

**CONDITIONS OF CONTRACT****1. GENERAL CONDITIONS****a. The following Defence Conditions (DEFCONs) of Contract shall apply: -**

DEFCON 5J (Edn18/11/16)	Unique Identifiers.
DEFCON 16 (Edn 10/04)	Repair And Maintenance Information.
DEFCON 21 (Edn 10/04)	Retention Of Records.
DEFCON 23 (Edn 08/09)	Special Jigs, Tooling And Test Equipment.
DEFCON 68 (Edn 02/19)	Supply of Hazardous Articles & Substances.
DEFCON 76 (Edn 12/06)	Contractor's Personnel at Government Establishments.
DEFCON 129 (Edn 07/19)	Packaging (for Articles Other Than Munitions).
DEFCON 129J (Edn 18/11/16)	The use of the Electronic Business Delivery Form
DEFCON 501 (Edn 11/17)	Definitions and Interpretations
DEFCON 502 (Edn 05/17)	Specifications.
DEFCON 503 (Edn 12/14)	Amendments to Contract (For the purposes of this Contract, the Authority's authorised representative is the Commercial Manager shown at Box 1 of the Appendix to Contract).
DEFCON 507 (Edn 10/18)	Delivery.
DEFCON 513 (Edn 11/16)	Value Added Tax.
DEFCON 514 (Edn 08/15)	Material Breach
DEFCON 515 (Edn 02/17)	Bankruptcy and Insolvency.
DEFCON 516 (Edn 04/12)	Racial Discrimination.
DEFCON 518 (Edn 02/17)	Transfer.
DEFCON 520 (Edn 05/18)	Corrupt Gifts and Payments of Commission.
DEFCON 522 (Edn 11/17)	Payment and Recovery of Sums Due

DEFCON 526 (Edn 08/02)	Notices.
DEFCON 527 (Edn 09/97)	Waiver.
DEFCON 528 (Edn 07/17)	Overseas Expenditure and Import Licences (See Annex J).
DEFCON 529 (Edn 09/97)	Law (English).
DEFCON 530 (Edn 12/14)	Dispute Resolution (English Law).
DEFCON 531 (Edn 11/14)	Disclosure of Information.
DEFCON 532A (Edn 04/20)	Protection of Personal Data (Where Personal Data is not being processed on behalf of the Authority)
DEFCON 534 (Edn 06/17)	Sub-Contracting and Prompt Payment
DEFCON 537 (Edn 06/02)	Rights of Third Parties.
DEFCON 538 (Edn 06/02)	Severability.
DEFCON 566 (Edn 10/20)	Change of Control of Contractor.
DEFCON 602A (Edn 12/17)	Quality Assurance (With Quality Plan) (See also Condition 11).
DEFCON 604 (Edn 06/14)	Progress Reports.
DEFCON 608 (Edn 10/14)	Access and Facilities to be provided by the Contractor.
DEFCON 609 (Edn 08/18)	Contractor's Records.
DEFCON 611 (Edn 02/16)	Issued Property.
DEFCON 612 (Edn 10/98)	Loss of or Damage to the Articles.
DEFCON 621A Edn 06/97)	Transport (The Authority is Responsible for Transport).
DEFCON 624 (Edn 11/13)	Use of Asbestos.
DEFCON 625 (Edn 10/98)	Co-Operation On Expiry Of Contract.
DEFCON 627 (Edn 12/10)	Quality Assurance – Requirement for a Certificate of Conformity

DEFCON 637 (Edn 05/17)	Defect Investigation and Liability.
DEFCON 642 (Edn 06/14)	Progress Meetings.
DEFCON 643 (Edn 12/14)	Price Fixing (For the purposes of Clause 4, the period shall be 6 (Six) months).
DEFCON 649 (Edn 12/16)	Vesting.
DEFCON 656B (Edn 08/16)	Termination for Convenience- Over £5M. For the purposes of clauses 1 and 6b of DEFCON 656 the period shall be 3 months
DEFCON 659A (Edn 02/17)	Security Measures.
DEFCON 681 (Edn 06/02)	De-coupling Clause.
DEFCON 687A (Edn 07/19)	Provision of a Shared Data Environment Service.
DEFCON 687B (Edn 06/01)	Shared Data Environment System Transfer Arrangements.
DEFCON 691 (Edn 03/15)	Timber And Wood – Derived Products.
DEFCON 694 (Edn 07/18)	Accounting For Property Of The Authority.
DEFCON 697 (Edn 07/13)	Contractors on Deployed Operations
DEFCON 703 (Edn 08/13)	Intellectual Property Rights - Vesting in the Authority.
DEFCON 800 (Edn 12/14)	Qualifying Defence Contract
DEFCON 801 (Edn 12/14)	Amendments to Qualifying Defence Contracts
DEFCON 802 (Edn 12/14)	QDC: Open Book on sub-contracts that are not Qualifying Sub-contracts
DEFCON 804 (Edn 03/15)	QDC: Confidentiality of Single Source Contract Regulations Information

**b. Defence Contracts Forms (DEFFORMs)**

DEFFORM 94 (Edn 12/20)	Confidentiality Agreement.
DEFFORM 111 (Edn 03/21)	Appendix – Addresses And Other Information.

DEFFORM 129J (Edn 09/17) The Use of the Electronic Business Delivery Form

DEFFORM 315 (Edn 12/19) Contract Data Requirement

DEFFORM 687C (Edn 06/01) Electronic Information Sharing Agreement (EISA).

**c. Quality Assurance Conditions**

The most recent editions and versions of standards and guidelines shall apply to the contract. The listed editions and versions are provided for information.

For guidance on the application and interpretation of AQAPs refer to the appropriate Standards Related Document (SRD).

Where GQA is performed against this contract it will be in accordance with AQAP 2070 Edition B Version 4.

AQAP-2110 Edition D, Version 1	NATO Quality Assurance Requirements for Design, Development and Production
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AQAP-2105 Edition A Version 1	NATO Requirements for Deliverable Quality Plans.
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DEF-STAN 05-57 Issue 7,	Configuration Management of Defence Materiel
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DEF-STAN 05-61 Part 1 Issue 6	Quality Assurance Procedural Requirements – Concessions.
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DEF-STAN 05-61 Part 4 Issue 3 (and Amdt 1 dated 28 January 2011)	Quality Assurance Procedural Requirements – Contractors Working Parties.
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DEF-Stan 05-61 Part 9 Issue 5	Quality Assurance Procedural Requirements – Independent Inspection Requirements for Safety Critical Items.
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DEF-STAN 05-99 Issue 2 dated 07 January 2004 (now Part 1 Issue 1 and Part 2 Issue 1 both dated 14 July 2017.	Managing Government Furnished Assets in Industry.
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DEF-STAN 05-135 Issue 1	Avoidance of Counterfeit Materiel
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An Avoidance of Counterfeit Material Plan (ACMP) shall be provided on request and reviewed at least annually. If this plan is incorporated within another plan then provision of that plan is an acceptable alternative.

DEF-STAN 00-56 Part 2 Issue 5 dated 28 February 2017      Safety Management Requirements for Defence Systems – 'Guidance'.

BS ISO 31000:2018      Risk Management - Guidelines

**SPECIAL CONDITIONS OF CONTRACT****2. SCOPE AND DURATION OF CONTRACT**

- a. All work undertaken during this Contract shall be performed in accordance with the System Requirement Document (SRD) detailed at Annex A and the Terms and Conditions of this Contract. A primary responsibility of the Contract Monitoring Team (CMT) as shown at Table 2 of Appendix E will be to ensure that the Contractor fully complies with these documents.
- b. The Contract shall have a duration from the 1<sup>st</sup> April 2021 to 31<sup>st</sup> March 2024 and the Contractor shall provide the Surface Finish delivery solution that ensures the output/capability required by the Authority as defined at Annex G. The Contractor shall be required to provide and maintain suitably trained personnel to undertake the tasks defined within this Contract. The Authority shall free issue energy and facilities necessary for the Contractor to deliver the required outputs. With the exception of paints all these resources can be used by the Contractor to produce Third Party Income Generation (3PIG), utilising the recovery of cost model defined at Condition 6.
- c. In order to align the end date of this Contract with the service commencement date of the future Surface Finish Amalgamation Contract, the Authority may need to terminate this Contract before its natural expiry date. This would be done in accordance with DEFCON 656b. The Authority shall give the Contractor no less than 3 months' notice of this termination and will endeavour to give the Contractor a longer notice period where possible in order to mitigate the Contractor's associated unavoidable loss in accordance with condition 4a of DEFCON 656b.

**3. PRICE**

- a. The prices at Annex B and Appendix 1 to Annex AA for all defined outputs are in Pounds Sterling unless stated differently.
- b. Where the work undertaken is for Random Rectification's (RRs) or other undefined tasks i.e. Ground Support Equipment (GSE), Motor Transport (MT) etc, the prices submitted, subject to the requirements of Condition 4(d) – (i), are to be in accordance with the prices agreed with the CMT defined at Annex B. In the unlikely event that there is a possible dispute between the Contractor and the CMT regarding responsibility for any emerging work additional to the original Annex I form, these need to be resolved before submission of an invoice on CP&F to the CMT for payment. In the event of failure to agree prior to the due date for submission the disputed items shall be omitted from the invoice on CP&F and the dispute processes set out in DEFCON 530 shall be initiated.
- c. The Authority shall pay a monthly management fee against each SFF in accordance with the price model at Annex B and adjusted as required in accordance with Annex C.
- d. The unified manpower labour rates at Annex B against each establishment shall be used in the preparation of all estimates for RR, GSE, MT and all other adhoc work. The Contractor shall be given relief from the respective incentivisation model if they have informed the CMT within the agreed timeframe to undertake the work and that the parties, acting reasonably, agree that there was a significant issue relating to the undertaking.

e. Where the CMT approves overtime to meet operational capability against this Contract and the work is for scheduled maintenance, the ad-hoc rate should be charged in accordance with the Out-of-Hours notification periods identified in Condition 60 below. Where the work undertaken is against a work order task the Contractor is entitled in completing the Annex I to use the ad-hoc labour rate at Annex B and the premium corresponding to the notification period at Condition 60.

f. All prices contained within Annex B are exclusive of any delivery and collection to or from each SFF by the Contractor. All haulage including towing into and out of the hangers and placing of aircraft in the correct configuration for the SF tasking to be completed will be done by the Authority or an authorised sub-contractor. Should such Authority resources not be available to undertake this task, the Contractor at their own discretion and risk may collect equipment. In such cases the Contractor can claim payment against item 4 of the SOR, using the agreed hourly charging rates at Table 2 of Annex B.

g. The prices at Appendix 1 to Annex AA refer to the maintenance and repair of Surface Finish Facilities and Support Equipment and are further explained at Annex AA.

#### **4. AUTHORISATION OF UNSCHEDULED WORK.**

a. Any work undertaken by the Contractor where they are expecting to exceed the agreed task thresholds at condition 4d or prior to the CMT approval of the task, with the exception of 'D' state items as declared by Eng Operations at each unit, is completely at the Contractors own risk. The prices agreed with the CMT on these forms are firm, non revisable, unless the Contractor can clearly demonstrate to the CMT that on stripping the item in preparation for painting, damage was found, requiring additional work, that could not have been detected prior to the preparation of the item. In such circumstances the Contractor shall stop all work on the task and submit a revised tasking form to the CMT showing both revised charges and the value of work undertaken to date. This information shall be used by the CMT to determine whether to continue with the work. In the event the CMT cancel the task the Contractor shall be entitled to full payment for all work undertaken to-date and the hours of output shall contribute to the incentivisation model.

b. On the odd occasion where Eng Operations declares an item D State, the Contractor is to make every effort to undertake the work required immediately; does not need to seek CMT permission prior to proceeding with the work and will be entitled to claim overtime rates where required. The Contractor is to submit an ad-hoc task to the CMT at the earliest opportunity for either retrospective approval for either ad-hoc or RR tasking, which will not unreasonably be withheld. Where overtime has been required, the Contractor is to submit a claim to the CMT when the work has been completed.

c. Where the CMT approves overtime to meet operational capability against this Contract, all such work shall be presented to the CMT using the tasking forms at Annex I.

d. The Authority recognises that self-certification of low value tasks will be beneficial to all parties. For the purpose of this Contract the following thresholds are to be used up to which the Contract is allowed to self certify tasks without requiring prior approval from the CMT to undertake the work.

Maintenance	Self Certified	Maintenance	Self Certified
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Work Order	Threshold (Hours)	Work Order	Threshold (Hours)
F755J	10 hours	MoD Form 707	50 hours
Form 1084	60 hours	Form 6	50 hours
Form 755G	60 hours		

e. These threshold limits only apply to those tasks/activities defined at Table 2 of Annex G, station output tables. The Contractor is to submit a work completed report for all output tasks at the end of the month in support of the monthly AG173s for each unit. For the month of March of each year, the Contractor is to make every reasonable effort to complete all tasks before the end of the month to enable this work to be captured in year.

f. Where the Contractor believes that a proposed task falls within the self certification thresholds, authority to proceed is given by the Authority on the completion and signature of the Authority's Demander on Annex I.

g. Where the Contractor is undertaking a self certified task, as soon as they are aware that such a task will exceed the stated man-hour thresholds given to the Contractor by the CMT, they are to stop all work and submit to the CMT the original self certified task together with a new task acceptance form showing the balance of outstanding work necessary to complete the task. Only on the CMT approving the task is the Contractor at liberty to complete the work. Such tasks are to be treated in the same manner as if the CMT had authorised the task before commencing the work. In the event that the CMT does not wish to proceed with the task, the Contractor will be entitled to full payment for all work undertaken against the self-certified task, unless the CMT can demonstrate that all such work should not have been instigated, the Contractor having failed to exercise his duty of care to ensure work undertaken offers value for money.

h. The Contractor is to flag up any potential non-essential work to the CMT before self-authorising the task. The CMT will e-mail its response to the query within 3 working days of its receipt, either approving or rejecting the request.

i. The timeframes given at Table 1 above will be under constant review by both the Contractor and CMT and from time to time may be changed. Although the intent is that such changes will be by mutual consent between the parties, the CMT has final authority to change these thresholds, which the Contractor cannot unreasonably withhold acceptance of the required contract amendment.

j. The Authority reserve the right to audit at any time any of the tasks that the Contractor has self certified, condition 4d refers, within 2 years of the task being completed, regardless as to whether the Contract has ended. The Contractor is to provide the CMT with copies of all requested Annex I forms and where the Authority and Contractor are in dispute as to any of the charges within these self certified tasks, such disputes will be resolved in accordance with DEFCON 530.

## **PAYMENT**

a. The Contractor shall aggregate together and submit to the CMT each month a spreadsheet for the monthly contracted values pro-rated against the contracted output at Annex G. with supporting documentation for all Scheduled Maintenance and Adhoc work completed during the month. The firm prices at Table 3 of Annex B are to be used, clearly showing how the total price was constructed. All



such support documentation is to show when the Contractor accepted and returned the aircraft to either the RAF or the appropriate Contractor. Following approval by the CMT a purchase order will be raised on CP+F for the Contractor to invoice against.

b. The Contractor shall submit a single request for payment of the Management Fee for both the UK and MPA on an excel to the CMT for approval each month, calculated in accordance with Table 1 at Annex B.

c. All claims for payment shall be made on CP&F

#### Item No 1 of Schedule of Requirements.

The firm prices detailed in the Schedule of Requirements (DEFCON 110) shall be the Firm Price for all costs that do not directly contribute to a defined output, i.e. managerial and supervisory requirements, administration and compliance with Health and Safety Regulations etc. This fee shall be calculated at the end of the month in accordance with the mechanisms defined at Condition 8 of Annex C. The Contractor shall present a monthly excel spreadsheet to the Authority's CMT for authorisation, which shall reflect any impact as a result of the incentivisation model before a purchase order is raised on CP&F for the Contractor to invoice against.

#### Item No 2 - 4 of Schedule of Requirements.

The Contractor is to submit to the CMT at the end of each month an aggregated excel spreadsheet covering all tasks completed against Item 2 - 4 of the SOR at all Units that clearly identifies all the tasks, with their associated prices in a tabular format which shall be e-mailed to the CMT. The CMT will independently verify the work completed as being fair and reasonable before a purchase order is raised on CP+F for the Contractor to invoice against.

#### Item No 5 of Schedule of Requirements

The Contractor is to submit to the CMT quarterly recharge documents for all resources, i.e. consumables, Authority approved overtime and income to the Authority generated as a result of 3PIG activity as separate documents covering all units. The Quarterly recharge documents shall give clear visibility of all costs that generated the total for each of the SFFs, enabling the CMT to independently verify all of the individual charges associated with the quarterly recharge documents. On verifying these recharges reflect the resources made available to the Contractor, the CMT will (i) advise the Contractor of any reconciliation to be made against the fixed monthly bills for billed consumables, (ii) authorise and raise a purchase order on CP&F for the quarterly overtime or (iii) will forward recharge documentation for 3PIG income to the Contractor who will raise an invoice via Exostar.

#### Item No 6 of Schedule of Requirements.

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#### Item No 7 of Schedule of Requirements.

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Item No 8 of the Schedule of Requirements:

All Claims for payment shall be submitted to the CMT for approval on an excel spreadsheet in arrears annually, based on the Firm Price agreed in Table (i) of the Schedule of Requirements. Following approval by the CMT a purchase order will be raised on CP&F for the Contractor to invoice against.

Item No 9 of the Schedule of Requirements

All Claims for payment for work completed shall be submitted to the CMT for approval on an excel spreadsheet in arrears monthly, based on the Pricing agreed at Appendix 1 to Annex AA. Following approval by the CMT a purchase order will be raised on CP&F for the Contractor to invoice against.

**6. THIRD PARTY INCOME GENERATION (3PIG)**

- a. The Contractor may identify spare capacity within the station facilities that might be exploited for earning revenue from third parties. All such commercial opportunities shall be discussed and agreed with the CMT. For the purposes of this Clause they shall be referred to as 3PIG (Third-Party Income Generation) proposal.
- b. Each 3PIG proposal shall be detailed on the 3PIG Approval Document (AD) at Annex J detailing the proposed usage of the SFF, any risk in ensuring Authority output and the value, inclusive of profit shown separately, that the Contractor will be charging their client for the task. This will be used in conjunction with Annex N to evaluate the payment to be made by the Contractor to the Authority.
- c. The Authority agrees that the Contractor can self approve all 3PIG proposals that have no effect on the operation of the Unit. The Contractor can consider approval as being given for a 3PIG proposal when it has been allocated a unique identity number.
- d. This process of approving 3PIG shall be subject to ongoing review and shall be promptly followed up with paper copies showing original signatures. Should such a procedure be found unsatisfactory, the Authority reserves the right to resort to a fully paper driven system.
- e. The Contractor is not to utilise any resource belonging to the Authority or incur any additional Authority owned SFF running costs against any 3PIG opportunity that has not been included in the 3PIG proposal.
- f. **Removed – Intentionally Left Blank**
- g. The Contractor are not to use any Authority owned consumables, including paints, in the pursuit of 3PIG, though GFE i.e. hand tools etc. can be utilised.
- h. The Authority shall take a margin of 50% of the profit stated on Annex N as a result of 3PIG. This reflects the use of the SFF and shall be calculated as the percentage of the total profit that the

Contractor charges his client to undertake the work, unless specifically agreed otherwise by the CMT.

i. Payments due to the Authority shall be recovered Quarterly in arrears from the Contractor as an aggregated single payment for all completed 3PIG arisings. These payments are to be supported by submission of the Annex Ns to the CMT for verification. All monies owing to the Authority shall be recovered as set out at condition 5c.

j. The Authority shall be afforded unlimited access to the Contractor's records of 3PIG revenue generation throughout the Contract and for a period of 2 years after the Contract has ended.

k. 3PIG proposals are subordinate to the Contractor's responsibilities to meet the Authority's required output under this Contract and shall be approved by the CMT on the understanding that they do not prejudice in any way the required output defined within this Contract.

l. The facilities provided to the Contractor against this Contract are to carry out Authority work and in the event that such facilities are unavailable to carry out 3PIG, the Authority accepts no liability for any costs incurred to the Contractor as a result of these facilities being unavailable or inoperable.

m. The Contractor shall seek prior authorisation from the Authority (via the CMT) for any 3PIG activities that may have an impact on the operation of the Unit where the work is proposed to be carried out. This will include all aircraft work.

## **7. GAINSHARE**

a. The parties agree to actively pursue opportunities where a potential amendment to the Contract might result in savings in operating cost, time or performance, including but not limited to, suggesting and developing modifications with a reliability benefit. Such Gainshare opportunities may be prevalent where the Contractor wishes to move away from the Local Engineering Orders (ESWO - AEO), which can only be undertaken with the express written authority of the CMT.

b. This shall not affect the Contractor's freedom to manage the Contract and to rely upon the Authority's reasonable approvals as required under the Contract to ensure smooth and efficient day-to-day running of the Contract.

c. The parties shall consider each Gainshare proposal on its merits and agree any amendment to the Contract and the Contract Price based on a sharing of the net effect of all identified costs and benefits for each proposal.

d. Nothing in this Condition shall obligate either party to agree to any proposal raised under this Condition by the other party.

e. The Repair and Maintenance of Surface Finish Facilities and Support Equipment service included in this Contract at Annex AA, includes a gain share arrangement, whereby, any shortfalls against the firm prices are shared 50:50 between ACDT and Serco.

## **8. PAYMENT FOR MEETING DEFINED PERFORMANCE REQUIREMENTS**

a. The Authority recognises availability of aircraft and ad-hoc tasking as central to securing the success of this Contract and at Annex C has developed an incentivisation model, which reflects the importance the Authority places on availability of aircraft. Payments due to the Contractor in respect of management fees and claims made against the Contractor in respect of liquidated damages shall be in accordance with Annex C. The incentivisation models can be the subject of any exemptions agreed by the CMT in exceptional circumstances. The Authority is only entitled to remedy against the Contractor as defined by the terms and conditions of this Contract.

b. Where the Contractor has a track record of 12 months continuous unblemished performance for a specific aircraft type then the Contractor will automatically, unless the CMT can demonstrate the Contractor has been grossly negligent, be exempt for no more than 3 days from the 1<sup>st</sup> instance the Authority is in the position to make a claim for LDs for late delivery of an aircraft or its associated off aircraft component(s).

## **9. CONTRACT PERFORMANCE MONITORING**

The Contractor shall monitor Contract performance in accordance with the Performance Indicators described in Annex C. The Authority sees information flows and the delivery of management reports as essential for the CMT to effectively monitor the Contractors performance and Annex C incentivises the Contractor to perform these tasks.

## **10. RAF MANPOWER**

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## **11. QUALITY ASSURANCE**

a. All work under the Contract shall be carried out in accordance with the Quality Assurance provisions detailed in Condition 1(c) above.

b. As detailed in AQAP-2110 Edition D, it shall be the Contractor's responsibility to maintain his Quality Management System in accordance with ISO 9001:2015.

c. All requirements of this Contract may be subject to Government Quality Assurance (GQA) to the satisfaction of the Authority. The Contractor shall contact the CMT, or his nominated representative, if he wishes to discuss the application of GQA. Quality Assurance Group meetings (QAGs) may be used as a defined forum to discuss the application of GQA at the discretion of the Authority.

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

- i) particular risks and their impact; or

- ii) risk reduction measures, contingency plans and remedial actions

shall not in any way limit or exclude the Contractor's obligations under this Contract and shall be entirely without prejudice to the Authority's rights, privileges and powers under this Contract. The risks identified as a result of any risk assessment questionnaire and risk assessment process generally remain the risks of the Contractor and are not assumed by the Authority except to the extent that the Authority expressly and unequivocally accepts those risks under the Contract. Any risk assessment questionnaire released was or shall be issued by the Authority solely on this basis.

e. No second-hand or previously used materiel shall be supplied in furtherance of this Contract without the express written authority of the CMT, or his nominated representative, detailed in Box 2 of the Appendix to Contract.

f. Within 2 (Two) weeks from the date of Contract award, the Contractor shall submit a Quality Plan to the CMT in accordance with the provisions of AQAP-2105. The CMT, or his nominated representative, shall review the Quality Plan and advise the Contractor, in writing either as to its acceptability, or alternatively detail where revisions are required. Within 4 (Four) weeks from receipt of the CMT comments, the Contractor shall submit the definitive Quality Plan to the CMT for signature. An Approved Quality Plan shall be submitted to the CMT within 8 (Eight) weeks.

g. All risks relating to quality assurance are to be incorporated with the Contract and Risk Management Plan (CRMP) as requested at Annex A. This is a living document subject to continuing review and revision. This document will be discussed at the quarterly contract review meetings.

## **12. CONTRACT PHASE IN**

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## **13. EXIT STRATEGY**

### **At Contract End.**

a. In order to secure continuity of supply, against the Contract, the Contractors draft exit strategy proposal to the Authority will be approved within 3 months from award of contract. The Contractor and Authority shall refine the strategy as the Contract progresses, taking account of any changes in both the levels of output required and the requirements of the Contract.

b. At the commencement of the final year of the Contract the Contractor shall submit a contract exit plan to the Authority. This shall contain a list all consumables and their respective quantities necessary to ensure the Authority can meet its ongoing need for consumables for a period of transition of 2 months after this Contract time expires. The proposal needs to take account of and clearly show:-

- i) The use of up to date demand figures and product lead times to project the consumables necessary to support 2 months consumption of consumables at Contract end.

- ii) Excess stockholdings caused by a significant drop in consumption and where the Contractor believes there shall be excess stock at the end of the Contract.

c. The Contractor and Authority shall refine the report as the year progresses, taking account of Clauses i-ii above, any known changes in equipment usage/type and general trends in consumption. At a time to be agreed between both parties, the report shall be finalised and used to determine the type and quantity of consumables that are to be available to the SFF at contract end.

d. On the CMT accepting the plan, the Contractor is authorised to demand sufficient consumables to top up stock levels held at the SFF. Under item 4 of the SOR the Authority shall pay for all consumables, subject to them being more than 4 months in date, to the quantities agreed within the exit plan. The Contractor shall make these items available for collection to either the Authority or their chosen agent, or at the Authority's request shall deliver these items to a U.K. location. The Contractor shall submit a quotation to the CMT for the recovery of costs associated with these activities, which shall be prepared in accordance with the Single Source Contract Regulations 2014.

e. The CMT shall visit the site(s) 2 months prior to the end of the Contract to ascertain that all items that the Authority has title to are contained within the SFF. The Contractor shall make good any deficiencies before contract end.

f. Within 6 months of the end of the Contract, the Contractor shall agree with the Authority a plan for the orderly hand-over of the services carried out against this Contract, to the Authority or its nominee. Such a plan shall define the levels of co-operation that the Contractor proposes to offer the Authority/nominee to ensure the seamless transfer of the work. Such a plan shall also include a proposal to ascertain the likelihood of the current employees at the SFF(s) willingness to work for the Authority or nominee on the expiry of this Contract. The Authority or nominee(s) have the right to have unrestricted access to the Contractors employees at each SFF to discuss potential transfer terms, 6 months prior to the end of the Contract. In consultation with the Contractor, the Authority reserves the right to make reasonable changes to this document before approval and implementation.

g. On either termination or expiry of this Contract, the Authority reserve the right to immediately disable access to any computer system or information service that has been provided to the Contractor in connection with this Contract.

#### **On Contract Termination.**

h. The Authority reserves the right to terminate the services provided against this Contract in full or part as it sees fit in accordance with DEFCON 614 on the grounds of poor quality control, security infringements or inability to meet the performance requirement of the Contract as defined at both Annex C and G.

i. The Authority reserve the right to terminate this agreement in full or part, should the Contractor fail to deliver in excess of 90.0% of both Aircraft Scheduled Maintenance's or the associated off aircraft components within the timeframes agreed at Annex C and G at any of the

SFFs against this Contract. In addition this Contract can be terminated in full or part where the Contractor has delivered less than 70% of the hours of output defined at Annex G where the CMT has not given an exemption. In such a case a period of 6 months notice shall be given.

j. The Authority shall be at liberty, but not bound, to terminate this Contract in the event that the Authority has a change in legal status such that control of or an interest in the Authority vests in a private sector body. The Authority shall not exercise this right unreasonably. Such termination shall be in accordance with DEFCON 656B (Edn 08/16).

k. Termination shall be without prejudice to and shall not affect any right of action or remedy which shall have accrued or shall accrue thereafter to the Authority and the Contractor under this Contract.

l. Termination shall become effective 6 months after receipt by the defaulting party of written notice, unless:

(i) during the 1<sup>st</sup> 3 months of the relevant notice period, the defaulting party has remedied the material breach; or

(ii) within 3 months, the defaulting party is diligently proceeding to cure the material breach by taking steps to do so and the material breach shall be resolved within 6 months of the notice or an alternative timetable agreed in writing with the CMT; or

(iii) within 1 month, after receipt of the relevant notice, the defaulting party has notified the other party that in its reasonable opinion, a material breach has not occurred, stating why a material breach has not occurred. This shall be considered by the CMT before making a final decision. Until the CMT conveys its final decision to the Contractor the period of notice shall be suspended, continuing only when the CMT confirm its intent to terminate this Contract.

m. Termination of this Contract shall not affect the warranties, indemnities or liabilities of either party accrued within this Contract, prior to such a termination.

n. Within 10 (Ten) working days of a Termination Notice of this Contract, the Contractor shall agree with the Authority an Exit Plan for the orderly hand-over of the services carried out against this Contract to the Authority or its nominee. Such a plan shall define the orderly transfer of this work and the levels of co-operation that the Contractor proposes to offer the Authority to ensure the seamless transfer of the work. In consultation with the Contractor, the Authority reserve the right to make reasonable changes to this document before approval and implementation. The final "Management Fee" shall be paid to the Contractor only when the Contractor has fully carried out the tasks identified within the approved plan and all other obligations defined within this Contract have been satisfactorily completed. Where the Authority incurs additional costs as a result of the Contractor failing to undertake the work within the agreed plan, the Authority will make a claim against the Contractor for additional costs and issue the Contractor with an invoice for payment.

o. On the CMT accepting the plan, the Contractor is authorised to demand sufficient consumables to top up stock levels held at the SFF, ensuring sufficient consumables are held at contract end to meet the SFF demand for 2 months use.

p. Any items that the Authority has title to shall be returned to the Authority free of charge in accordance with the developed Exit Plan at Condition 13h above.

q. Neither Party shall be liable to the other for consequential losses arising from termination for breach howsoever caused.

r. Should the Authority decide to only partially terminate this Contract by removing one or more SFFs managed by the Contractor from the Contract as a result of poor performance, the price discounts offered for contract award by region or as a whole shall still apply. The price paid to the Contractor shall be less the individual price(s) paid by the Authority for each unit removed from the Contract as shown at Annex B before any discount was applied.

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t. On the Contractor being notified by the CMT of its intent to terminate from this Contract any of the SFFs, the CMT will give the Contractor a cease work date order for each SFF. The CMT will inform the Contractor as to whether they need to ensure the facility requires at least 2 months worth of consumables available to the Authority at the cease work date and the Contractor will work closely with the CMT in finalising and agreeing the 2 months of consumables required before the Contractor undertakes their provisioning. If the SFF is no longer required the Contractor will in the period leading up to cease work date endeavour to minimise the stock remaining at termination. The Authority shall be given a fully priced inventory of the consumables stock value at termination, valued in accordance with Annex L or in accordance with normal financial practice if Annex L arrangements have been superseded. The Contractor will invoice the Authority for these consumables within 1 month of termination. The Authority is to make full payment for such consumables within 1 month of being presented with the invoice.

#### **14. TRANSFER OF UNDERTAKINGS DEFINED WITHIN THIS CONTRACT**

a. The Authority is in a period of transition in how best to secure long term capability while ensuring best value for money in the medium to long term. The Authority has an ongoing program of evaluating options and has an overarching requirement to remove government dependencies in delivering frontline services. As the primary role of this initiative is in support of aircraft availability, there is a possibility that during the life of this Contract there may be a requirement for this initiative to be incorporated within Integrated Operation Support Solutions (IOSS) for aircraft availability. Where this has been determined to be the best way forward, the Authority's proposal will be to transfer these contracts into the IOSS arrangements with the IOSS Prime Contractor (PC) replacing the Authority in all matters relating to this Contract.

b. The Authority will keep the Contractor informed on the progress of such initiatives and should the decision be to transfer the undertaking of this Contract into IOSS, the Contractor is not to unreasonably withhold consent for such a transfer if there is no fundamental change in what is being required. Any fundamental change would be subject to negotiation and mutual agreement between the Authority, Contractor and PC before the Authority would transfer the custodianship of the contract.



## 15. **TRANSFER OF RESPONSIBILITY TO ALTERNATIVE CONTRACTOR**

a. In the event that the work under this Contract is re-tendered as a result of either termination or time expiry of the contract, the Contractor shall co-operate in the transfer of the work defined within this contract to either the Authority or an alternative contractor in accordance with the exit strategy and any additional arrangements to be notified to him by the Authority. Co-operation shall include site visits by representatives of the tenderers.

b. Should the Contractor wish, for reasons of commercial confidentiality, to stop work in station sections being visited by representatives of companies tendering for a replacement contract, he may do so, subject to the agreement of the CMT, on condition that any consequent shortfall in output is made up without additional cost to the Authority and that the requirements of the Contract are not affected.

## 16. **SURGE IN DEMAND**

a. There may on occasions be surge in demand which can either be temporary in its nature, less than 3 months, or as a result of the CMT having not given the Contractor prior warning of a long term change in the output requirement of a SFF(s). In such a circumstance the Contractor shall immediately inform the CMT of such an event, submitting to the CMT a plan for agreement of the measures the Contractor proposes to take to manage the surge and protect the vital outputs of the SFF. Such a plan will need to consider the adoption of some/all of the measures as detailed: -

- i) Suspend all non-critical activity as agreed with the CMT and re-deploying existing resources accordingly to meet the surge requirement.
- ii) Offer overtime to Contractors employees working at the SFF.
- iii) Draw in temporary additional resources from other establishments to meet the surge capability.
- iv) **Removed – Intentionally Left Blank**
- v) **Removed – Intentionally Left Blank**

b. Where the surge is as a result of a long-term change in the required output, the CMT shall ratify the change in the required output. While the Contractor instigates long term measures to meet the new levels of required output, the Contractor shall employ the measures defined at Condition 16a.

c. Where either option ii) or iii) are deployed, the Contractor shall be entitled to claim either overtime for option ii) or travel time outside core hours, motor mileage and hotel accommodation for option iii) in accordance with Table 4 of Annex B. The Contractor where possible shall draw on resource from other units that are employed on GSE or MT work and need to be mindful of the costs to the Authority of such an undertaking. The Contractor must first seek approval from the CMT for any such proposal with an estimate of the additional costs to the Authority. The rates to be

used in calculating the charges of such activity are at Table 4 of Annex B and shall be paid against item 4 of the SOR.

d. In the case of option iii) the company can seek an exemption from the guaranteed hours of output incentivisation model where they can clearly demonstrate that they could not make up a shortfall as a direct result of the transfer of manpower resource to an alternative SFF.

## **17. INSUFFICIENT WORK TO FULLY EMPLOY PERSONNEL**

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## **18. SECURITY (SEE ALSO DEFCON 659)**

a. The Contractor and his employees, agents and sub-contractors shall co-operate with and obey instructions or directions given by MoD Police, Military Police and uniformed guards in pursuance of their duties.

b. Routine checks may be carried out on those entering or leaving an Establishment, and the Contractor, his employees, agents or sub-contractors must be prepared to accept the obligations to be stopped and searched and to have their vehicles examined. The Authority also reserves the right to expel persons from the Establishment who do not consent to being searched.

c. The Contractor shall accept (without prejudice to any remedies the Authority may have) full responsibility for any loss or delay in performance of the Contract caused directly or indirectly by the expulsion of, or refusal to allow entry to, a Contractor's employee, agent or sub-contractor who does not consent to being searched.

d. The Contractor shall be liable for any losses to the Authority arising from the Contractor's breach of applicable security regulations.

e. Security Clearance. There are three types of security clearance procedures normally applied to Contractor personnel. They are the Baseline Personnel Security Standard (BPSS) and Counter Terrorist Check (CTC) which apply to all personnel, and the Security Clearance (SC) which is applied to personnel working in areas designated as operationally sensitive or who have regular access to classified material. For the purpose of this contract all personnel employed by the Contractor at all SFF are to be SC cleared before being given access to the SFF. Personnel filling these positions must meet SC requirements and also any additional requirements described in the individual sections. Staff shall be employed in operationally sensitive positions with personnel assuming a dual functional role to meet various contract conditions.

f. Names, qualifications and clearances of all proposed personnel are to be submitted at least 6 weeks prior to the intended hire date. No Contractor employee shall be allowed entry the SFF or be given access to classified material without the prior approval of the Station Security Officer. There are procedures in place where the Contractors personnel can be awarded provisional security clearance to a SFF, though such applications must be supported by the CMT in writing.

g. All Contractor employees, including sub-contractors, are required to visibly wear a current and clearly legible identity cards at all times within the bounds of MoD establishments and are to

identify themselves immediately when challenged by Service personnel, police officers or security guards. Where the wearing of an identity card would have Foreign Object Debris (FOD) or Flight Safety implications, a cloth name badge should be displayed although the identity card must still be carried.

h. The Contractor shall appoint one member of his staff as local Security Officer who shall be responsible, in consultation with the CMT as necessary, for the implementation of all security arrangements concerning the Contractor's staff, the area in which they are employed, their offices and equipment. The Security Officer shall also be responsible for the training and supervision on the Contractor's staff to ensure compliance with applicable security regulations laid down in station standing security orders that can be obtained from the RAF station security officer.

## **19. ENERGY EFFICIENCY**

a. Energy consumption is a major cost driver in the running of the SFF facilities and the Contractor is to appoint their own energy efficiency warden within the SFF who in consultation with the stations energy efficiency wardens, are to develop, implement and enforce agreed energy efficiencies policies.

b. The SFF at MPA Falkland Islands has an oil burning heating SFF system. The Contractors energy efficient warden is to work closely with the stations fuel and lubricants section to ensure sufficient fuel is always available to operate the SFFs. If fuel availability at the SFF has become critical, the Contractor is to notify the CMT immediately who will take necessary corrective action to avoid any SFF downtime.

## **20. AVAILABILITY OF THE SFFs**

a. The SFF shall be maintained through specialist companies to service, maintain and repair the SFFs. The Contractor shall be responsible for coordinating the repair and maintenance of the core Surface Finish Facilities and Support Equipment. The Contractor shall employ specialist companies to satisfy the Statement of Work for this activity at Annex AA to this contract. In accordance with Annex AA, the Authority and the Contractor will work together to prioritise repair and maintenance across the Surface Finish Facilities utilised by the Contract. Financial approval for all maintenance activities must be obtained from ACDT prior to placement of work orders. For non-ACDT owned SFFs the maintenance responsibilities shall remain with the Authority. All scheduled maintenance shall be planned (and notified to the Contractor 1 month in advance where this is outside the Contractor's control) such that the Contractor is expected to work around such maintenance. No costs associated with loss of output or any exception from the incentivisation model will be available from the Authority. In the event that a SFF suffered either partial or full breakdown, the Contractor is to immediately inform the CMT and where applicable the station's property manager, detailing the extent of the fault. The Authority will make arrangements for the SFF to be repaired, by instructing the Contractor to arrange repair where it falls within the remit of Annex AA. Where this is not the case the Authority shall liaise with the appropriate people and keep the Contractor informed as to what action is being undertaken to resolve the fault(s)."

b. The Contractor will maintain a record of all downtime of each SFF either as a result of scheduled maintenance or breakdown and will make available to the Authority at the commencement of each month the percentage availability of each SFF.

c. Where SFF availability falls below 92% for a calendar month between the hours of 08:00 - 02:00, Monday to Friday as a result of breakdown(s) or scheduled maintenance, the Contractor can seek reimbursement for losses against the Annex G output in accordance with the ad-hoc hr rate at Annex B and shall be entitled to an exemption from the Annex C incentivisation model where they can clearly demonstrate to the CMT that they took all reasonable actions to mitigate against such arising(s). This shall include:-

- i) Task staff to undertake output that is not dependant of the element(s) on the SFF that have broken down
- ii) Bring non-producing output tasks forward i.e training that is not dependent on a fully functional SFF.
- iii) **Removed – Intentionally Left Blank**
- iv) Where financially viable temporary transfer staff to a nearby alternative SFF.

d. In the event that the breakdown of the SFF was directly attributable to the Contractor as a result of the Contractor not complying with either the full operating manuals or the work instructions for the SFF, the Contractor shall not be entitled to seek reimbursement or exemption from the Annex C incentivisation model, as defined at Condition 20c above. The CMT shall present the Contractor with all costs associated with the breakdown, which shall be recovered against the monthly "Management Fee".

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f. **Removed – Intentionally Left Blank**

## **21. DISPOSAL OF WASTE FROM THE SFFs**

The Authority shall undertake to remove all waste free of charge to the Contractor. The disposal of all dry waste that is not considered harmful to the environment that would normally be placed in bins shall be disposed of by the Authority as part of the regular on site waste collection services. All hazardous waste will be removed weekly in accordance with local unit procedures. In the event the waste is toxic, for the first arising, the Contractor is to notify the CMT 2 weeks prior to its required removal. On completing this task the CMT shall provide the Contractor with the point of contact to be used for all future arisings and are to liaise with the sub-contractor(s) to determine minimum periods of notice for toxic waste removal.

## **22. LOSS OR DAMAGE**

a. In respect of any loss or damage which arises out of, or is in any way connected with, the negligence, breach of statutory duty omission or default of the Contractor (or his servants, agents or subcontractors) in carrying out, or the purported carrying out, of the work defined within this contract, the Contractor shall, to the extent that the loss or damage does not result from the acts,

omissions, default or negligence of the Authority, be responsible for, and make good to the Authority:-

- i) all costs and expenses reasonably and properly incurred by the Authority; or
  - ii) with the Contractors insurers agreement where required, pay compensation for damages awarded against the Authority in connection with any claims or proceedings made or brought against the Authority as a result of the Contractor not adhering to the Terms and Conditions of this contract.
- b. In the event of any Loss or Damage arising in accordance with Condition 22a above, the Contractor shall, without delay and at his own cost rectify, reinstate, replace or make good to the satisfaction of the Authority, or if the Authority agrees, compensate the Authority for any such Loss or Damage.
- c. The CMT shall notify the Contractor as soon as possible of any direct claim the Authority is making against the Contractor, or proceedings being brought against the Authority in respect of any Loss or Damage arising as a result of the Contractor failing to meet the requirements of this contract as defined at Condition 22a above.

## **LIMITATIONS ON LIABILITY**

- d. Neither Party limits its liability for:
- i) death or personal injury caused by its negligence, or that of its employees, agents or sub-contractors (as applicable);
  - ii) fraud or fraudulent misrepresentation by it or its employees;
  - iii) breach of any obligation as to title implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
  - iv) any liability to the extent it cannot be limited or excluded by law.
- e. The financial caps on the Contractor's liability set out in Clause g. below shall not apply to the following:
- i) the Contractor's indemnity in relation to DEFCON 91 (Intellectual Property in Software) and DEFCON 632 (Third Party IP - Rights and Restrictions);
  - ii) the Contractor's indemnity in relation to TUPE at Annex V – TUPE Clause 2.31;
  - iii) for the avoidance of doubt any payments due from the Contractor to the Authority in accordance with the Defence Reform Act 2014 and/or the Single Source Contract Regulations 2014, as amended from time to time, shall not be excluded or limited under the provisions of Clause g. below.

f. The financial caps on the Authority's liability set out in Clause j. below shall not apply to the following:

- i) for any indemnity given by the Authority to the Contractor under this Contract, including but not limited to DEFCONs 514 and 656B;
- ii) the indemnity given by the Authority in relation to TUPE under Annex V – Tupe shall be unlimited
- iii) for the avoidance of doubt any payments due from the Authority to the Contractor in accordance with the Defence Reform Act 2014 and/or the Single Source Contract Regulations 2014, as amended from time to time, shall not be excluded or limited under the provisions of Clause j. below.

#### Financial limits

g. Subject to Clauses d. and e. and to the maximum extent permitted by Law:

- i) throughout the Term the Contractor's total liability in respect of losses that are caused by Defaults of the Contractor shall in no event exceed:
  - in respect of DEFCON 76 Five Million pounds (£5,000,000.00) in aggregate;
  - in respect of DEFCON 514 Five Million pounds (£5,000,000.00) in aggregate;
  - in respect of DEFCON 611 Five Million pounds (£5,000,000.00 ) in aggregate;
  - and in respect of DEFCON 612 Five Million pounds (£5,000,000.00) in aggregate;

h. Without limiting Clause g. and subject always to Clauses d., e, e iv. and i., the Contractor's total liability throughout the Term in respect of all other liabilities, whether in contract, in tort (including negligence), arising under warranty, under statute or otherwise under or in connection with this Contract shall be Five Million pounds (£5,000,000.00) in aggregate.

i. On the exercise of any and, where more than one, each option period or agreed extension to the Term, the limitation of the Contractor's total liability (in aggregate) set out in Clauses g. and h. Above shall be fully replenished such that on and from each such exercise or extension of the Term, the Authority shall be able to claim up to the full value of the limitation set out in Clauses g. and h. of this Contract.

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

k. Clause j. shall not exclude or limit the Contractor's right under this Contract to claim for the Charges.

### **Consequential loss**

l. Subject to Clauses d., e. and m, neither Party shall be liable to the other Party or to any third party, whether in contract (including under any warranty), in tort (including negligence), under statute or otherwise for or in respect of:

- i) indirect loss or damage;
- ii) special loss or damage;
- iii) consequential loss or damage;
- iv) loss of profits (whether direct or indirect);
- v) loss of turnover (whether direct or indirect);
- vi) loss of business opportunities (whether direct or indirect);
- vii) or damage to goodwill (whether direct or indirect),

even if that Party was aware of the possibility of such loss or damage to the other Party.

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

- i) any additional operational and administrative costs and expenses arising from the Contractor's Default, including any costs paid or payable by the Authority:
  - to any third party;
  - for putting in place workarounds for the Contractor Deliverables and other deliverables that are reliant on the Contractor Deliverables; and relating to time spent by or on behalf of the Authority in dealing with the consequences of the Default;
- ii) any or all wasted expenditure and losses incurred by the Authority arising from the Contractor's Default, including wasted management time;
- iii) the additional cost of procuring and maintaining in place transitional assistance and replacement deliverables for the remainder of the Term and any option period or agreed extension to the Term (including legal and other consultants' fees, re-procurement project costs, other expenses associated with such exercise and any increase in the fees for the replacement services over and above the Contract Price that would have been payable for the relevant Contractor Deliverables);

- iv) any losses arising in connection with the loss, destruction, corruption, inaccuracy or degradation of Authority data, or other data or software, including, to the extent the Authority data, other data or software can be recovered or reconstituted, the fees, costs and expenses of reconstituting such Authority data, data or software;
- v) damage to the Authority's physical property and tangible assets, including damage under DEFCON 76 and 611;
- vi) costs, expenses and charges arising from, or any damages, account of profits or other award made for, infringement of any third-party Intellectual Property Rights or breach of any obligations of confidence;
- vii) any additional costs incurred by the Authority in relation to the Authority's contracts with a third party (including any compensation or interest paid to a third party by the Authority) as a result of the Default (including the extension or replacement of such contracts);
- viii) any fine or penalty incurred by the Authority pursuant to Law and any costs incurred by the Authority in defending any proceedings which result in such fine or penalty;
- ix) any savings, discounts or price reductions during the Term and any option period or agreed extension to the Term committed to by the Contractor pursuant to this Contract.

### **Invalidity**

n. If any limitation or provision contained or expressly referred to in this Condition 22 is held to be invalid under any Law, it will be deemed to be omitted to that extent, and if any Party becomes liable for loss or damage to which that limitation or provision applied, that liability will be subject to the remaining limitations and provisions set out in this Condition 22.

### **Third party claims or losses**

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

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

### **No double recovery**

p. Neither Party shall be entitled to employ such rights and remedies available to it so as to seek to recover more than once in respect of the same loss, but the Authority shall be entitled to use



(singly or together) such rights and remedies available to the Authority so as to recover the full extent of any recoverable losses suffered or incurred, including any remedies the Authority may have against any guarantor.

## **23. FAULT INVESTIGATIONS**

a. The Contractor shall undertake, as required by the CMT, or his nominated representative, fault investigations related to work undertaken against this Contract. The Contractor shall have arrangements in place for fault investigations to be carried out at the SFFs. The CMT shall instruct the Contractor to carry out fault investigation reports on acceptance of a quotation prepared by the Contractor in accordance with DEFCON 643 Pricing Conditions. The conclusions of such an investigation shall determine liability of the fault. Where the fault lies with the Contractor, they shall be responsible to rectify the fault at no cost to the Authority and absorb the costs required to undertake the investigation. Where the Authority accepts responsibility for the defect, the Authority shall under item 3 of the SoR, pay for the defect investigation and program of rectification, DEFCON 637 refers.

b. In exceptional circumstances the Authority may seek an independent opinion to undertake a defect investigation. The outcome of such shall be binding on both the Contractor and the Authority. Where the outcome is inconclusive the Authority shall pay half the costs for the investigation and rectification program. The report may attribute fault to both the Contractor and Authority, in such cases the costs shall be shared in the same portions as the report apportions responsibility.

## **24. PERSONNEL**

a. Standards of qualifications and requisite work experience for staff in respective grades are detailed below. However, the Contractor may exercise his discretion in appointing staff who do not fully meet these requirements for the purposes of career development. In such circumstances, suitable supervisory arrangements must be made in order to maintain the quality of work output under the Contract.

b. Experience. In addition to any special requirements listed in the SRD at Annex A, all staff employed by the Contractor pursuant to the Contract shall be suitably experienced and qualified commensurate with their responsibilities. For supervisors and tradesmen, the minimum requirements shall be as follows:

- i) Supervisors. Three years experience in industry or the Armed Forces on full time supervision of aircraft surface finishing maintenance activities.
- ii) Skilled Tradesmen. Two years experience in industry or the Armed Forces in a trade group relevant to the task on which they are employed on this Contract.
- iii) Semi-Skilled Tradesmen. A minimum of one year's relevant experience in industry or the Armed Forces, or may be suitably trained by the Contractor at his expense.

c. Medical Fitness. The Contractor shall ensure that all personnel employed under this Contract are medically fit in accordance with AP 1269A to undertake their allotted tasks.

d. Discipline.

- i) The Contractor shall be responsible to the CMT and Station Officer Commanding for the discipline of all his civilian staff.
- ii) The Contractor shall ensure that the dress and turnout of all his civilian staff is, at all times, smart and appropriate to both the occasion and the ethos of a military establishment.
- iii) The Contractor shall ensure that all his civilian staff engaged in work under the Contract are employed on the strict understanding that the following shall be grounds for dismissal:
  - (a) The misuse and possession of controlled and illegal drugs;
  - (b) Misuse of alcohol during working hours, as manifested by behaviour indicative of the influence of alcohol; and,
  - (c) The consumption of alcohol during working hours other than during sanctioned breaks and on licensed premises or in circumstances otherwise explicitly approved by the CMT.

e. Colour Perception. Staff employed under the Contract shall be subject to the colour perception standards promulgated in AP1269A, Section 2, Chapter 6a where applicable.

## **25. HEALTH SURVEILLANCE CONTROL OF SUBSTANCES HAZARDOUS TO HEALTH (COSH) MEDICAL**

a. The Contractor is to fully satisfy all legal obligations for the Health Surveillance of painter & finisher personnel employed in support of the Surface Finish Output at Units within the Contract.

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## **26. USE OF DOCUMENTS, INFORMATION AND COMMUNICATION WITH THE MEDIA**

a. Any specifications, plans, drawings, or any other documents issued by or on behalf of the Authority for the purposes of this Contract shall remain the property of the Authority and shall be returned to the Authority at the end of this Contract in a suitable state.

b. The Authority warrants the accuracy and completeness of any such specifications, plans, drawings and all other documents provided by the Authority and accepts responsibility for any inaccuracies. Should the Contractor believe that any of these documents contain inaccuracies or are incomplete, they are to immediately bring such concerns to the attention of the CMT.

- c. The Contractor shall not communicate, directly or indirectly, with representatives of the general and/or technical press, radio, television or any other communications media about the Contract, or any matter arising from the Contract, without the prior approval of the Authority.
- d. The Authority may seek from the Contractor support in relation to media enquiries relating to this Contract. The Contractor shall submit a quotation to the CMT clearly showing an estimate of the costs that would be incurred and the proportion of those costs that the Contractor would expect the Authority to pay. No work is to be undertaken against such a requirement without the prior written consent of the CMT.

## **27. NOTIFICATION OF A RISK EVENT**

Where the Contractor perceives the likelihood of an Authority owned risk event, the Contractor shall issue a notification to the CMT dated with the date on which it was sent. Such a notification shall identify the risk, evaluate the impact and where feasible make recommendations on how best to mitigate against an occurrence.

## **28. TRADE TRAINING**

- a. **Removed – Intentionally Left Blank**
- b. **Removed – Intentionally Left Blank**
- c. **Removed – Intentionally Left Blank**

d. The Contractor shall provide all current training data for the use of each SFF within 4 weeks from award of contract. The data will be in the form of a local training syllabus, and will include standard operating procedures for all SFF Booth's, DMS facilities, PMS booth and cabinet vestibules and ancillary equipment used in the SFF (Solvent Recovery Unit / Spray-gun cleaner / Can Crusher / Paint mixing equipment). The Authority will be responsible for the review and approval of training courses to be provided by the Contractor.

e. The Contractor shall be responsible for all future design of courses to take account of changing practices and deliver to all personnel employed at the SFF current appropriate training to carry out the required outputs of the SFF. All such course material and associated intellectual property (See DEFCON 703) shall be the property of the Authority, being made readily available to the Authority throughout the life of the Contract to use as the Authority sees fit.

## **29. LIQUIDATED DAMAGES**

a. The incentivisation model at Annex C is looking at a turn around time for each scheduled maintenance and off aircraft component as defined at Annex G. Where the Contractor fails to meet these defined time scales liquidated damages shall be payable as prescribed in Annex C for each day an aircraft or its off aircraft components are returned late to the Authority. It is accepted by both parties that the charges detailed in Annex C represent a genuine pre-estimate of the costs to the Authority for such late return of aircraft or components.

b. The Authority shall notify the DBS Finance (DBSF) of the LD claim by issuing a Form DAB 1 'Request to Invoice'. DBSF shall then issue an invoice to the Contractor in order to seek recovery of the amount due.

### **30. FORCE MAJEURE**

If, by reason of any acts of nature, war, hostilities, national strike or of any fire at any of the premises associated with meeting the requirements of this Contract or those of his suppliers, the Contractor shall be unable to meet the commitments defined within this Contract, the Contractor shall, immediately upon becoming aware of their continued inability to meet defined outputs at Annex G, inform the Authority in writing by e-mail, letter or fax of his claim for a temporary exemption from Annex C for a period of time to be agreed with the CMT. The Contractor shall immediately prepare and submit a plan to the CMT, showing how they intend to recover the situation. This shall be used by the CMT to determine the continued viability of this Contract. Any exemption to the KPI shall be under constant review by the CMT and can be withdrawn at any time should the Contractor not use all agreed endeavours to recover the situation to the satisfaction of the Authority as defined within the recovery plan.

### **31. STATUTORY OBLIGATIONS**

a. The Contractor shall comply with and give all notices required by any Act of Parliament or any instrument, rule, or order made under any Act of Parliament or any regulation or bye-law made under any applicable law or made by any local authority or statutory undertaking which has jurisdiction in relation to the operation of the SFF whether or not the same is binding on the Authority.

b. If such future notices should affect the cost or performance of the Contractor, the Authority and the Contractor shall agree a suitable adjustment to the Contract.

### **32. CO-OPERATION WITH INQUIRIES**

a. In the event that an accident or incident occurs and that an investigative Board of Inquiry or Unit Inquiry is convened in accordance with standing regulations, the Contractor shall make available to the Officer in Command (OIC) of that inquiry all relevant information and facilities, including access to his employees and those of his agents or sub-contractors for the purpose of immediate investigations. If so requested by the OIC of the investigation, the Contractor shall undertake his own investigation into, for example, flight safety accidents or incidents and shall submit written reports to that Officer.

b. In connection with any such Inquiry, the Contractor shall take all reasonable steps to seek to ensure that any employee of the Contractor, his agent or sub-contractor, whose evidence may assist the Inquiry in reaching its findings attends and gives evidence to the Inquiry. If any of the duties of the Contract are sub-contracted, the Contractor shall include as a condition in the sub-contract a stipulation that the sub-contractor shall make similar provisions in his own contracts of employment.

c. In such circumstances the Contractor can approach the CMT for a full/partial dispensation from the incentivisation model within this Contract. Dispensation shall not unreasonably be withheld should the Contractor clearly demonstrate to the CMT the resources being re-deployed to satisfy the requirements of the inquiry.

### **33. AUTHORITY OBLIGATIONS UNDER THE CONTRACT**

In order to secure the success of this Contract the Authority recognises that it must meet its obligations to the Contractor. The primary obligations have been mentioned within the body of this Contract and the Authority regards these as essential to secure the success of this Contract. Should the Authority fail to meet these obligations the Contractor can seek special dispensation from Annex C, the incentivisation model, which shall be discussed at the Contract Review Meetings. Should the Authority fail to meet an obligation that the Contractor can clearly demonstrate has had a financial cost, in accordance with DEFCON 643 Pricing Conditions, the Contractor shall submit a quotation to the CMT for the recovery of such costs, which shall not be unreasonably withheld.

### **34. CONTRACTOR'S RESPONSIBILITY**

Notwithstanding any official approval of, or expression of satisfaction with, any Drawings, Specifications, Schedules, or any other relevant Technical, Administrative or other Documents or Data by the Authority, the Contractor shall be wholly responsible for delivering output which are fit for purpose and which meet the requirements of the Statement of Requirements at Annex A, while being delivered within the timeframes defined at Annex C.

### **35. NUISANCE AND POLLUTION**

a. The Contractor shall take all reasonable precautions to prevent a nuisance or inconvenience to the owners, tenants or occupiers of other properties and to the general public and shall be responsible for, and shall make good to the Authority, all costs and expenses reasonably and properly incurred by, and any damages awarded against, the Authority in connection with any claims or proceedings made or brought against the Authority for nuisance relating to or arising out of the operation of the SFF.

b. The Contractor shall comply with all legislation and the requirements of any statutory authority relating to the protection of the environment or human health (including, without limitation, the Environmental Protection Act 1990, the Water Resources Act 1991 and the Environment Act 1995) whether or not such legislation or requirements are binding on the Authority.

c. The Contractor shall be responsible for, and shall make good to the Authority, all costs and expenses reasonably and properly incurred by, and any damages awarded against, the Authority in connection with any claims or proceedings made or brought against the Authority arising in respect of:-

- i) any failure to comply with such legislation or requirements; or
- ii) any act or omission of the Contractor his employees, agents or supply chain members which results in pollution of land, water or air due to the release or escape (into any

environmental medium) of substances or articles capable of causing harm to man or any other living organisms.

d. In Condition 35c(ii), 'harm' means harm to the health of living organisms or other interference with the ecological systems of which they form part and, in the case of human beings, includes offence to any of their senses or harm to their property.

e. The Contractor shall not be liable for any pre-existing conditions on the understanding that the Contractor has not further aggregated such a condition. In such circumstances apportionment of liability shall be agreed between the Authority and Contractor.

### **36. INSURANCE**

a. The Contractor shall effect and maintain the following insurance policies for the duration of the Contract:

- i) Employer's liability insurance in respect of persons in his employment.
- ii) Insurance for costs and expenses arising from, or in connection with, the Contract and properly incurred by the Authority in the replacement, repair or reinstatement of any aircraft the subject of works under this Contract for the sum not exceeding £5 million for each and every incident.
- iii) Public Liability Insurance in the sum of up to £5 million to cover liability for personal injury loss or damage to any persons and loss and / or damage to property arising from, or in connection with the provision of the Contract which is not covered by sub-paragraph i) and ii) above. The Contractor's insured liability under DEFCON 076 shall be subject to a £5 million limit in respect to property. Notwithstanding this Condition 36 (iii) the Contractor's liability for death or personal injury remains unlimited.
- iv) Professional indemnity insurance up to £10 million per event and in aggregate.

b. The Authority shall have the right to receive on request a copy of broker's certificates for the insurances effected or held. The Contractor shall within 21 days from the date of award of the Contract and also within 21 days of any subsequent renewal or expiry date of relevant insurance's, send to the CMT a certificate from his insurer or broker attesting that appropriate insurance policies have been effected.

c. If, without the approval of the Authority, the Contractor fails to effect and maintain the relevant insurance, the Authority may effect appropriate insurance cover and deduct the cost of doing so from any payments due to the Contractor under the Contract.

### **37. HEALTH AND SAFETY**

a. The Contractor and any sub-contractors engaged by him, shall comply with all relevant Health and Safety Legislation, MOD Health and Safety Policy and the requirements of the Establishments Health and Safety Policy(ies).

b. The Contractor's Health and Safety Representative shall be responsible for ensuring that the

Contractor's employees and sub-contractors working within the SFF are kept fully informed on Health and Safety matters related to the Contract.

c. The Contractor shall hold within the SFF, and maintain, a controlled copy of his organisation's Health and Safety Management System.

d. The Contractor shall integrate into the Establishment's Health and Safety organisation as required and shall participate fully in such meetings, discussions and committees as required.

e. The Contractor is responsible for drawing to the attention of the HSE and the CMT any procedures, practices or processes which he proposes to introduce and which may affect Health and Safety.

f. The Contractor shall monitor the activities of his own staff delivering output against this Contract and sub-contractors, to ensure compliance with both legislative and any appropriate MOD Health and Safety Policy requirements provided by the CMT. The Contractor shall keep records to demonstrate that this is being carried out and shall permit the Authority access to such records at all times.

g. The Contractor shall carry out such checks that are necessary to ensure that his own staff and all sub-contractors engaged by him are competent and capable of carrying out their duties. A record of all pre-contract assessments of all staff and supply chain members shall be kept up to date and readily available for inspection by the Authority.

h. The Contractor shall provide suitable health and safety induction training for his own staff delivering output against this Contract, sub-contractors and all other personnel employed within the SFF in support of any activity described within this Contract, with regard to the health and safety requirements of the Establishment(s) and ensure that all are made aware of any potential hazards and the procedures relating to the safe management of the Site.

i. The Contractor shall also provide all visiting contractors who require access to the SFF with a mandatory health and safety brief relevant to the SFF activities. The Contractor is to ensure no access to the SFF is to be given to any visiting contractor who has not have a current pass that shows they have been given a 4Cs Health and Safety brief.

j. The Contractor shall record all accidents that occur within the SFFs. Records shall be kept that are readily available on site and reported to the CMT at the quarterly contract review meeting. Serious accidents, incidents and ill health, reportable under the Reporting of Injuries Diseases and Dangerous Occurrences Regulations (RIDDOR), must be notified to the CMT at the first available opportunity.

k. The Contractor shall ensure that all accidents and incidents that occur on site are properly investigated and corrective actions are taken. A copy of the investigation of a serious injury or a fatal accident shall be submitted to the CMT within 2 weeks of such an event. Where the Contractor believes that such a timeframe is unachievable, they are to immediately speak to the CMT, agreeing a more realistic timeframe.

l. The Contractor shall notify the CMT at the first available opportunity of;

- i) any fatalities on site.
  - ii) any accident or incident that involves the attendance of the Health and Safety Executive.
  - iii) any enforcement action taken by the Health and Safety Executive against the Contractor, or sub-contractors.
- m. The Contractor shall provide the CMT with a suitable report, at each contract review meeting, on the fulfilment of his responsibilities arising from the health and safety aspects of the project.
- n. The project may be subject to random site inspections, at short notice, by the Authority. The Contractor shall provide every assistance in carrying out any such inspection and make available any relevant documents and records to the Authority's representatives as requested.
- o. The Authority will provide free of charge solvent emission permits where required throughout the life of the Contract where these are solely the result of the Authority's output requirements. Where the Contractor's additional SF activities (i.e. 3PIG) increase the solvent emissions to a level that results in the requirement for a solvent emissions permit to be held this will be the responsibility of the Contractor to obtain such a permit. In order to maintain compliance Serco are to provide the station environmental protection officer with a quarterly return of volatile organic compounds usage for year to date.

### **38. CHANGE IN LEGISLATION**

If, directly and solely as a result of a Change in Law or proposed potential changes in legislation prior to the time of tender submission, there is a required change to the extent of any obligations under the Contract, the Contractor shall notify the Authority. The Contractor shall give written notice to the Authority of the required change arising from the Change in Law and thereafter, the provisions of DEFCON 503 shall apply. For the purpose of this clause, Change in Law shall include changes to regulations applicable to waste disposal including landfill tax.

### **39. TUPE 1981**

Annex V Refers

### **40. EXISTING CONTRACTS CREATED OFF-LINE**

a. Where an offer and acceptance has already taken place off-line to establish the Contract, the Authority shall issue a Purchase Order Message in order to establish Unique Order Identifiers for the items on the SoR for the purpose of subsequent CP+F transactions. The Contractor shall respond with an Acknowledgement Message. In these circumstances, Purchase Order Messages serve only to convey to the Contractor the information necessary against which to supply an item, prepare a delivery label and to submit an Invoice Message; the Purchase Order Acknowledgement Message serves only to confirm receipt of a Purchase Order Message. No new Contract is understood to be formed by this Purchase Order Transaction.



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

**41. GOVERNMENT-FURNISHED FACILITIES (SEE ALSO DEFCON 611)**

a. The Contractor shall not use any Government Furnished Facility (GFF) for any purpose not pursuant to his duties under the Contract or an activity not agreed with the CMT to generate third party income for the Authority.

**b. ~~Removed – Intentionally Left Blank~~**

c. The Authority shall have the right to make any alteration or addition to the facilities and buildings allotted. The Contractor shall not alter, modify or otherwise cause to be changed or amend in any way any building, electrical service or the connection of any machinery or plant, nor construct any new buildings, facilities or structures without the prior approval of the CMT in writing. Where such approval is given, the work shall be carried out to the satisfaction of the CMT.

**d. ~~Removed – Intentionally Left Blank~~**

e. All maintenance and repair of allotted facilities and buildings, excluding those within the scope of Annex AA which are the responsibility of the Contractor, shall be performed by the Authority without charge to the Contractor unless such repair is a result of accidental or intentional damage attributed to the Contractor. The Contractor shall be responsible for monitoring the conditions of the facilities and buildings and initiating requests for maintenance and repair without delay. Where the Contractor believes such an arising has or is shortly to occur, the Contractor shall report his concerns to the CMT, together with a risk and impact assessment of the situation. The CMT reserve the right to accept/reject such an assessment and shall liaise with all appropriate stakeholders to resolve the situation.

f. The Authority shall provide, free of charge, and solely for the purposes of the Contract:

- i) Electricity Supply. Up to 3KW per socket for the use of plug-in hand tools and any temporary lighting. The Contractor shall bear the cost of any extension or fittings necessary to make connections to the Establishment's mains and the materials used shall be of an approved type, protected by fuses or circuit breakers and in good condition.
- ii) Water. A sufficient supply of water for execution of the works is available on the site from the local Water Undertaking's mains. The Contractor shall make any necessary approved connections at such points as required on the approval of the CMT responsible for the SFF building(s) maintenance.
- iii) Foul and Surface Water. The Contractor may connect up to the foul and surface water drains as approved by the Property Manager.
- iv) Telephones. The Authority shall allow the use of calls on the MoD internal network within the Establishment where the Contractor is employed. However, the Contractor shall

arrange for his own Level 0 external telephone to be installed and shall pay all the costs thereof.

- v) Heating, lighting, drinking water and demineralised water.
- vi) Furniture and similar office equipment that is already at the unit as identified within each establishments barrack furniture shall be free issued to the Contractor and treated in the manner as defined at Condition 42.
- vii) MoD and RAF Forms specified for the performance of duties under the Contract.
- viii) Supply of compressed gases required to undertake this Contract which are an integral part of each SFF.
- ix) All computers and IT equipment within the SFF connected to the LDCN (Local Data Computer Network) shall be provided and maintained throughout the life of the Contract and the CMT will provide the Contractor, at no cost, with appropriate IGS accounts as required.

g. The Authority accepts that throughout the duration of the Contract all GFF shall be provided on a continuous basis, in a timely manner and shall remain fit for purpose.

h. Whilst the Authority shall endeavour to ensure the continuity of the allotted property, services and facilities, any failure to do so shall not be deemed to be a breach of the Contract. Under such circumstances the Contractor shall continue to perform the Contract in accordance with any change agreed with the CMT that reflects the limitations being placed upon the Contractor as a result of the failure. Such events shall be subject to the provisions defined at condition 33.

i. Where the Contractor does not have direct access to IT required for the Contract connected to the LDCN at any station, the Authority shall make such access available at a suitable location within the station during normal working hours as agreed with the CMT and/or local station management.

#### **42. GOVERNMENT-FURNISHED EQUIPMENT (GFE)**

a. Prior to the Contractor taking custodianship of each SFF the Contractor shall certify possession of all the individual items on the SFFs technical inventory generated by the units(s) Supply Control and Accounting Flight (SCAF) and Barrack equipment which consists of all furniture that is currently, generated by the Barrack Wardens. In certifying these documents the Contractor must have satisfy themselves that the GFE is in full working order, with no potential Health and Safety issues outstanding. This shall be achieved by:-

- i) checking the GFE to verify that it corresponds with the GFE lists generated by SCAF and the Barrack Warden.
- ii) conduct a reasonable visual inspection; and

- iii) conduct any additional inspection and testing as may be necessary and practicable to check that the GFE is not defective or deficient for the purpose for which it has been provided.
- b. In the event that any GFE is found to be defective and required, the Contractor shall submit a request to the CMT who shall either arrange the item to be replaced or authorise the Contractor to purchase a replacement that offers value for money with payment made against item 4 of the SOR.
- c. At either termination or time expiry of this Contract, the Contractor shall offer back the GFE as defined within both the SCAF and Barrack Wardens inventory documents at contract award, in good general working condition, being fully operational. Where this is not the case the Contractor can either undertake all work to bring them up to this standard or replace with new at no cost to the Authority.
- d. The CMT shall withhold the Contractors final Monthly Management Fee (MMF) until such time as they have satisfied the CMT that they have returned all of the GFE identified within both the technical and barrack inventory lists at contract award in a satisfactory condition. In the event that this has not been completed within 2 weeks of contract end, the Authority shall replace any deficiencies identified with new equipment. The balance of the last MMF shall be paid to the Contractor less actual costs of the replacement GFE. All GFE purchased by the Authority to make good a deficiency shall attract a 20% administrative surcharge on the VAT ex purchase price, in recognition of the purchasing effort required by the Authority.
- e. Only where the CMT has given prior written notification that such replacement GFE is not required is the Contractor released from this requirement.
- f. The Contractor is at liberty to purchase new technology and replace GFE to increase efficiency as they so choose on the understanding that it complies with all statutory regulations and is fit for purpose. At contract end and at the discretion of the CMT, the transfer of such GFE to the Authority or nominee at contract end may be used to offset deficiencies in the GFE that the Contractor is expected to return to the Authority.
- h. Prior to purchasing any equipment that potentially impacts on the Authority's air publications (APs and JSPs), the Contractor must gain CMT approval, detailing any impact on the quality of the output, efficiencies etc that such equipment brings. Any such proposals may be the subject to an agreed gainshare split in the efficiencies made by the purchase by the Contractor of such equipment, condition 7 to this Contract refers

i. **Removed – Intentionally Left Blank**

#### **43. CONSUMABLES AND BASIC TOOLS**

- a. At Annex L is a list of all consumables and basic tools for which the Authority shall supply to the Contractor at the appropriate prices (which shall increase by no more than 2.5%pa). In determining the stock holdings that the Contractor shall wish to hold at the SFF or within the RAF Supply Squadron, the Contractor shall liaise with each unit's Supply Squadron and for direct supply items, the CMT, to determine optimal stock holding of consumables that ensure continuity of

service. Unless agreed with the Supply Squadron or the CMT, routine priority orders are to be used to calculate the stock holdings and higher priority orders are only to be used where there is a significant risk on securing the required output of the SFF. All such consumables will be delivered to the SFF and it is the Contractors responsibility to check the delivery against the manifest for accuracy and relocate all delivered items within the storage areas provided against this Contract.

b i). **Removed – Intentionally Left Blank**

b ii). The Authority shall provide 6 months worth of consumables at RAF Mount Pleasant as GFX for the duration of the Contract in accordance with Defcon 611. It is the responsibility of the Contractor to maintain the inventory at a working level of 6 months supply for the duration of the Contract.

c. The RAF already adopts a lean supply for paints and solvents where all such products are delivered to the SFF within 4 weeks for order. Contractors are to take this into account and the scheduled aircraft maintenance program to determine stock holdings necessary to be held at either the Supply Squadron or the SFF.

d. Using Annex L, the Contractor shall submit a completed F2251 daily/weekly etc to the supply Squadron who shall order the consumables/hand tools on behalf of the contractor.

e. On the Contractor being aware of being supplied with any fault, damaged or incorrectly supplied items, the Contractor shall immediately return such items to the Supply Squadron or for direct supply items, contact the CMT to make necessary arrangements for their exchange. All such occurrences are to be accompanied with a brief narrative of the reason why the item(s) were rejected. The Contractor shall need to re-order the consumables from Supply Squadron or as directed by the CMT which may warrant a higher priority code if the shortage potentially impacts on output.

f. **Removed – Intentionally Left Blank**

g. The Contractor can seek from the CMT dispensation from the Annex C incentivisation model where he can demonstrate to the CMT both the impact of any stock out as a result of late delivery, and has demonstrated that he has made every endeavour to maintain output by either sourcing the products himself against item 4 of the SoR, or transferred stock from other SFFs.

h. **Removed – Intentionally Left Blank**

#### **44. PAYMENT FOR CONSUMABLES AND GFE**

a. Under Condition 43, above, the Contractor(s) are to order all consumables as defined at Annex L from the Authority, by the completion of a RAF form 2251) as at Annex X. To speed up the process the Contractor shall send their orders using this form to the Supply Sqn at each unit. On receipt of the consumables, the Supply Sqn shall reconcile the deliveries against each order RAF form 2251 and issue back to the Contractor the original order. The Contractor shall retain copies of all RAF Form 2251s.

- b. The Contractor shall raise purchase orders in their stock system which are an exact match of the of the RAF form 2251 raised by each of the Contractor's Sites and submitted to the local Supply Flight.
- c. The Contractor shall produce an electronic report from their stock system of all stock confirmed as received by GRN's (goods receipt notes) and MoD Internal Issue Vouchers that have been delivered in the month prior to the date of the report being run. A copy of the Contractor's stock received report shall be submitted to the CMT electronically within 3 weeks of the end of the month covered by the report.
- d. The Contractor shall undertake its own reconciliation of receipted orders within 5 full working days and inform the CMT via email of any discrepancies or damage to the order. There shall be no recourse after this date unless the Contractor can demonstrate that such a defect could not have been identified before the application of the consumable. There shall be no recourse after the initial two days for any GFE supplied, as the Contractor shall be expected to ensure the equipment is fit for purpose within the initial 2 days.
- e. The CMT shall take account of any consumables or GFE where the Contractor has stated a problem and until the issue has been resolved, the Contractor shall not be expected to pay for the aforementioned materials, but store in a suitable environment until the issues raised have been resolved with the CMT. The Authority accepts no responsibility for any incorrectly ordered items either wrongly ordered or in the wrong quantities and it shall be the responsibility of the Contractor to utilise them as he sees fit.
- f. The CMT will audit the Contractor's electronic stock report within 2 weeks of its receipt. Any queries or issues identified are to be resolved between the CMT and the Contractor. The CMT will notify the Contractor by e-mail when the validation has been successfully completed.
- g. The Contractor will on confirmation that the CMT has validated the Contractor's electronic stock received report raise an invoice via Exostar.

#### **45. THE FALKLAND ISLANDS**

##### **a. Food, Accommodation & Amenities**

All Contractor's personnel based at Mt Pleasant Airfield, Falkland Islands, will be entitled to single man accommodation with food being free of charge. The Contractor's Personnel will be entitled to use all paying facilities i.e., cinema, bars etc at the standard rates.

Personnel will not have access to Area 51 Internet facilities and are to use the Falkland Island Postal services for all correspondence back to the UK, having no entitlement to use the BFPO Air mail.

If the Contractor decides to base employees in Stanley the Contractor needs to be aware that there are local 'taxation' issues as the employees will become residents of the Falkland Islands and liable for local taxation.

##### **b. Medical**

The Contractor shall arrange for the completion of the medical declaration and provide the CMT with such a declaration for all staff to be employed at MPA at least 6 weeks prior to the employee starting work. Without such a declaration the Contractor's personnel will not be able to travel to the Falkland Islands.

If the Contractor considers a medical as being necessary, the Contractor shall arrange it at no cost to the Authority before the employee travels to the Falkland Islands. The Contractor shall ensure that his employees are medically fit at all times whilst employed on the Contract and the Contractor shall, if necessary, arrange for any employee to be medically examined to ascertain their fitness at no cost to the Authority. The Authority reserves the right to decide that an employee is medically unfit for employment on the Contract at any time throughout the life of this Contract and will be entitled to a free flight back to the UK. In the event that a Contractor's employee proves to be unfit, having made a false medical declaration, the Contractor shall remove the employee from MOD premises at the Contractor's expense as required by the Authority.

Whenever medical evacuation is deemed necessary by the Forces Medical staff, it will be provided free of charge to a UK or South American airport at the Authority's discretion, except that any extra costs incurred by the Authority e.g. extra staff or re-routing of flights, solely as a result of the evacuation of a Contractor's employee will be charged in accordance with MoD regulations. The Contractor will be required to arrange onward transportation to a hospital or for paying the full cost for any further evacuations or treatment in MoD facilities.

Dental care is available at MPA, but will be charged at UK NHS rates. MPA has no facilities to undertake any "cosmetic" denture care.

#### **c. MT Transportation**

No Authority vehicles will be provided at MPA for use by the Contractor. Should the Contractor elect to purchase a vehicle to support this Contract at Mt Pleasant Airfield, the Authority will accept support maintenance costs for the vehicle as defined in Annex B although the Contractor will be responsible for making their own arrangements for its maintenance to be undertaken. The Authority will charge for all MoD issued fuel required by the vehicle at the Authority's rate in force at the time of provision. Such recovery will be done at local level within the Falkland Islands recovery arrangements.

The Contractor needs to be aware that the road between Stanley and MPA is regularly closed throughout the year, particularly winter as a result of hazardous driving conditions. Should the Contractor choose to either employ or accommodate UK resident staff at Stanley, this will be at the Contractor's own risk. As a result of road closure the Contractor and will have no redress against the Authority for additional costs nor seek any exemption from the incentivisation model.

#### **d. Flights to the UK or Ascension Islands**

Flights shall be provided by the RAF free of charge to (UK resident) SFF employees, from and to RAF Brize Norton at both the start and finish of each employee's employment at the MPA, providing the employee is employed at MPA for a minimum of 4 months. In addition Contractor's

SFF employees (UK resident) being employed at MPA for a year will be entitled to one return flight, via RAF scheduled flights, to RAF Brize Norton after a minimum of 6 months service. After the Contractor's employee has been at MPA for more than a year they will be entitled to one return flight to RAF Brize Norton after every 6 months, unless they are permanently leaving MPA within 3 months of a 6 month entitlement. In such circumstances the Contractor's employee will be expected to work at MPA for a duration of up to 9 months before their final flight to the UK. All such visits home will be provided at the Authority's expense, provided they comply with this condition.

Any costs incurred for any accommodation whilst in transit on Ascension, the liability falls either with the individual or the Contractor. The Authority will only be liable for any accommodation costs on Ascension where unforeseen aircraft operating delays (e.g. high winds, AOG, etc) resulting in accommodation is required. The Authority's liability for the additional cost is limited to the time between the original delayed departure and the departure time of the re-arranged/next available flight from Ascension to MPA, whichever is the earlier.

The Authority will provide no free flights to or from the Falkland Islands for any local Falkland Islanders employed by the Contractor.

In the unlikely event that the Authority is unable to provide flights back to the UK within 2 weeks of the agreed timeframe at the end of the Contractor's term of employment within the Falkland Islands, the Contractor is at liberty to make cost effective alternative arrangement to get back to the UK which the Authority will pay for against item 4 of the SOR. The Authority will not offer such an arrangement for the once yearly entitled return to the UK, but will endeavour to ensure the contractor is on the next available flight. Should the Contractor make alternative arrangements back to the UK, such arrangements will not be at the Authority's expense.

The Authority upon reasonable request from the Contractor will provide free flights and accommodation in accordance with this Contract condition, for management personnel and their Subcontractors directly required to meet the defined SFF obligations. The CMT will not make the appropriate arrangements until they are satisfied as to the purpose of the visit.

#### **46. ON STATION TRANSPORTATION**

a. The Contractor is to provide all Motor Transportation (MT) for their employees working at each SFF. The Contractor cannot call upon any station resources for the running of, or upkeep of any Contractor owned vehicle(s). All operating licences for such vehicles to operate on RAF establishments will be issued free to the Contractor.

b. **Removed – Intentionally Left Blank**

c. **Removed – Intentionally Left Blank**

d. For the purpose of the incentivisation model, the Contractor is not to expect access to Authority owned MT vehicles and for planning purposes are to work on the principle that none will be made available. The Contractor cannot use lack of/no access to Authority owned MT vehicles as part of any mitigation against the incentivisation models described within this Contract

#### **47. PERMANENT/TEMPORARY MEDICAL DOWNGRADE OF PERSONNEL.**

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**48. PRECEDENCE**

In the event of any conflict between the Contract and any document referred to therein, then the wording of the Contract shall have precedence.

**49. COMPLIANCE WITH THE ELECTRONIC TRANSACTIONS AGREEMENT**

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**50. SUPPLY OF INFORMATION ABOUT SUBSTANCES REFERRED TO IN THE MONTREAL PROTOCOL**

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**51. KYOTO PROTOCOL SUBSTANCES**

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**52. ELIMINATION OF ASBESTOS**

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**53. ELIMINATION OF CADMIUM**

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**54. MEETINGS AND REVIEWS**

a. **Removed – Intentionally Left Blank**

b. The Authority and Contractor shall have Contract Review Meetings only where the CMT has concerns relating to the performance of the Contractor. The CMT shall give at least one weeks notice to the Contractor for the convening of the meeting and may request prior to the meeting a report showing both the consolidated performance since award of the Contract or for any other duration as so chosen by the CMT.

c. This report shall consist of:-

- i) Number and type of Scheduled Maintenance's undertaken since award of Contract
- ii) Current hours of output delivered for the year to-date
- iii) Projected hours of output for the whole year
- iv) Number and type of rejections as a result of poor quality control.
- v) Narrative explanations for poor performance
- vi) Generation of third party revenue over defined period of time.



d. At these meetings, should failure to meet the minimum requirements of the KPI be found to be the responsibility of the Contractor, Annex C refers, the Authority reserves the right to either give 6 months notice of terminating of this agreement in accordance with DEFCON 514 or give the Contractor 14 days to provide the Authority, for approval a recovery plan.

e. Such meetings shall alternate between the Authority at MoD Abbeywood and the Contractor at RAF Waddington with the Secretariat duties being carried out by the hosting party who shall be responsible for producing bullet point actions within 10 working days of the meeting, for distribution and where necessary approval by attendees.

#### **55. SUPPLIER DEVELOPMENT SCHEME – SUPPLIER AND CUSTOMER PERFORMANCE MEASUREMENT PROCESS**

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#### **56. LOAN OF AUTHORITY OWNED ACCOMMODATION FOR THE CONTRACTORS MANAGEMENT TEAM. (CMT)**

While it is appreciated that there are benefits to the Authority in having the CMT located within an Authority owned facility and that in accordance with Para 2 of DEFCON 76, the Authority will provide such accommodation free of charge at Government establishments and that this also applies to the formation of the Contractors own CMT, DEFCON 76 gives no guarantee that accommodation for the Contractors CMT will be available at the Contractors preferred location. While the Authority will endeavour to meet the Contractors CMT accommodation requirements, as the CMT location is not critical to ensuring the success of this initiative, should the Contractor not accept accommodation offered by the Authority, the Contractor will be expected to provide their own CMT accommodation at no cost to the Authority.

#### **57. CONTRACTOR ACCESS TO LOGISTIC INFORMATION SYSTEMS**

It is a requirement of this Contract that the Contractor and his sub-contractor/s from time to time access data held on systems owned by the Authority. These include, but may not be limited to, Support Chain (SC) transactional Logistic Information Systems (TLog IS), including SCCS, USAS MIS and MJDI. All Contractor personnel using SC TLog IS are to sign a confidentiality declaration to be signed on appointment (MOD Form 134 - Revised 04/08 - the Official Secrets Act) and a confidentiality declaration to be signed on termination of appointment (MOD Form 135 - Revised 04/08 - the Official Secrets Act). The Contractor is to ensure that all personnel are briefed that they are to only access data pertaining to those assets for which the Contractor is directly responsible. The Contractor shall maintain a list of such personnel and provide evidence of compliance with the foregoing to the Authority as and when required.

#### **58. SURFACE FINISH MATERIALS TO NON-SURFACE FINISH PERSONNEL**

a. The Contractor shall continue to ensure the strict control and issue of Surface Finish (SF) materials. The Contractor shall not satisfy SF material demands for use by non-SF personnel if the demand is placed through the Paintshop Inventory. Non-SF personnel are to be instructed to place demands for authorised products only to satisfy local repairs (e.g. touch-up repair kits) through a

Unit authorised inventory. The Contractor shall not supply other specialist materials for local repairs (e.g. Laminar X500) at all.

b. Where SF materials are required for deployed units, these are to be demanded in advance through the Unit Logistic Focal Point (LFP) and not through the Paint shop inventory. However, where specialist materials are required, the Contractor may be requested by the CMT to supply these to the end user in an un-mixed condition following submission of an up-to-date COSHH and Risk Assessment for the process to be undertaken. It will then become the end user's responsibility to ensure that all appropriate Health and Safety precautions are followed when using these materials.

## 59. OUT OF SCOPE ACTIVITIES

a. For any work that is considered by the Contractor to be outside the scope of the activities identified at Annex G of the Contract they shall submit an Annex I for consideration by the Authority utilising the agreed charging rates as detailed at Annex B and including the details of the customer's UIN against which payment for the work is to be made.

b. The Project Manager (or his nominated Representative) shall approve the Annex I at Part 3 and return it to the Contractor. If for any reason the Project Manager (or his nominated Representative) does not accept that this work is outside the scope of the Contract then he shall inform the Contractor accordingly.

c. Any work carried out by the Contractor, which has not been authorised shall be deemed to have been completed/conducted entirely at the Contractor's **own risk**.

d. Claims for payment for work outside the scope of the activities identified at Annex G of the Contract shall be made in full against the UIN of the originating customer through CP&F, accompanied by a fully endorsed Annex I. The CMT, following confirmation from Project Manager (or his nominated Representative) of satisfactory receipt of the completed task(s), shall then promptly raise a requisition in CP&F and inform the Contractor to submit their invoice in CP&F against the purchase order number for the requisition. The CMT will then receipt the invoice for payment.

## 60. OUT OF HOURS

a. The Contractor may be required to provide SF support outside of core working hours operated at each Unit to meet operational requirements in accordance with the following information and the table below:

Operating System / Out of Hours Periods	Units Applicable	Normal Operating Hours	Notice Period for Out of Hours SF Work Requirement	Labour Rate Applicable


\*denotes working days

\*\* Air Bridge also supported by On-Call arrangements for weekends, public holidays and periods of SF facility stand-down in accordance with Condition 60f.

\*\*\* MPA also work Saturday mornings between 0800 - 1200 Hrs as standard operating hours.

b. Where Units operate a two-shift system, the Contractor shall provide SF support from 0800 to 0200 hours (some local variations may apply) Mon - Fri as required to meet the SF output task. Where out-of-hours SF support is requested outside of the times identified above and more than 5 days notice of the SF requirement has been provided to Contractor, the Contractor will be entitled to claim an overtime premium of 50% of the Unit Ad-Hoc labour rate for the hours worked. Where less than 5 days notice of the SF requirement is received, the Contractor will provide his best endeavours to satisfy the requirements and shall be entitled to claim an overtime premium of 100% of the Unit Ad-Hoc labour rate for the hours worked.

c. Where Units have traditionally operated a two-shift system but the Contractor has elected to run a single-shift system, the Contractor shall provide night shifts from 1700 to 0200 hours as required to meet the SF output task. These shall be at no additional cost to the Authority where more than 5 days notice of the SF requirement has been provided to Contractor. Where less than 5 days but more than 2 days notice of the SF requirement is received, the contractor will be entitled to claim an overtime premium of 50% of the Unit Ad-Hoc labour rate for the hours worked. Where less than 2 days notice of the SF requirement is received, the Contractor will be entitled to claim an overtime premium of 100% of the Unit Ad-Hoc labour rate for the hours worked. Where out-of hours SF support is requested outside of the times identified above and more than 5 days notice of the SF requirement has been provided to Contractor, the contractor will be entitled to claim an overtime premium of 50% of the Unit Ad-Hoc labour rate for the hours worked. Where less than 5 days notice of the SF requirement is received, the Contractor shall be entitled to claim an overtime premium of 100% of the Unit Ad-Hoc labour rate for the hours worked.

d. At Units that have traditionally only operated a single-shift system, the Contractor shall provide out-of-hours support as required to meet the SF output task. Where more than 5 days notice of the

SF requirement is received, the contractor will be entitled to claim an overtime premium of 50% of the Unit Ad-Hoc labour rate for the hours worked. Where less than 5 days notice of the SF requirement is received, the Contractor will provide his best endeavours to satisfy the requirements and shall be entitled to claim an overtime premium of 100% of the Unit Ad-Hoc labour rate for the hours worked.

e. At all Units, out-of-hours SF support on Sundays and Public Holidays shall attract an overtime premium of 100% of the Ad-Hoc labour rate for the hours worked irrespective of the notification period provided to the Contractor.

f. Unsociable Hours - In such cases, this work shall attract an overtime premium of 100% of the Ad-Hoc labour rate for the hours worked. Where less than 5 days notice of the SF requirement is received, the Contractor will provide his best endeavours to satisfy the requirements and shall be entitled to claim an overtime premium of 100% of the Unit Ad-Hoc labour rate for the hours worked.

g. Where the Contractor has arranged for his staff to attend outside of the SF facility core hours operated at a Unit and the task is subsequently cancelled at short notice (i.e. less than 5 days notice provided), the Contractor shall endeavour to utilise his staff on other routine SF tasks where these are available. Where this is not possible and cancellation of the task is supported by auditable Unit documentation, the Contractor shall be entitled to claim for the agreed task hours at the Unit Ad-Hoc labour rate plus the overtime premium applicable in accordance with Out of Hours working arrangements detailed above.

h. In the case of RAF Brize Norton the 24/7 operation of the Air Bridge requires that an On-Call system shall be provided by the Contractor to cover the period from cease of play on Friday evening to the commencement of normal working on Monday morning. This shall be at no additional cost to the Authority. (Note: Between the hours of 0300 and 0800 hrs Tues to Fri, no On-Call arrangements are routinely in place). The Contractor shall also provide On-Call arrangements to cover periods of SF facility personnel standown outside of the times stated above. These shall be at no additional cost to the Authority for days that are not identified as Public Holidays (with the exception of the period from Christmas Eve through to New Year's Eve inclusive which shall attract an On-Call rate of £25.00 per person per day). However, Public Holidays will attract an On-Call rate of £50.00 per person per day (covering the period from 0800 on the Public Holiday to 0800 the following day) for two personnel (due to health and safety considerations). In the event of the Contractor being called in to undertake SF activities to meet operational SF requirements not covered by the out of hours arrangements above, the Contractor shall be entitled to claim a minimum of 3 hours attendance per person and an overtime premium of 50% of the Ad-Hoc labour rate for the hours worked on Saturdays and 100% of the Ad-Hoc labour rate for the hours worked on Sundays and Public Holidays.