materiel

Rejection:

- a) If any of the Contractor Deliverables Delivered to the Authority do not conform to the Specification or any other terms of the Contract, then (without limiting any other right or remedy that the Authority may have) the Authority may reject the Contractor Deliverables (in whole or in part). The Authority shall return these Contractor Deliverables to the Contractor at the Contractor's risk and cost.
- b) Rejection of any of the Contractor Deliverables under clause 29.a shall take place by the time limit for rejection specified in Schedule 3 (Contract Data Sheet), or if no such period is specified, the Contractor Deliverables shall be deemed to be accepted within a reasonable period of time.

Counterfeit Materiel:

- c) Where the Authority suspects that any Contractor Deliverable or consignment of Contractor Deliverables contains Counterfeit Materiel, it shall:
 - (1) notify the Contractor of its suspicion and reasons therefore;
 - (2) where reasonably possible, and if requested by the Contractor within 10 Business Days of such notification, (at the Contractor's own risk and expense and subject to any reasonable controls specified by the Authority) afford the Contractor the facility to (i) inspect the Contractor Deliverable or consignment and/or (ii) obtain a sample thereof for validation or testing purposes.
 - (3) give the Contractor a further 20 Business Days or such other reasonable period agreed by the Authority, from the date of the inspection at 29.c.(2).(i) or the provision of a sample at 29.c.(2).(ii), to comment on whether the Contractor Deliverable or consignment meets the definition of Counterfeit Materiel; and
 - (4) determine, on the balance of probabilities and strictly on the evidence available to it at the time, whether the Contractor Deliverable or consignment meets the definition of Counterfeit Materiel

Where the Authority has determined that the Contractor Deliverable, part or consignment of Contractor Deliverables contain Counterfeit Materiel then it may reject the Contractor Deliverable, part or consignment under 29.a and 29.b (Rejection).
- d) In addition to its rights under 29.a and 29.b (Rejection), where the Authority reasonably believes that any Contractor Deliverable or consignment of Contractor Deliverables contains Counterfeit Materiel, it shall be entitled to:
 - (1) retain any Counterfeit Materiel; and/or
 - (2) retain the whole or any part of such Contractor Deliverable or consignment where it is not possible to separate the Counterfeit Materiel from the rest of the Contractor Deliverable, or consignment;
 - (3) and such retention shall not constitute acceptance under Condition 28 (Acceptance).
- e) Where the Authority intends to exercise its rights under clause 29.d, it shall where reasonable permit the Contractor, within a period specified by the Authority, to arrange at their own risk and expense and subject to any reasonable controls specified by the Authority, for:
 - (1) the separation of Counterfeit Materiel from any Contractor Deliverable or part of a Contractor Deliverable; and/or
 - (2) the removal of any Contractor Deliverable or part of a Contractor Deliverable that the Authority is satisfied does not contain Counterfeit Materiel.
- f) In respect of any Contractor Deliverable, consignment or part thereof that is retained in accordance with clause 29.d, including where the Authority permits the Contractor to remove non-Counterfeit Materiel under clause 29.e but the Contractor fails to do so within the period specified by the Authority and subject to clause 29.j, the Authority shall be entitled to exercise any, all, or any combination of, the following rights:
 - (1) to dispose of it responsibly, and in a manner that does not permit its reintroduction into the supply chain or market;
 - (2) to pass it to a relevant investigatory or regulatory authority;
 - (3) to retain conduct or have conducted further testing including destructive testing, for further investigatory, regulatory or risk management purposes. Results from any such tests shall be shared with the Contractor; and/or
 - (4) to recover the reasonable costs of testing, storage, access, and/or disposal of it from the Contractor. Exercise of the rights granted at clauses 29.f(1) to 29.f(3) shall not constitute acceptance under Condition 28 (Acceptance).
- g) Any scrap or other disposal payment received by the Authority shall be off set against any amount due to the Authority under clause 29.f(4). If the value of the scrap or other disposal payment exceeds the amount due to the Authority under clause 29.f(4) then the balance shall accrue to the Contractor.

- h) The Authority shall not use a retained Article or consignment other than as permitted in clauses 29.c – 29.j.
- i) The Authority may without restriction report a discovery of Counterfeit Materiel and disclose information necessary for the identification of similar materiel and its possible sources.
- j) The Contractor shall not be entitled to any payment or compensation from the Authority as a result of the Authority exercising the rights set out in clauses 29.c – 29.j except where it has been determined in accordance with Condition 39 (Dispute Resolution) that the Authority has made an incorrect determination in accordance with clause 20.c(4). In such circumstances the Authority shall reimburse the Contractors reasonable costs of complying with clause 29.c.

30) Diversion Orders

- a) The Authority shall notify the Contractor at the earliest practicable opportunity if it becomes aware that a Contractor Deliverable is likely to be subject to a Diversion Order.
- b) The Authority may issue a Diversion Order for the urgent delivery of the Contractor Deliverables identified in it. These Contractor Deliverables are to be delivered by the Contractor using the quickest means available as agreed by the Authority.
- c) The Authority reserves the right to cancel the Diversion Order.
- d) If the terms of the Diversion Order are unclear, the Contractor shall immediately contact the Representative of the Authority who issued it for clarification and/or further instruction.
- e) If the Diversion Order increases the quantity of Contractor Deliverables beyond the scope of the Contract, it is to be returned immediately to the Authority's Commercial Officer with an appropriate explanation.
- f) The Contractor shall be entitled to reasonable additional delivery and packaging costs incurred in complying with the Diversion Order or cancellation. Claims are to be submitted by the Contractor to the Authority's Commercial Officer together with applicable receipts and agreed as an amendment to the Contract in accordance with Condition 6 (Formal Amendments to the Contract). The Contractor shall comply with the requirements of the Diversion Order upon receipt of the Diversion Order.

31) Self-to-Self Delivery

Where it is stated in Schedule 3 (Contract Data Sheet) that any Contractor Deliverable is to be Delivered by the Contractor to their own premises, or to those of a Subcontractor ('self-to-self delivery'), the risk in such a Contractor Deliverable shall remain vested in the Contractor until such time as it is handed over to the Authority.

Licences and Intellectual Property

32) Import and Export Licences

- a) If, in the performance of the Contract, the Contractor needs to import into the UK or export out of the UK anything not supplied by or on behalf of the Authority and for which a UK import or export licence is required, the responsibility for applying for the licence shall rest with the Contractor. The Authority shall provide the Contractor with sufficient information, certification, documentation and other reasonable assistance in obtaining any necessary UK import or export licence.
- b) When an export licence or import licence or authorisation either singularly or in combination is required from a foreign government for the performance of the Contract, the Contractor shall as soon as reasonably practicable consult with the Authority on the licence requirements. Where the Contractor is the applicant for the licence or authorisation the Contractor shall:
 - (1) ensure that when end use or end user restrictions, or both, apply to all or part of any Contractor Deliverable (which for the purposes of this Condition shall also include information, technical data and software), the Contractor, unless otherwise agreed with the Authority, shall identify in the application:
 - (a) the end user as: Her Britannic Majesty's Government of the United Kingdom of Great Britain and Northern Ireland (hereinafter "HM Government"); and
 - (b) the end use as: For the Purposes of HM Government; and
 - (2) include in the submission for the licence or authorisation a statement that "information on the status of processing this application may be shared with the Ministry of Defence of the United Kingdom".
- c) If the Contractor or any Subcontractor in the performance of the Contract needs to export materiel not previously supplied by or on behalf of the Authority for which an export licence or import licence or authorisation from a foreign government is required, the responsibility for instituting expeditious action to apply for and obtain the licence shall rest with the Contractor or that Subcontractor. For the purposes of this Condition materiel shall mean information, technical data and items, including Contractor Deliverables, components of Contractor Deliverables and software.
- d) Where the Contract performance requires the export of materiel for which a foreign export licence or import licence or authorisation is required, the Contractor shall include the dependencies for the export licence or import licence or authorisation application, grant and maintenance in the Contract risk register and in the risk management plan for the Contract, with appropriate review points. Where there is no requirement under the Contract for a risk management plan the Contractor shall submit this information to the Authority's representative.

- e) During the term of the Contract and for a period of up to 2 years from completion of the Contract, the Authority may make a written request to the Contractor to seek a variation to the conditions to a foreign export licence or import licence or authorisation to enable the Authority to re-export or re-transfer a licensed or authorised item or licensed or authorised information from the UK to a non-licensed or unauthorised third party. If the Authority makes such a request it will consult with the Contractor before making a determination of whether the Authority or the Contractor is best placed in all the circumstances to make the request. Where, subsequent to such consultation the Authority notifies the Contractor that the Contractor is best placed to make such request:
- (1) the Contractor shall, or procure that the Contractor's Subcontractor shall, expeditiously consider whether or not there is any reason why it should object to making the request and, where it has no objection, file an application to seek a variation of the applicable export licence or import licence or authorisation in accordance with the procedures of the licensing authority. Where the Contractor has an objection, the Parties shall meet within five (5) working days to resolve the issue and should they fail the matter shall be escalated to an appropriate level within both Parties' organisations, to include their respective export licensing subject matter experts; and
 - (2) the Authority shall provide sufficient information, certification, documentation and other reasonable assistance as may be necessary to support the application for the requested variation.
- f) Where the Authority determines that it is best placed to make such request the Contractor shall provide sufficient information, certification, documentation and other reasonable assistance as may be necessary to support the Authority to make the application for the requested variation.
- g) Where the Authority invokes clause 32.e or 32.f the Authority will pay the Contractor a fair and reasonable charge for this service based on the cost of providing it.
- h) Where the Contractor subcontracts work under the Contract, which is likely to be subject to foreign export control, import control or both the Contractor shall use reasonable endeavours to incorporate in each subcontract equivalent obligations to those set out in this Condition. Where it is not possible to include equivalent terms to those set out in this Condition, the Contractor shall report that fact and the circumstances to the Authority.
- i) Without prejudice to HM Government's position on the validity of any claim by a foreign government to extra-territoriality, the Authority shall provide the Contractor with sufficient information, certification, documentation and other reasonable assistance to facilitate the granting of export licences or import licences or authorisations by a foreign Government in respect of the performance of the Contract.
- j) The Authority shall provide such assistance as the Contractor may reasonably require in obtaining any UK export licences necessary for the performance of the Contract.
- k) The Contractor shall use reasonable endeavours to identify whether any Contractor Deliverable is subject to:
- (1) a non-UK export licence, authorisation or exemption; or
 - (2) any other related transfer or export control,
- that imposes or will impose end use, end user or re-transfer or re-export restrictions, or restrictions on disclosure to individuals based upon their nationality. This does not include the Intellectual Property-specific restrictions of the type referred to in Condition 33 (Third Party Intellectual Property – Rights and Restrictions).
- l) If at any time during the term of the Contract the Contractor becomes aware that all or any part of the Contractor Deliverables are subject to clause 32.k(1) or 32.k(2), they shall notify the Authority of this as soon as reasonably practicable by providing details in the DEFFORM 528 or other mutually agreed alternative format. Such notification shall be no later than thirty (30) days of knowledge of any affected Contractor Deliverable and in any event such notification shall be not less than thirty (30) days prior to delivery of the Contractor Deliverables.
- m) If the information to be provided under clause 32.l has been provided previously to the Authority by the Contractor under the Contract, the Contractor may satisfy these requirements by giving details of the previous notification and confirming they remain valid and satisfy the provisions of clause 32.l.
- n) During the term of the Contract, the Contractor shall notify the Authority as soon as reasonably practicable of any changes in the information notified previously under clauses 32.l or 32.m of which they become or are aware that would affect the Authority's ability to use, disclose, re-transfer or re-export an item or part of it as is referred to in those clauses by issuing an updated DEFFORM 528 to the Authority.
- o) For a period of up to 2 years from completion of the Contract and in response to a specific request by the Authority, the Contractor shall notify the Authority as soon as reasonably practicable of any changes in the information notified previously under clause 32.l or 32.m of which they become aware that would affect the Authority's ability to use, disclose, re-transfer or re-export an item or part of it as is referred to in those clauses by issuing an updated DEFFORM 528 to the Authority.
- p) Where following receipt of materiel from a Subcontractor or any of their other suppliers restrictions are notified to the Contractor by that Subcontractor, supplier or other third party or are identified by the Contractor, the Contractor shall immediately inform the Authority by issuing an updated DEFFORM 528. Within [X] days of such notification, the Contractor shall propose to the Authority actions to mitigate the impact of such restrictions. Such proposals may include, where appropriate, mutually supported attempts to obtain removal or modification to the restrictions or to obtain appropriate authorisations from

the relevant foreign government. The Authority shall notify the contractor within [X] days of receipt of a proposal whether it is acceptable and where appropriate the Contract shall be modified in accordance with its terms to implement the proposal.

- q) If the restrictions prevent the Contractor from performing their obligations under the Contract and have not been removed, modified or otherwise satisfactorily managed within a reasonable time, the Authority may at its absolute discretion elect to amend the contract in accordance with Condition 6 or as otherwise may be provided by the Contract, or to terminate the Contract. Except as set out in clause 32.r, in the event of termination in these circumstances termination shall be on fair and reasonable terms having regard to all the circumstances including payments already made and that would otherwise be due under the Contract, costs incurred by the Contractor and benefits received by the Authority. The Parties, acting in good faith, will use all reasonable endeavours to agree such fair and reasonable terms failing which either Party may refer the matter to dispute resolution in accordance with the provisions in the Contract.
- r) In the event that the restrictions notified to the Authority pursuant to clause 32.l were known or ought reasonably have been known by the Contractor (but were not disclosed) at contract award or if restrictions notified to the Authority pursuant to clauses 32.n or 32.p were known or ought reasonably to have been known by the Contractor at the date of submission of the most recent DEFFORM 528 submitted to the Authority in accordance with clause 32.l, termination under clause 32.t will be in accordance with Condition 42 (Material Breach) and the provisions of clause 32.v will not apply.
- s) The Authority shall use reasonable endeavours to identify any export control restrictions applying to materiel to be provided to the Contractor as Government Furnished Assets (GFA). Where the Authority is to provide materiel necessary to enable the Contractor to perform the Contract or in respect of which the Services are to be provided, and that materiel is subject to a non-UK export licence, authorisation, exemption or other related transfer or export control as described in the provisions of clause 32.k, the Authority shall provide a completed DEFFORM 528 or will provide a new or updated DEFFORM 528 to the Contractor within thirty (30) days of the date of knowledge and in any case not later than thirty (30) days prior to the delivery of such materiel to the Contractor.
- t) In the event that the Authority becomes aware that the DEFFORM 528 disclosure was incomplete or inaccurate or in the event additional such materiel is identified then the Authority shall provide, as soon as reasonably practicable a new or revised DEFFORM 528. In the event that the Authority becomes aware that a prior disclosure included in DEFFORM 528 submitted to the Contractor was incomplete or inaccurate less than thirty (30) days prior to the delivery to the Contractor of any materiel to which the updated or new disclosure relates, the Parties will meet as soon as reasonably practicable to discuss how to mitigate the impact of the incomplete or inaccurate disclosure.
- u) Where:
 - (1) restrictions are advised by the Authority to the Contractor in a DEFFORM 528 provided pursuant to clauses 32.s or 32.t or both; or
 - (2) any of the information provided by the Authority in any DEFFORM 528 proves to be incorrect or inaccurate; the Authority and the Contractor shall act promptly to mitigate the impact of such restrictions or incorrect or inaccurate information. Such mitigation shall include, where appropriate, mutually supported attempts to obtain removal or modification to the restrictions or to obtain appropriate authorisations from the relevant foreign government. If the restrictions or incorrect or inaccurate information adversely affect the ability of the Contractor to perform their obligations under the Contract, the matter shall be handled under the terms of Condition 6 (Formal Amendments to the Contract) or as may otherwise be provided by the Contract as appropriate and if no alternative solution satisfies the essential terms of the Contract and the restrictions have not been removed, modified or otherwise satisfactorily managed within a reasonable time the Authority may terminate the Contract. Termination under these circumstances will be under the terms of Condition 41 (Termination for Convenience) and as referenced in the Contract.
- v) Pending agreement of any amendment of the Contract as set out in clause 32.q or 32.u, provided the Contractor takes such steps as are reasonable to mitigate the impact, the Contractor shall be relieved from their obligations to perform those elements of the Contract directly affected by the restrictions or provision of incorrect or incomplete information.

33) Third Party Intellectual Property – Rights and Restrictions

- a) The Contractor and, where applicable any Subcontractor, shall promptly notify the Authority as soon as they become aware of:
 - (1) any invention or design the subject of patent or registered Design Rights (or application thereof) owned by a third party which appears to be relevant to the performance of the Contract or to use by the Authority of anything required to be done or delivered under the Contract;
 - (2) any restriction as to disclosure or use, or obligation to make payments in respect of any other intellectual property (including technical Information) required for the purposes of the Contract or subsequent use by the Authority of anything delivered under the Contract and, where appropriate, the notification shall include such Information as is required by Section 2 of the Defence Contracts Act 1958;

- (3) any allegation of infringement of intellectual property rights made against the Contractor and which pertains to the performance of the Contract or subsequent use by the Authority of anything required to be done or delivered under the Contract.
- clause 33.a does not apply in respect of Contractor Deliverables normally available from the Contractor as a Commercial Off The Shelf (COTS) item or service.
- b) If the Information required under clause 33.a has been notified previously, the Contractor may meet their obligations by giving details of the previous notification.
- c) For COTS Contractor Deliverables patents and registered designs in the UK, in respect of any question arising (by way of an allegation made to the Authority or Contractor, or otherwise) that the manufacture or provision under the Contract of Contractor Deliverables normally available from the Contractor as a COTS item or service is an infringement of a UK patent or registered design not owned or controlled by the Contractor or the Authority, the Contractor shall, subject to the agreement of the third party owning such patent or registered design, be given exclusive conduct of any and all negotiations for the settlement of any claim or the conduct of any litigation arising out of such question. The Contractor shall indemnify the Authority, its officers, agents and employees against any liability and cost arising from such allegation. This Condition shall not apply if:
- (1) the Authority has made or makes an admission of any sort relevant to such question;
 - (2) the Authority has entered or enters into any discussions on such question with any third party without the prior written agreement of the Contractor;
 - (3) the Authority has entered or enters into negotiations in respect of any relevant claim for compensation in respect of Crown Use under Section 55 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949;
 - (4) legal proceedings have been commenced against the Authority or the Contractor in respect of Crown Use, but only to the extent of such Crown Use that has been properly authorised.
- d) The indemnity in clause 33.c does not extend to use by the Authority of anything supplied under the Contract where that use was not reasonably foreseeable at the time of the Contract.
- e) In the event that the Authority has entered into negotiation in respect of a claim for compensation, or legal proceedings in respect of the Crown Use have commenced, the Authority shall forthwith authorise the Contractor for the purposes of performing the Contract (but not otherwise) to utilise a relevant invention or design in accordance with Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949 and to use any model, document or information relating to any such invention or design which may be required for that purpose.
- f) For all other Contractor Deliverables patents and registered designs in the UK, if a relevant invention or design has been notified to the Authority by the Contractor prior to the Effective Date of Contract, then unless it has been otherwise agreed, under the provisions of Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949, the Contractor is hereby authorised to utilise that invention or design, notwithstanding the fact that it is the subject of a UK Patent or UK Registered Design, for the purpose of performing the Contract.
- g) If, under clause 33.a, a relevant invention or design is notified to the Authority by the Contractor after the Effective Date of Contract, then:
- (1) if the owner (or its exclusive licensee) takes or threatens in writing to take any relevant action against the Contractor, the Authority shall issue to the Contractor a written authorisation in accordance with the provisions of Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949, and
 - (2) in any event, unless the Contractor and the Authority can agree an alternative course of action, the Authority shall not unreasonably delay the issue of a written authorisation in accordance with the provisions of Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949.
- h) The Authority shall assume all liability and shall indemnify the Contractor, their officers, agents and employees against liability, including the Contractor's costs, as a result of infringement by the Contractor or their suppliers of any patent, utility model, registered design or like protection outside the United Kingdom in the performance of the Contract when such infringement arises from or is incurred by reason of the Contractor following any specification, statement of work or instruction in the Contract or using, keeping or disposing of any item given by the Authority for the purpose of the Contract in accordance with the Contract.
- i) The Contractor shall assume all liability and shall indemnify the Authority, its officers, agents and employees against liability, including the Authority's costs, as a result of infringement by the Contractor or their suppliers of any patent, utility model, registered design or like protection outside the UK in the performance of the Contract when such infringement arises from or is incurred otherwise than by reason of the Contractor following any specification, statement of work or instruction in the Contract or using, keeping or disposing of any item given by the Authority for the purpose of the Contract in accordance with the Contract.
- j) The Contractor shall not be entitled to any reimbursement of any royalty, licence fee or similar expense incurred in respect of anything to be done under the Contract, where:
- (1) a relevant discharge has been given under Section 2 of the Defence Contracts Act 1958, or relevant authorisation in accordance with Sections 55 or 57 of the Patents Act 1977, Section 12

- of the Registered Designs Act 1949 or Section 240 of the Copyright, Designs and Patents Act 1988 in respect of any intellectual property; or
- (2) any obligation to make payments for intellectual property has not been promptly notified to the Authority under clause 33.a.
- k) Where authorisation is given by the Authority under clause 33.e, 33.f or 33.g, to the extent permitted by Section 57 of the Patents Act 1977, Section 12 of the Registered Designs Act 1949 or Section 240 of the Copyright, Designs and Patents Act 1988, the Contractor shall also be:
- (1) released from payment whether by way of royalties, licence fees or similar expenses in respect of the Contractor's use of the relevant invention or design, or the use of any relevant model, document or information for the purpose of performing the Contract; and
 - (2) authorised to use any model, document or information relating to any such invention or design which may be required for that purpose.
- l) The Contractor shall assume all liability and indemnify the Authority and its officers, agents and employees against liability, including costs as a result of:
- (1) infringement or alleged infringement by the Contractor or their suppliers of any copyright, database right, Design Right or the like protection in any part of the world in respect of any item to be supplied under the Contract or otherwise in the performance of the Contract;
 - (2) misuse of any confidential information, trade secret or the like by the Contractor in performing the Contract;
 - (3) provision to the Authority of any Information or material which the Contractor does not have the right to provide for the purpose of the Contract.
- m) The Authority shall assume all liability and indemnify the Contractor, their officers, agents and employees against liability, including costs as a result of:
- (1) infringement or alleged infringement by the Contractor or their suppliers of any copyright, database right, Design Right or the like protection in any part of the world in respect of any item provided by the Authority for the purpose of the Contract but only to the extent that the item is used for the purpose of the Contract;
 - (2) alleged misuse of any confidential Information, trade secret or the like by the Contractor as a result of use of Information provided by the Authority for the purposes of the Contract, but only to the extent that Contractor's use of that Information is for the purposes intended when it was disclosed by the Authority.
- n) The general authorisation and indemnity is:
- (1) clauses 33.a – 33.m represents the total liability of each Party to the other under the Contract in respect of any infringement or alleged infringement of patent or other Intellectual Property Right (IPR) owned by a third party;
 - (2) neither Party shall be liable, one to the other, for any consequential loss or damage arising as a result, directly or indirectly, of a claim for infringement or alleged infringement of any patent or other IPR owned by a third party;
 - (3) a Party against whom a claim is made or action brought, shall promptly notify the other Party in writing if such claim or action appears to relate to an infringement which is the subject of an indemnity or authorisation given under this Condition by such other Party. The notification shall include particulars of the demands, damages and liabilities claimed or made of which the notifying Party has notice;
 - (4) the Party benefiting from the indemnity or authorisation shall allow the other Party, at its own expense, to conduct any negotiations for the settlement of the same, and any litigation that may arise therefrom and shall provide such information as the other Party may reasonably require;
 - (5) following a notification under clause 33.n(3), the Party notified shall advise the other Party in writing within thirty (30) Business Days whether or not it is assuming conduct of the negotiations or litigation. In that case the Party against whom a claim is made or action brought shall not make any statement which might be prejudicial to the settlement or defence of such a claim without the written consent of the other Party;
 - (6) the Party conducting negotiations for the settlement of a claim or any related litigation shall, if requested, keep the other Party fully informed of the conduct and progress of such negotiations.
- o) If at any time a claim or allegation of infringement arises in respect of copyright, database right, Design Right or breach of confidence as a result of the provision of any Contractor Deliverable by the Contractor to the Authority, the Contractor may at their own expense replace the item with an item of equivalent functionality and performance so as to avoid infringement or breach. The Parties will co-operate with one another to mitigate any claim or damage which may arise from use of third party IPR.
- p) Nothing in Condition 33 shall be taken as an authorisation or promise of an authorisation under Section 240 of the Copyright, Designs and Patents Act 1988.
- q) Notwithstanding any other provisions of the Contract and for the avoidance of doubt, award of the Contract by the Authority and placement of any contract task under it does not constitute an authorisation by the Crown under Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949. The Contractor acknowledges that any such authorisation by the

Authority under its statutory powers must be expressly provided in writing, with reference to the acts authorised and the specific intellectual property involved.

Notification of Intellectual Property Rights (IPR) Restrictions

- r) Where any of the conditions listed below (1 to 3) have been added to the Conditions of the Contract as project specific DEFCONs at Clause 44, or where required by Clauses 33.a. - 33.q., the Contractor warrants and confirms that all Intellectual Property Rights restrictions and associated export restrictions relating to the use or disclosure of the Contractor Deliverables that are notifiable under those Conditions, or of which the Contractor is or should reasonably be aware as at Effective Date of Contract, are disclosed in Schedule 10 (Notification of Intellectual Property Rights (IPR) Restrictions) and in Annex F.
 - (1) DEFCON 15 - including notification of any self-standing background Intellectual Property;
 - (2) DEFCON 90 - including copyright material supplied under clause 5;
 - (3) DEFCON 91 - limitations of Deliverable Software under clause 3b.
- s) The Contractor shall promptly notify the Authority in writing if they become aware during the performance of the Contract of any required additions, inaccuracies or omissions in Schedule 10.
- t) Any amendment to Schedule 10 shall be made in accordance with Condition 6.

Pricing and Payment

34) Contract Price

- a) The Contractor shall provide the Contractor Deliverables to the Authority at the Contract Price. The Contract Price shall be a Firm Price unless otherwise stated in Schedule 3 (Contract Data Sheet).
- b) Subject to clause 34.a the Contract Price shall be inclusive of any UK custom and excise or other duty payable. The Contractor shall not make any claim for drawback of UK import duty on any part of the Contract Deliverables supplied which may be for shipment outside of the UK.

35) Payment and Recovery of Sums Due

- a) Payment for Contractor Deliverables will be made by electronic transfer and prior to submitting any claims for payment under clause 35.b the Contractor will be required to register their details (Supplier on - boarding) on the Contracting, Purchasing and Finance (CP&F) electronic procurement tool.
- b) Where the Contractor submits an invoice to the Authority in accordance with clause 35.a, the Authority will consider and verify that invoice in a timely fashion.
- c) The Authority shall pay the Contractor any sums due under such an invoice no later than a period of 30 days from the date on which the Authority has determined that the invoice is valid and undisputed.
- d) Where the Authority fails to comply with clause 35.a and there is undue delay in considering and verifying the invoice, the invoice shall be regarded as valid and undisputed for the purpose of clause 35.c after a reasonable time has passed.
- e) The approval for payment of a valid and undisputed invoice by the Authority shall not be construed as acceptance by the Authority of the performance of the Contractor's obligations nor as a waiver of its rights and remedies under the Contract.
- f) Without prejudice to any other right or remedy, the Authority reserves the right to set off any amount owing at any time from the Contractor to the Authority against any amount payable by the Authority to the Contractor under the Contract or under any other contract with the Authority, or with any other Government Department.

36) Value Added Tax

- a) The Contract Price excludes any UK output Value Added Tax (VAT) and any similar EU (or non-EU) taxes chargeable on the supply of Contractor Deliverables by the Contractor to the Authority.
- b) If the Contractor is required by UK VAT law to be registered for UK VAT (or has registered voluntarily) in respect of their business activities at the time of any supply, and the circumstances of any supply are such that the Contractor is liable to pay the tax due to HM Revenue and Customs (HMRC), the Authority shall pay to the Contractor in addition to the Contract Price (or any other sum due to the Contractor) a sum equal to the output VAT chargeable on the tax value of the supply of Contractor Deliverables, and all other payments under the Contract according to the law at the relevant tax point.
- c) The Contractor is responsible for the determination of VAT liability. The Contractor shall consult their Client Relationship Manager or the HMRC Enquiries Desk (and not the Authority's Representative (Commercial)) in cases of doubt. The Contractor shall notify the Authority's Representative (Commercial) of the Authority's VAT liability under the Contract, and any changes to it, within twenty (20) Business Days of becoming aware the liability is other than at the standard rate of VAT. In the event of any doubt about the applicability of the tax in such cases, the Authority may require the Contractor to obtain, and pass to the Authority, a formal ruling from HMRC. The Contractor shall comply promptly with any such requirement. Where the Contractor obtains a ruling from HMRC, they shall supply a copy to the Authority within three (3) Business Days of receiving that ruling unless they propose to challenge the ruling. Where the Contractor challenges the ruling they shall supply to the Authority a copy of any final decisions issued by HMRC on completion of the challenge within three (3) Business Days of receiving the decision.

- d) Where supply of Contractor Deliverables comes within the scope of UK VAT, but the Contractor is not required by UK VAT law to be registered for UK VAT (and has not registered voluntarily), the Authority shall be responsible for assessing and paying over directly to HMRC any UK output VAT due in respect of the Contractor Deliverables. The Contractor shall be responsible for ensuring they take into account any changes in VAT law regarding registration.
- e) Where Contractor Deliverables are deemed to be supplied to the Authority outside the UK, the Contractor may be required by the laws of the country where the supply takes place to register there for EU (or non-EU) turnover or similar tax. In that event, the Authority shall pay to the Contractor in addition to the Contract Price (and any other sum due to the Contractor under the Contract) a sum equal to the tax the Contractor is liable to pay to the tax authorities of the country in question in relation to the Contractor Deliverables within thirty (30) calendar days of a written request for payment of any such sum by the Contractor.
- f) In relation to the Contractor Deliverables supplied under the Contract the Authority shall not be required to pay any sum in respect of the Contractor's input VAT (or similar EU or non-EU or both input taxes). However, these input taxes will be allowed where it is established that, despite the Contractor having taken all reasonable steps to recover them, it has not been possible to do so. Where there is any doubt that the Contractor has complied with this requirement the matter shall be resolved in accordance with Condition 39 (Dispute Resolution).
- g) Should HMRC decide that the Contractor has incorrectly determined the VAT liability, in accordance with clause 36.b above, the Authority will pay the VAT assessed by HMRC. In the event that HMRC so determines, the Contractor shall pay any interest charged on any assessment or penalties or both directly to HMRC. Such interest or penalties or both shall not be recoverable from the Authority under the Contract or any other contract. The Contractor shall supply the Authority with a copy of all correspondence between HMRC and the Contractor's advisors regarding the VAT assessment within three (3) Business Days of a written request from the Authority for such correspondence.

37) Debt Factoring

- a) Subject to the Contractor obtaining the prior written consent of the Authority in accordance with Condition 10 (Assignment of Contract), the Contractor may assign to a third Party ("the Assignee") the right to receive payment of the Contract Price or any part thereof due to the Contractor under the Contract (including interest which the Authority incurred through late payment under the Late Payment of Commercial Debts (Interest) Act 1998 ("the Act")). Any assignment of the right to receive payment of the Contract Price (or any part thereof) under this Condition 37 shall be subject to:
 - (1) reduction of any sums in respect of which the Authority exercises its right of recovery under clause 10;
 - (2) all related rights of the Authority under the Contract in relation to the recovery of sums due but unpaid; and
 - (3) the Authority receiving notification under both clauses 37.b and 37.c(2).
- b) In the event that the Contractor obtains from the Authority the consent to assign the right to receive the Contract Price (or any part thereof) under clause 37.a, the Contractor shall notify the Authority in writing of the assignment and the date upon which the assignment becomes effective.
- c) The Contractor shall ensure that the Assignee:
 - (1) is made aware of the Authority's continuing rights under clauses 37.a(1) and 37.a(2); and
 - (2) notifies the Authority of the Assignee's contact information and bank account details to which the Authority shall make payment, subject to any reduction made by the Authority in accordance with clauses 37.a(1) and 37.a(2).
- d) The provisions of Condition 35 (Payment and Recovery of Sums Due) shall continue to apply in all other respects after the assignment and shall not be amended without the prior approval of the Authority.

38) Subcontracting and Prompt Payment

- a) Subcontracting any part of the Contract shall not relieve the Contractor of any of the Contractor's obligations, duties or liabilities under the Contract.
- b) Where the Contractor enters into a subcontract, they shall cause a term to be included in such subcontract:
 - (1) providing that where the Subcontractor submits an invoice to the Contractor, the Contractor will consider and verify that invoice in a timely fashion;
 - (2) providing that the Contractor shall pay the Subcontractor any sums due under such an invoice no later than a period of thirty (30) days from the date on which the Contractor has determined that the invoice is valid and undisputed;
 - (3) providing that where the Contractor fails to comply with clause 38.b(1) above, and there is an undue delay in considering and verifying the invoice, that the invoice shall be regarded as valid and undisputed for the purposes of clause 38.b(2) after a reasonable time has passed; and
 - (4) requiring the counterparty to that subcontract to include in any subcontract which it awards, provisions having the same effect as clauses 38.b(1) to 38.b(4).

Termination

39) Dispute Resolution

- a) The Parties will attempt in good faith to resolve any dispute or claim arising out of or relating to the Contract through negotiations between the respective representatives of the Parties having authority to settle the matter, which attempts may include the use of any alternative dispute resolution procedure on which the Parties may agree.
- b) In the event that the dispute or claim is not resolved pursuant to clause 39.a the dispute shall be referred to arbitration. Unless otherwise agreed in writing by the Parties, the arbitration and this clause 39.b shall be governed by the Arbitration Act 1996. For the purposes of the arbitration, the arbitrator shall have the power to make provisional awards pursuant to Section 39 of the Arbitration Act 1996.
- c) For the avoidance of doubt, anything said, done or produced in or in relation to the arbitration process (including any awards) shall be confidential between the Parties, except as may be lawfully required in judicial proceedings relating to the arbitration or otherwise.

40) Termination for Insolvency or Corrupt Gifts

Insolvency:

- a) The Authority may terminate the Contract, without paying compensation to the Contractor, by giving written Notice of such termination to the Contractor at any time after any of the following events:
Where the Contractor is an individual or a firm:
 - (1) the application by the individual or, in the case of a firm constituted under English law, any partner of the firm to the court for an interim order pursuant to Section 253 of the Insolvency Act 1986; or
 - (2) the court making an interim order pursuant to Section 252 of the Insolvency Act 1986; or
 - (3) the individual, the firm or, in the case of a firm constituted under English law, any partner of the firm making a composition or a scheme of arrangement with them or their creditors; or
 - (4) the presentation of a petition for bankruptcy order against the individual or, in the case of a firm constituted under English law, any partner of the firm unless it is withdrawn within three (3) Business Days from the date on which the Contractor is notified of the presentation; or
 - (5) the court making a bankruptcy order in respect of the individual or, in the case of a firm constituted under English law, any partner of the firm; or
 - (6) where the Contractor is either unable to pay their debts as they fall due or has no reasonable prospect of being able to pay debts which are not immediately payable. The Authority shall regard the Contractor as being unable to pay their debts if:
 - (a) they have failed to comply with or to set aside a Statutory demand under Section 268 of the Insolvency Act 1986 within twenty-one (21) days of service of the Statutory Demand on them; or
 - (b) execution or other process to enforce a debt due under a judgement or order of the court has been returned unsatisfied in whole or in part.
 - (7) the presentation of a petition for sequestration in relation to the Contractor's estates unless it is withdrawn within three (3) Business Days from the date on which the Contractor is notified of the presentation; or
 - (8) the court making an award of sequestration in relation to the Contractor's estates.
Where the Contractor is a company registered in England:
 - (9) the presentation of a petition for the appointment of an administrator; unless it is withdrawn within three (3) Business Days from the date on which the Contractor is notified of the presentation; or
 - (10) the court making an administration order in relation to the company; or
 - (11) the presentation of a petition for the winding-up of the company unless it is withdrawn within three (3) Business Days from the date on which the Contractor is notified of the presentation; or
 - (12) the company passing a resolution that the company shall be wound-up; or
 - (13) the court making an order that the company shall be wound-up; or
 - (14) the appointment of a Receiver or manager or administrative Receiver.
Where the Contractor is a company registered other than in England, events occur or are carried out which, within the jurisdiction to which they are subject, are similar in nature or effect to those specified in clauses 40.a(9) to 40.a(14) inclusive above.
- b) Such termination shall be without prejudice to and shall not affect any right of action or remedy which shall have accrued or shall accrue thereafter to the Authority and the Contractor.

Corrupt Gifts:

- c) The Contractor shall not do, and warrants that in entering the Contract they have not done any of the following (hereafter referred to as 'prohibited acts'):
 - (1) offer, promise or give to any Crown servant any gift or financial or other advantage of any kind as an inducement or reward;
 - (a) for doing or not doing (or for having done or not having done) any act in relation to the obtaining or execution of this or any other Contract with the Crown; or

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

41) Termination for Convenience

- a) The Authority shall have the right to terminate the Contract in whole or in part at any time by giving the Contractor at least twenty (20) Business Days written notice (or such other period as may be stated in Schedule 3 (Contract Data Sheet)). Upon expiry of the notice period the Contract, or relevant part thereof, shall terminate without prejudice to the rights of the parties already accrued up to the date of termination. Where only part of the Contract is being terminated, the Authority and the Contractor shall owe each other no further obligations in respect of the part of the Contract being terminated, but will continue to fulfil their respective obligations on all other parts of the Contract not being terminated.
- b) Following the above notification the Authority shall be entitled to exercise any of the following rights in relation to the Contract (or part being terminated) to direct the Contractor to:
 - (1) not start work on any element of the Contractor Deliverables not yet started;
 - (2) complete in accordance with the Contract the provision of any element of the Contractor Deliverables;
 - (3) as soon as may be reasonably practicable take such steps to ensure that the production rate of the Contractor Deliverables is reduced as quickly as possible;
 - (4) terminate on the best possible terms any subcontracts in support of the Contractor Deliverables that have not been completed, taking into account any direction given under clauses 41 .b(2) and 41 .b(3) of this Condition.
- c) Where this Condition applies (and subject always to the Contractor's compliance with any direction given by the Authority under clause 41.b):
 - (1) The Authority shall take over from the Contractor at a fair and reasonable price all unused and undamaged materiel and any Contractor Deliverables in the course of manufacture that are:
 - (a) in the possession of the Contractor at the date of termination; and
 - (b) provided by or supplied to the Contractor for the performance of the Contract, except such materiel and Contractor Deliverables in the course of manufacture as the Contractor shall, with the agreement of the Authority, choose to retain;
 - (2) the Contractor shall deliver to the Authority within an agreed period, or in absence of such agreement within a period as the Authority may specify, a list of:
 - (a) all such unused and undamaged materiel; and
 - (b) Contractor Deliverables in the course of manufacture, that are liable to be taken over by, or previously belonging to the Authority, and shall deliver such materiel and Contractor Deliverables in accordance with the directions of the Authority;
 - (3) in respect of Services, the Authority shall pay the Contractor fair and reasonable prices for each Service performed, or partially performed, in accordance with the Contract.
- d) The Authority shall (subject to clause 41.e below and to the Contractor's compliance with any direction given by the Authority in clause 41.b above) indemnify the Contractor against any commitments,

liabilities or expenditure which would otherwise represent an unavoidable loss by the Contractor by reason of the termination of the Contract, subject to:

- (1) the Contractor taking all reasonable steps to mitigate such loss; and
 - (2) the Contractor submitting a fully itemised and costed list of such loss, with supporting evidence, reasonably and actually incurred by the Contractor as a result of the termination of the Contract or relevant part.
- e) The Authority's total liability under the provisions of this Condition shall be limited to the total price of the Contractor Deliverables payable under the contract (or relevant part), including any sums paid, due or becoming due to the Contractor at the date of termination.
- f) The Contractor shall include in any subcontract over £250,000 which it may enter into for the purpose of the Contract, the right to terminate the subcontract under the terms of clauses 41.a to 41.e except that:
- (1) the name of the Contractor shall be substituted for the Authority except in clause 41.c(1);
 - (2) the notice period for termination shall be as specified in the subcontract, or if no period is specified twenty (20) Business Days; and
 - (3) the Contractor's right to terminate the subcontract shall not be exercised unless the main Contract, or relevant part, has been terminated by the Authority in accordance with the provisions of this Condition 41.
- g) Claims for payment under this Condition shall be submitted in accordance with the Authority's direction.

42) Material Breach

- a) In addition to any other rights and remedies and Subject to clause 45.1(a), the Authority shall have the right to terminate the Contract (in whole or in part) with immediate effect by giving written Notice to the Contractor where the Contractor is in material breach of their obligations under the Contract.
- b) Where the Authority has terminated the Contract under clause 42.a the Authority shall have the right to claim such damages as may have been sustained as a result of the Contractor's material breach of the Contract, including but not limited to any costs and expenses incurred by the Authority in:
- (1) carrying out any work that may be required to make the Contractor Deliverables comply with the Contract; or
 - (2) obtaining the Contractor Deliverable in substitution from another supplier.

43) 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.

44) The project specific DEFCONS and DEFCON SC variants that apply to the Contract are:

DEFCON 023 (SC2) (Edn. 06/21) - Special Jigs, Tooling and Test Equipment
DEFCON 035 (Edn. 06/21) - Progress Payments
DEFCON 076 (SC2) (Edn. 06/21) - Contractor's Personnel at Government Establishments (contract liability not to exceed £5m)
DEFCON 082 (SC2) (Edn. 06/21) - Special Procedure for Initial Spares
DEFCON 117 (SC2) (Edn. 11/17) - Supply of Information for NATO Codification And Defence Inventory Introduction
DEFCON 601 (SC) (Edn. 03/15) - Redundant Material
DEFCON 611 (SC2) (Edn. 02/16) - Issued Property
DEFCON 624 (SC2) (Edn. 11/17) - Use of Asbestos

Without prejudice to future contracts between Thales UK and the Authority, Thales UK shall be entitled to a fair and reasonable adjustment to the contract Price and the delivery dates for any Articles or services affected by the variation or revocation of any Defence Exemption Certificate.

DEFCON 643 (SC2) (Edn. 12/21) - Price Fixing (Non-qualifying contracts)

Period referred to in Clause 4 to be 6 months

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

DEFCON 658 (SC2) (Edn. 09/21) – Cyber (very low risk assessment - RAR-V7SG9H9C)

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

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

DEFCON 694 (SC2) (Edn. 07/21) - Accounting for Property of the Authority

DEFCON 695 (Edn. 02/15) - Contract Costs Statement - Post-Costing (Non-qualifying contract)

DEFCON 812 (Edn. 04/15) - Single Source Open Book

DEFCON 814 (SC2) (Edn. 11/17) - Single Source Confidentiality of Open Book and Reporting Information

Without prejudice to future contracts between Thales UK and the Authority, notwithstanding Clause 3 of DEFCON 814, the Authority may not disclose the SSCR Information to its professional advisers or consultants or any Central Government Body without the prior written consent of Thales UK, such consent not to be unreasonably withheld. For the purposes of this condition, it shall not be deemed unreasonable for Thales UK to insist that enforceable confidentiality undertakings are obtained from such potential discloses as a condition for such consent.

DEFCON 815 (Edn. 04/15) - Contract Pricing Statement – Single Source Non-Qualifying Contracts.

Intellectual Property

- a) The Parties understand that it is not envisaged that intellectual property will be generated under Schedule of Requirements Item No. 1 - provision of Core Activities. However, in the event that it is determined that the Authority will or has funded the generation of intellectual property under the Schedule of Requirements 1 – provision of Core Activities then Contractor hereby agrees to grant the Authority a perpetual, royalty free, non-exclusive licence to use and have used such generated intellectual property (including any patent or registered design arising from such work) for any United Kingdom government purpose).
- b) Where the Contractor is required under the Schedule of Requirements Item No 2 provision of Non-Core Tasking to undertake work fully funded by the Authority which results in the generation of new intellectual property then the following conditions shall apply to such tasks save to the extent that the Contractor has notified the Authority as part of the task approval form (TAF) of any private venture funded intellectual property for which the Contractor is unwilling to grant the following rights or where the restriction are already listed in Schedule 10 or included in the IPR Register at Annex F:

DEFCON 14 (Edn. 06/21) - Inventions and Designs Crown Rights and Ownership of Patents and Registered Designs

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

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

DEFCON 21 (Edn. 06/21) - Retention of Records

DEFCON 90 (Edn 06/21) – Copyright

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

- c) Where the Contractor is proposing to utilise any equipment (including software) under any TAF to the Contract which equipment does not at that time already form part of the NUSCOT equipment then the Contractor shall promptly notify the Authority in writing and in advance of any such TAF being agreed. The Authority and Contractor shall then agree such rights as might be appropriate in the circumstances recognising the Authority's need for continuity of support of the NUSCOT equipment.
- d) Nothing in this Condition shall diminish or extinguish either Party's pre-existing rights in, or ownership of, Intellectual Property generated outside of this Contract, including any previous contracts for the Articles.

45) The special Conditions that apply to the Contract are:

45.1 Contractor Rectification

- a) The Authority shall not terminate this Contract in the event of a Rectifiable Default. For the purposes of Clause 45 a Rectifiable Default means any material breach reasonably capable of rectification by the contractor. Where a Rectifiable Default has occurred, the Authority shall, if it wishes to terminate this Contract, give notice in writing (an "Authority Rectification Notice") prior to issuing written Notice to the Contractor, requiring the Contractor to make a proposal acceptable to the Authority for the rectification of the Rectifiable Default within ten (10) Business Days after the date of the Authority Rectification Notice (or such longer period as may be agreed by the Authority).
- b) If no such proposal is received by the Authority within ten (10) Business Days of the date of the Authority Rectification Notice (or such longer period as may be agreed by the Authority), then the Authority may terminate this Contract.
- c) Where a proposal for rectification is received by the Authority within ten (10) Business Days after the date of the Authority Rectification Notice (or such longer period as may be agreed by the Authority) (being hereinafter referred to as the Rectification Plan), the Contractor shall remedy the default within ten (10) Business Days (or such longer period as may be agreed by the Authority). At the expiry of that period (or other period if agreed) if the Contractor has failed to rectify, or cause to be rectified, the default to the satisfaction of the Authority, the Authority may proceed to terminate this Contract by service of a written Notice.

45.2 Limitations on Liability

- a) Subject to Clause 45.2 the Contractor's liability to the Authority in connection with this Contract shall be limited as follows:
 - (1) under Condition 42 shall not exceed £2.5m in aggregate; and
 - (2) under Clause 8 of DEFCON 611 (SC2) shall not exceed £2.5m in aggregate; and
 - (3) under Condition 27d shall not exceed £2.5m in aggregate; and
 - (4) under DEFCON 76 shall not exceed £5m in aggregate.
- b) Nothing in this Contract shall operate to limit or exclude the Contractor's liability:
 - (1) For any amount payable by the Contractor to the Authority in relation to TUPE or pensions to the extent expressly provided for under this Contract;
 - (2) in relation to any matter governed by Clause 44.a where any applicable limitation of liability forming part of that provision has been agreed by the Authority in reliance on information (including in

- relation to insurance) submitted by or on behalf of the Contractor prior to contract award, such information being inaccurate or untrue;
- (3) under DEFCONs 91 and Condition 33;
 - (4) for death or personal injury caused by the Contractor's negligence or the negligence of any of its personnel, agents, consultants or sub-contractors;
 - (5) for fraud, fraudulent misrepresentation or wilful misconduct;
 - (6) in relation to the termination of this Contract on the basis of abandonment by the Contractor;
 - (7) for breach of the terms implied by Section 2 of the Supply of Goods and Services Act 1982; or
 - (8) for any other liability which cannot be limited or excluded under general (including statute and common) law. 1.3. The rights of the Authority under this Contract are in addition to, and not exclusive of, any other rights accruing.

45.3 Standards and Specifications

a) In addition to the general Conditions of Contract, the following Standards, Specifications and quality assurance requirements shall apply to this Contract:

Standard	Issue No	Description
AQAP 2110	Edn D	NATO Quality Assurance (QA) Requirements for Design, Development & Production
AQAP 2210	Edn A ver 2	NATO Supplementary Software Requirements
AQAP 2105	Edn C	NATO QA Requirements for Deliverable Quality Plans
AQAP 2310	Edn B ver 1	NATO Quality Management System Requirements for Aviation, Space and Defence Suppliers.
Def-Stan 05-57	7	Configuration Management of Defence Material
Def-Stan 00-56	2	Safety Management Requirements for Defence Systems
Def-Stan 00-54	1	Requirements for safety related electronic hardware in Defence Equipment (see note below)
Interim Def-Stan 00-58	1	HAZOP studies on systems containing programmable electronics. The Contractor's Safety Policy which is aligned to EU Legislation shall also be employed.
JSP 440		Defence Manual of Security
Def-Stan 00-42 (Pt 2)	1	Reliability & Maintainability Assurance Guides: Software (applicable wherever possible). The Contractor May be asked how they intend to address software reliability and how it compares with this standard.
Def-Stan 00-42 (Pt 3)	1	Reliability & Maintainability Case (applicable wherever possible)

45.4 Standards for Articles

a) In addition to the Standards, Specifications and quality assurance requirements included in clause 45.3 the following Standards, Specifications and quality assurance requirements shall apply to this Contract in respect to all work in respect to the provision of articles:

Standard	Issue No	Description
Def-Stan 00-44 (Pt 1)	2	Maintenance Data and Defect Reporting in The Royal Navy, the Army and The Royal Air Force
Def-Stan 00-44 (Pt 2)	1	Data Classification and Incident Sentencing – General
Def-Stan 00-44 (Pt 3)	1	Incident Sentencing – Sea
Def-Stan 05-061 (Pt4)	3	Quality Assurance Procedural Requirements – Contractor Working Parties
Def Stan 05-135	1	Avoidance of Counterfeit Material

45.5 Performance

a) Key Performance Indicators as defined in Annex D

- (1) The Contractor's performance against Schedule Item 1 shall be measured and monitored by the Authority against the Contract Key Performance Indicators and the targets specified in Annex D using the means of measurement as detailed therein. Performance against the

Contract Key Performance Indicators detailed at Annex D shall be measured and monitored monthly in accordance with the process detailed at Condition 45.5e below.

b) Deductions for Failure in Performance

- (1) The Authority shall be entitled to make performance deductions against payments due to the Contractor in accordance with the provisions of Condition 45.5f below.
- (2) If the Contractor fails to achieve the performance requirements of KPI 1.1 the monthly payment against Item 1 of the Schedule of Requirements shall be subject to deductions in accordance with this Condition 45.5b and Condition 45.5f unless the Contractor has claimed Relief, and the Authority has agreed such Relief in accordance with Condition 45.7.

c) Relief Events

- (1) Where performance against a KPI is AMBER or RED, as detailed at Annex D and it is determined by MOD through the Performance Monitoring Process specified at Condition 45.5e that the circumstances giving rise to the AMBER or RED performance are not within the reasonable control of the Contractor, then such shall be considered GREEN for the purposes of Payment Sentencing Panel against the monthly payment shall not be made by the Authority for that KPI.
- (2) In pursuance of Clause 45.5c above the Contractor may claim relief from deductions to the monthly payment for KPI 1.1 and as otherwise agreed for KPI 1.2 and KPI 1.3 in accordance with the procedure detailed at Condition 45.7 The events against which the Contractor may claim relief are defined as, but are not limited to, the following:
 - (a) An additional training activity is requested by the Authority between weekly planning meetings in place of a planned maintenance or change implementation activity within the extant training plan.
 - (b) The Contractor is responding to re-scheduling requests at less than five Business Days' notice.
 - (c) By reason of a breach of this Contract or act or omission of the Authority or its agents.
 - (d) Failure in or delay to the provision of the supply of Government Furnished Assets, or Base
 - (e) Service Supplies (e.g. Power Supply, Air Conditioning Supply etc). Where the Contractor has advised the Authority that a trainer at Reduced Capability or No Capability, as defined at Annex D, requires corrective action to resolve and/or will be subject to further failures and/or damage if the Contractor is prevented by the Authority from taking corrective action, and the Authority continues to use the Trainer, preventing corrective action.
 - (f) In the event that the Contractor requires a specified period of downtime to complete a Task authorised by the Authority under a TAF (e.g. for installation purposes). Relief will continue to apply in respect of KPI 1.1 where the Task activity is delayed or late, with Liquidated Damages under KPI 1.2 being the Authority's sole remedy for any such delay.
 - (g) During periods when downtime has been agreed over and above the scheduled maintenance periods and holiday periods where training has not been scheduled.
 - (h) In the event that any relevant dependencies on the Authority or assumptions (Annex H) to final AED list are not fulfilled.
 - (i) In the event any relevant exclusions apply. provided that such events have caused or contributed to the Contractor's failure or delay in the performance of the Contract.
 - (j) Corrective maintenance requiring on-site support from Thales personnel in addition to the FSE support. Note- relief shall only be granted for up to 3 working days.
 - (k) Corrective maintenance requiring Authority non-technical support which is not available within the timeframes required by the KPIs e.g. supervision for lone working due to health and safety requirements.
 - (l) Where repair or replacement is prevented due to obsolescence of components. Note - Relief shall be granted for any downtime where the Authority agrees that such obsolescence could not reasonably have been identified by Thales.
 - (m) Where repair or replacement is not possible within the timeframes required by the KPIs as the applicable item (including any applicable identified Red Critical Spare item) is not held on site.
 - (n) Any failure of the motion UPS requiring specialist/OEM support shall be subject to relief for 8 hours (response time for UPS support supplier).
 - (o) Any failure where the use of personnel that is/are not SC cleared is unavoidable for the time period required to obtain the necessary clearances.
 - (p) In the event of any delay in required personnel receiving clearance to enter the applicable site e.g. where 72 hours' notice is required to permit access.

c) Unsatisfactory Performance

- (1) The Contractor's performance shall be measured in accordance with the definitions set out in Annex D and will be judged unsatisfactory where, having aggregated the value of deductions calculated in accordance with Condition 45.5f to provide an overall indication of performance:
 - (a) aggregate deductions from the core price against KPI 1.1. (equivalent to 35 session payments or more are levied during a rolling 4-month period; or
 - (b) aggregate deductions from the core price against KPI 1.1. (equivalent to 72 session payments) or more are levied during a rolling 12-month period.

When the Contractor's performance is deemed to be unsatisfactory in accordance with Condition 45.5d above then the Authority may terminate this Contract in accordance with Condition 43.

d) Monitoring, Recording and Sentencing

- (1) The Performance Monitoring Process for the monitoring, recording and sentencing of performance by representatives of either the Authority or the Contractor, and for the identification of performance failures during the provision of Item 1, is detailed in the flowcharts at Annex D. The Performance Monitoring Process ensures that data is captured through the Authority's RAMtr@ck™ tool to allow assessment of performance against the KPIs and Pls identified within Annex G.
- (2) In order to ensure an objective and fair assessment of failure incidents, the Performance Monitoring Process shall ensure that a single deficiency or failure incident cannot count toward more than one KPI for a given Training Session.
 - (a) During each Training Session, the performance data for each trainer shall be recorded in paper format. At the end of each Training Session performance data will be reviewed by the FOST Training Instructor and the Field Service Engineer and initial sentencing of data will take place to determine the number of failures and/or deficiencies. Training Session data will be entered into the RAMtr@ck™ data capture system on a daily basis. On a weekly basis data entered into RAMtr@ck™ will be checked for accuracy by the Senior FOST Instructor and the Field Service Engineer. On a monthly basis, performance data will be reviewed on site by an Incident Sentencing Panel consisting of representatives from FOST Training Staff and the Contractor (Field Service Engineer and/or Thales Project Manager – via teleconference), to determine Reduced Capability (Amber) and No Capability (Red) Training sessions.
 - (b) The performance data against each trainer and each training session shall be reviewed monthly by a Payment Sentencing Panel consisting of the Authority's nominated Project Manager, the Contractor's nominated Project Manager together with the Authority's nominated Commercial Manager and the Contractor's nominated Commercial Manager to determine the final availability percentage for the preceding month and, in the event this is below 95%, the number of training sessions which shall be subject to payment deductions in accordance with the Payment Mechanism set out at Annex D and those failures/deficiencies for which the Contractor will be granted relief by the Authority. The Payment Sentencing Panel shall convene by means of a telephone conference within 10 Business Days of the data having been locked to P4, or exceptionally through face to face meetings if considered necessary, to agree the amount of payment adjustment that may be necessary for each month. Such adjustment shall be in accordance with Condition 14 and shall be applied to the next monthly payment.
 - (c) KPI performance sentencing in relation to the final month of the Contract term (December 2023) shall be carried out on the basis of the balance of performance data information for the month, provided prior to Fri 23rd December 2023. Any applicable payment adjustment for this period shall be applied to the December 2023 monthly payment, which will be made during the first week of January 2023 after payment sentencing.

e) Payment Deductions as defined in Annex D

- (1) The following procedures shall be used to calculate the value of the deduction that shall be applied to payment if the Contractor fails to achieve the performance required under the provisions of Condition 43, as set out at Annex D, unless the Contractor has been granted Relief under the provisions of Condition 45.7.

f) Key Performance Indicator 1.1 as defined in Annex D

- (1) Where performance against KPI 1.1 shows a GREEN level of performance for 95% or greater of the planned Training Sessions within that month, then no deductions will be removed from the monthly Core Price (as defined in the SOW Schedule 9). The Monthly Core Price is the Annual Core Price divided by contract year.
- (2) Where performance against KPI 1.1 is less than 95%, then the associated payment deductions will be removed from the monthly Core Price as detailed below and as shown in the diagram at Annex D.
- (3) A Session Payment of **Redacted** under FOIA Section 43, Commercial interests is the Core Price as stated at Item 1 of the Schedule of Requirements divided by the number of Contracted NUSCOT Training Sessions as shown in Annex I.
- (4) An AMBER Session Payment Reduction is defined in Annex D
- (5) A Red Session Payment Reduction is defined in Annex D.
- (6) The Reduced Monthly Core Price is the Monthly Core Price minus the sum of AMBER Session payments reductions and/or RED Session payments reductions in that month.

g) Key Performance Indicator 1.2 as defined in Annex D

- (1) It is recognised by the Parties that in the event that the key milestones as agreed and identified on each Task by both parties placed under Item 2 of the Schedule of Requirements, which the Contractor is required to undertake under this Contract, being not delivered at the times specified at the "Need By" date in CP&F the Authority will suffer loss and damage thereby.

- (2) If any of the key milestones as agreed and identified for each Task by both parties is not delivered, supplied or installed to the satisfaction of the Authority within the times specified on the TAF, the Contractor shall be liable to pay to the Authority liquidated damages in relation to each key milestone in respect of which delay occurs, unless it has been agreed otherwise between the Authority and the Contractor, the following sum for each day of such delay:
 - (3) 0.5% of the value of the key milestone per calendar day from the required delivery / completion date of the key milestone, up to a maximum of 10
 - (4) It is agreed that the said sum represents a reasonable pre-estimate of the loss or damage likely to be sustained by the Authority in respect of such failure in delivery and shall be considered by the Authority as full and final settlement against the delay to the completion of the key milestone
 - (5) No Liquidated Damages will apply to agreed Acceptance Discrepancy Reports
 - (6) Liquidated Damages payable by the Contractor to the Authority shall be the sole and exclusive remedy for delay.
- h) Key Performance Indicator 1.3 as defined In Annex D
- (1) It is recognised by the Parties that in the event that corrective actions are necessary to rectify
 - (2) Acceptance Discrepancy Reports identified as the Contractor's liability following completion of a task, the Authority will suffer loss and damage thereby.
 - (3) The Authority shall be entitled to temporarily retain a proportion of the final task payment from the Contractor until such corrective action(s) is/are completed to the satisfaction of the Authority. The following sums shall be retained unless it has been agreed otherwise between the Authority and the Contractor:
 - (4) 2% of the value of the associated Task per Acceptance Discrepancy Report impacting Critical and/or Non-Critical items, as defined in Table 1 in Annex D
 - (5) 1% of the value of the associated Task per Acceptance Discrepancy Report that does not have any training impact
 - (6) Once the applicable Acceptance Discrepancy Reports are closed to satisfaction of the Authority the retained sum(s) will be paid to Thales
 - (7) It is agreed that temporary retention of the said sum shall be considered by the Authority as full and final settlement for any delay to the completion of Acceptance Discrepancy Reports.
- i) Contractor and Customer Performance Measurement Indicators
- (1) In addition to the Key Performance Indicators detailed at Annex D, the Contractor and the Authority agree to monitor and measure the Contractor's and the Authority's overall performance under this Contract against the Contractor and Customer Performance Measurement Process Indicators detailed at, and in the format set out at Annex D.
 - (2) The Contractor's Performance Indicators contained in Annex D shall not be used by the Authority as a means of calculating payment deductions under the provisions of Condition 45.5.g, 45.5.h and Condition 45.5.i of this Contract.
 - (3) The measurement of success against both the Contractor and the Authority's Performance Indicators shall be a means of achieving overall improvement in performance of both the Contractor and the Authority in operating this Contract.

45.6 Force Majeure

- a) The Contractor shall not be in breach of this Contract, nor liable for late or non-performance of any of its obligations under this Contract, if such delay or failure result from a "Force Majeure Event".
- b) For the purposes of this Contract a Force Majeure Event is defined as one of the following:
 - acts of nature;
 - war;
 - hostilities;
 - fire at any of the Contractor's premises or those of its suppliers except to the extent that the fire was caused by their own negligence.
- c) The Contractor shall immediately notify the Authority in writing on the occurrence of a Force Majeure Event, including details of the Force Majeure Event, its effect on the Contractor's obligations under this Contract, and the actions proposed to mitigate its effect.
- d) Subject to Clause 45.7a(1)(c)(iv) below, the Contractor shall be entitled to an appropriate extension of time for performing such obligations provided always that the Contractor has used, to the satisfaction of the Authority, all reasonable endeavours, both to mitigate the effects of the Force Majeure Event, and to facilitate the continued performance of its obligations under this Contract.
- e) The maximum extension of time granted under this clause shall be limited to 6 months after which time the Authority may, on giving written notice to the Contractor, terminate this Contract, without seeking compensation from the Contractor, with immediate effect.

45.7 Relief

- a) To obtain relief from any rights of the Authority under this Contract, the Contractor shall:

- (1) as soon as practicable, and in any event within 10 Business Days after becoming aware that the event has caused, or is likely to cause, delay and/or adversely affect the ability of the Contractor to perform his obligations under this Contract, give to the Authority:
 - (a) a notice of his claim for relief from his obligations under this Contract, including full details of the nature of the event, the date of the occurrence and its likely duration;
 - (b) full details of the relief claimed.
 - (c) demonstrate to the reasonable satisfaction of the Authority that:
 - (i) the Contractor and his subcontractors could not have avoided such occurrence or consequences of such occurrence, by steps which may have reasonably be expected to have taken, without incurring material expenditure;
 - (ii) the event directly caused the delay to the support of the Trainers and/or Service commencement date or the need for relief from other obligations under this Contract;
 - (iii) the time lost and/or details of why the relief claimed could not reasonably be expected to be mitigated or recovered by the Contractor acting in accordance with good industry practice; and
 - (iv) the Contractor is using reasonable endeavours to perform his obligations under this Contract.
- b) In the event that the Contractor has complied with his obligations under Clause 45.7a(1)(c)(iv) above then the Authority shall not be entitled to exercise its rights under this Contract as relevant to, and to the extent that is covered by the Contractor's request for relief and the Authority has agreed to such a request and notified the Contractor accordingly.

45.8 Exit Strategy

- a) A full exit strategy is to be agreed between the Contractor and the Authority within 3 months of Contract Award. This will be covered under a separate Tasking Order and may include but not be limited to the following:
 - (1) The Contractor shall provide an Exit Management Plan for approval by the Authority within 6 months of the Service Commencement Date.
 - (2) Whilst the Contractors Exit Management Plan is incorporated into this Contract, if any of its contents or terms conflict with any other Terms, Clauses or Schedules of this Contract, then precedence shall be determined in accordance with Contract clause 3 (Precedence).
 - (3) The Contractors Exit Management Plan shall be reviewed on a regular basis to ensure its contents remain appropriate.
 - (4) The Contractors Exit Management Plan shall contain, but not necessarily be limited to, details of the Contractors:
 - (a) Exit Programme template;
 - (b) Exit management team;
 - (c) plans for management of Exit phase including scheduling/recording of meetings;
 - (d) plans for return or transfer of any Government Furnished Assets;
 - (e) process for ensuring availability of SQEP to deliver Services until Exit Date;
 - (f) plans for ensuring that any Services that are continuing under the Contract are delivered to the required standards;
 - (g) any dependencies on the Authority;
 - (h) plans for supporting the Authority with any related matters post Exit Date

Exit Activities

- (5) The following are considered to be the key Exit Activities that the Contractor must meet during the Exit Period:
 - (a) establishment of an Exit manager and team;
 - (b) schedule of meetings for Exit;
 - (c) provision of TUPE data/information, if applicable;
 - (d) communications to stakeholders;
 - (e) provision and audit of Government Furnished Asset holdings list;
 - (f) return or transfer of Government Furnished Assets;
 - (g) vacating any Authority provided facilities;
 - (h) completion of all required Services.

Exit Programme

- (6) The Contractor shall provide an Exit Programme which shall detail all the activities it shall undertake during the Exit Period with indicative dates and durations, on any of the following:
 - (a) six (6) months prior to the Initial Contract Expiry Date or,
 - (b) thirty (30) days prior to the expiry of any part or parts of the Services; or
 - (c) on notification of a Termination Date by the Authority.

Schedule 1 - Definitions of Contract

Articles	means the Contractor Deliverables (goods and/or the services), including Packaging (and Certificate(s) of Conformity and supplied in accordance with any QA requirements if specified) which the Contractor is required to provide under the Contract in accordance with Schedule 2 (Schedule of Requirements), but excluding incidentals outside Schedule 2 (Schedule of Requirements) such as progress reports. (This definition only applies when DEFCONs are added to these Conditions);
Authority	means the Secretary of State for Defence acting on behalf of the Crown;
Authority's Representative(s)	shall be those person(s) defined in Schedule 3 (Contract Data Sheet) who will act as the Authority's Representative(s) in connection with the Contract. Where the term "Authority's Representative(s)" in the Conditions is immediately followed by a functional description in brackets, the appropriate Authority's Representative(s) shall be the designated person(s) for the purposes of Condition 7;
Business Day	means 09:00 to 17:00 Monday to Friday, excluding public and statutory holidays;
Central Government Body	a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics: <ul style="list-style-type: none">a) Government Department;b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);c) Non-Ministerial Department; ord) Executive Agency;
Collect	means pick up the Contractor Deliverables from the Consignor. This shall include loading, and any other specific arrangements, agreed in accordance with Clause 28.c and Collected and Collection shall be construed accordingly;
Commercial Packaging	means commercial Packaging for military use as described in Def Stan 81-041 (Part 1)
Conditions	means the terms and conditions set out in this document;
Consignee	means that part of the Authority identified in Schedule 3 (Contract Data Sheet) to whom the Contractor Deliverables are to be Delivered or on whose behalf they are to be Collected at the address specified in Schedule 3 (Contract Data Sheet) or such other part of the Authority as may be instructed by the Authority by means of a Diversion Order;
Consignor	means the name and address specified in Schedule 3 (Contract Data Sheet) from whom the Contractor Deliverables will be dispatched or Collected;
Contract	means the Contract including its Schedules and any amendments agreed by the Parties in accordance with Condition 6 (Formal Amendments to the Contract);
Contract Price	means the amount set out in Schedule 2 (Schedule of Requirements) to be paid (inclusive of Packaging and exclusive of any applicable VAT) by the Authority to the Contractor, for the full and proper performance by the Contractor of its obligations under the Contract.
Contractor	means the person who, by the Contract, undertakes to supply the Contractor Deliverables, for the Authority as is provided by the Contract. Where the Contractor is an individual or a partnership, the expression shall include the personal representatives of the individual or of the partners, as the case may be, and the expression shall also include any

	person to whom the benefit of the Contract may be assigned by the Contractor with the consent of the Authority;
Contractor Deliverables	means the goods and/or the services, including Packaging (and Certificate(s) of Conformity and supplied in accordance with any QA requirements if specified) which the Contractor is required to provide under the Contract;
Control	<p>means the power of a person to secure that the affairs of the Contractor are conducted in accordance with the wishes of that person:</p> <ul style="list-style-type: none"> a) by means of the holding of shares, or the possession of voting powers in, or in relation to, the Contractor; or b) by virtue of any powers conferred by the constitutional or corporate documents, or any other document, regulating the Contractor; c) and a change of Control occurs if a person who Controls the Contractor ceases to do so or if another person acquires Control of the Contractor;
CPET	means the UK Government's Central Point of Expertise on Timber, which provides a free telephone helpline and website to support implementation of the UK Government timber procurement policy;
Crown Use	in relation to a patent means the doing of anything by virtue of Sections 55 to 57 of the Patents Act 1977 which otherwise would be an infringement of the patent and in relation to a Registered Design has the meaning given in paragraph 2A(6) of the First Schedule to the Registered Designs Act 1949;
Dangerous Goods	<p>means those substances, preparations and articles that are capable of posing a risk to health, safety, property or the environment which are prohibited by regulation, or classified and authorised only under the conditions prescribed by the:</p> <ul style="list-style-type: none"> a) Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009 (CDG) (as amended 2011); b) European Agreement Concerning the International Carriage of Dangerous Goods by Road (ADR); c) Regulations Concerning the International Carriage of Dangerous Goods by Rail (RID); d) International Maritime Dangerous Goods (IMDG) Code; e) International Civil Aviation Organisation (ICAO) Technical Instructions for the Safe Transport of Dangerous Goods by Air; f) International Air Transport Association (IATA) Dangerous Goods Regulations;
DBS Finance	means Defence Business Services Finance, at the address stated in Schedule 3 (Contract Data Sheet);
DEFFORM	means the MOD DEFFORM series which can be found at https://www.aof.mod.uk ;
DEF STAN	means Defence Standards which can be accessed at https://www.dstan.mod.uk ;
Deliver	means hand over the Contractor Deliverables to the Consignee. This shall include unloading, and any other specific arrangements, agreed in accordance with Condition 28 and Delivered and Delivery shall be construed accordingly;
Delivery Date	means the date as specified in Schedule 2 (Schedule of Requirements) on which the Contractor Deliverables or the relevant portion of them are to be Delivered or made available for Collection;
Denomination of Quantity	means the quantity or measure by which an item of material is

(D of Q)	managed;
Design Right(s)	has the meaning ascribed to it by Section 213 of the Copyright, Designs and Patents Act 1988;
Diversion Order	means the Authority's written instruction (typically given by MOD Form 199) for urgent Delivery of specified quantities of Contractor Deliverables to a Consignee other than the Consignee stated in Schedule 3 (Contract Data Sheet);
Effective Date of Contract	means the date upon which both Parties have signed the Contract;
Evidence	means either: <ul style="list-style-type: none"> a) an invoice or delivery note from the timber supplier or Subcontractor to the Contractor specifying that the product supplied to the Authority is FSC or PEFC certified; or b) other robust Evidence of sustainability or FLEGT licensed origin, as advised by CPET;
Firm Price	means a price (excluding VAT) which is not subject to variation;
FLEGT	means the Forest Law Enforcement, Governance and Trade initiative by the European Union to use the power of timber-consuming countries to reduce the extent of illegal logging;
Government Furnished Assets (GFA)	is a generic term for any MOD asset such as equipment, information or resources issued or made available to the Contractor in connection with the Contract by or on behalf of the Authority;
Hazardous Contractor Deliverable	means a Contractor Deliverable or a component of a Contractor Deliverable that is itself a hazardous material or substance or that may in the course of its use, maintenance, disposal, or in the event of an accident, release one or more hazardous materials or substances and each material or substance that may be so released;
Independent Verification	means that an evaluation is undertaken and reported by an individual or body whose organisation, systems and procedures conform to "ISO Guide 65:1996 (EN 45011:1998) General requirements for bodies operating product certification systems or equivalent", and who is accredited to audit against forest management standards by a body whose organisation, systems and procedures conform to "ISO 17011: 2004 General Requirements for Providing Assessment and Accreditation of Conformity Assessment Bodies or equivalent";
Information	means any Information in any written or other tangible form disclosed to one Party by or on behalf of the other Party under or in connection with the Contract;
Issued Property	means any item of Government Furnished Assets (GFA), including any materiel issued or otherwise furnished to the Contractor in connection with the Contract by or on behalf of the Authority;
Legal and Sustainable	means production and process methods, also referred to as timber production standards, as defined by the document titled "UK Government Timber Production Policy: Definition of legal and sustainable for timber procurement". The edition current on the day the Contract documents are issued by the Authority shall apply;
Legislation	means in relation to the United Kingdom any Act of Parliament, any subordinate legislation within the meaning of section 21 of the Interpretation Act 1978, or any exercise of Royal Prerogative;
Military Level Packaging (MLP)	means Packaging that provides enhanced protection in accordance with Def Stan 81-041 (Part 1), beyond that which Commercial Packaging normally provides for the military supply chain;

Military Packager Approval Scheme (MPAS)	is a MOD sponsored scheme to certify military Packaging designers and register organisations, as capable of producing acceptable Services Packaging Instruction Sheet (SPIS) designs in accordance with Defence Standard (Def Stan) 81-041 (Part 4);
Military Packaging Level (MPL)	shall have the meaning described in Def Stan 81-041 (Part 1);
MPAS Registered Organisation	is a packaging organisation having one or more MPAS Certificated Designers capable of Military Level designs. A company capable of both Military Level and commercial Packaging designs including MOD labelling requirements;
MPAS Certificated Designer	shall mean an experienced Packaging designer trained and
NATO	certified to MPAS requirements; means the North Atlantic Treaty Organisation which is an inter-governmental military alliance based on the North Atlantic Treaty which was signed on 4 April 1949;
Notices	shall mean all Notices, orders, or other forms of communication required to be given in writing under or in connection with the Contract;
Overseas	shall mean non UK or foreign;
Packaging	Verb. The operations involved in the preparation of materiel for; transportation, handling, storage and Delivery to the user; Noun. The materials and components used for the preparation of the Contractor Deliverables for transportation and storage in accordance with the Contract;
Packaging Design Authority (PDA)	shall mean the organisation that is responsible for the original design of the Packaging except where transferred by agreement. The PDA shall be identified in the Contract, see Annex A to Schedule 3 (Appendix – Addresses and Other Information), Box 3;
Parties	means the Contractor and the Authority, and Party shall be construed accordingly;
Primary Packaging Quantity (PPQ)	means the quantity of an item of material to be contained in an individual package, which has been selected as being the most suitable for issue(s) to the ultimate user, as described in Def Stan 81-041 (Part 1);
Recycled Timber	means recovered wood that prior to being supplied to the Authority had an end use as a standalone object or as part of a structure. Recycled Timber covers: <ul style="list-style-type: none"> a) pre-consumer reclaimed wood and wood fibre and industrial by-products; b) post-consumer reclaimed wood and wood fibre, and driftwood; c) reclaimed timber abandoned or confiscated at least ten d) years previously; e) it excludes sawmill co-products;
Safety Data Sheet	has the meaning as defined in the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) Regulations 2007 (as amended);
Schedule of Requirements	means Schedule 2 (Schedule of Requirements), which identifies, either directly or by reference, Contractor Deliverables to be provided, the quantities and dates involved and the price or pricing terms in relation to each Contractor Deliverable;
Sensitive Information	means the Information listed in the completed Schedule 5 (Contractor's Sensitive Information), which is Information notified by the Contractor to the Authority, which is acknowledged by the

Authority as being sensitive, at the point at which the Contract is entered into or amended (as relevant) and remains sensitive information at the time of publication;

Short-Rotation Coppice

means a specific management regime whereby the poles of trees are cut every one to two years and which is aimed at producing biomass for energy. It is exempt from the UK Government timber procurement policy. For avoidance of doubt, Short-Rotation Coppice is not conventional coppice, which is subject to the timber policy;

Specification

means the description of the Contractor Deliverables, including any specifications, drawings, samples and / or patterns, and shall include any document or item which, individually or collectively is referred to in Schedule 2 (Schedule of Requirements). The Specification forms part of the Contract and all Contractor Deliverables to be supplied by the Contractor under the Contract shall conform in all respects with the Specification;

STANAG 4329

means the publication NATO Standard Bar Code Symbolologies which can be sourced at <https://www.dstan.mod.uk/faqs.html>;

Subcontractor

means any subcontractor engaged by the Contractor or by any other subcontractor of the Contractor at any level of subcontracting to provide Contractor Deliverables wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Contract and 'Subcontract' shall be interpreted accordingly;

Timber and Wood-Derived Products

means timber (including Recycled Timber and Virgin Timber but excluding Short-Rotation Coppice) and any products that contain wood or wood fibre derived from those timbers. Such products range from solid wood to those where the manufacturing processes obscure the wood element;

Transparency Information

means the content of this Contract in its entirety, including from time to time agreed changes to the Contract, except for (i) any Information which is exempt from disclosure in accordance with the provisions of the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004 (EIR), which shall be determined by the Authority, and (ii) any Sensitive Information

Virgin Timber

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

Schedule 2 - Schedule of Requirements

Deliverables in accordance with Statement of Work (Schedule 9)		
Item Number	Description	Firm Price (£) Ex VAT
1	Provision of Maintenance and Support Services for the DEVNUSCOT Simulator and RPT South System as detailed in the Statement of Work at Schedule 9 from 1 st August 2022 – 31 st December 2023	£1,097,753.00
2	Undertake Non-core Tasking in accordance with Annex B to the Contract	To be agreed on an individual basis in accordance with Annex B using the Rates referenced at Annex A.

All prices stated are firm prices, to be paid in £ (GBP/Pounding Sterling), not subject to any increase or exchange rates.

The Firm Price set for each item shall be the total maximum price the Contractor shall charge for the delivery of the goods/services covered within that item. This shall include, but not be limited to:

- Any direct or indirect costs
- Any costs for manufacture or provision of goods/services
- Any costs for delivery to the Authority
- Any fuel costs
- Any related travel and subsistence
- Any packaging
- Any import costs or charges
- Any implementation or exit costs
- Any sub-contractor costs
- Any IT or system related costs
- Any costs required to provide Authority access to systems or accounts

Schedule 3 – Contract Data Sheet

Supply of Contractor Deliverables
General Conditions
Condition 2 – Duration of Contract: The Contract expiry date shall be 31 st December 2023
Condition 4 – Governing Law: Contract to be governed and construed in accordance with: English Law <input checked="" type="checkbox"/> Scots Law <input type="checkbox"/> clause 4.d shall apply Solicitors or other persons based in England and Wales (or Scotland if Scots Law applies) irrevocably appointed for Contractors without a place of business in England (or Scotland, if Scots Law applies) in accordance with clause 4.g (if applicable) are as follows:
Condition 7 – Authority's Representatives: The Authority's Representatives for the Contract are as follows: Commercial: Commercial Officer as per Appendix 1 - Addresses and Other Information Project Manager: as per Appendix 1 - Addresses and Other Information
Condition 18 – Notices: Notices served under the Contract shall be sent to the following address: Authority: Commercial Officer Navy Commercial - Selborne Room 115, 1st Floor West Battery Whale Island Portsmouth PO2 8BY Contractor: Contract Manager Thales UK Limited Manor Royal Crawley West Sussex RH10 9HA Notices can be sent by electronic mail? <input checked="" type="checkbox"/>
Condition 19.a – Progress Meetings: The Contractor shall be required to attend the following meetings: To be arranged if and when required unless already detailed in the Statement of Work.
Condition 19.b – Progress Reports: The Contractor is required to submit the following Reports: To be arranged if and when required unless already detailed in the Statement of Work.

Condition 20 – Quality Assurance:

Is a Deliverable Quality Plan required for this Contract?

If required, the Deliverable Quality Plan must be set out as defined in AQAP 2105 and delivered to the Authority (Quality) within 90 Business Days of Contract Award. Once agreed by the Authority the Quality Plan shall be incorporated into the Contract. The Contractor shall remain at all times solely responsible for the accuracy, suitability and applicability of the Deliverable Quality Plan.

Other Quality Assurance Requirements:

See 45.3 Standards and Specifications and 45.4 Standards for Articles

Condition 21 – Marking of Contractor Deliverables:

Special Marking requirements:

OFFICIAL SENSITIVE

Condition 23 - Supply of Data for Hazardous Contractor Deliverables, Materials and Substances:

A completed Schedule 6 (Hazardous Contractor Deliverables, Materials or Substance Statement), and if applicable, Safety Data Sheet(s) are to be provided by e-mail with attachments in Adobe PDF or MS WORD format to:

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

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

Condition 24 – Timber and Wood-Derived Products:

A completed Schedule 7 (Timber and Wood-Derived Products Supplied under the Contract: Data Requirements) is to be provided by e-mail with attachments in Adobe PDF or MS WORD format to the Authority's Representative (Commercial)

to be Delivered by the following 30 September 2022:

Condition 25 – Certificate of Conformity:

Is a Certificate of Conformity required for this Contract? ☐

Applicable to Line Items: N/A

If required, does the Contractor Deliverables require traceability throughout the supply chain? ☐
(tick as appropriate)

Applicable to Line Items: N/A

Condition 26.b – Delivery by the Contractor:

The following Line Items are to be Delivered by the Contractor:

All lines in Schedule 2 - Schedule of Requirements

Special Delivery Instructions:

Delivery arrangements for Contractor Deliverables are to be finalised and agreed no later than 30 September 2022.

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

Condition 27.c - Collection by the Authority:

The following Line Items are to be Collected by the Authority:

TBA

Special Delivery Instructions:

Arrangements for collection by the Authority are to be finalised and agreed no later than 30 September 2022.

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

Consignor details (in accordance with 28.c.(4)):

Line Items: TBA Address: TBA

Line Items: TBA Address: TBA

Consignee details (in accordance with condition 23):

Line Items: TBA Address: TBA

Line Items: TBA Address: TBA

Condition 29 – Rejection:

The default time limit for rejection of the Contractor Deliverables is thirty (30) days unless otherwise specified here:

The time limit for rejection shall be Business Days.

Condition 31 – Self-to-Self Delivery:

Self-to-Self Delivery required? ☐ (tick as appropriate)

If required, Delivery address applicable:

Pricing and Payment**Condition 34 – Contract Price:**

All Schedule 2 line items shall be FIRM Price other than those stated below:

Line Items

Termination**Condition 41 – Termination for Convenience:**

The Notice period for terminating the Contract shall be twenty (20) days unless otherwise specified here:

The Notice period for termination shall be Business Days

Other Addresses and Other Information (forms and publications addresses and official use information)

See Annex A to Schedule 3 (Contract Data Sheet)

Annex A to Schedule 3 - Addresses and Other Information

1. Commercial Officer:

Name: **Redacted** under FOIA Section 40, Personal Information

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

Name: **Redacted** under FOIA Section 40, Personal Information

3. Packaging Design Authority:

Organisation and point of contact:

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

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

As per box 2



(b) N5636F

5. Drawings/Specifications are available from:**6. Intentionally Left Blank****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.gateway.isg-r.r.mil.uk/index.html> [intranet] or <https://www.dstan.mod.uk/> [extranet, registration needed]

8. Public Accounting Authority:

- 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
☎ 44 (0) 161 233 5397
- For all other enquiries contact DES Fin FA-AMET Policy, Level 4 Piccadilly Gate, Store Street, Manchester, M1 2WD
☎ 44 (0) 161 233 5394

9. Consignment Instructions:

The items are to be consigned as follows:

As detailed in Schedule of Requirements

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

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

Air Freight Centre

IMPORTS ☎ 030 679 81113 / 81114 Fax 0117 913 8943

EXPORTS ☎ 030 679 81113 / 81114 Fax 0117 913 8943

Surface Freight Centre

IMPORTS ☎ 030 679 81129 / 81133 / 81138 Fax 0117 913 8946

EXPORTS ☎ 030 679 81129 / 81133 / 81138 Fax 0117 913 8946

B. JSCS

JSCS Helpdesk ☎ 01869 256052 (option 2, then option 3); JSCS Fax No 01869 256837

Users requiring an account to use the MOD Freight Collection Service should contact UKStratCom-DefSp-RAMP@mod.gov.uk in the first instance

11. The Invoice Paying Authority:

Ministry of Defence

☎ 0151-242-2000

DBS Finance

Walker House, Exchange Flags Fax: 0151-242-2809

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 Arncott

Bicester, OX25 1LP (Tel. 01869 256197 Fax: 01869 256824)

Applications via fax or email: Leidos-FormsPublications@teamleidos.mod.uk

*** NOTE**

1. Many **DEFCONs** and **DEFFORMs** can be obtained from the MOD Internet Site: <https://www.aof.mod.uk/aofcontent/tactical/toolkit/index.htm>

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

Schedule 4 - Contract Change Control Procedure

Authority Changes

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

Notice of Change

3. If the Authority wishes to propose a Change or Changes, it shall serve a written notice (an "Authority Notice of Change") on the Contractor.
4. The Authority Notice of Change shall set out the Change(s) proposed by the Authority in sufficient detail to enable the Contractor to provide a written proposal (a "Contractor Change Proposal") in accordance with clauses 7 to 9 (inclusive).
5. The Contractor may only refuse to implement a Change or Changes proposed by the Authority, if such change(s):
 - a.would, if implemented, require the Contractor to deliver any Contractor Deliverables under the Contract in a manner that infringes any applicable law relevant to such delivery; and/or
 - b.would, if implemented, cause any existing consent obtained by or on behalf of the Contractor in connection with their obligations under the Contract to be revoked (or would require a new necessary consent to be obtained to implement the Change(s) which, after using reasonable efforts, the Contractor has been unable to obtain or procure and reasonably believes it will be unable to obtain or procure using reasonable efforts); and/or
 - c.would, if implemented, materially change the nature and scope of the requirement (including its risk profile) under the Contract;
and:
 - d.the Contractor notifies the Authority within 10 (ten) Business Days (or such longer period as shall have been agreed in writing by the parties) after the date of the Authority Notice of Change that the relevant proposed Change or Changes is/are a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c providing written evidence for the Contractor's reasoning on the matter; and
 - e.further to such notification:
 - (1) either the Authority notifies the Contractor in writing that the Authority agrees, or (where the Authority (acting reasonably) notifies the Contractor that the Authority disputes the Contractor's notice under Clause 5.d) it is determined in accordance with Condition 40 (Dispute Resolution), that the relevant Change(s) is/are a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c; and
 - (2) (where the Authority either agrees or it is so determined that the relevant Change(s) is/are a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c) the Authority fails to make sufficient adjustments to the relevant Authority Notice of Change (and issue a revised Authority Notice of Change) to remove the Contractor's grounds for refusing to implement the relevant Change under Clauses 5.a, 5.b and/or 5.c within 10 (ten) Business Days (or such longer period as shall have been agreed in writing by the parties) after:
 - i) the date on which the Authority notifies in writing the Contractor that the Authority agrees that the relevant Change(s) is/are a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c; or
 - ii) the date of such determination.

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

Contractor Change Proposal

7. As soon as practicable, and in any event within:
 - a.(where the Contractor has not notified the Authority that the relevant Change or Changes is/are a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c in accordance with Clause 5) fifteen (15) Business Days (or such other period as the Parties agree (acting reasonably) having regard to the nature

As at Contract Commencement

of the Change(s)) after the date on which the Contract shall have received the Authority Notice of Change; or

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

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

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

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

8. The Contractor Change Proposal shall comprise in respect of each and all Change(s) proposed:
 - a. the effect of the Change(s) on the Contractor's obligations under the Contract;
 - b. a detailed breakdown of any costs which result from the Change(s);
 - c. the programme for implementing the Change(s);
 - d. any amendment required to this Contract as a result of the Change(s), including, where appropriate, to the Contract Price; and
 - e. such other information as the Authority may reasonably require.

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

Contractor Change Proposal – Process and Implementation

10. As soon as practicable after the Authority receives a Contractor Change Proposal, the Authority shall:
 - a.evaluate the Contractor Change Proposal; and
 - b.where necessary, discuss with the Contractor any issues arising (and (in relation to a Change(s) proposed by the Authority) following such discussions the Authority may modify the Authority Notice of Change) and the Contractor shall as soon as practicable, and in any event not more than ten (10) Business Days (or such other period as the Parties shall have agreed in writing) after receipt of such modification, submit an amended Contractor Change Proposal.
11. As soon as practicable after the Authority has evaluated the Contractor Change Proposal (amended as necessary) the Authority shall:
 - a.either indicate its acceptance of the Change Proposal by issuing an amendment to the Contract in accordance with Condition 6 (Formal Amendments to the Contract), whereupon the Contractor shall promptly issue to the Authority the Contractor's DEFFORM 10B indicating their unqualified acceptance of such amendment in accordance with, and otherwise discharge their obligations under, such Condition and implement the relevant Change(s) in accordance with such proposal; or
 - b.serve Notice on the Contractor rejecting the Contractor Change Proposal and withdrawing (where issued in relation to a Change or Changes proposed by the Authority) the Authority Notice of Change (in which case such notice of change shall have no further effect).
12. If the Authority rejects the Contractor Change Proposal, it shall not be obliged to give its reasons for such rejection.
13. The Authority shall not be liable to the Contractor for any additional work undertaken or expense incurred in connection with the implementation of any Change(s), unless a Contractor Change Proposal has been

As at Contract Commencement

accepted by the Authority in accordance with Clause 11.a and then subject only to the terms of the Contractor Change proposal so accepted.

Contractor Changes

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

Schedule 5 - Contractor's Commercially Sensitive Information Form

Redacted under FOIA Section 43, Commercial interests

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

Hazardous Contractor Deliverables, Materials or Substances Statement by the Contractor

Contract No: Not used

Contract Title:

Contractor:

Date of Contract:

* To the best of our knowledge there are no hazardous Contractor Deliverables, materials or substances to be supplied. ☐

* To the best of our knowledge the hazards associated with materials or substances to be supplied under the Contract are identified in the Safety Data Sheets (Qty:) attached in accordance with condition 23. ☐

Contractor's Signature:

Name:

Job Title:

Date:

* check box (T) as appropriate]

To be completed by the Authority

Domestic Management Code (DMC):

NATO Stock Number:

Contact Name:

Contact Address:

Copy to be forwarded to:
Hazardous Stores Information System (HSIS)
Defence Safety Authority (DSA)
Movement Transport Safety Regulator (MTSR)
Hazel Building Level 1, #H019
MOD Abbey Wood (North)
Bristol BS34 8QW

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

The following information is provided in respect of condition 24 (Timber and Wood-Derived Products):

Schedule of Requirements item and timber product type	Volume of timber Delivered to the Authority with FSC, PEFC or equivalent evidence	Volume of timber Delivered to the Authority with other evidence	Volume (as Delivered to the Authority) of timber without evidence of compliance with Government Timber Procurement Policy	Total volume of timber Delivered to the Authority under the Contract
N/A				

Schedule 8 - Acceptance Procedure

There are no specific acceptance procedures for this contract other than that stated in condition 28.

Schedule 9 – Statement of Work

Abbreviations

AQAP	Allied Quality Assurance Publication
ARM	Availability, Reliability and Maintainability
BC&DR	Business Continuation & Disaster Recovery
CfA	Contracting for Availability
CSST	Customer Service Support Team
DA	Design Authority
DEVNUSCOT	Devonport Nuclear Ship Control Trainer
FASNUSCOT	Faslane Nuclear Ship Control Trainer
GFE	Government Furnished Equipment
GFF	Government Furnished Facilities
ISS	In Service Support
MoD	Ministry of Defence
MTAO	Maritime Training Acquisition Organisation
OEM	Original Equipment Manufacturer
OPT	Operational Performance Trainer
OSD	Out of Service Date
PDS	Post Design Services
POEMS	Project Oriented Environmental Management System
POSMS	Project Oriented Safety Management System
QA	Quality Assurance
QAR	Quality Assurance Representative
RA	Responsive Adaption
RPT	Role Performance Trainer (was OPT)
SI	Spares Inclusive
T&Cs	Terms and Conditions

STATEMENT OF WORK FOR SUPPORT FOR DEVNUSCOT AND THE ROLE PERFORMANCE TRAINERS

1 Introduction

1.1 Definitions

As defined within **Schedule 1** and associated supporting Annexes.

1.1.1 Support Inclusions

Core support under this support Contract would include, but would not be limited to: -

- On-Site maintenance support and provision of spares and test equipment for the Devnuscot Trainer.
- Maintenance of Technical Documentation covering all aspects of the equipment and updates.
- Personnel to undertake and co-ordinate equipment management (support and update) activities.
- Defect rectification support to ensure required availability of the Training equipment.
- Safety Management –see 3.6.1.1.
- Security Management – see 3.8.
- Support for the RPT training equipment.

1.1.2 Availability

The Availability of a system is determined by the following crucial factors: Availability (A), Reliability (R), Maintainability (M) and Logistic Delay, which are mathematically linked. In simple terms:

- Availability: Enables a system to start a training session
- Reliability: Enables a system to complete a training session.
- Maintainability and Logistics: Enable Availability to be restored in the shortest possible timescale.

1.1.2.1 Support

Support Contract shall include, but would not be limited to, all items detailed in Section 4.

1.1.2.2 Obsolescence

Obsolescence management, including identifying, removing and updating obsolescence shall be the responsibility of the Contractor via tasking.

1.1.3 Submittals

Not used.

1.2 Scope/Overview

1.2.1 Definition of Requirements

This statement of work defines the requirements for a Support contract relating to the DEVNUSCOT (Devonport Nuclear Ship Control Trainer) and Role Performance Trainer (RPT's) at HMS DRAKE.

1.2.2 Core Management Activities

This statement of work covers the Core Management Activities and In-Service Support (ISS), of the systems as defined above and in Schedule 1 and its associated supporting Annexes.

1.2.3 Tasked Activities

Additional Tasks shall be those not covered under the Core Activities that may be required on a periodic basis as needs arise. Thales shall provide a Firm Price quotation for consideration by the MoD, including raising sub-contracts for specialist additional support activities as required.

1.2.4 Schedule of Requirements

This statement of work shall form the Schedule of Requirements (Schedule 2) to Contract 704340453 and has been agreed with the Training Management Group.

1.2.5 Delivery Performance

Delivery Performance shall meet the criteria set out in Condition 27.

2 POST DESIGN SERVICES

2.1 Design Custodian Services

2.1.1 Design Authority

2.1.1.1 OEM

Thales being the Original Equipment Manufacturer (OEM) and the Design Authority (DA) for the equipment, with the exception of GFF and un-modified GFE, specified in the Contract shall adhere to the procedures defined within this statement of work and as agreed for the Contract.

2.1.1.2 Tests, Trials and Reviews

Where applicable notice must be given to the MoD Project Manager of any tests, trials and reviews on case by case basis that are to be undertaken so that the MoD Project Manager may attend or arrange to be represented.

2.1.2 Maintenance of Master Documentation

2.1.2.1 Storage

In addition to Maintenance of Master Documentation requirements, Thales shall take reasonable measures to ensure the safety of the project library from disasters such as fire and flood. This shall necessitate keeping a separate copy of Master Documentation at a site remote from that at which the Master Documentation is kept.

3 GENERAL CONTRACT SERVICE

3.1 Management and Administration Tasks (Core Element)

3.1.1 Programme Manager

Thales shall nominate a Programme Manager as the principal point of contact for all technical and programme communications (a Contracts Manager shall be nominated for all commercial and contract issues) between the Authority and the Company. His/her responsibilities (which may be delegated) shall include, but not be limited to:

- a) Project direction of all approved tasking, project activities and equipment support, update and upgrade activity,
- b) Co-ordination and programme management of activities and resources allocation.
- c) Inter-Group liaison, i.e. liaison between Thales' staff, the MTAO Business Unit Project Manager, Customer Service Support Team (CSST) staff, any applicable sub contractor and any other Government Departments or other contractors, at MoD's request.
- d) Project Administration and General Task management. Larger tasks may have specific Project Management effort, which will be included as part of the task, this will be considered on a case-by-case basis in accordance with of Annex B to the Terms and Conditions of this Contract, in terms of complexity and prevailing workloads, and discussion with the Authority.
- e) Attendance at meetings (see 3.2)
- f) Maintenance of the Design Documentation, filing of reports, production/supply of meeting minutes etc. (see 2.1.2)
- g) Maintenance of a change proposal form (CPF) register.
- h) Maintenance of a task planning spreadsheet showing all current approved and proposed tasks, including task accrual information.
- i) Providing firm price quotations, within the time-scale agreed with the MoD Project Manager, to ensure the timely commencement of tasks. The Programme Manager's hours for firm price quotation are included in the core element.
- j) Ensuring that a task has been properly authorised by the Authority in accordance with the Task Management procedures and of Annex B to the Terms and Conditions of this Contract before any work on the task is undertaken.
- k) Planning the resources to enable tasks to be completed in the agreed timescales and reporting immediately to the MoD Project Manager any occurrence likely to impede the progress of the work and prevent timely completion of the tasks.
- l) Reporting the progress of each task quarterly and at Progress Meetings and Project Reviews (see 3.2) and other times as required by the MoD Project Manager.
- m) Preparing and issuing technical reports and providing secretarial effort for taking and issuing minutes at Progress meetings (see 3.2).
- n) Not Used
- o) Safety Management and Environmental Management in accordance with Condition 20 and the agreed Thales Safety Management Plan and Environmental Management Plan
- p) Security Management in accordance with section 3.8 and the agreed Thales Security Management Plan.
- q) System Maintenance in accordance with Appendix 1 of this document.
- r) Lead payment sentencing activity
- s) Lead Contractor activities associated with Contractor and Customer performance management indicators (PIs) in accordance with Annex D to the Terms and Conditions of this Contract.

3.2 Meetings (Core Element)

3.2.1 Facilities

Thales shall provide at no extra charge secretarial services and support services for all approved meetings. All meetings shall be convened at the request of the MoD Project Manager. Meetings covered will be:

- a) Annual Contract Review Meeting at Abbey Wood or Thales' facility in Crawley (alternating)
- b) Six monthly Progress Meetings & annual Hazard Review at the HMS Drake (to be held concurrently)

3.2.2 Progress Reports

Thales shall provide progress reports prior to formal progress meetings in accordance with Condition 19. The progress report shall include the Technical Progress Report, including the Task related information. Any further progress reports or progress meetings fall outside the scope of the Core Element and will be funded as a separate task.

3.2.3 Preparation & Recording

Thales shall issue a calling notice, prepare all necessary information for meetings and co-ordinate activities, inputs and outputs related to the meetings in accordance with Condition 19.

3.3 Advice and Assistance (Core Element)

3.3.1 Conduit

Thales shall provide project advice and assistance. This advice and assistance shall be limited to telephone/e-mail/internet: -

- a) Answer queries on technical and administrative details relating to equipment services and tasks covered by the contract.
- b) The service shall be provided to the following groups nominated by the MoD Project Manager:
 - 1) The TMG Business Group
 - 2) HMS Drake Users/Maintainers
- c) Relevant technical advice shall be provided on-site by the Thales Field Service Engineer (FSE) upon request.

3.3.2 Additional Information

Where appropriate, the development of additional information shall be the subject of an Additional Task (in accordance with Schedule of Requirements, Item 2), if approved by the MoD Project Manager.

3.4 Cost and Feasibility Studies (Additional Tasks CfA2)

3.4.1 Feasibility Studies

Within the PDS element of this statement of work Thales shall carry out cost and feasibility studies as requested by the MoD Project Manager. These studies will be initiated by a task or in accordance with the terms of Annex B to the Terms and Conditions of this Contract.

3.4.2 Initiation

The MoD Project Manager, providing a suitably documented and definitive Task for the required investigation, shall initiate each such study. At the end of such a study Thales shall prepare a summary report documenting the results and providing any recommendations for further action.

3.4.3 Reports

The reports produced from such studies shall be in the form of a Modification Proposal.

3.5 Quality Management (Core Element)

3.5.1 Compliance

Thales shall operate Quality Assurance systems, which comply with the Quality Standards defined in the contract.

3.5.2 Quality Plan

Not Used.

3.5.3 Representative

Thales shall nominate a Quality Assurance Representative who shall be responsible for all QA matters.

3.5.4 Audits

The Thales Quality Manager, or MoD GQAR, shall periodically conduct quality Audits to check that all work being undertaken is in accordance with the specified procedures. The audits will also review Management Procedures to appraise their effectiveness with the aim of sustaining standards and ensuring continual improvement in the quality of service where required.

3.5.5 Standards

Thales shall ensure adherence to Conditions 45.3.and 45.4.

3.6 SAFETY (Core Element)

3.6.1 Safety

3.6.1.1 Safety Case

As part of the Core Element, Thales shall support the Safety Case process applying the Authorities project Orientated Safety management System (POSMS). The Authority's nominated subject matter expert shall provide the Safety Environmental Case Reports. Thereafter Thales shall maintain the Hazard Logs, utilising the Authority's web-based Hazard Log Tool (eCassandra), with support from the Authority.

3.6.1.2 Design Process (Safety)

Thales shall include safety as an intrinsic part of the design process for PDS tasks and obsolescence implementation.

3.6.1.3 Specifications

All Modification Proposals shall contain a section on safety.

3.6.1.4 Not used

3.6.1.5 Safety Representative

Thales shall nominate a Safety Representative who shall be responsible for all Safety matters.

3.6.1.6 Not Used

3.6.1.7 Design Process (Environmental)

Environmental design, execution and management under this contract shall be in accordance with JSP 418 and POEMS.

3.6.1.8 Not used

3.7 Obsolescence Management and Resolution (Task Element)

3.7.1 Applicability

This requirement is only applicable for items, of which Thales is the DA or OEM. Thales shall conduct obsolescence studies and obsolescence monitoring via tasking.

3.7.2 Management Plan

3.8 Security (Core Element)

3.8.1 Data Handling

All data, which has a security classification, shall be handled in accordance Condition 21 with the latest edition of JSP 440 Thales shall generate and maintain the System Security Plan (SSP) and System Operating Procedures (SyOPS).

3.8.2 Modification Proposals

All modification proposals shall contain a section on security detailing what, if any, elements of the system affected by the upgrade have a security classification.

3.8.3 Representative

Thales shall nominate a Security Representative who shall be responsible for all Security matters.

3.9 General Approach

3.9.1 Work Split

Work to be conducted under the contract shall be split between a Core Element and a Tasking Element. Ensuring the availability of the key skills required to support the systems in the PDS phase in a cost-effective and timely manner. The Programme Manager responsibilities are as defined at Paragraph 3.1.

3.9.2 Team Utilisation

The FSE will, in addition to work described at 4.13, be utilised for the following: -

1. More detailed upkeep of RAMtr@ck data – including recording of defect rectification work & maintenance work (DEVNUSCOT FSE to input usage and maintenance information directly to RAMtr@ck)
2. Update of Safety Hazard Logs.
3. Perform duties of on-site Security Manager in accordance with MTAO Security Accreditation Docs.
4. Upkeep of Thales UK on-site documentation.
5. General housekeeping duties, as determined by Thales UK PM.
6. Other reasonable tasks within FSE experience, skill set, and capacity as requested by the Authority that do not interfere with maintenance support activities.

4 In Service Support

4.1 On Site Maintenance

4.1.1 Core Element

Except for items specifically excluded in Appendix 1, the Core Element shall cover all aspects of equipment maintenance, repair and replacement.

4.1.2 Return to Operational State

Following a reported defect, Thales shall return the trainer to an operational state as soon as possible. In the event that planned training delivery is lost or reduced, the KPIs detailed in of Annex D to the Terms and Conditions of this Contract shall take effect. The RAMtr@ck system shall be used for monitoring of fault rectification performance.

4.1.3 Staffing

One FSE per site shall be employed for 40 hours per week for 43 weeks per year, funded as a Core Element. Arrangements for the situations where a single FSE cannot carry out repairs/replacement or corrective maintenance shall be made by the Contractor.

4.1.4 Access

Reasonable access to the training systems shall be made available for the implementation of preventative and corrective maintenance. Access for maintenance of the equipment shall be 1 hour between sessions and one full session period per week.

4.1.5 Overtime

Any requirement for overtime payments for maintenance technicians in support of modification upgrades shall be funded separately under the relevant tasking activity.

5 RESPONSIVE ADAPTATION

5.1 Introduction

5.1.1 Management

Project management for responsive adaptation is within the core element. All other activities, e.g. work package management, shall be covered within separate tasked activities. See 5.2. to Schedule 1.

5.1.2 Operational Systems

It is to be expected that throughout the Trafalgar and Vanguard Class Submarine Operational Life, changes will be required to the operational system. Given the nature of the NUSCOT systems, which is providing an emulation of the capabilities of the Ship Control at a particular build state, once such changes have been made the NUSCOTs are potentially no longer a representative emulation and unless changes are made to the NUSCOTs, their value as a training facility becomes degraded.

5.1.3 Commonality

Responsive adaptation may need to be undertaken, in order to ensure that both Trainers remain in a representative state in relation to the systems they are emulating, such that their training capability is not degraded.

5.2 Management of Responsive Adaptation

5.2.1 Additional Tasks

The main areas which will generate Additional Tasks concerning responsive adaptation are:

- a) Feasibility studies into the implications on the Trainers of defined changes to the relevant on-board equipment or facilities. These studies shall include the provision of technical and/or financial and commercial reports as necessary.
- b) Design, development and introduction into service of modifications taking into account their effect on system performance, Safety, Security, reliability and maintainability, as appropriate. These would normally be initiated following some form of impact assessment, such as the result of a feasibility study.

5.2.2 Management under Core Element

Although the work associated with each of the types of activities identified above would be addressed through Additional Tasks raised under the contract, the management (project management) of the process shall be covered under the General Core element Contract Service of the Contract. This shall include the review of new requirements such as those identified on CIAP (Change Impact Assessment Process) Forms which may be applicable to DEVNUSCOT. Thales shall inform the MoD Project Manager, if any change proposed by the above impacts on the Trainers. If further investigation is required an Additional Task will be raised. Where additional management (e.g. work package management) effort is required then this shall be explicitly identified within the particular task definition.

5.2.3 Obsolescence and Disposal

Under the tasking element Thales shall be responsible for identifying and resolving obsolescence issues for all items for which it is DA or OEM to maintain Availability, Reliability and Maintainability requirements. Progress of these update activities shall be reported to the Authority in accordance with para 3.1.1.h. The Authority and Thales shall jointly review and evaluate issues raised.

Obsolescence issues considered being an availability risk shall be recorded on the Risk Register.

Disposal shall be raised as an Additional Task when DEVNUSCOT reaches out of Service date (OSD).

5.2.4 Tasking Procedures

The tasking procedures are described in the Management and Tasking Procedures at Annex B to the Terms and Conditions of this Contract.

6 RESOURCES & EXPERTISE

6.1 Contractual Responsibility

6.1.1 Provision of Resources

For this Contract, Thales shall be responsible for the provision of all resources and expertise to meet the required System Support needs. This shall include, where appropriate, the use of Sub-Contract Staff or Supplier Personnel called upon under agreed re-work requirements or applicable Service Contract. Thales shall be responsible for the management and performance of all tasks under this Contract, whether performed by its own staff or by sub-contracted personnel. Thales will not be responsible for the performance or availability of staff separately contracted by the Authority who may be required to provide support services unless formally tasked by Thales to undertake specific responsibilities.

6.2 Expertise Provided

6.2.1 Available Skills

Thales shall provide skilled resources as required to fulfil its contractual commitments, ensuring their timely availability. Resource skills which shall be available when required shall include but not be limited to:

6.2.2 System Management (Core)

- a) System Management
- b) Application Software Configuration Control
- c) System Data Management & Backup
- d) Upkeep of Reference Set

6.2.3 System Maintenance and Update (Core)

- a) System Expertise/Knowledge
- b) On-Site Fault Diagnosis
- c) Hardware Warranty Services
- d) On-Site Maintenance Support
- e) Routine System/ Maintenance Tasks
- f) In Service Reliability Management
- g) Provision of spares/repairs, and equipment/system update

6.2.4 System Upgrade (Additional Task)

- a) System Hardware and/or Software Upgrade associated with responsive adaptation
- b) Documentation Upgrade
- c) Acceptance Procedures
- d) Change Control & related Configuration Management
- e) Introduction of New Applications

CONTRACT MANAGEMENT

6.3 General

6.3.1 Contract Management

Thales shall manage the Contract cost effectively, applying the necessary management resources to set up, manage, monitor and report the performance of the service being provided. Thales shall ensure that staff deployed on the Contract are professionally qualified and experienced individuals, each trained in the management of his own areas of responsibility and capable of liaison with the customer and of managing the work of others whose services may be called upon. The professionalism, system knowledge and experience of the individuals shall ensure that the support service is performed in accordance with the Contract with the minimum of management overhead.

6.4 Management Procedures

6.4.1 Scope of Management Procedures

The purpose of the Management Procedures is to ensure that the service provided is of a high and consistent standard in accordance with the Quality Management System (QMS) and that all personnel working on the contract manage and perform their activities to clearly specified protocols and standards. These procedures shall include:

- Support Contract Management, Monitoring and Reporting System Availability, Reliability & Maintainability, comprising:
- System Management
- System Maintenance
- Fault Reporting, Repairs & Spares
- Configuration Management
- Sub-system level/LRU Obsolescence management.as necessary (tasked activity not core)

Where applicable, these will include definition of procedures to be adopted by RN personnel or other on-site personnel who are required to initiate or approve action in connection with the Contract. Copies of all applicable procedures plus all required documentation shall be supplied for reference and use by the RN Establishment.

6.5 Management of Core Element

6.5.1 Tasks

The Core Element to be undertaken for this Contract shall be those tasks required to be performed to maintain the availability of the DEVNUSCOT and RPT systems located at HMS Drake and the Reference System held at Thales Crawley. This shall include the performance of all core and Additional Tasks necessary to maintain system health and the configuration integrity of system hardware and software, together with the repair of all hardware and software defects. The Core Element being undertaken is specified in the Statement of Work, Appendix 1 .

6.5.2 Definition of Activities

Management of the Core activities will be defined in the Project Management Plan produced by Thales. Each of the activities shall be included in accordance with Thales processes as a minimum:

- a. Support Contract Management, Execution, Monitoring and Reporting**
 - i. Customer Liaison & Meetings
 - ii. System Performance Metrics (evaluation of) and Reporting
 - iii. Fault Reporting Procedure
 - iv. Quality Management Audits
 - v. Contract Control
 - vi. Task Administration Control
 - vii. Invoicing
- b. System AR&M Management**
 - i. System Management Procedure required for DEVNUSCOT and RPT at HMS Drake
 - ii. Maintenance Procedures to be adopted for DEVNUSCOT and RPT Systems
 - iii. Repair and Replacement
 - iv. Spares & Repair Policy

APPENDIX 1 TO SCHEDULE 9**CORE ACTIVITIES****1 System Management**

- 1.1 Provision of System Administration Services for DEVNUSCOT at HMS Drake including maintenance of system configuration.
- 1.2 Provision of System Administration Services for RPT at HMS Drake including maintenance of system configuration.
- 1.3 Performance of System tidy, back-up and archive services for the simulator systems at 1.1 and 1.2.
- 1.4 Provision of periodic on-site support for the COTS software configuration.
- 1.5 System Performance checks.

2 Maintenance, Spares & Repairs**2.1 Maintenance Engineer Support****2.1.1 Introduction**

Thales shall provide the following Maintenance Services ('Services') for the maintenance of the DEVNUSCOT simulator and RPT South system at the MoD's Sites in accordance with this Statement of Work.

2.1.2 The Maintenance Service Description

Thales will provide the Services by supplying the appropriate number of maintenance personnel to support the training and maintenance requirements of the simulator and RPT South.

The Service provides for the maintenance personnel, and the resources, controls and maintenance infrastructure required to successfully manage, administer and control work performance to assure compliance with the Statement of Work.

The Services will support the operation of the Equipment to meet a 95% availability performance metric.

Thales will schedule maintenance personnel to be available for each training session. Maintenance personnel will prepare the equipment for each scheduled session start time.

Maintenance will include but not be limited to the following:

- All inspections.
- Preventative and corrective maintenance.
- Cleaning, lubrication, service, and replacement.
- Troubleshooting, repair, bench check, re-assembly, and testing.
- Calibration and conducting of operational checks to correct malfunctions and verify the adequate and proper serviceable components, systems and sub-systems.

Corrective maintenance, inspections, servicing, and preventative maintenance will be accomplished in accordance with technical manuals, vendor manuals, or industry standards. Thales responsibilities under core for Planned Maintenance (also known as Preventative Maintenance) and Corrective Maintenance (aka repairs) (in reference to the simulator only, not infrastructure), is summarised in table 1 below

	Planned Maintenance (also known as Preventative/Scheduled Maintenance) (Effort & Materials)	Corrective Maintenance (aka repairs) (Adjust/Repair/Replace)	
		Effort	Materials
Included in Core	Everything including replacement of Lifer items	Everything excluding items below (asterix items)	Everything excluding items below
Excluded from Core	Nothing	Exclusions below *	Exclusions below *

* Devnuscot

Frame & mounting points on floor, shell and cabin frame of simulator, jacks, hydraulic accumulators, hydraulic alleviators, hydraulic hoses, fixed hydraulic pipework, motion bearings, motion frame structure & gimbals.

Thales will support the MoD in obtaining security accreditation. Thales shall obtain all other certification for the equipment defined as Thales responsibility within the Simulator Boundary Document.

2.1.3 Personnel Management

Thales will provide qualified employees to maintain and support the Equipment.

Thales will be responsible for the recruitment of the maintenance team, ensuring that personnel recruited have the necessary capabilities, skills and expertise to become simulator maintenance technicians.

Thales will train the maintenance team, ensuring that the team is fully conversant with the technology and the maintenance procedures.

Thales will undertake any required training to ensure that appropriate personnel have the knowledge to cover shortages in staff due to vacation or illness, and to enable expeditious infill of openings created due to permanent loss of staff.

Thales will maintain the maintenance team manning levels and will be responsible for the on-going recruitment and training as necessary to maintain the 95% availability performance metric.

2.2 Technical Support

2.2.1 Issue Tracking Process

In addition to maintaining RAMtrack records, all issues tracking, and reporting will be done via Thales' on-line web-enabled fault tracking and reporting support tool called 'Customer OnLine'.

A Customer OnLine' Ticket will be raised for each Technical Query. Technical Queries may only feature one significant issue. Multiple issues will be raised on separate Customer OnLine' Tickets. In the event that a TQ being resolved then highlights another problem, a new ticket must be raised to cover the new issue. Tickets must not be allowed to migrate.

2.2.2 Technical Support

Technical Support will comprise technical advice, evaluations, investigations, base or site assistance to maintain operation of 'as specified' functionality.

This technical support service is intended to ensure that the MoD is able to use and maintain the Equipment at the standard it was originally designed and delivered to by Thales, or as modified subsequently by Thales or Thales' approved third party.

Support can be provided both in person at the MoD's site(s) and remotely from Thales' plant as appropriate.

As a general principle, the initial investigation will be carried out by the FSE, backed up with additional access to system specialists and attendance on site as necessary.

If Thales requires to visit the MoD's site to provide technical assistance to resolve an issue in a timely manner, Thales will notify the MoD in writing in advance requesting access to the equipment and the MoD will permit Thales' engineer(s) suitable and timely access to the equipment.

Thales will not provide free of charge technical support related to or involving any system or sub system in the equipment that has been modified or changed by a non-Thales-approved third party. Thales shall submit a separate quotation for working on such a support issue. Third parties will be approved by Thales on a case-by-case basis following the MoD's request.

This service will include updating of any equipment documentation as necessary.

During a peak demand for staff caused by multiple simultaneous events, Thales will ensure full support with overtime or temporary supplemental staff from other sources.

In the event of a situation that is beyond the capability of the FSE, Thales will provide support from Crawley with its engineering staff and/or Customer Support group.

2.2.3 Liaison and Communication

Thales' maintenance team will be responsible for interfacing with the training instructors as necessary to ensure that the training centre operates smoothly. Thales' personnel will ensure the training instructor is fully briefed on any operational issues prior to any training session.

Thales' personnel will then be de-briefed by the instructor and crew after each session to record any comments or issues that may have been encountered during the training.

Thales' personnel will be responsible for providing availability, utilisation and any other Maintenance specific reports necessary for the management of the training centre.

2.2.4 Logistics Support

Replacement or repair of unmodified boat system equipment (aka embodied GFE), unmodified boat line replacement units (LRUs) and other un-approved third-party equipment (being any third-party equipment which was not delivered or otherwise approved for use in the Equipment by Thales), is excluded.

For the avoidance of doubt, commercial off the shelf equipment (COTS) supplied by Thales is covered.

2.3 Spares and Repairs

2.3.1 Spares and Repairs Process

Spares and repairs are processed via the Customer OnLine' tool into Thales' Customer Support Service Centre. Procurement and delivery is managed through the use of this tool.

2.4 Relocation of Equipment (Tasked Activity)

If any equipment is to be relocated from the original MoD's site to another MoD's site, Thales or an agent approved by Thales must carry out the equipment relocation, re-commissioning and correction of any faults to maintain full support cover.

Schedule 10 – Notification of Intellectual Property Rights (IPR) Restrictions

Part A – Notification of IPR Restrictions –

Redacted under FOIA Section 43, Commercial interests

As at Contract Commencement

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

For and on behalf of the Contractor:

Name and Title	Redacted under FOIA Section 40, Personal Information
Signature	
Date	

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

Name and Title	Redacted under FOIA Section 40, Personal Information
Signature	
Date	