



Ministry
of Defence

Operational Infrastructure Programme (OIP) Team

Contract No: OIP/0032

**For:
Repair, Servicing, Training and
Supply of Vehicle Lifting
Equipment**

Between Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland	And
Team Name and address: Operational Infrastructure Programme (OIP)	Contractor Name and address:
Spruce 3a #1309 ABW Abbey Wood Bristol BS34 8JH E-mail Address: Telephone Number: Facsimile Number:	A&M Defence and Marine Services Limited 3 OLD BARN FARM ROAD WIMBOURNE DORSET BH21 6SP E-mail Address: Telephone Number: Facsimile Number:

A	GENERAL CONTRACT PROVISIONS	5
A1.	Interpretation	5
A2.	Amendments to Contract	5
A3.	Variations to Specification	5
A4.	Precedence	6
A5.	Severability	6
A6.	Assignment of Contract	6
A7.	Waiver	6
A8.	Third Party Rights	7
A9.	Governing Law	7
A10.	Entire Agreement	8
A11.	Disclosure of Information	8
A12.	Publicity and Communications with the Media	10
A13.	Protection of Personal Data	10
A14.	Transparency	10
A15.	Equality	11
A16.	Child Labour and Employment Law	11
A17.	Subcontracting	11
A18.	Change of Control of Contractor	12
A19.	Termination for Insolvency or Corrupt Gifts	13
A20.	Consequences of Termination	16
A21.	Dispute Resolution	16
A22.	Termination for Convenience	17
A23.	Contractor's Records	17
A24.	Duration of Contract	17
A25.	Contractor's Warranties	17
B	THE CONTRACTOR DELIVERABLES	18
B1.	Supply of Contractor Deliverables and Quality Assurance	18
B2.	Environmental Requirements	18
B3.	Disruption	18
C	PRICE	19
C1.	Contract Price	19
D	INTELLECTUAL PROPERTY	19
D1.	Third Party Intellectual Property – Rights and Restrictions	19
E	FACILITIES AND ASSETS	22
E1.	Access to Contractor's Premises	22
F	DELIVERY	22
F1.	Authority's Remedies for Breach of Contract	22
G	PAYMENT AND RECEIPTS	24
G1.	Payment	24
G2.	Value Added Tax	25
G3.	Debt Factoring	26
H	CONTRACT ADMINISTRATION	26
H1.	Progress Monitoring, Meetings and Reports	26
H2.	Authority Representatives	26
H3.	Notices	27
I.	NOT USED	27
J.	THE PROJECT SPECIFIC DEFCONS AND DEFCON SC VARIANTS THAT APPLY TO THIS CONTRACT ARE:	27
K.	THE SPECIAL CONDITIONS THAT APPLY TO THIS CONTRACT ARE:	28
K1.	Certificate of Conformity	28
K2.	Marking of Contractor Deliverables	29
K5.	Rejection	29
K6.	Delivery/Collection	29
K7.	Self to Self Delivery	30
K8.	Acceptance	30
K9.	Packaging and Labelling (excluding Contractor Deliverables containing Munitions)	30
K13.	Key Performance Indicators and Performance Management	34
K15.	Copyright	34

L.	THE PROCESSES THAT APPLY TO THIS CONTRACT ARE:	35
L1.	Authorisation and Performance of work - Servicing	36
L2.	Authorisation and Performance of Work - Repairs	34
L3.	Termination of Tasks	36
L4.	Risk Management Process	36
L5.	Key Performance Indicators (KPIs)	36
L6.	Non-Conforming Deliveries	38
L7.	New Stores Rejects	39

The Schedules that apply to this Contract are:

Schedule 1	Definitions of Contract
Schedule 2	Schedule of Requirements Annex A to Schedule 2
Schedule 3	Contract Data Sheet Annex A to Schedule 3
Schedule 4	Contract Change Process Procedure (i.a.w. clause A2.b)
Schedule 5	Specification
Schedule 6	Contractor's Commercially Sensitive Information Form
Schedule 7	Pricing Schedule
Schedule 8	Tasking Form
Schedule 9	Hazardous Articles, Materials or Substances Supplied under the Contract: Data Requirements
Schedule 10	Form B2 Application for Disposal of BR/BER Equipment
Schedule 11	DEFFORM 30 – The Electronic Transactions Agreement

**MOD Conditions for the Provision of Services:
Contract No: OIP/0032****A General Contract Provisions****A1. Interpretation**

- a. The defined terms in the Contract shall be as set out in Schedule 1.
- b. 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 their 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 terms of the Contract or required by law, references to submission of documents in writing shall include electronic submission.

A2. Amendments to Contract

- a. All amendments to this Contract shall be serially numbered, in writing, issued only by the Authority’s Representative (Commercial), and agreed by both Parties.
- b. Where the Authority or the Contractor wishes to introduce a change which is not minor or which is likely to involve a change to the Contract Price, the provisions of Schedule 4 (Change Process) shall apply. The Contractor shall not carry out any work until any necessary change to the Contract Price has been agreed and a written amendment in accordance with clause A2.a above has been issued.

A3. Variations to Specification

- a. The Authority’s Representative may, by Notice (following consultation with the Contractor as necessary), alter the Specification as from a date agreed by both Parties and to the extent specified by the Authority, provided that any such variations shall be limited to the extent that they do not alter the fit, form, function or characteristics of the Contractor Deliverables to be supplied under the Contract. The Contractor shall ensure that the Contractor Deliverables take account of any such variations. Such variations shall not require formal amendment of the Contract in accordance with the process set out in condition A2 (Amendments to Contract) and shall be implemented upon receipt, or at the date specified in the Authority’s Notice, unless otherwise

specified.

- b. Any variations that cause a change to:
- (1) fit, form, function or characteristics of the Contractor Deliverables;
 - (2) the cost;
 - (3) Delivery Dates;
 - (4) the period required for the production or completion; or
 - (5) other work caused by the alteration,

shall be the subject to condition A2 (Amendments to Contract). Each amendment under condition A2 shall be classed as a formal change.

A4. 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) Sections A - H (and J - L, if sections J - L are included in this 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, where included, 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 A4.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 A4.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 A21 (Dispute Resolution).

A5. Severability

If any provision of the Contract is held to be invalid, illegal or unenforceable to any extent then:

- a. 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
- b. 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.

A6. 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.

A7. 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.

A8. 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.

A9. Governing Law

a. Subject to clause A9.d, the Contract shall be considered as a contract made in England and subject to English Law.

b. Subject to clause A9.d and A21 (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 A.9.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 clause A9 and for the enforcement of any judgment, order or award given under English jurisdiction.

d. If the Parties agree pursuant to the Contract that Scots Law should apply then the following amendments shall apply to the Contract:

(1) Clause A9.a, A9.b and A9.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 clause A21 (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 clause A9 and for the enforcement of any judgment, order or award given under Scottish jurisdiction.”

(2) Clause A21.b shall be amended to read:

“In the event that the dispute or claim is not resolved pursuant to clause A21.a the dispute shall be referred to arbitration. Unless otherwise agreed in writing by the Parties, the arbitration and this clause A21.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 clause A9 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 this 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 its agents to accept on its 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 this Contract that Scots Law should apply) arising out of or relating to the Contract or any issue connected therewith.

A10. 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.

A11. Disclosure of Information

a. Subject to clauses A11.d, A11.e, A11.h and A14 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 its 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 its employees are aware of the Contractor's arrangements for discharging the obligations at clauses A11.a and A11.b before receiving Information and shall take such steps as may be reasonably practical to enforce such arrangements.

d. Clauses A11.a and A11.b shall not apply to any Information 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) on a confidential basis 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;

(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) 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 this Contract;

(5) 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. Before sharing any Information in accordance with sub-clause A11.f above, the Authority may redact the Information. Any decision to redact Information made by the Authority shall be final.

h. 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 its 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.

i. Nothing in this condition shall affect the Parties' obligations of confidentiality where Information is disclosed orally in confidence.

A12. Publicity and Communications with the Media

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

A13. Protection of Personal Data

In the performance of the Contract, both Parties shall comply with their obligations as a data controller, as defined in the Data Protection Act 1998.

A14. Transparency

a. Subject to clause A14.b but notwithstanding condition A11, the Contractor understands that the Authority may publish the Transparency Information to the general public. The Contractor shall assist and cooperate with the Authority to enable the Authority to publish the Transparency Information.

b. Before publishing the Transparency Information to the general public in accordance with clause A14.a, the Authority shall 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 or the Environmental Information Regulations 2004, and any Information which has been acknowledged by the Authority at Schedule 6 (Contractor's Commercially Sensitive Information).

c. The Authority may consult with the Contractor before redacting any Information from the Transparency Information in accordance with clause A14.b. The Contractor acknowledges and accepts that its representations on redactions during consultation may not be determinative and that the decision whether to redact Information is a matter in which the Authority shall exercise its own discretion, subject always to the provisions of the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.

d. For the avoidance of doubt, nothing in this condition A14 shall affect the

Contractor's rights at law.

A15. Equality

- a. The Contractor shall not unlawfully discriminate either directly or indirectly on the grounds of age, disability, gender (including re-assignment), sex or sexual orientation, marital status (including civil partnerships), pregnancy and maternity, race, or religion or belief.
- b. Without prejudice to the generality of the obligation in clause A15.a, the Contractor shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010 (or any statutory modification or re-enactment thereof) or other relevant or equivalent Legislation in the country where the Contract is being performed.
- c. The Contractor agrees to take reasonable efforts to secure the observance of the provisions of this condition A15 by any of its employees, agents, or other persons acting under its direction or Control who are engaged in the performance of the Contract.
- d. The Contractor agrees to take reasonable efforts to reflect this condition A15 in any subcontract that it enters into to satisfy the requirements of the Contract and to require its Subcontractors to reflect this condition A15 in their subcontracts that they enter into to satisfy the requirements of the Contract.

A16. Child Labour and Employment Law

- a. In performing the Contract, the Contractor shall comply in all material respects with Child Labour Legislation and applicable employment legislation of those jurisdiction(s) where the Contract is being performed.
- b. The Contractor agrees to use reasonable efforts to reflect this Condition in any subcontract that it enters into to satisfy the requirements of the Contract and to require its Subcontractors to reflect this Condition in their subcontracts that they enter into to satisfy the requirements of the Contract.

A17. Subcontracting

- a. Subcontracting any part of the Contract shall not relieve the Contractor of any obligation, duty or liability attributable to the Contractor under the Contract.
- b. The Contractor shall ensure, to the extent that they are applicable, that the Conditions of the Contract are reflected in any subcontracts for any part of the Contractor Deliverables.
- c. In all circumstances the Contractor shall ensure that all subcontracts in relation to this Contract include:
 - (1) a requirement that either party to the subcontract may release to the Authority any of those parts of the subcontract documentation as are necessary to demonstrate the Contractor's compliance with the provisions of the Contract and that any such release shall not amount to a breach of any provision of confidentiality contained within the subcontract; and
 - (2) a term which requires payment to be made to the Subcontractor within a specified period not exceeding thirty (30) days from receipt of a valid invoice as defined by the subcontract requirements.
- d. Where the Contractor places any subcontract with a value of more than £50,000 in connection with this Contract, it shall ensure that it has the right to terminate that subcontract for convenience in the event that the Authority exercises its right to terminate this Contract under Condition A22 (Termination for Convenience), with twenty (20) Business Days notice (or such other notice period as the Authority shall

give under this Contract).

e. When placing subcontracts, the Contractor is asked to give consideration, as far as possible, to placing work on a competitive basis with Subcontractors that are Supported Businesses. The Contractor can find details of Supported Businesses in the United Kingdom on the Supported Business Directory that is British Association for Supported Employment at Unit 4, 200 Bury Road, Tottington, Lancashire BL8 3DX (Telephone : 01204 880733) or <http://business.base-uk.org/procurement>.

f. The Contractor shall secure from any Subcontractor, the prompt notification to the Authority of the Information required by clause D1.a (Third Party Intellectual Property – Rights and Restrictions). On receipt of any such notification the Authority shall issue a written authorisation to the Subcontractor in accordance with clause D1.g. Any such authorisation shall always be subject to clauses D1.j, D1.k and D1.n as though the Subcontractor was the Contractor. If any claim or action relevant to such authorisation arises, it shall be promptly notified to the Authority. The Contractor is not authorised to enter into any substantive correspondence in such matter nor in any way to act on behalf of the Authority in any such claim or action. Any arrangement between the Contractor and Subcontractor to enable the Contractor to underwrite their indemnities to the Authority under this Condition is a matter between the Contractor and the Subcontractor.

g. Where the Contractor subcontracts work under the Contract, which is likely to be subject to foreign export control, the Contractor shall use reasonable endeavours to incorporate in each subcontract the terms set out in the relevant parts of SC3 Schedule “Export Licence”. Where it is not practicable to include the terms set out in SC3 Schedule “Export Licence”, the Contractor shall report that fact and the circumstances to the Authority.

A18. Change of Control of Contractor

a. The Contractor shall inform the Mergers & Acquisitions section, Supplier Relations Team, Poplar Level 1 # 2119, MOD Abbey Wood South, Bristol BS34 8JH as soon as practicable of any intended, planned or actual change of Control. 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 change of Control of the Contractor in the UK or other jurisdictions. The Authority’s Representative shall consider the potential change of Control and advise the Contractor in writing of any concerns that 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.

b. Each notice of change of Control shall be taken to apply to all contracts with the Authority.

c. The Authority may, acting reasonably, terminate the Contract by giving written notice to the Contractor within six (6) months of the Authority being notified or becoming aware that the Contractor has undergone a change of Control where the Contractor has failed to address the Authority’s concerns to the Authority’s satisfaction in accordance with clause A18.a, or has failed to supply or withheld the Information required under clause A18.a.

d. If the Authority exercises its right to terminate in accordance with clause F1.a.(4) the Contractor shall be entitled to request the Authority to consider making a payment to represent any commitments, liabilities or expenditure which are reasonable and properly chargeable by the Contractor in connection with the Contract and which would otherwise represent an unavoidable loss by the Contractor by reason of the termination of the Contract. Any request for payment under this clause A18.d must be

fully supported by documentary evidence. The decision whether to make such a payment shall be at the Authority's sole discretion.

A19. Termination for Insolvency or Corrupt Gifts

The Authority may terminate the Contract with immediate effect, without compensation, by giving written Notice to the Contractor at any time after any of the following events:

Insolvency:

- a. where the Contractor is an individual:
 - (1) the application by the Contractor for an interim order pursuant to Section 252 of the Insolvency Act 1986 (the "IA 86") or the court making an interim order pursuant to Section 253 of the IA 86;
 - (2) any composition, compromise, assignment, assignation or arrangement is made with any of the Contractor's creditors (including, without limitation, an individual voluntary arrangement under IA 86 and a trust deed for the benefit of any of the Contractor's creditors) or a moratorium on any of the Contractor's indebtedness comes into force;
 - (3) a debt payment programme under the Debt Arrangement and Attachment (Scotland) Act 2002 (the "DAAS Act") is approved in respect of a Contractor, an application is made by a Contractor to the Debt Arrangement Scheme (DAS) Administrator under the DAAS Act for approval of a debt payment programme or a Contractor gives written intimation to the DAS Administrator of their intention to make such an application;
 - (4) the presentation of a petition or other application for the appointment of any liquidator (whether provisional, interim or otherwise), administrator, receiver, administrative receiver, compulsory manager, trustee (in sequestration or otherwise), insolvency official or other similar officer in respect of the Contractor or any of its assets, unless it is withdrawn within three (3) Business Days from the date on which the Contractor is notified of it;
 - (5) the appointment of any liquidator (whether provisional, interim or otherwise) administrator, receiver, administrative receiver, compulsory manager, trustee (in sequestration or otherwise), insolvency official or other similar officer in respect of the Contractor or any of its assets;
 - (6) where the Contractor is either unable to pay its 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 its debts if:
 - (a) it has failed to comply with or to set aside a statutory demand under section 268 of the Insolvency Act 1986 or section 7 of the Bankruptcy (Scotland) Act 1985 within twenty-one (21) Business Days of service of the statutory demand on it;
 - (b) an execution or other process to enforce a debt due under a judgment or order of the court has been returned unsatisfied in whole or in part;
 - (c) a charge for payment of a debt has been served on the Contractor and has not been satisfied, returned or avoided within fourteen (14) Business Days of service; or
 - (d) it is apparently insolvent within the meaning of the Bankruptcy (Scotland) Act 1985; or
 - (7) any analogous procedure or step is taken in any jurisdiction;

- b. where the Contractor is a firm:
- (1) the Contractor preparing and submitting documents to a nominee or filing or lodging documents in court, in each case in respect of a moratorium on creditor action under schedule A1 of IA 86 in respect of the Contractor;
 - (2) any composition, compromise, assignment, assignation or arrangement is made with any of the Contractor's creditors (including, without limitation, an individual voluntary arrangement under IA 86 and a trust deed for the benefit of any of the Contractor's creditors) or a moratorium on any of the Contractor's indebtedness comes into force;
 - (3) any event listed in clause A19.a occurs in respect of any partner of the Contractor who is an individual in connection with a liability or debt of the Contractor;
 - (4) any event listed in clause A19.c occurs in respect of any partner of the Contractor which is a company or limited liability partnership registered in England and Wales or Scotland in connection with a liability or debt of the Contractor;
 - (5) an event listed in clause A19.e in respect of any partner of the Contractor which is a company or similar entity (including any incorporated entity) registered other than in England and Wales or Scotland in connection with a liability or debt of the Contractor;
 - (6) any event listed in this clause A19.b occurs in respect of any partner of the Contractor which is itself a firm in connection with a liability or debt of the Contractor;
 - (7) the presentation of a petition or other application for the appointment of any liquidator (whether provisional, interim or otherwise), administrator, receiver, administrative receiver, compulsory manager, trustee (in sequestration or otherwise), insolvency official or other similar officer in respect of the Contractor or any of its assets, unless it is withdrawn within three (3) Business Days from the date on which the Contractor is notified of it;
 - (8) the appointment of any liquidator (whether provisional, interim or otherwise) administrator, receiver, administrative receiver, compulsory manager, trustee (in sequestration or otherwise), insolvency official or other similar officer in respect of the Contractor or any of its assets;
 - (9) any resolution is passed or order made for the winding up, dissolution, administration or reorganisation of (or the institution of any other insolvency proceedings or procedure in relation to) the Contractor;
 - (10) where the Contractor is either unable to pay its 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 its debts if:
 - (a) it is apparently insolvent within the meaning of the Bankruptcy (Scotland) Act 1985; or
 - (b) it is unable to pay its debts in terms of section 221 of IA 86; or
 - (11) any analogous procedure or step is taken in any jurisdiction;

- c. where the Contractor is a company or limited liability partnership registered in England and Wales or Scotland:
- (1) the Contractor preparing and submitting documents to a nominee or filing or lodging documents in court in each case in respect of a moratorium on creditor action under schedule A1 of IA 86;
 - (2) any composition, compromise, assignment, assignation or arrangement is made with any of its creditors (including, without limitation, a company voluntary arrangement under IA 86) or a moratorium on any of the Contractors indebtedness comes into force;
 - (3) the presentation of a petition or other application for the appointment of any liquidator (whether provisional, interim or otherwise), administrator, receiver, administrative receiver, compulsory manager, trustee (in sequestration or otherwise), insolvency official or other similar officer in respect of the Contractor or any of its assets, unless it is withdrawn within three (3) Business Days from the date on which the Contractor is notified of it;
 - (4) the appointment of any liquidator (whether provisional, interim or otherwise) administrator, receiver, administrative receiver, compulsory manager, trustee (in sequestration or otherwise), insolvency official or other similar officer in respect of the Contractor or any of its assets;
 - (5) any resolution is passed or order made for the winding up, dissolution, administration or reorganisation of (or the institution of any other insolvency proceedings or procedure in relation to) the Contractor;
 - (6) where the Contractor is either unable to pay its 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 its debts if the Contractor is unable to pay its debts in terms of section 123 of IA 86; or
 - (7) any analogous procedure or step is taken in any jurisdiction;
- d. where the Contractor is unable or admits inability to pay its debts as they fall due or is deemed to be or declared to be unable to pay its debts, suspends or threatens to suspend making payments or any of its debts or, by reason of actual or anticipated financial difficulties, or commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness;
- e. where the Contractor is a company or similar entity (including any incorporated entity) registered other than in England and Wales or Scotland, events occur or are carried out which, within the jurisdiction to which it is subject, are similar in nature or effect to those specified above;

Corrupt Gifts

- f. where the Authority becomes aware that the Contractor, its employees, agents or any Subcontractor (or anyone acting on its behalf or any of its or their employees):
- (1) has offered, promised or given 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 Contract or any other contract with the Crown; or
 - (b) for showing or not showing favour or disfavour to any person in relation to this Contract or any other contract with the Crown;

(2) commits or has committed any prohibited act or any offence under the Prevention of Corruption Acts 1889 – 1916, under sub sections 108 – 109 of the Anti-Terrorism or Crime and Security Act 2001 before these Acts or sub sections are revoked or an 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;

(3) has entered into this Contract or any other contract with the Crown in connection with which commission has been paid or has been agreed to be paid by it or on its behalf, or to its knowledge, unless before the Contract is made particulars of any such commission and of the conditions of any such agreement for the payment thereof have been disclosed in writing to the Authority.

g. In exercising its rights or remedies to terminate the Contract under A19 f. 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 committing the prohibited act;

(2) give 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 its or their behalf;

(b) requiring the Contractor to procure the dismissal of an employee (whether its own or that of a Subcontractor or anyone acting on its behalf) where the prohibited act is that of such employee.

h. Where the Contract has been terminated under clause A19 f. of this Condition, the Authority shall be entitled to purchase substitute Contractor Deliverables from elsewhere and recover from the Contractor any costs and expenses incurred by the Authority in obtaining the Contractor Deliverables in substitution from another supplier.

A20. 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.

A21. 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 A21.a the dispute shall be referred to arbitration. Unless otherwise agreed in writing by the Parties, the arbitration and this clause A21.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.

A22. Termination for Convenience

- a. The Authority shall have the right at any time to terminate the Contract in whole or in part by giving the Contractor written Notice to expire at the end of the period specified in Schedule 3 (Contract Data Sheet) or if no such period is specified at the end of twenty (20) Business Days.
- b. In the event that the Authority exercises its rights in accordance with clause A22.a, the Authority shall indemnify the Contractor against any commitments, liabilities or expenditure which are reasonably and properly chargeable by the Contractor in connection with the Contract and which would otherwise represent an unavoidable loss by the Contractor by reason of termination of the Contract or the relevant part thereof.
- c. The Authority's total liability under clause A22.b shall be limited to the total price of the Contractor Deliverables payable under the Contract or the relevant part thereof, including any sums paid, due or becoming due to the Contractor at the date of termination.

A23. Contractor's Records

The Contractor shall maintain all records in connection with the Contract (expressly or otherwise), and without prejudice to condition A11 (Disclosure of Information), make them available to be examined or copied, by or on behalf of the Authority, as the Authority may require. These records shall be retained for a period of at least six (6) years from:

- (1) the end of the Contract term;
- (2) termination of the Contract; or
- (3) the final payment,

whichever occurs latest.

A24. 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.

A25. Contractor's Warranties

- a. The Contractor warrants and represents, that:
- (1) it has the full capacity and authority to enter into, and to exercise its rights and perform its obligations under, the Contract;
 - (2) from the Effective Date of Contract and for so long as the Contract remains in force it shall give the Authority Notice of any litigation, arbitration (unless expressly prohibited from doing so in accordance with the terms of the arbitration), administrative or adjudication or mediation proceedings before any court, tribunal, arbitrator, administrator or adjudicator or mediator or relevant authority against itself or a Subcontractor which would adversely affect the Contractor's ability to perform its obligations under the Contract;
 - (3) 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 its winding-up or dissolution or for the appointment of a receiver, administrative receiver, administrator, liquidator, trustee or similar officer in relation to any of its assets or revenues;

(4) for so long as the Contract remains in force it shall give the Authority Notice of any proceedings or other steps that have been taken but not discharged (nor to the best of the knowledge of the Contractor, threatened) for its winding-up or dissolution or for the appointment of a receiver, administrator, liquidator, trustee or similar officer in relation to any of its assets or revenues.

B The Contractor Deliverables

B1. 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;
 - (2) comply with all applicable Legislation; and
 - (3) discharge its 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 B1.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 it becomes 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.

B2. Environmental Requirements

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

B3. Disruption

- a. The Contractor shall take reasonable care to ensure that in the performance of its obligations under this Contract it does not disrupt the operations of the Authority, its employees or any other contractor employed by the Authority.
- b. The Contractor shall inform the Authority of any actual or potential industrial action which affects or might affect its ability at any time to perform its obligations under the Contract as soon as it becomes aware of the actual or potential industrial action and certainly no later than seven (7) Business Days before the action is due to take place, whether such action be by its own employees or others.
- c. The Contract shall have robust contingency plans in place to ensure that, in the event of industrial action by the Contractor's Team, provision of the Contractor

d. Deliverables is maintained and such contingency plans shall be available for the Authority to inspect and / or comment on at any reasonable time and shall be updated and revised as necessary by the Contractor throughout the contract period.

C Price

C1. 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 condition G2 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.

D Intellectual Property

D1. Third Party Intellectual Property – Rights and Restrictions

a. The Contractor 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 D1.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 D1.a has been notified previously, the Contractor may meet its 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 clause 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 1977;
 - (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 D1.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 the 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 D.1a, 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, its 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 1

2 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 D1.a.

k. Where authorisation is given by the Authority under clause D1.e, D1.f or D1.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, 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 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 D1.a – D.1.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 D1.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 its 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 D1 shall be taken as an authorisation or promise of an authorisation under Section 240 of the Copyright, Designs and Patents Act 1988.

E Facilities And Assets

E1. Access to Contractor's Premises

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 its premises for the purpose of monitoring the Contractor's progress and quality standards in performing the Contract.

F Delivery

F1. Authority's Remedies for Breach of Contract

a. If the Contractor:

- (1) fails to provide the Contractor Deliverables (or any part thereof) by the relevant date specified in Schedule of Requirements and / or the Specification;
- (2) provides Contractor Deliverables (or any part thereof) that are not in

accordance with, or the Contractor fails to comply with, any terms of the Contract;

(3) supplies Contractor Deliverables that do not comply with clause B1.b;

(4) fails to address the Authority's concerns to the Authority's satisfaction in accordance with condition A18, or fails to supply or withholds the Information required under clause A18.a;

(5) commits a persistent failure by failing to meet either:

(a) a single Key Performance Indicator (KPI) on 2 or more occasions in a rolling 2 month period; or

(b) 2 or more KPIs on a rolling 3 month period,

where this Contract includes "Key Performance Indicators and Performance Management"; or

(6) otherwise commits a material breach of its obligations under the Contract,

the Authority shall have the right to exercise one or more of the following remedies:

(7) where the Contractor commits a persistent failure in accordance with clause F1.a.(5) or where the breach is material in accordance with clause F1.a.(6), to terminate the Contract or the relevant part thereof, with immediate effect and without liability to the Authority, by giving written Notice to the Contractor;

(8) refuse to accept the provision of any further Contractor Deliverables by the Contractor and the Contractor shall refund to the Authority any sums paid in respect of the Contractor Deliverables that fail to comply with the terms of the Contract;

(9) give the Contractor the opportunity at the Contractor's expense to carry out such remedial services as is necessary to correct the Contractor's failure or otherwise to rectify the breach within the Authority-specified time limits;

(10) purchase substitute services from elsewhere;

(11) claim such damages as may have been sustained as a result of the Contractor's breach or breaches of the Contract, including but not limited to any costs and expenses incurred by the Authority in:

(a) carrying out any work that may be required to make the Contractor Deliverables comply with the Contract; or

(b) obtaining the Contractor Deliverables in substitution from another supplier.

b. In addition to the Authority's rights in clause F1.a., if the Authority reasonably believes at any time before the Contract Implementation Date that the Contractor will not be able to achieve Full Service Provision by the Contract Implementation Date then the Authority shall be entitled to terminate the Contract in whole or in part with immediate effect and without liability by giving written Notice to the Contractor.

c. In the event that the Authority terminates the Contract in whole or in part pursuant to clause F1.a.(7) or F1.b. or for any other lawful reason, the Authority shall also have the right to require the Contractor to transfer any or all of the Assets to the Authority, wherever they are located, upon the payment of a sum representing the market value of those Assets which the Contractor has purchased but not recovered the cost of from the Authority.

d. This condition F1 shall also apply to any remedial services carried out by the Contractor in accordance with clause F1.a.(9).

e. The Authority's rights and remedies under this condition F1 are in addition to its rights and remedies implied by statute and common law.

G Payment And Receipts

G1. Payment

a. Schedule 3 (Contract Data Sheet) specifies whether payment is to be enabled by P2P, by MOD Form 640, or by AG173. Payment may only be made using P2P where the Contractor has agreed a DEFFORM 30 with the Authority prior to the Effective Date of Contract and the DEFFORM 30 agreement is referenced in Schedule 3 (Contract Data Sheet).

b. Payment will be made by electronic transfer and prior to submitting any claims for payment under clause G1.e the Contractor shall provide to DBS Finance the name and address of the bank, the sort code and account number to which payment should be made and, if requested by DBS Finance, any further Information where payment is to be made outside of the UK.

c. In order to obtain approval for payment, the Contractor shall, upon completion of the Contract (or any part of the Contract for which the Contractor is entitled to payment):

(1) where payment is to be made using P2P, submit a properly completed DEFFORM 129J, in accordance with the instructions shown therein and in the explanatory notes;

(2) where payment is to be made using a MOD Form 640, submit the appropriate coloured copy of the MOD Form 640 to the Consignee or as otherwise directed in Schedule 3 (Contract Data Sheet) and complete and dispatch the other appropriate coloured copies of the MOD Form 640 in accordance with the instructions shown therein; or

(3) where payment is to be made using an AG173, submit a properly completed AG173 (or AG210, as appropriate) to the Consignee or as otherwise directed in Schedule 3 (Contract Data Sheet).

d. Upon receipt of the AG173 (or AG210, as appropriate), the Authority shall:

(1) approve payment by entering the relevant details into P2P to indicate receipt of the applicable Contractor Deliverables, or completing and signing the AG173/AG210, and returning it to the Contractor; or

(2) notify the Contractor in writing, giving reasons why it considers approval of payment may be withheld.

e. The Contractor shall submit a claim for payment to DBS Finance by either:

(1) using a properly prepared message structure and format for invoice payment using P2P in accordance with the arrangements set out, or referenced in DEFFORM 30; or

(2) forwarding the completed AG173 / AG210 signed by the Authority, together with a properly completed DAB Form 10.

f. The Authority shall pay all valid, properly completed claims for payment submitted by the Contractor to DBS Finance in accordance with clause G1.e on or before the day which is thirty (30) days after the later of:

(1) the day upon which a valid request for approval of payment is received by the Authority in accordance with clause G1.c; and

(2) the date of completion of the part of the Contract to which the request for approval of payment relates.

g. Where using the AG173 (or AG210), the period of thirty (30) days referred to in clause G1.f shall be exclusive of the number of days that elapse between the date the Contractor receives a MOD Form 640 or AG173 (or AG210) from the Authority showing payment approval in accordance with clause G1.d and the date DBS Finance receives a valid, properly completed claim for payment in accordance with clause G1.e.

h. The approval of payment by the Authority under clause G1.d 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 condition F1 or otherwise.

i. 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 Government Department.

G2. 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 provision of any 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 its business activities at the time of any supply, the Contractor shall include separately in any claim for payment a sum equal to any VAT chargeable at the prevailing rate on the Contract Price claimed and the Authority shall pay it. 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 HM Revenue and Customs (HMRC).

c. The Contractor is responsible for the determination of VAT liability. In cases of doubt, the Contractor shall consult HMRC and not the Authority's Representative. The Contractor shall notify the Authority's Representative (Commercial) of the Authority's VAT liability under this Contract, when the liability is other than at the standard rate of VAT, and any changes to it.

d. Where the provision of any 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.

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.

G3. Debt Factoring

- a. Subject to the Contractor obtaining the prior written consent of the Authority in accordance with condition A6 (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 G3 shall be subject to:
- (1) reduction of any sums in respect of which the Authority exercises its right of recovery under clause G1.i;
 - (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 G3.b and G3.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 G3.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 G3.a.1 and G3.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 sub-clauses G3.a.(1) and G3.a.(2).
- d. The provisions of condition G1 (Payment) shall continue to apply in all other respects after the assignment and shall not be amended without the prior approval of the Authority.

H Contract Administration**H1. 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 its 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.

H2. 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 H2.

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 A2 (Amendments to Contract).

H3. 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 a Business Day in the place of receipt, and otherwise on the first Business Day in the place of receipt 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.

I. Not Used

J. The project specific DEFCONS and DEFCON SC variants that apply to this Contract are:

DEFCON	Edition	Description
DEFCON 76	(Edn 12/06)	Contractor's Personnel at Government Establishments
DEFCON 127 -	(Edn 12/14)	Price Fixing Condition for Contracts of Lesser

		Value
DEFCON 532B(SC3)	(Edn 03/15)	Protection of Personal Data (Where Personal Data is Being Processed on Behalf of the Authority)
DEFCON 601(SC3)	(Edn 03/15)	Redundant Materiel
DEFCON 624 (SC3)	(Edn 03/15)	Use of Asbestos
DEFCON 637 (SC3)	(Edn 03/15)	Defect Investigation and Liability
DEFCON 659A*	(Edn 11/14)	Security Measures
DEFCON 660	(Edn 11/14)	Reportable OFFICIAL and OFFICIAL-SENSITIVE Security Requirements

* The requirement under DEFCON 659A for the provision of a SAL is waived, as all work on the contract will be carried out on Government premises only.

K. The special conditions that apply to this Contract are:

K1. Certificate of Conformity

- a. Where required in Schedule 3 (Contract Data Sheet) the Contractor shall provide a Certificate of Conformity (CofC) in accordance with Annex A to Schedule 2 (Schedule of Requirements for Associated Goods) 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. The Contractor shall consider the CofC to be a record in accordance with condition A23 (Contractor's Records).
- c. 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 Annex A to Schedule 2 (Schedule of Requirements for Associated Goods);
 - (8) description of Contractor Deliverable, including part number, Specification and configuration status;
 - (9) identification marks, batch and serial numbers in accordance with the Specification;
 - (10) quantities;
 - (11) 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.
- d. Where Annex A to Schedule 2 (Schedule of Requirements for Associated

Goods) 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 c. The Contractor shall ensure that this Information is available to the Authority through the supply chain, upon request in accordance with condition A23 (Contractor Records).

K2. Marking of Contractor Deliverables

- a. The Contractor shall ensure that each Contractor Deliverable is marked clearly and indelibly:
- (1) in accordance with the requirements specified in Schedule 3 (Contract Data Sheet, or if no such requirement is specified, with the MOD stock reference number, Nato Stock Number (NSN) or alternative reference number specified in Annex A to Schedule 2, (Schedule of Requirements for Associated Goods);
 - (2) where the Contractor Deliverable has a limited shelf life, the marking shall include: the expiry date/date of manufacture, expressed as specified in Schedule 3 (Contract Data Sheet), or in the absence of such requirement, they shall be marked as month (letters) and year (last two figures); and
 - (3) ensure that any marking method used does not have a detrimental effect on the strength, serviceability or corrosion resistance of the Contractor Deliverables.
- b. Where it is not possible to mark a Deliverable with the required particulars, these should be included on the package in which the Deliverable is packed, in accordance with DEFCON 129.

K5. Rejection

- a. If any of the Contractor Deliverables Delivered to the Authority do not conform to the Specification or any other terms of this 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 a. shall take place by the time limit for rejection specified in Schedule 3 (Contract Data Sheet), or if no such period is specified within 20 (twenty) Business Days.

K6. 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 shown therein and in the explanatory notes, the appropriate coloured copy of MOD Form 640, or a Delivery note;

- (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 for Associated Goods) 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 DEFFORM 111 at 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 shown therein and in the explanatory notes, the appropriate coloured copy of MOD Form 640, or a Delivery note;
 - (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 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 c.

K7. 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 its 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.

K8. Acceptance

- a. Acceptance of the Contractor Deliverables shall occur in accordance with any acceptance procedure specified in SC3 Core Plus Schedule "Acceptance Procedure". If no acceptance procedure is so specified acceptance shall occur when either:
- (1) the Authority does 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 K5.b has elapsed.

K9. Packaging and Labelling (excluding Contractor Deliverables containing Munitions)

- a. The Contractor shall pack or have packed the Contractor Deliverables:
- (1) in accordance with any requirements specified in Annex A to Schedule 2, (Schedule of Requirements for Associated Goods) (which if represented by packing codes shall be interpreted by reference to DEFFORM 96 and DEF STAN 81-41 (Part 1));
 - (2) to ensure that each Deliverable may be transported in an undamaged and serviceable condition.
- b. The Contractor shall ensure that each package containing the Contractor Deliverables is labelled to include:
- (1) the name and address of the Consignor and Consignee as specified in Schedule 3 (Contract Data Sheet) including:
 - (a) the Delivery destination / address if not of the Consignee;
 - (b) the transit destination / address (for aggregation/disaggregation, onward shipment etc.);
 - (2) the DEFFORM 129J in accordance with the instructions shown therein and in the explanatory notes, or the serial number of the MOD Form 640;
 - (3) the description and quantity of the Contractor Deliverables enclosed;
 - (4) the full 13 digit NATO Stock Number (NSN) where the UK is registered as a user of it, or, where the requirement does not have an NSN, with the alternative reference number specified in Annex A to Schedule 2, (Schedule of Requirements for Associated Goods);
 - (5) the makers part, catalogue, serial or batch number as appropriate;
 - (6) the Contract number (call off order numbers if Framework or as appropriate);
 - (7) any statutory Hazard markings and any handling markings, including the mass of any package which exceeds 3kg;
 - (8) the Packaging level (Military J, N or P, special H, Commercial A etc.) as specified in Annex A to Schedule 2, (Schedule of Requirements for Associated Goods);
 - (9) where applicable, any particulars which cannot be marked on each Contractor Deliverable in accordance with clause K2.b;
 - (10) any additional markings specified in Annex A to Schedule 2, (Schedule of Requirements for Associated Goods);
 - (11) the Primary Packaged Quantity (PPQ) (if Trade Packaging); and
 - (12) if Trade Packaging to be marked in blue "TRADE PACKAGE" or if Export Trade Packaging to be marked in black "EXPORT TRADE PACKAGING".

Where UK Military or NATO Packaging is required, labelling of the Contractor Deliverables shall be in accordance with DEF STAN 81-41 (Part 6) and clause b.

- c. Bar code markings shall be applied to the external surface of each package and to each PPQ package within. The minimum information shall include; the full 13 digit NSN, Denomination of Quantity (D of Q) see DEFFORM 96, actual quantity in package, Serial Number and/or batch number, if applicable. The bar code symbology used shall meet the requirements of STANAG 4329. Code 39 shall be the default symbology for the Packaging marking application. Requirements for positioning bar codes are defined in DEF STAN 81-41 (Part 6).

- d. Where the Contractor Deliverables are, or contain Dangerous Goods within the meaning of the regulations set out in clauses K3.a and K3.b, the Packaging level is always Trade or Export Trade Packaging not Military Level as noted in DEF STAN 81-41 (All Parts).
- e. Where UK Military or NATO Packaging is required, the Contractor shall meet the requirements as specified in Annex A to Schedule 2, (Schedule of Requirements for Associated Goods). The Contractor Deliverables shall be contained in packages which comply with the requirements of DEF STAN 81-41 (parts 1, 2 and 5) and be capable of meeting the appropriate test requirements of DEF STAN 81-41 (part 3).
- f. Where there is requirement to design UK Military or NATO level Packaging, the work shall be undertaken by a company which is registered and certified to Military Packaging Accreditation Scheme (MPAS), (ISO 9001 based), or which is able to demonstrate that its quality systems and Military package design expertise are of an equivalent standard. Military Level Packages shall be designed to comply with the relevant requirements of DEF STAN 81-41; testing to DEF STAN 81-41 (Part 3) or DEF STAN 00-35. Packaging designs shall be prepared on a Services Packaging Instruction Sheet (SPIS), in accordance with DEF STAN 81-41 (Part 4).
- g. New designs shall not be made where there is an existing SPIS or one that may be easily modified to be in accordance with the contract requirements, (see clause f.). Application should be made to the Project Team (PT) or other access point for a search to establish the SPIS status using DEFFORM 129a (Application for Packaging Designs and Authorisation for Package Design Work); media format as per clause j.
- h. Where there is a usable Standard Family Specification (SFS), it shall be used in place of a SPIS design.
- i. SPIS designs are maintained on a central Master Packaging Database (MPD), the SPIS Index (SPIN), held on the MOD design repository or other authorised secure servers, for monitoring by the MOD and review by MPAS certified contractors and the MOD.
- j. All SPIS, new or modified (and associated documentation) shall on completion be provided for uploading on to SPIN in the agreed electronic format which shall be Adobe "PDF" compatible with Adobe Acrobat version 5. Any other format shall be agreed between the Packaging Design Authority (PDA) and MOD and must be compatible with access to SPIN.
- k. Production of Military Level Packaging; where it is necessary to use a SPIS design the Packaging manufacturer should also be a registered contractor as stated in clause g. The manufacturer is responsible for confirming that the design is suitable.
- l. Minor alterations/updates and similar to existing designs may be carried out by MPAS Certificated designers, all major/significant changes and new designs need to be authorised by the Authority's Representative (Project Manager) (unless that power is delegated to a Prime or MPAS Registered company).
- m. Intellectual Property Rights (IPR); the MOD shall retain the rights to the SPIS designs or to copy or use any information relating to them, if otherwise specified.
- n. Where applicable one of the following procedures for the production of new or modified SPIS designs shall be applied:
- (1) If the Contractor is the PDA, they shall:
- (a) on receipt of instructions received from the Authority's Representative, (Project Manager), prepare the required package design in accordance with DEF STAN 81- 41;

(b) where the Contractor is certified they shall, on completion of any design work, provide the Authority's Representative (Project Manager) 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.

(c) where the PDA is not a certified organisation, they shall obtain approval for their design from a certified organisation before proceeding, then continue with sub-clause n.(1)(b) of this condition.

(2) Where the Packaging contractor is not the PDA and is un-certified, they shall not produce, modify, or update etc SPIS Designs. They shall obtain current SPIS design(s) from SPIN or a certified organisation before proceeding with manufacture of Packaging. To allow designs to be provided in ample time, they shall apply for SPIS information as soon as practicable after receipt of Contract or order.

(3) Where the Contractor is un-certified and has been given authority to produce, modify, and update SPIS Designs by contract, they shall obtain approval for their design from a certified organisation before proceeding, then continue with sub-clause n (1)(b) of this condition.

(4) Where the Contractor is not a PDA but is certified; follow sub-clauses n (1)(a) and (b) of this condition.

The Contractor shall note that all documents supplied as SPIS designs shall be considered as Contract Data Requirement.

o. The Contractor shall comply with the requirements for the design of Military Packaging as follows:

(1) Where there is a requirement to design UK Military or NATO Level Packaging, the work shall be undertaken by a certified organisation, or one that although non-certified is able to demonstrate that its Quality Systems and Military Package Design expertise are of an equivalent standard.

The certification scheme (MPAS) detail is available from:

DES IMOC SCP Packaging
MOD Abbey Wood
Bristol, BS34 8JH
Tel. +44(0)30679-35353

DESIMOCSCP-Pkg@mod.uk

(2) Military Level packages shall be designed to comply with the relevant requirements of DEF STAN 81-41, testing to DEF STAN 81-41 (Part 3) or DEF STAN 00-35. Packaging designs shall be prepared on a Services Packaging Instruction Sheet (SPIS), in accordance with DEF STAN 81-41 (Part 4);

(3) all Packaging contractors on receipt of a requirement shall search SPIN or apply for a search of SPIN to establish the SPIS status (using DEFFORM 129a 'Application for Packaging Designs or their Status', media format as per clause g.);

(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 Standard Family Specification (SFS), it shall be used in place of a SPIS design unless otherwise stated in this Contract. When an SFS is used or replaces a SPIS design, the Contractor shall upload this information as with SPIS, see clause f;

(6) all SPIS, new or modified (and associated documentation) shall on completion be provided for uploading on to SPIN in the agreed electronic format;

(7) the default electronic media format of a SPIS shall be Adobe "PDF" compatible with SPIN requirements;

(8) manufacture of Military Level Packaging; where it is necessary to use a SPIS design then the packaging manufacturer should also be a certified contractor as per clause a. The Packaging manufacturer is responsible for confirming that the design is suitable.

p. The Authority shall retain all Intellectual Property Rights (IPR) relating to the designs unless otherwise agreed in writing.

q. If special jigs, tooling etc., are required for the production of Military Packaging, the Contractor shall obtain written approval from the Authority's Representative (Commercial) before providing them.

K13. Key Performance Indicators and Performance Management

The Contractor's performance of the Contract shall be monitored and measured using the agreed Key Performance indicators (KPIs) within Section L of this Contract.

K15. Copyright

a. This Condition shall apply to all copyright works generated under the Contract, or delivered to the Authority under the provisions of the Contract, except that it shall not apply to copyright works consisting of technical data and software where such rights are granted elsewhere in the Contract.

b. The Contractor shall use all reasonable endeavours to ensure that copyright in any work generated under the Contract shall be the property of and vest in the Contractor, subject to the rights of third parties in pre-existing works.

c. The Contractor agrees not to publish any copyright work generated under the Contract without the consent in writing of the Authority. The Authority will not normally raise objection to publication unless delay or limited publication only is considered necessary in the national interest. The Authority will review, upon request by the Contractor, any such restriction on publication.

d. The Authority shall have, in respect of any copyright work to which this Condition applies, a free licence:

(1) to copy the work and to circulate and use the work or any copy thereof within any United Kingdom Government Department (which term includes the United Kingdom Armed Forces) provided that no part of the work nor any copy thereof shall, except with the prior written permission of the Contractor or pursuant to clauses b., c. or d. of this condition, be made available to any third party;

(2) to issue the work or any part of the work or any copy of the work or any part thereof to any contractor or agent for the purpose of use only in connection with a contract for the United Kingdom Government for the study, management, evaluation, and/or assessment of the work, provided that any such contractor or

agent shall be placed under an obligation which restricts disclosure and use of such work to the said purpose;

(3) to issue the work or any part of the work or any copy of the work or any part thereof to the government of a nation who is a member of the EU or NATO or bodies forming part of said groupings, to the Governments of Australia, New Zealand and Japan or such other government(s) of nation(s) prescribed in the Contract, for information only, in pursuance of information exchange arrangements for defence purposes, provided that the recipient government is placed under an obligation not to use such work for other than information purposes or disclose it to a third party;

(4) to issue the work or any part of the work or any copy of the work or any part thereof to another supplier or potential supplier to the United Kingdom Government for the purpose of use only under a contract, or tendering for a proposed contract, for a United Kingdom Government purpose, provided that the supplier or potential supplier is placed under an obligation which restricts disclosure and use of such work to the said purposes.

Provided that, subject to any pre-existing rights of the Authority, clauses c. and d. shall only apply to the work or any part of the work or any copy of the work or any part thereof if such work or part thereof is generated under the Contract. Clauses c. and d. shall apply to all works or part thereof unless otherwise marked by the Contractor in accordance with clause f. below.

e. As soon as it becomes aware that any copyright work or part thereof Delivered or proposed to be Delivered is a work subject to special conditions or any third party rights known to the Contractor, or is a work or part thereof not generated under the Contract, the Contractor shall inform the Authority and upon Delivery shall appropriately mark such work or part thereof to identify the same and indicate the relevant conditions or rights.

f. The Contractor may mark or include in any copyright work to which this Condition applies a copyright notice provided that such copyright notice acknowledges the Authority's rights under this Condition. Any such notice shall be perpetuated in any copies of such work made by the Authority or any other United Kingdom Government Department or its agents or contractors.

g. This Condition shall constitute an "agreement to the contrary" for the purposes of Section 48 of the Copyright, Design and Patents Act 1988.

h. In this Condition "copyright work" shall be understood to include any works, data or other materials in which a database right subsists.

L. The processes that apply to this Contract are:

L1. Authorisation and Performance of work – Servicing

a. All servicing and electrical safety inspections of Vehicle Lifting Equipment must be carried out in accordance with the Original Equipment Manufacturers (OEM) specifications.

b. All work required under the Contract shall be published in an agreed Service Plan.

c. Proposed amendments to the Service Plan shall be submitted to the Authority Project Manager for mutual agreement.

L2. Authorisation and Performance of work - Repairs

- a. All work required under the Contract, shall be notified to the Contractor on the Task Forms at Schedule 8 to the Contract. Task forms may be initiated by the Contractor or the Project Manager.
- b. The Contractor shall complete and sign the Form detailing the following information: firm price, material costs, delivery completion date, number of hours and hourly rate.
- c. Additional work resulting out of the original task shall be against the same task number identified as /2, /3, etc. Each task will be subject to a separate definition of work, firm price and delivery arrangement.
- d. All completed Tasking Forms shall be submitted to the Commercial Manager. Tasks that are identified by the Project Manager as Priority shall be marked as such in the box provided and these Tasking Forms shall be processed as expeditiously as possible once authorised.
- e. No work, unless under £1000, shall be undertaken on any Task until the Tasking Form has been authorised by the Authority.
- f. All repairs shall be in accordance with the Original Equipment Manufacturers Specification, European and UK safety standards and appropriate equipment standards.
- g. The Authorisation process for repairs shall be in accordance with the Statement of Requirement (SOR).
- (i) For Repairs under £1000 - The Contractor shall proceed with the repair without further authorisation from the Authority.
- (ii) For Repairs £1000 and Over - Before commencing any work, the Contractor must first obtain authorisation from the Authority.

L3. Termination of Tasks

In addition to the Authority's rights of termination under the contract, any individual task authorised under condition L1 may be terminated by the Authority at any time in writing to the Contractor. Where appropriate, the Authority may require the Contractor to furnish a report covering work done to the date of termination with such recommendations as may be possible at that stage. The Authority's liability shall be confined to payment.

L4. Risk Management Process

- a. The Contractor shall maintain and manage a joint Risk Register with the Authority. The register shall record all risks (both to Authority and Contractor) which affect the performance of the Contract and work required under the SOW. The Contractor shall make the Risk Register available to the Authority electronically.
- b. The register shall be reviewed every Quarterly meeting or as requested by the Authority.

L5. Key Performance Indicators (KPIs)**SERVICE LEVELS AND KEY PERFORMANCE INDICATORS (KPIs)**

KPI	Deliverable	Target	Consequence
KPI 1	Perform on-site repairs in accordance with Section 4 of the SOR.	From receiving notification from the Authority Project Manager: <ul style="list-style-type: none"> Mainland UK – 	Failure to meet the repair turn- around times specified within SOR Section 7 will result in a 20% reduction in

		<p>Respond to all call-outs within 48 hours of notification by the Authority and complete repair within a further 5 days.</p> <ul style="list-style-type: none"> • NI and Europe – Attend all call-outs within 96 hours of notification by the Authority and complete repair within a further 5 days. • Other Overseas – As agreed with the Project Manager. 	the repair quote triggering the KPI failure event.
KPI 2	Perform scheduled servicing in accordance with Section 5 of the SOR.	Adherence to the agreed Servicing Plan, or as otherwise agreed with the Authority Project Manager.	Failure to comply in consecutive months will result in a 20% reduction in the servicing charge for each service delivered outside of the Target boundaries agreed with the Authority Project Manager.
KPI 3	Purchase and deliver new Equipment and associated items in accordance with Section 7 of the SoR.	Deliveries to be within 8 weeks (or as agreed with the Authority Project Manager) of receiving notification from the Authority Project Manager and ensuring that no Non-Conforming Receipts (NCR) or New Stores Reject (NSR) are raised in consecutive months.	Failure to comply will result in a 20% reduction in the cost of the equipment provided.
KPI 4	Provide Management Support in accordance with Section 4, 5, 6 and 7 of the SOR.	<ul style="list-style-type: none"> • The contractor is to provide a request for quotation within 5 working days of the request having been submitted by the Authority. • The contractor is to complete all call off tasks in the period agreed for that call off form. 	<p>Failure to comply with the target timeline will result in a 20% reduction in the cost for that task (Table 4 of Schedule 7).</p> <p>Failure to complete the task by the specified delivery date on the tasking form will result in 20% reduction of the cost for the delayed task (Part 4 of Schedule 8)</p>
KPI 5	Provide Management Support in accordance with Section 10 of the SoR	<ul style="list-style-type: none"> • Monthly Management Reports to be provided in an acceptable format to the Authority within 5 working days of the end of each month. • Risk Register to be maintained and circulated to the Authority 10 working days prior to 	Failure to deliver Management Support within 5 working days of agreed timescale shall result in a 20% reduction in payment for that task.

		<p>quarterly meeting.</p> <ul style="list-style-type: none"> • Draft minutes of quarterly meeting to be submitted to the Authority within 10 working days of the quarterly meeting. • Information provided shall be confirmed as free from errors and accepted by the Authority on first receipt without any clarification or rectification required, ensuring less than 4 errors per document. 	
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L6. Non-Conforming Deliveries

1. Please note that following a recent amendment to Joint Service Publications (JSP) 886 Vol 2 Part 1, it is now Land Systems (LS) Policy to quarantine and reject any Contractor Deliverables that do not conform to the requirements of the Contract.
2. Should any Contractor Deliverables be deemed as non-conforming by LS the Authority will notify the Contractor as to the reason(s) for non-conformance within 5 working days of notification. In accordance with Clause K4 – Rejection, it will be the responsibility of the Contractor, within 5 working days of notification, to either rectify the problem on site at LS or arrange for the Contractor Deliverables to be collected and rectified at the Contractor’s premises and returned to LS within 10 working days of collection at no cost to the crown. The list attached details the reason upon which a consignment may be rejected.
3. It is advised that in certain circumstances the Authority may consider it impractical for the Contractor to undertake any rectification due to geographic location, nature of the non-conformance and/or urgency of need, in these situations the Authority may request LS to undertake the rectification action but will pass any associated costs to the Contractor as necessary.

Reason for Non-Conformance

- Incorrect DMC/NSN
- Incorrect Description
- Part/Batch No’s Incorrect
- Incorrect PPQ
- Incorrect D of Q
- Packaging Level incorrect
- No Bar Code Labelling
- Insufficient/ No Test Certificates
- Damaged in Transit

Incorrectly Labelled
Incorrect Matcon
No Logo (ISPM 15) Fail
Mixed NSN
Non-Codified Item
No Engineering Record Card
No Labelling
No paperwork
No weight Label
In adequate Shelf Life
No hazard Data Sheet
Incorrect Quantity – Surplus

4. The level of non-conforming deliveries shall be measured in accordance with the Key Performance Indicators detailed at Condition L4 and any failure to meet the required level of performance shall be subject to the remedies contained therein.

L7. New Stores Rejects

1. If the Authority reasonably considers that any Contractor Deliverables fails to comply in all material respects to the specification, a New Stores Reject (NSR) shall be raised by the Authority. Such rejection shall be reported to the Contractor in writing, who will manage it in accordance with paragraph 2 and 3.
2. Once notified in accordance with paragraph 1 the Contractor shall respond to the Authority's Representative (Procurement Branch) within 5 Business Days of receipt detailing its offer of repair and/or replacement at no cost to the Authority. The Authority's Representative (Procurement Branch) shall respond to the Contractors proposed remedy within 5 Business days.
3. Once the remedy is agreed between the Authority and the Contractor, the Parties shall agree a reasonable time period within which the NSR shall be fully resolved and the corrected Contractors Deliverables delivered, at the Contractor's cost, to the Authority's stated consignee.
4. Performance in this area shall be measured in accordance with the Key Performance Indicators detailed at Condition L4.

Schedule 1 - Definitions of Contract**Core Definitions**

AG173	means the MOD invoice form AG173 that suppliers submit as an invoice to enable payment to be processed;
AG210	means the MOD invoice form AG210 that suppliers submit as an invoice to enable a stage or milestone payment to be processed;
Assets	means items / materials which the Contractor has acquired for the purposes of performing their obligations under the Contract;
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 clause H2.b;
Business Day	means any day excluding: <ul style="list-style-type: none"> a. Saturdays, Sundays and public and statutory holidays in the jurisdiction of either Party; b. privilege days notified in writing by the Authority to the Contractor at least ten (10) Business Days in advance; and c. such periods of holiday closure of the Contractor's premises of which the Authority is given written Notice by the Contractor at least ten (10) Business Days in advance;
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; or Executive Agency.
Child Labour Legislation	means those International Labour Law Conventions concerning economic exploitation of children through the performance of work which is likely to be hazardous or to interfere with a child's health or development, including but not limited to slavery, trafficking, debt bondage or forced labour, which are ratified and enacted into domestic law and directly applicable to the Contractor in the jurisdiction(s) in which it performs the Contract.
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 supplied;
Contract	means the Contract including its Schedules and any amendments agreed by the Parties in accordance with condition A2 (Amendments);
Contract Implementation Date	means the day upon which the Contractor is fully responsible for the provision of all of the Contractor Deliverables required;

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 provide 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 Commercially Sensitive Information	means the Information listed in the completed Schedule 6 - Contractor's Commercially Sensitive Information Form, which is Information notified by the Contractor to the Authority, which is acknowledged by the Authority as being commercially sensitive;
Contractor Deliverables	means the services and, where appropriate the documents, which the Contractor is required to provide under the Contract in accordance with the Schedule of Requirements and the Specification;
Contractor's Representative	means a person or persons employed by the Contractor in connection with the provision of the Contractor Deliverables and in connection with this Contract;
Contractor's Team	means all employees, consultants, agents and Subcontractors which the Contractor engages in relation to 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> <p>a. by means of the holding of shares, or the possession of voting powers in, or in relation to, the Contractor; or</p> <p>b. by virtue of any powers conferred by the constitutional or corporate documents, or any other document, regulating the Contractor;</p> <p>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;</p>
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;
DAB Form 10	means the MOD invoice summary form;
DBS Finance	means Defence Business Services Finance, at the address stated at Annex A to Schedule 3 (Contract Data Sheet);
DEFFORM	means the MOD DEFFORM series which can be found at https://www.gov.uk/acquisition-operating-framework ;
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 SC3 Condition "Delivery / Collection" 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;
Design Right(s)	has the meaning ascribed to it by Section 213 of the Copyright, Designs and Patents Act 1988;
Effective Date of Contract	means the date specified on the Authority's acceptance letter. For example the DEFFORM 159, or where the standstill period applies, the relevant Notice of Entry into Contract letter;
Firm Price	means a price (Excl. VAT) which is not subject to variation;
Full Service Provision	means the provision by the Contractor of all of the Contractor Deliverables in accordance with the Conditions of this Contract;
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, including information provided in the tender or negotiations which preceded the award of the Contract;
Key Performance Indicators	means the agreed method of monitoring and measuring the Contractor's performance against the Contract as set out in Section L (Processes) where this Contract includes Core Plus condition "Key Performance Indicators and Performance Management";
Legislation	means in relation to the United Kingdom: <ul style="list-style-type: none"> a. any Act of Parliament; b. any subordinate Legislation within the meaning of section 21 of the Interpretation Act 1978; c. any exercise of the Royal Prerogative; or d. any enforceable community right within the meaning of section 2 of the European Communities Act 1972;
Minor Change	means any change that does not significantly/materially affect the nature of the Contractor Deliverables;
MOD Form 640	means the MOD form in 5 separate parts which may be obtained from the address specified for obtaining MOD forms and documentation in Schedule 3 (Contract Data Sheet);
Notices	shall mean all notices, orders, or other forms of communication required to be given in writing under or in connection with the Contract;
P2P	means the MOD electronic ordering, receipting and payment system;
Parties	means the Contractor and the Authority, and Party shall be construed accordingly;
Schedule of Requirements	means Schedule 2 (Schedule of Requirements) and Annex A to Schedule 2, which identifies, either directly or by reference, Contractor Deliverables to be provided, the performance dates involved and the price or pricing terms in relation to each Contractor Deliverable;
Specification	means Schedule 5 (Specification) which provides the detailed description of the Contractor Deliverables and sets out any

performance dates by which the Contractor shall provide such Contractor Deliverables;

Subcontractor

means any person engaged by the Contractor from time to time as may be permitted by the Contract to provide the Contractor Deliverables (or any part thereof);

Supported Businesses

means establishments or services where more than 50% of the workers are disabled persons who by reason of the nature or severity of their disability are unable to take up work in the open labour market;

Transparency Information

means the content of this Contract in its entirety, including from time to time agreed changes to the Contract, and details of any payments made by the Authority to the Contractor under the Contract.

Appendix A to Schedule 1 – Core+ Definitions of Contract**Core+ Definitions**

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 to Core Plus Schedule “Hazardous Articles, Materials or Substances supplied under the Contract” and any DEFCONs if either are included in this Contract);
Collect	means pick up the Contractor Deliverables from the Consignor. This shall include loading, and any other specific arrangements, agreed in accordance with clause K14.c and Collected and Collection shall be construed accordingly;
Consignor	means the name and address specified in Schedule 3 (Contract Data Sheet) from whom the Contractor Deliverables will be dispatched or Collected;
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
Denomination of Quantity (D of Q)	means the quantity or measure by which an item of material is managed;
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);
Employee	shall include any person who is an employee or director of the Contractor or who occupies the position of a director of the Contractor, by whatever title given. (This definition only applies to the narrative condition “Security Measures”);
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;
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;
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 “BS EN ISO / IEC 17065: 2012 Conformity assessment - Requirements for bodies certifying products, processes and services”, 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”;
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;
Military Level Packaging	Packaging that by the nature of the packaged items nature, or envisaged transport / movement or handling within the military supply chain and requires enhanced protection beyond that which commercial Packaging normally provides;
Military Packaging Accreditation Scheme (MPAS)	is a MOD sponsored scheme to accredit military packaging designers capable of producing SPIS designs acceptable to the MOD by meeting its requirements and thereby assure good Military Level Packaging. MPAS supersedes MPCAS/DR14. MPAS detail is available from DESJSCSCM-EngTLS-Pkg@mod.uk ;
MPAS Registered Organisation	is a packaging organisation having one or more MPAS Certified 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 certified to MPAS requirements;
NATO	means the North Atlantic Treaty Organisation which is an intergovernmental military alliance based on the North Atlantic Treaty which was signed on 4 April 1949;
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. The PDA should be MPAS registered or accepted as having an equivalent certification;
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;

Recycled Timber	<p>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:</p> <ol style="list-style-type: none">pre-consumer reclaimed wood and wood fibre and industrial by products but excluding sawmill co-products which fall within the category of Virgin Timber;post-consumer reclaimed wood and wood fibre, and driftwood;reclaimed timber abandoned or confiscated at least ten years previously; <p>it excludes sawmill co-products;</p>
Short-Rotation Coppice	<p>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;</p>
STANAG 4329	<p>means the publication NATO Standard Bar Code Symbolologies which can be sourced from Information at www.dstan.mod.uk/faqs.html;</p>
Timber and Wood-Derived Products	<p>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;</p>
Virgin Timber	<p>means Timber and Wood-Derived Products that do not include Recycled Timber.</p>

Schedule 2 - Schedule of Requirements for Services for Contract No: OIP/0032
For:
Repair, Servicing, Training and Supply of Vehicle Lifting Equipment

Item Number	Contractor Deliverables	Notes to Supplier	Firm Price £ (ex-VAT)
1	Repair of Vehicle Lifting Equipment.		in accordance with Schedule 7 Table 3
2	Servicing of Vehicle Lifting Equipment.		in accordance with Schedule 7 Table 3
3	Purchase of spares and associated items.		in accordance with Schedule 7 Table 2
4	Supply Vehicle Lifting Equipment.		in accordance with Schedule 7 Table 1
5	Provision of Management Support including Ad – Hoc Tasks		in accordance with Schedule 7 Table 3
6	Consideration for Contract		

Note: Any associated goods shall be covered at Annex A to Schedule 2

Annex A to Schedule 2 (Schedule of Requirements for Associated Goods) for Contract No: OIP/0032
For:
Repair, Servicing, Training and Supply of Vehicle Lifting Equipment

<u>Contractor Deliverables</u>									
Item Number	MOD Stock Reference No.	Part No. (where applicable)	Specification	Consignee Address Code (full address is detailed in DEFFORM 96)	Packaging Requirements inc. PPQ and DofQ (as detailed in DEFFORM 96)	Delivery Date	Total Qty	Firm Price (£) Ex VAT	
								Per Item	Total inc. packaging (and Delivery if specified in Schedule 3 (Contract Data Sheet))
Line 3			In accordance with conditions K2 and K8						In accordance with Pricing Schedule 7
Line 4			In accordance with conditions K2 and K8						In accordance with Pricing Schedule 7
Total Firm Price									

Item Number	Consignee Address (XY code only)
3	As directed by the Authority
4	As directed by the Authority

Clause G1.a Payment	DEFFORM 30 Agreement refers (if applicable) Reference: XX Date: XX
Clause G1.c.(2) and G1.c.(3) Payment (for Schedule 2 items)	Payment is to be enabled by: Line Items All Lines P2P Refers Line Items MOD Form 640 refers Line Items AG173 refers (Address to which MOD Form 640 or AG173/AG210 (approval for payment) should be sent if different from Consignee):
Clause H1.a Progress Monitoring	The Contractor shall be required to attend the following meetings: Type: In accordance with the SOW at Schedule 5. Frequency: Location:
Clause H1.b Progress Reports	The Contractor is required to submit the following Reports: Type: In accordance with the SOW at Schedule 5. Frequency: Content: (to include but not be limited to: costs incurred to date against work undertaken) Method of Delivery: Delivery Address:
Clause H2.b Authority's Representatives	The Authority's Representatives for the Contract are as follows: Commercial: In accordance with Annex A to Schedule 3. Project Manager: In accordance with Annex A to Schedule 3. Payment: In accordance with Annex A to Schedule 3.
Clause H3.a.(3) Notices	Notices served under the Contract shall be sent to the following address:

	Authority: Commercial Contractor:
Clause H3.a.(5) Notices	Notices served under the Contract can be transmitted by electronic mail: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

Condition K1 Certificate of Conformity (Core+ Only)	<p>Is a Certificate of Conformity Required for this Contract?</p> <p>Yes <input checked="" type="checkbox"/></p> <p>No <input type="checkbox"/></p> <p>Line Items: All</p> <p>If Yes does the Contractor Deliverables require Traceability throughout the supply chain?</p> <p>Yes <input checked="" type="checkbox"/></p> <p>No <input type="checkbox"/></p> <p>Line Items: All</p>
Condition K2 Marking of Contractor Deliverables (Core+ Only)	<p>Special Marking requirements: In accordance with Statement of Work</p>
Condition K3 Supply of Data for Hazardous Contractor Deliverables, Materials and Substances (Core+ Only)	<p>A completed SC3 Core Plus Schedule "Hazardous Articles, 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:</p> <p>a) The Authority's Representative (Commercial)</p> <p>b) DSA-Land-MovTpt-DGHSIS@mod.uk</p> <p>or if only a hardcopy is available to:</p> <p>a) The Authority's Representative (Commercial)</p> <p>b) 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</p> <p>DSA-DLSR-MovTpt-DG HSIS (MULTIUSER)</p> <p>to be Delivered no later than one (1) month prior to the Delivery Date for the Contract Deliverable or by the following date:</p>

<p>Clause K4.b Rejection (Core+ Only)</p> <p>(Note: If no period is inserted here the time period shall be 20 Business days)</p>	<p>Time limit for rejection of the Contractor Deliverables shall be 20 Business Days.</p>
<p>Clause K5.a Delivery (for Schedule 2, Appendix A items) (Core+ Only)</p>	<p>The transport requirements shown below are applicable:</p> <p>Line Items – In accordance with the Statement of Work</p> <p>To be Delivered by the Contractor (See box “Delivery by the Contractor” below)</p> <p>Line Items</p> <p>To be Collected by the Authority (See box “Collection by the Authority” below)</p>
<p>Clause K5.b Delivery by the Contractor (for Schedule 2, Appendix A items) (Core+ Only)</p>	<p>(Where applicable, see box “Delivery” above.)</p> <p>Special Delivery Instructions:</p> <p>Each consignment of the Contractor Deliverables to be accompanied by:</p> <p>Line Items MOD Form 640</p> <p>Line Items DEFFORM 129J</p> <p>Line Items Delivery Note</p>
<p>Clause K5.c Collection by the Authority (for Schedule 2, Appendix A items) (Core+ Only)</p>	<p>(Where applicable, see Box “Delivery” above)</p> <p>Special Collection Instructions:</p> <p>Each consignment of the Contractor Deliverables to be accompanied by:</p> <p>Line Items: MOD Form 640</p> <p>Line Items: DEFFORM 129J</p> <p>Line Items: Delivery Note</p> <p>Consignor Address:</p> <p>Line Items: Address:</p> <p>Line Items: Address:</p>

	<p>Consignee Address Details:</p> <p>Line Items: Address Details:</p> <p>Line Items: Address Details:</p> <p>Line Items: Address Details:</p>
<p>Condition K6 Self to Self Delivery (Core+ Only)</p>	<p>Is Self to Self Delivery required:</p> <p>Yes <input type="checkbox"/></p> <p>No <input checked="" type="checkbox"/></p> <p>If Yes, Delivery address applicable:</p>
<p>Other Addresses and Other Information (Covers forms and publications addresses and official use information)</p>	<p>See Annex A to Schedule 3 (DEFFORM 111)</p>

Appendix - Addresses and Other Information

<p>1. Commercial Officer Email:</p>	<p>8. Public Accounting Authority</p> <p>1. Returns under DEFCON 694 (or SC equivalent) should be sent to DBS Finance ADMT – Assets In Industry 1, Level 4 Piccadilly Gate, Store Street, Manchester, M1 2WD ☎ 44 (0) 161 233 5397</p> <p>2. For all other enquiries contact DES Fin FA-AMET Policy, Level 4 Piccadilly Gate, Store Street, Manchester, M1 2WD ☎ 44 (0) 161 233 5394</p>
<p>2. Project Manager, Equipment Support Manager or PT Leader (from whom technical information is available) Email:</p>	<p>9. Consignment Instructions The items are to be consigned as follows:</p>
<p>3. Packaging Design Authority</p> <p>(Where no address is shown please contact the Project Team in Box 2)</p>	<p>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 <u>Air Freight Centre</u> IMPORTS ☎ 030 679 81113 / 81114 Fax 0117 913 8943 EXPORTS ☎ 030 679 81113 / 81114 Fax 0117 913 8943 <u>Surface Freight Centre</u> IMPORTS ☎ 030 679 81129 / 81133 / 81138 Fax 0117 913 8946 EXPORTS ☎ 030 679 81129 / 81133 / 81138 Fax 0117 913 8946 B. JSCS JSCS Helpdesk No. 01869 256052 (select option 2, then option 3) JSCS Fax No. 01869 256837 www.freightcollection.com</p>
<p>4. (a) Supply / Support Management Branch or Order Manager:</p> <p>Tel No:</p> <p>(b) U.I.N.</p>	<p>11. The Invoice Paying Authority (see Note 1) 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</p>
<p>5. Drawings/Specifications are available from</p>	<p>12. Forms and Documentation are available through *: Ministry of Defence, Forms and Pubs Commodity Management PO Box 2, Building C16, C Site Lower Arcott Bicester, OX25 1LP (Tel. 01869 256197 Fax: 01869 256824) Applications via fax or email: DESLCSLS-OpsFormsandPubs@mod.uk</p>
<p>6. For contracts containing DEFCON 5, mauve Copies of MOD Form 640 are to be sent to</p> <p>(where no address is shown the mauve copy should be destroyed)</p>	<p>NOTES</p> <p>1. Forms. Hard copies, including MOD Form 640 are available from address in Box 12.. All other invoicing forms e.g. AG Forms 169 and 173, are available from the website address shown at Box 11.</p>
<p>7. Quality Assurance Representative:</p> <p>Commercial staff are reminded that all Quality Assurance requirements should be listed under the General Contract Conditions.</p>	

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

2.* Many **DEFCONs** and **DEFFORMs** can be obtained from the MOD Internet Site:

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

Schedule 4 - Contract Change Process (i.a.w. clause A2.b) for Contract No: OIP/0032**1. Authority Changes**

a. Subject always to condition A2 (Amendments to Contract), the Authority shall be entitled, acting reasonably, to require changes to the Contractor Deliverables (a "Change") in accordance with this Schedule 4.

2. Notice of Change

a. If the Authority requires a Change, it shall serve a Notice (an "Authority Notice of Change") on the Contractor.

b. The Authority Notice of Change shall set out the change required to the Contractor Deliverables in sufficient detail to enable the Contractor to provide a written proposal (a "Contractor Change Proposal") in accordance with condition 3 below.

3. Contractor Change Proposal

a. As soon as practicable, and in any event within fifteen (15) Business Days (or such other period as the Parties may agree) after having received the Authority Notice of Change, the Contractor shall deliver to the Authority a Contractor Change Proposal.

b. The Contractor Change Proposal shall include:

- (1) the effect of the Change on the Contractor's obligations under the Contract;
- (2) a detailed breakdown of any costs which result from the Change;
- (3) the programme for implementing the Change;
- (4) any amendment required to this Contract as a result of the Change, including, where appropriate, to the Contract Price; and
- (5) such other information as the Authority may reasonably require.

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

4. Contractor Change Proposal – Process and Implementation

a. As soon as practicable after the Authority receives a Contractor Change Proposal, the Authority shall:

- (1) evaluate the Contractor Change Proposal;
- (2) where necessary, discuss with the Contractor any issues arising and, 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 may agree) after receipt of such modification, submit an amended Contractor Change Proposal.

b. As soon as practicable after the Authority has evaluated the Contractor Change Proposal (amended as necessary) the Authority shall:

- (1) indicate its acceptance of the Change Proposal by issuing an amendment to the Contract in accordance with condition A2 (Amendments to Contract); or
- (2) serve a Notice on the Contractor rejecting the Contractor Change Proposal and withdrawing (where issued) the Authority Notice of Change.

c. If the Authority rejects the Change Proposal it shall not be obliged to give its reasons for such rejection.

d. The Authority shall not be liable to the Contractor for any additional work undertaken or expense incurred unless a Contractor Change Proposal has been accepted in accordance with clause 4.b.(1).

5. Contractor Changes

a. If the Contractor wishes to propose a Change, it shall serve a Contractor Change Proposal on the Authority, which shall include all of the information required by clause 3.b, and the process at condition 4 shall apply.

Schedule 5 - Specification for Contract No: OIP/0032**Repair, Servicing, Training and Supply of Vehicle
Lifting Equipment****Statement of Requirement**

Operational Infrastructure Programme

Issue: 1**Issue Date:** 08/01/2016**Number of Pages:** Including front cover: 10

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Signature:		
Date:		
Approved by:	DES LE OSP-OIP-STE-AsstHd	Neil Terrill
Signature:		
Date:		

AMENDMENTS

Issue No	Date	Incorporated by	Para	Details of Change

STATEMENT OF REQUIREMENT**CONTENTS**

1.APPLICATION	59
2.BACKGROUND	59
3.SCOPE	59
4.REPAIR.....	59
5.SERVICING	61
6.TRAINING	61
7.PURCHASE OF EQUIPMENT AND ASSOCIATED ITEMS	62
8.QUALITY.....	66
9.SAFETY MANAGEMENT.....	66
10.MANAGEMENT INFORMATION.....	63
11.MEETINGS	63
12.PUBLICATIONS.....	65

1. APPLICATION

1.1. The Contractor will be required to annually service and repair in-service Mobile Vehicle Lifts, together with the purchase of equipment and associated items. The list of models at Annex A is for indicative purposes only and the Authority reserves the right to add additional Mobile Vehicle Lifts to the list.

2. BACKGROUND

2.1. The maintenance and inspection of Mobile Vehicle Lifts ensures that OIP-Workshop Tools & Equipment (WTE) meets its statutory and legislative obligations in line with the Health and Safety at Work Act 1974, the Control of Substances Hazardous to Health (COSHH) Regulations 2002, the Electricity at Work Regulations 1989, the Provision and Use of Work Equipment Regulations 1998 and Lifting Operations and Lifting Equipment Regulations 1998.

2.2. MOD Mobile Vehicle Lifts are in continuous use by tri-service and civilian run workshops throughout the UK and in a number of overseas locations. In order to ensure the continued safety of the operators, scheduled servicing and repairs need to be performed, together with the supply of new/replacement machinery and associated items.

3. SCOPE

3.1. The Contractor will provide support, familiarisation training and procurement services for Mobile Vehicle Lifts for the Authority in order to maintain operability of the current fleet and extend the life of the units through servicing and repair as required.

4. REPAIR

4.1. The Contractor shall carry out on-site repair to all equipment covered under the Contract, when authorised by the Project Manager by use of an AF G8800 bearing an OIP Job Number.

4.2. The Contractor shall liaise with the Unit detailed on the AF G8800 by the most appropriate means. Each party shall quote the relevant Job Number at each interaction. The Contractor shall not undertake any work unless the Job Numbers quoted by both parties are identical.

4.3. The Authority shall not be liable, in any way, for work undertaken without identically quoted Job Numbers from both parties. In the event that either party contacts the other without an identical Job Number, the Contractor shall immediately contact the Project Manager and await further instructions before proceeding with any work.

4.4. For work carried out on-site at MOD premises, on completion of repair/service an On-Site Maintenance Record is to be completed by the Contractor and certified by the MOD's on-site representative (e.g. Workshop Supervisor).

4.5. The Contractor will be required to attend ad-hoc repairs located in Mainland UK, Northern Ireland and Overseas upon notification from the Project Manager. Call out will be by telephone in the first instance, and then confirmed by e-mail or facsimile.

4.6. The Contractor shall respond to requests for repair from the Authority within the following timescales:

- **Mainland UK:** Respond to all call outs within 48 hours of notification by the Authority and complete repair within a further 5 days.
- **N. Ireland and Europe:** Attend all call outs within 96 hours of notification by the Authority and complete repair within a further 5 days.
- **Other Overseas Locations (including Canada, Falkland Islands, Ascension Island, Brunei and Kenya):** Timeframe to be agreed with the Authority.

4.7. In the event that the repair cannot be completed within the time boundaries provided above, the Contractor shall notify the Authority immediately with a full justification as to why the task cannot be completed. An extension to the task may be granted at the discretion of the Authority.

4.8. Repairs shall be carried out in accordance with OEM Specification / Manufacturer's literature, current UK and European safety standards and PUWER (Provision and Use of Work Equipment Regulations 1998). Upon each completed repair the equipment shall be left in a safe, serviceable and legally compliant condition in accordance with current European and UK Legislation. To verify this, both the Contractor and the MODs on-site representative must sign the On-Site Maintenance Record. The Contractor must send it to the following address:

Operational Infrastructure Programme

Workshop Tools & Equipment.
Spruce 3A #1309
DE&S Abbey Wood
Bristol
BS34 8JH

4.9. For ad-hoc repairs, or repairs identified by the Contractor during scheduled servicing activities, the procedure is as follows:

- **For Mobile Vehicle Lift Repairs under £1000** - The Contractor shall proceed with the repair without further authorisation from the Project Manager. This is to include all aspects of the repair, including spares.
- **For Mobile Vehicle Lift Repairs for £1000 and over** – Before commencing work, the Contractor shall submit a detailed work schedule breakdown, at no cost to the Authority, via e-mail or facsimile on a Call Off/Tasking Form (Schedule 8) to obtain authorisation from the Project Manager. Receipt of fully endorsed Call Off/Tasking Form shall be the Contractor's authority to proceed. The Firm Price agreed Labour rates to be used in the Repair quotations are detailed at Schedule 7 – Table 3.

4.10. When the Contractor considers an Article to be Beyond Economical Repair (BER), defined as when the repair exceeds 75% of the replacement cost, the Contractor shall immediately advise the Project Manager of the findings on a Form B2 (example at Schedule 10). No work shall be carried out on any Article which, after superficial examination, is considered to be BER.

4.11. Any equipment deemed unable to be repaired on-site must not be removed from the site by the Contractor without the agreement of the Authority. The Authority shall arrange disposal.

4.12. The Contractor shall undertake call-off tasks as requested by the Authority. A Call-Off Form (Schedule 8) will be completed by the Authority with details of the task and then forwarded to the Contractor. The Contractor shall complete the Call-Off Form and submit it to the Authority within 5 days of receipt. The Authority will authorise or terminate the Task. Authorisation of the Call-Off Form will be the Contractor's authority to proceed.

4.13. The Contractor is to complete all Call-Off Tasks within the timelines agreed therein.

5. SERVICING

5.1. Annual planned servicing visits shall be carried out during normal working hours (Mon-Fri 09.00 to 17.00). Dates will be arranged by mutual agreement of the User Unit, Contractor and the Authority, and shall be published in an outline plan for review by the Authority within 4 weeks of contract award. The service plan should detail the following information as a minimum:

- Location of Equipment
- Description, including NSN
- Quantity of equipment to be serviced
- Service frequency (usage hours/6 monthly/annually etc.)
- Date of last service
- Date next service due

5.2. All servicing and electrical safety inspections of Mobile Vehicle Lifts must be carried out in accordance with the Original Equipment Manufacturers (OEM) specifications and BS EN 1493:2010.

5.3. All servicing and electrical safety inspections shall be carried out by a Suitably Qualified Experienced Person (SQEP) who must ensure that all equipment is left in a safe, serviceable and legally compliant condition in accordance with current European and UK Legislation. The equipment shall be clearly labelled with the next servicing date.

5.4. Machine service check lists and service audit spreadsheets must be provided by the Contractor for all equipment inspected.

5.5. The Contractor shall undertake call-off tasks as requested by the Authority. A Call-Off Form (Schedule 8) will be completed by the Authority with details of the task and then forwarded to the Contractor. The Contractor shall complete the Call-Off Form and submit it to the Authority within 5 days of receipt. The Authority will authorise or terminate the Task. Authorisation of the Call-Off Form will be the Contractor's authority to proceed.

5.6. The Contractor is to complete all Call-Off Tasks within the timelines agreed therein.

6. TRAINING

6.1. On the introduction of a new piece of equipment, within 10 days of delivery the Contractor shall deliver familiarisation training for the users when requested by the Authority via email.

6.2. The Contractor shall undertake training at locations to be specified by the Project Manager and will be responsible for the provision of appropriate training materials for the equipment identified as a training need by the Authority.

6.3. The Contractor shall ensure that individuals are trained to meet the Unit's Operational Performance Statement and training shall be provided for operators, maintainers and supervisors.

6.4. The Contractor shall undertake call-off tasks as requested by the Authority. A Call-Off Form (Schedule 8) will be completed by the Authority with details of the task and then forwarded to the Contractor. The Contractor shall complete the Call-Off Form and submit it to the Authority within 5 days of receipt. The Authority will authorise or terminate the Task. Authorisation of the Call-Off Form will be the Contractor's authority to proceed.

6.5. The Contractor is to complete all Call-Off Tasks within the timelines agreed therein.

7. PURCHASE OF EQUIPMENT AND ASSOCIATED ITEMS

7.1. The Contractor is responsible for supplying all consumables and associated items necessary to effect the repair of Mobile Vehicle Lifting equipment. The Contractor shall also supply associated items detailed at Annex A (this list is indicative) for the Mobile Vehicle Lifting equipment when requested by the Authority. Equivalent items proposed by the Contractor must be agreed by the Authority and be delivered throughout the term of the Contract. Certificates of Conformity (or any other related documentation) may be requested by the Project Manager to prove propriety at any time during the contract.

7.2. The Contractor shall supply Mobile Vehicle Lifting equipment as requested by the Authority to the technical specification as detailed at Annex B and delivered to a location as directed by the Project Manager. The equipment is to be delivered within 8 weeks of the request, or as agreed with the Project Manager if delivery time is known to be over 8 weeks. The Authority must be informed immediately of any changes to delivery times.

7.3. For each piece of new equipment the Contractor shall supply a Log Book containing a unique serial number for the machine and the due date of the first service. The Contractor shall provide a 12-month warranty with all items of new equipment supplied.

7.4. The Contractor is responsible for the delivery and transportation of Mobile Vehicle Lifting equipment to all UK Mainland Units including DSDC Bicester for onward transmission to overseas Units in accordance with Defence Instructions and Notices 04-098 (2014DIN04-098). The Contractor is responsible for the commissioning of all Mobile Vehicle Lifting equipment in accordance with the Manufacturer's literature and within 2 working weeks of delivery or as agreed with the Project Manager.

7.5. The Contractor shall ensure that items are appropriately packaged to prevent damage while in transit, in accordance with JSP 886, Vol 7, Part 8.02 – Packaging, Handling, Storage and Transportation.

7.6. The Contractor shall undertake call-off tasks as requested by the Authority. A Call-Off Form (Schedule 8) will be completed by the Authority with details of the task and then forwarded to the Contractor. The Contractor shall complete the Call-Off Form and submit it to the Authority within 5 days of receipt. The Authority will authorise or terminate the Task. Authorisation of the Call-Off Form will be the Contractor's authority to proceed.

7.7. The Contractor is to complete all Call-Off Tasks within the timelines agreed therein.

8. QUALITY

8.1. The Contractor shall provide, implement and maintain a Quality Plan in accordance with Allied Quality Assurance Publication (AQAP) 2105. The Quality Plan shall, as a minimum, include all the quality checks necessary to maintain the output of this contract.

8.2. The Contractor shall adhere to the following Quality standards and requirements including, but not limited to, those detailed below:

STANDARD/CONDITION	GUIDANCE
AQAP 2120 – Edition 3	NATO Quality Assurance Requirements for Production
AQAP 2105 – Edition 2	NATO Requirements for Deliverable Quality Plans
DEF STAN 05-61	Quality Assurance Procedural Requirements - Part 1, Issue 5 – Concessions Part 4, Issue 3 – Contractor Working Parties Amdt 1
DEF STAN 05-57 – Issue 6	Configuration Management of Defence Materiel
DEF STAN 05-135 – Issue 1	Avoidance of Counterfeit Materiel
AQAP 2009 – Edition 3	NATO Guidance on the use of the AQAP 2000 series
AQAP 2070 – Edition 3	NATO Mutual Government Quality Assurance (GQA) Process

9. SAFETY MANAGEMENT

9.1. The Contractor shall be responsible for monitoring Health, Safety and Environmental legislation compliance, identifying and reporting any risks which impact on the current and future safe Through-Life Management of all contracted Mobile Vehicle Lifting equipment.

9.2. The Contractor shall provide Safety Cases for any new Mobile Vehicle Lifts in accordance with:

- Defence Standard (DEF STAN) 00-56 Part 1 Issue 6, Para 13.2 – Safety Case.
- The Acquisition Safety and Environmental Management System (ASEMS) Part 2, SMP12 - Safety Case and Safety Case Report.

9.3. The Contractor shall attend and prepare for Annual Safety Case Meetings upon receiving authorisation from the Project Manager. Meetings shall be held at DE&S, Abbey Wood, Bristol.

9.4. The Contractor shall provide a Safety and Environmental Management Plan in accordance with DEF STAN 00-56 (Issue 6). This plan shall be updated by the Contractor when required by the Authority.

10. MANAGEMENT INFORMATION

10.1. The Contractor shall compile a monthly report for the Authority, to be issued within 5 working days of the end of the month, detailing:

- Location of repair/service visit.
- Machine on which the repair/service was undertaken (serial model, NSN, machine name).
- Description of service/repair issue.
- Costs.
- Time allocated for service/repair.
- Total number of repairs undertaken in that particular month and from the beginning of the contract.
- The cost of repair per job and the total for the period.
- Total number of servicing visits in that particular month and from the beginning of the contract.
- Total number of turnaround times met in that particular month and from the beginning of the contract.
- Total number of turnaround times missed in that particular month (and the reason why) and from the beginning of the contract.
- General comments, e.g. was the Authority's paperwork completed correctly to enable the Contractor to perform the task requested.

10.2. The Authority may request the Contractor to use the MOD Joint Asset Management and Engineering Solutions (JAMES) system, especially for providing and recording information for return to work repairs.

10.3. The Contractor is to maintain a joint risk register in a format acceptable to the Authority. The risk register is to be issued to the Authority 10 working days prior to the quarterly review meeting

11. MEETINGS

11.1. The Contractor is to attend the following meetings with the Authority at DE&S, Abbey Wood, Bristol (which will be scheduled by the Authority's Project Manager in agreement with the Contractor):

Meeting Subject	Representation	Periodicity	Location
Progress Meetings To include: 1. Task Review 2. Safety Issues 3. Quality issues 4. Technical Issues 5. Performance Review (to include KPI's) 6. Risk Register	<ul style="list-style-type: none"> • Authority Project Manager • Authority Commercial Manager • Contractor POC • Others that may be required 	Quarterly	MOD Abbey Wood, Bristol
Safety Case Meeting (to be held as part of the Progress Meeting)	<ul style="list-style-type: none"> • Authority Project Manager • Contractor POC • Authority Safety Manager • Others that may be required. 	Annually	MOD Abbey Wood, Bristol
Ad-Hoc Meetings	<ul style="list-style-type: none"> • Authority Project Manager • Authority Commercial Manager • Contractor POC • Others that may be required 	As required	As required

11.2. The Contractor shall supply a draft agenda to the Authority 10 working days prior to a meeting for their review, amendments and approval. The agenda is to include, but not be limited to all work in progress, future work and quality of work, in addition to the Contractor's performance.

11.3. The Contractor will be required to provide a single Point of Contact from within their organisation for any queries raised by the Project Manager.

11.4. The Project Manager may, when deemed necessary, request ad-hoc meetings with the Contractor. The Project Manager shall give the Contractor up to 15 working days' notice of the date and location of the meeting. The subject of the meeting shall only relate to the Contract. Attendees shall comprise of the Project Manager, the Contractor's Point of Contact and any other Authority or Contractor representatives as deemed necessary.

11.5. The Contractor shall provide formal minutes of all meetings in a format acceptable to the Authority. Draft minutes are to be issued to the Authority for comments within 10 working days following the meeting. The Authority, upon receiving the draft minutes, shall review, counter-sign and return them if content. Any discrepancies shall be brought to the Contractor's attention as soon as is reasonably possible. Once the Contractor has received countersigned minutes, these shall be distributed to all attendees.

11.6. These meetings do not have authority to vary any contractual requirement. In the event that the Contractor considers an instruction or decision may have this effect, the Contractor must advise the OIP Commercial Branch and take no further action on that instruction or decision pending the OIP Commercial Branch response.

12. PUBLICATIONS

12.1. The following Publications listed below are relevant to this Contract. This is a non-exhaustive list as such additional Publications may be referenced and bought to the attention of the Contractor at any point throughout the Contract.

Joint Service Publication (JSP)	
JSP 886 - Defence Logistics Support Chain Manual,	Vol 7, Part 8.01- Training and Training Equipment Vol 7, Part 8.02- Packaging, Handling, Storage and Transportation
Defence Standards (Def Stan)	
Def Stan. 00-56, Issue 6	Part 1, Para 13.2 – Safety Case
Def Stan. 05-57, Issue 6	Configuration Management of Defence Materiel
Def Stan. 05-61	Quality Assurance Procedural Requirements - Part 1, Issue 5 – Concessions - Part 4, Issue 3 – Contractor Working Parties Amdt 1
Def Stan. 05-135	Avoidance of Counterfeit Materiel
Allied Quality Assurance Publication (AQAP)	
AQAP 2009 - Edition 3	NATO Guidance on the use of the AQAP 2009 series
AQAP 2070 – Edition 3	NATO Mutual Government Quality Assurance (GQA) Process
AQAP 2105 – Edition 2	NATO Requirements for Deliverable Quality Plans
AQAP 2120 – Edition 3	NATO Quality Assurance Requirements for Production
Acquisition Safety and Environmental Management System (ASEMS)	
ASEMS	Part 2, SMP12 – Safety Case and Safety Case Report

Annex A to Schedule 5

SOMERS LIFTS		NSN	Comments
6.5 Tonne S6 Lift (Set of 6)		4910-99-785-7893	For supply, servicing and repair.
6.5 Tonne S6 (Set of 4)		4910-99-877-4773	For supply, servicing and repair.
2 Tonne (MVL 2 415 volts) set of four.		4910-99-883-8683	For servicing and repair only.
4 Tonne, (MVL 4. 415 volts) set of four		4910-99-299-8870	For servicing and repair only.
6.5 Tonne, (RG 6.5, 380 volts), set of four		4910-99-786-2367	For servicing and repair only.
7 Tonne (MVL 7, set of four).		4910-99-752-3813	For servicing and repair only.
7 Tonne, (MVL 7, WL) set of six.		4910-99-199-0156	For servicing and repair only.
10 Tonne		4910-99-001-2205	For servicing and repair only.
7 tonne 415v		4910-99-722-1910 4910-99-623-7618	For servicing and repair only.
4 tonne lift		4910-99-809-3116 4910-99-352-4316	For servicing and repair only.
2 tonne scissor lift		3920-99-432-6779	For servicing and repair only.
Comprising Items for each Set:			
Somers Short Stand	Set of 4	4910-99-786-2369	
Somers Tall Stand	Set of 4	4910-99-722-9058	
Somers Steps	Quantity 1	5440-99-722-9059	
Trl Lifting Beam	Quantity 1	4910-99-125-7551	

Lift specification**Set 4 mobile vehicle lifts**

Safe working load per column	6500kg
Lifting height of carriage	1600mm
Weight of column (Max)	570kg
Raise / lower time (Approx)	700mm/minute
Motor power per column	1.5kw
Supply voltage	3 Phase 400/415 volt 50hz
IP rating	IP55
Diameter of wheels	850mm minimum to 1250mm maximum
System capable of multiple column set up	sets of 2, 4, 6 or 8
CE Certification	
Universal column construction and controls system	
Automatic height synchronisation and communications between columns	
Automatic shutdown if obstruction detected	
Emergency stop button on each column	
Set up and operation from any column (The operating column then becomes the master, preventing unwanted input demands from other columns)	
Hand control pendant minimum 2 metre cable length	
Hydraulic jack fitted to each column for ease of movement	
Recirculation ball screw	
Independent safety locking device independent of main screw on each column	
Electro-magnetic holding brake fitted to motor drive which locks off in case of a power cut	
Quick interconnections of interconnecting cables	
Interconnecting cables 10 metre minimum length	
Interconnecting cables high visible colour	
Interconnecting cable of PUR construction	
Electronic measurements of height, rotation by low voltage inductive sensors	
An infinite hold at height time.	

Lift specification**Set 6 mobile vehicle lifts wide version**

Safe working load per column	6500kg
Lifting height of carriage	1600mm
Weight of column	570kg
Raise / lower time	700mm/minute
Motor power per column	1.5kw
Supply voltage	3 Phase 400/415 volt 50hz
IP rating	IP55
Diameter of wheels maximum	1150mm minimum to 1600mm
System capable of multiple column set up	sets of 2, 4, 6 or 8
CE Certification	
Universal column construction and controls system	
Automatic height synchronisation and communications between columns	

Automatic shutdown if obstruction detected
Emergency stop button on each column
Set up and operation from any column (The operating column then becomes the master, preventing unwanted input demands from other columns)
Hand control pendant minimum 2 meter cable length
Hydraulic jack fitted to each column for ease of movement
Recirculation ball screw
Independent safety locking device independent of main screw on each column
Electro-magnetic holding brake fitted to motor drive which locks off in case of a power cut
Quick interconnections of interconnecting cables
Interconnecting cables 10 meter minimum length
Interconnecting cables high visible colour
Interconnecting cable of PUR construction
Electronic measurements of height, rotation by low voltage inductive sensors
An infinite hold at height time

Schedule 6 - Contractor's Commercially Sensitive Information Form
(i.a.w Condition A14)

Contract No: OIP/0032
Description of Contractor's Commercially Sensitive Information:
Cross Reference(s) to location of sensitive information:
Explanation of Sensitivity:
Details of potential harm resulting from disclosure:
Period of Confidence (if applicable):
Contact Details for Transparency / Freedom of Information matters: Name: Position: Address: Telephone Number: Email Address:

Schedule 7 – Pricing Schedule

All prices contained in this Schedule (tables 1 to 3 inclusive), shall be inclusive of all Profit and Spares Mark up. These rates shall be provided in Table 4, to inform the Authority how prices were calculated. Overheads shall be claimed for Call-Off tasks in accordance with Tasking Form (Schedule 8)

Table 1 – Procurement of New Equipment

SERIAL NO.	Description	NSN	FIRM PRICE (£ EX VAT) TO INCLUDE DELIVERY, PACKAGING AND OPERATORS MANUAL			
			YEAR 1 05/04/2016- 04/2017	YEAR 2 05/04/2017- 04/2018	YEAR 3 05/04/2018- 04/2019	YEAR 4 05/04/2019- 04/2020
1	6.5 Tonne S6 Lift (Set of 6)	4910-99-785-7893				
2	6.5 Tonne S6 (Set of 4)	4910-99-877-4773				

Table 2 – Spares/Items

Serial	Description	NSN	FIRM PRICE (£ EX VAT)							
			YEAR 1 05/04/2016- 04/2017		YEAR 2 05/04/2017- 04/2018		YEAR 3 05/04/2018- 04/2019		YEAR 4 05/04/2019- 04/2020	
			Price (each)	Price including Packaging / Delivery						
1	Somers Short Stand	4910-99-786-2369								
2	Somers Tall Stand	4910-99-722-9058								
3	Somers Steps	5440-99-722-9059								
4	Trl Lifting Beam	4910-99-125-7551								

Notes

- i. The price including Packaging/Delivery shall only be used when supplying spares/items to a site.
- ii. For all other uses the price without Packaging/Delivery shall be used.

Table 3 – Servicing and Inspection – Via the Call Off Procedure

SERIAL NO.	NSN	Description	Location	FIRM PRICE (£ EX VAT)			
				YEAR 1 05/04/2016- 04/2017	YEAR 2 05/04/2017- 04/2018	YEAR 3 05/04/2018- 04/2019	YEAR 4 05/04/2019- 04/2020
1	4910-99-785-7893	6.5 Tonne S6 Lift (Set of 6)	UK & NI & MAINLAND EUROPE				
			OVERSEAS				
2	4910-99-877-4773	6.5 Tonne S6 (Set of 4)	UK & NI & MAINLAND EUROPE				
			OVERSEAS				
3	4910-99-883-8683	2 Tonne (MVL 2 415 volts) set of four.	UK & NI & MAINLAND EUROPE				
			OVERSEAS				
4	4910-99-299-8870	4 Tonne, (MVL 4. 415 volts) set of four	UK & NI & MAINLAND EUROPE				
			OVERSEAS				
5	4910-99-786-2367	6.5 Tonne, (RG 6.5, 380 volts), set of four	UK & NI & MAINLAND EUROPE				

			OVERSEAS				
6	4910-99-752-3813	7 Tonne (MVL 7, set of four)	UK & NI & MAINLAND EUROPE				
			OVERSEAS				
7	4910-99-199-0156	7 Tonne, (MVL 7, WL) set of six	UK & NI & MAINLAND EUROPE				
			OVERSEAS				
8	4910-99-001-2205	10 Tonne	UK & NI & MAINLAND EUROPE				
			OVERSEAS				
9	4910-99-722-1910 4910-99-623-7618	7 tonne 415v	UK & NI & MAINLAND EUROPE				
			OVERSEAS				
10	4910-99-809-3116 4910-99-352-4316	4 tonne lift	UK & NI & MAINLAND EUROPE				
			OVERSEAS				
11	3920-99-432-6779	2 tonne scissor lift	UK & NI & MAINLAND EUROPE				
			OVERSEAS				

Table 4 – Call Off Tasks173

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1371Description	SOW Section	Payment Description	FIRM RATE (£ EX VAT)			
			YEAR 1 05/04/2016- 04/2017	YEAR 2 05/04/2017- 04/2018	YEAR 3 05/04/2018- 04/2019	YEAR 4 05/04/2019- 04/2020
Creation of Servicing plan.	5	One off payment in year 1				
Repair of Vehicle Lifts U.K.	4	Price per hour				
Repair of Vehicle Lifts N.I. & Mainland Europe	4	Price per hour				
Repair of Vehicle Lifts International	4	Price per hour				
Updates to JAMES	10	Price per task				
Creation and issue of Monthly Management reports	10	Price per task				
Attendance at Scheduled Meetings	11	Price per task				
Attendance at Ad-hoc Meetings	11	Price per task				

Familiarisation Training Courses	6	Price per course to include delivery and supply of associated materials	Maintainer			
			Operator			
			Supervisor			
Safety Cases for new procured equipment	9	Price per task				
Creation and updates to Quality Plan	8	Price per task				

Table 5 – Travel and Subsistence

T&S Type	FIRM RATE (£ EX VAT)			
	YEAR 1 05/04/2016- 04/2017	YEAR 2 05/04/2017- 04/2018	YEAR 3 05/04/2018- 04/2019	YEAR 4 05/04/2019- 04/2020
UK Hotel per person		*	*	*
Overseas Hotel per person				
Daily Subsistence per person				
Motor Mileage (per mile)**				
Ferries and Flights	Actuals may be claimed upon production of a receipt***			

* These prices have been increased by a rate of 2.5% per year.

** If travelling by Hire car, the Contractor must not claim against the Motor Mileage rate. Actual fuel costs incurred using a Hire Car may be claimed upon production of a receipt.

*** If no receipt can be produced for ferry or flight tickets then the current economy ticket price shall be paid by the Authority.

Schedule 8 – Call-Off Tasking Form

PART 1 – REQUEST FOR QUOTATION

To:	For Supply and Repair Services To MOD-owned Vehicle Lifting Equipment	OIP Job Ref No:
	Task Type (delete as applicable)	CALL OFF / REPAIR
	Contract No:	OIP/0032

The Contractor is required to submit a quotation (within 5 working days of receipt of Part 1), exclusive of VAT, for the work specified below. Work shall not commence until authorised by the Authority Project Manager at Part 3, Branch Commercial Manager at Part 4 and Finance Officer at Part 5. Commencement of the task shall be subject to the pricing arrangements as detailed in the Contract.

DESCRIPTION OF TASK REQUIRED
DELIVERABLES
ACCEPTANCE CRITERIA

Required Completion Date:		Date Submitted:	
Name:	Post:	Signature:	
Contact Details:	WTE, Spruce 3A #1309, MOD Abbey Wood, Bristol BS34 8JH Tel: Fax: 0117 91 31937		

PART 2 – CONTRACTOR’S *FIRM PRICE QUOTATION FOR TASK

<p>Attach full price breakdown to this Call-off form for consideration. Quotation to be exclusive of VAT and calculated using the rates agreed in the Contract. Quotation to include:</p> <ul style="list-style-type: none"> a. Labour Hours (identifying all grades and total number of hours for each) b. Prime Material Costs (a full breakdown of Materials and Bought-Out costs to be submitted attached) c. Travel and Subsistence (where applicable)¹ d. Copies of invoices of subcontracted tasks² e. Duration of Task 		
Full Quotation for this task as per attached price breakdown is	Total (ex VAT)	£
		This Price is: FIRM/ MAXIMUM (delete as appropriate)

¹ Upon completion of the task, the supplier is required to submit receipts for all Air, Sea and Rail travel expenses prior to payment for task being released.

² Prior to commencement of task, a quotation from subcontractor is required. Upon completion of the task, subcontractor invoice shall be submitted prior to payment being released.

The quotation for the work as described above is submitted to the Authority Project Manager, or his nominated representative, for consideration.

Date:		Signature:		Name:	
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PART 3 - AUTHORITY PROJECT MANAGER'S TASK AUTHORISATION

(Required for all Tasks)

I certify that the hours and material costs quoted above are commensurate with the work involved.

Date:		Post:		Signature:		Name:	
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PART 4 - COMMERCIAL MANAGER'S TASK AUTHORISATION

P2P DETAILS MUST BE INSERTED PRIOR TO RETURN OF THE SIGNED CALL-OFF FORM

I certify that the firm Charging and T&S rates agreed in the Contract have been used as the basis for the Contractor's Firm Price quotation.

The Authority hereby agrees to pay the Firm/Maximum Price of £

Date:		Post:		Signature:		Name:	
P2P Purchase Order Number allocated to this Task:							

PART 5 - FINANCE MANAGER'S TASK AUTHORISATION

Financial authorisation for this Task is hereby given. I confirm that the Project Forecast Of Outturn sheets have been updated.

Date:		Post:		Signature:		Name:	
VAT:		RAC:		Dept /UIN:		BLB:	

**Schedule 9 - Hazardous Articles, Materials or Substances Supplied under the
Contract: Data Requirements**

**Hazardous Articles, Materials or Substances
Statement by the Contractor**

Contract No:

Contract Title:

Contractor:

Date of Contract:

* To the best of our knowledge there are no hazardous Articles, 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 the SC3 Core Plus condition "Supply of Hazardous Material or Substance in Contractor Deliverables".

Contractor's Signature:

Name:

Job Title:

Date:

* check box () 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 11- DEFFORM 30

THE ELECTRONIC TRANSACTIONS AGREEMENT

Between

A&M Defence and Marine Services Limited

And

SECRETARY OF STATE FOR DEFENCE

MINISTRY OF DEFENCE

Electronic Transactions Agreement

THIS AGREEMENT comprises the General Clauses for electronic transactions.

The terms of this Agreement shall govern the conduct and methods of operation between the parties in relation to the electronic exchange of data for the purposes of or associated with the supply of Contractor Deliverables pursuant to those contracts which reference it. Except as otherwise provided in the appended terms, the terms do not apply to the substance of the data transfer. This Agreement shall have the date of and be effective from the date of the last signature hereunder.

AGREED

For and on behalf of:

For and on behalf of:

A & M Defence & Marine Services Ltd

Secretary of State for Defence

Signature: _____

Signature: _____

Name: _____

Name: _____

Position: _____

Position: _____

Date: _____

Date: _____

Whose Registered Office is at:

Whose Address is:

Agreement reference number: **OIP/0032**

Contents
Electronic Transactions
General Clauses

CLAUSE 1	Definitions
CLAUSE 2	Scope
CLAUSE 3	Security of Data
CLAUSE 4	Authenticity of Messages
CLAUSE 5	Integrity of Messages
CLAUSE 6	Acknowledgement of Receipt of Messages
CLAUSE 7	Storage of Data
CLAUSE 8	Intermediaries
CLAUSE 9	Term and Termination
CLAUSE 10	Interruption of Service
CLAUSE 11	Invalidity and Severability
CLAUSE 12	Notices
CLAUSE 13	Precedence
CLAUSE 14	Virus Control
CLAUSE 15	Limit of Liability
CLAUSE 16	Entire Agreement
Annex A	Message Implementation Guidelines (MIGs) and additional requirements and information applicable to this Agreement

1. Definitions

- a. In this Agreement, in addition to the definitions in DEFCON 501 (or Schedule 1 of Standardised Contracting Templates 2 (SC2) or 3 (SC3)):
- i. "**Acknowledgement of Receipt**" means the procedure by which, on receipt of a Message, the logical presentation or form are checked, and a corresponding acknowledgement or rejection is sent by the receiver;
 - ii. "**Adopted Protocol**" means the method(s) for the Interchange of Messages between the respective Parties and an intermediary appointed pursuant to Clause 8 for the presentation and structuring of the transmission of Messages as defined in Annex A
 - iii. "**Associated Data**" means that data which accompanies a Message but may not be in the Adopted Protocol; such data may include header information, protective markings, designations, Electronic Signatures, date and time of transmission and of receipt;
 - iv. "**Data**" means all Messages and Associated Data transmitted, received or stored in a digital form;
 - v. "**Data File**" means a single record or collection of data records that are logically related to each other, and are handled as a unit;
 - vi. "**Data Log**" means a complete record of all Data Interchanged representing the Messages and their Associated Data between the parties;
 - vii. "**Purchase to Payment Gateway**" or "**ePurchasing**" mean the service provided by the party under contract to the Authority to manage the electronic receipt, transmission and translation of messages exchanged between the Authority and its suppliers;
 - viii. "**Electronic Signature**" means anything in electronic or digital form incorporated into or otherwise logically associated with an electronic communication for the purpose of establishing the authenticity of the communication or its integrity, or both;
 - ix. "**Expunge**" means the removal of the information contained in a Message document such that the content of the Message is removed from the system in a manner which precludes its retrieval (but with no obligation in respect of the record of its receipt);
 - x. "**Functional Acknowledgement**" means an acknowledgement Message by the receiving party's computer software application which automatically confirms the receipt of a Message at the moment of receipt;

- xi. "**Interchange**" means the electronic exchange of Data between the Parties using the Adopted Protocol;
- xii. "**Message**" means Data structured in accordance with the Adopted Protocol and transmitted electronically between the parties including where the context admits any part of such Data.

2. Scope

- a. The Messages to be exchanged under this Agreement are detailed in the Message Implementation Guidelines referred to in Annex A, which also includes guidance on how these should be profiled.
- b. This Agreement shall apply to all Messages passed between the parties using the Adopted Protocol. The parties agree that all such Messages shall be transmitted in accordance with the provisions of this Agreement.
- c. The parties may agree additional or alternative terms to reflect additional or different requirements which they may have for the Interchange of Messages, which terms shall form part of this Agreement.

3. Security of Data

- a. Each of the parties shall:
 - i. ensure as far as reasonably practicable, that Data is properly stored, is not accessible to unauthorised persons, is not altered, lost or destroyed and is capable of being retrieved only by properly authorised persons;
 - ii. subject to the provisions of Sub-Clause 8.a. ensure that, in addition to any security, proprietary and other information disclosure provision contained in the Contract, Messages and Associated Data are maintained in confidence, are not disclosed or transmitted to any unauthorised person and are not used for any purpose other than that communicated by the sending party or permitted by the Contract;
 - iii. protect further transmission to the same degree as the originally transmitted Message and Associated Data when further transmissions of Messages and Associated Data are permitted by the Contract or expressly authorised by the sending party.
- b. The sending party shall ensure that Messages are marked in accordance with the requirements of the Contract. If a further transmission is made pursuant to Sub-Clause 3. a. iii. the sender shall ensure that such markings are repeated in the further transmission.

DEFFORM 30
(Edn 04/15)

- c. The parties may apply special protection to Messages by encryption or by other agreed means, and may apply designations to the Messages for protective Interchange, handling and storage procedures. Unless the parties otherwise agree, the party receiving a Message so protected or designated shall use at least the same level of protection and protective procedures for any further transmission of the Message and its Associated Data for all responses to the Message and for all other communications by Interchange or otherwise to any other person relating to the Message.
- d. If either party becomes aware of a security breach or breach of confidence in relation to any Message or in relation to its procedures or systems (including, without limitation, unauthorised access to their systems for generation, authentication, authorisation, processing, transmission, storage, protection and file management of Messages) then it shall immediately inform the other party of such breach. On being informed or becoming aware of a breach the party concerned shall:
 - i. immediately investigate the cause, effect and extent of such breach;
 - ii. report the results of the investigation to the other party;
 - iii. use all reasonable endeavours to rectify the cause of such breach.
- e. Each party shall ensure that the contents of Messages that are sent or received are not inconsistent with the law, the application of which could restrict the content of a Message or limit its use, and shall take all necessary measures to inform without delay the other party if such an inconsistency arises.

4. Authenticity of Messages

- a. Each Message shall identify the sending party and receiving party and its authenticity shall be verified by the means specified in the Adopted Protocol.
- b. The parties agree not to contest the authenticity, admissibility or enforceability of Messages under the provisions of any applicable law relating to whether certain agreements are in writing and signed by the party to be bound thereby. Messages, when printed from electronic files and records established and maintained in the normal course of business will be admissible as between the parties to the same extent and under the same conditions as other business records originated and maintained in documentary form.

5. Integrity of Messages

- a. The sending party shall ensure as far as is reasonably practicable that all Messages are complete, accurate and secure against being altered in the course of transmission and, subject to Sub-Clauses 5.b. 5.d. and 15, shall be liable for the direct consequences of any failure to perform its obligations under this Sub-Clause 5.a.

DEFFORM 30
(Edn 04/15)

- b. Each party will accord all Messages the same status as would be applicable to a document or to information sent other than by electronic means, unless a Message can be shown to have been corrupted as a result of technical failure on the part of a machine, system or transmission line involved in the process of Interchange.
- c. Upon either party becoming aware that a Message has been corrupted or if any Message is identified as incorrect then that party shall inform the other and the sending party shall re-transmit the Message as soon as practicable with a clear indication that it is a corrected Message. Any liability of the sending party which would otherwise accrue from its failure to comply with the provisions of this Sub-Clause 5.c. shall not accrue if Sub-Clause 5.d. applies.
- d. Notwithstanding Sub-Clauses 5.a. and 5.c. the sending party shall not be liable for the consequences of a corrupted or incorrect transmission or any failure to re-transmit if the error is or should in all the circumstances be reasonably obvious to the receiving party. In such event the receiving party shall immediately notify the sending party thereof.
- e. If the receiving party has reason to believe that a Message is not intended for them they shall notify the sending party and if so requested by the sending party shall, so far as is reasonably possible, Expunge from its system the information contained in such Message.

6. Acknowledgement of Receipt of Messages

- a. Except where the Interchange of Messages takes place solely within ePurchasing, immediately upon receipt of a Message at its receipt computer, the receiving party's receipt computer shall automatically transmit a Functional Acknowledgement in return and additionally the sender may request an Acknowledgement of Receipt.
- b. An Acknowledgement of Receipt is required unless stipulated in the Contract to the contrary.
- c. Where an Acknowledgement of Receipt is required, the receiver of the Message to be acknowledged shall ensure that the acknowledgement or a rejection is sent within the time limit specified in the Contract or in Annex A to this Agreement if applicable or, if no limit is specified, within a reasonable period of time.
- d. Where an Acknowledgement of Receipt is required, if the sender does not receive the Acknowledgement of Receipt or rejection within the time limit applicable, or, if no time limit is specified, within a reasonable time, the sender may, upon giving notice to the receiver, treat the message as having no force or effect.
- e. Acknowledgement in accordance with this clause shall not be deemed to constitute acceptance of any offer contained in any Message. Acceptance of an offer contained in

any Message which is intended to create a legally binding obligation shall be in accordance with the provisions of the Contract.

- f. A Message shall be understood to have been received from the sender:
- i. if transmitted between 09.00 and 17.00 hours on a business day (recipient's time) on receipt by the sender of a Functional Acknowledgement; or
 - ii. if transmitted at any other time, at 09.00 on the first business day (recipient's time) on receipt by the sender of a Functional Acknowledgement; or
 - iii. if the Interchange of Messages takes place solely within ePurchasing, at the moment a Message is completed by pressing the submit button if transmitted between 09.00 and 17.00 hours on a business day (recipient's time) or if transmitted at any other time, at 09.00 on the first business day (recipient's time).

7. Storage of Data

- a. Each party shall maintain a Data Log or shall cause an intermediary to maintain a Data Log recording all Messages and Associated Data as sent and received without modification.
- b. The Data Logs may be maintained as Data Files on computer or by other suitable means provided that a copy of the Data can be readily retrieved and presented in human readable form. Procedures to enable a secure means of archiving Data Logs shall be detailed in the Contract or agreed between the parties.
- c. Each party shall be responsible for making such arrangements as may be necessary for the Data contained in its Data Log to be prepared as a correct record of the Messages and Associated Data as sent or received by that party. In the event that a party has destroyed its Data Log, the other party shall have no obligation to furnish it with any information recorded in its Data Log.
- d. Each party shall ensure that:
 - i. it has appointed an identifiable person responsible for the operation and management of that party's data processing system concerned with the interchange of Messages; and
 - ii. the person responsible for the data processing system concerned with the Interchange of Messages, or such other person as may be agreed by the parties or required by law, shall certify that the Data Log and any reproduction made from it is correct and complete.

8. Intermediaries

- a. Subject to Clause 15 if either party uses the services of an intermediary to transmit, log, store or process Messages, that party shall be responsible for any acts, failures or omissions by that intermediary in its provision of the said services as though they were his own acts, failures or omissions. The Authority shall be liable as between the Authority and the Contractor for any acts, failures or omissions of ePurchasing in its provision of the services of an intermediary as though they were the acts, failures or omissions of the Authority.
- b. Any party using an intermediary shall ensure that it is a contractual responsibility of the intermediary that no change in the substantive data content of the Messages to be transmitted is made and that such Messages are not disclosed to any unauthorised person.

9. Term and Termination

- a. This Agreement shall take effect as of the date of last signature and shall remain in full force and effect until terminated by either party upon giving one month's notice to the other. Any termination of this Agreement shall not affect contracts that call it up by reference prior to that termination.
- b. Notwithstanding termination for any reason, Clauses 3, 7 and 8 shall survive termination of this Agreement.
- c. Termination of this Agreement shall not affect any action required to complete or implement Messages which are sent prior to such termination.

10. Interruption of Service

- a. The parties acknowledge that service may be interrupted at times during the course of this Agreement. In such circumstances, the parties shall immediately consult each other on the use of alternative forms of communication to be used, including facsimile, telephone or paper. Any alternative forms of communication shall not be controlled by this Agreement.
- b. Applicable only in the absence of a relevant clause in the Contract:
 - i. Subject to Sub-Clause 10. a., a party shall not be deemed to be in breach of this Agreement by reason of any delay in performance, or non-performance, of any of its obligations hereunder to the extent that such delay or non-performance is due to any interruption of service or incident of Force Majeure as described in Sub-Clause 10.b.iii. below, of which he has notified the other party without delay
 - ii. The time for performance of that obligation shall then be extended accordingly. Sub-Clause 10. b. i. shall not operate so as to relieve liability for any matter which is a breach of Clause 3 of this Agreement

- iii. For the purposes of this Agreement, Force Majeure means, in relation to either party, any circumstances beyond the reasonable control of that party.

11. Invalidity and Severability

In the event of a conflict between any provision of this Agreement and any law, regulation or decree affecting this Agreement, the provisions of this Agreement so affected shall be regarded as null and void or shall, where practicable, be curtailed and limited to the extent necessary to bring it within the requirements of such law, regulation or decree but otherwise it shall not render null and void other provisions of this Agreement.

12. Notices

The provisions of DEFCON 526 (or Condition H3 if you are using SC2 / SC3) shall apply.

13. Precedence

In the event of any conflict between the terms of this Agreement and the Contract, then the terms of the Contract shall prevail in relation to the substance of the Messages in connection with the Contract.

14. Virus Control

Each party and its intermediary (if any) shall operate at all times a virus control check for all Interchange of Messages.

15. Limit of Liability

- a. Each party agrees that, in relation to any claim, or series of connected claims, including claims for negligence but excluding claims resulting from wilful misconduct, arising from any delay or omission or error in the electronic transmission or receipt of any message pursuant to this Agreement, the liability of either party to the other shall be limited to £10,000 (exclusive of VAT), or where the Contract provides otherwise, to such other amount as is specified in the Contract.
- b. For the avoidance of doubt, liability in relation to any claim arising under the Contract shall be determined in accordance with the Contract.
- c. In the event that a delay, omission or error as referred to in Clause 15a occurs, which causes a delay in the performance of an obligation by either party under the Contract, the period for the performance of that obligation by the affected party shall be extended by a period of time equal to the period of any such delay, omission or error.

16. Entire Agreement

This Agreement, including Annex A and any documents expressly referred to in this Agreement, represents the entire agreement between the parties and supersedes all other agreements oral or written, and all other communications between the parties relating to the subject matter hereof provided that nothing in this Clause shall exclude any liability for fraudulent misrepresentation.

Message Implementation Guidelines (MIGs)

The current and applicable MIG as approved by the MOD within this agreement can be viewed on the D2BTrade Website: <http://www.d2btrade.com>.