

Standardised Contracting Terms

SC1B

(Edn10/22)

1 Definitions - In the Contract:

Articles means, in relation to Clause 9 and Schedule 3 only, an object which during production is given a special shape, surface or design which determines its function to a greater degree than does its chemical composition.

The Authority means the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland, (referred to in this document as "the Authority"), acting as part of the Crown.

Business Day means 09:00 to 17:00 Monday to Friday, excluding public and statutory holidays.

Contract means the agreement concluded between the Authority and the Contractor, including all terms and conditions, , specifications, plans, drawings, schedules and other documentation, expressly made part of the agreement in accordance with Clause 2.c;

Contractor means the person, firm or company specified as such in the Contract. Where the Contractor is an individual or a partnership, the expression shall include the personal representatives of the individual or of the partners, as the case may be.

Contractor Deliverables means the goods and / or services including packaging (and supplied in accordance with any QA requirements if specified) which the Contractor is required to provide under the Contract in accordance with the schedule of requirements.

Effective Date of Contract means the date stated on the Contract or, if there is no such date stated, the date upon which both Parties have signed the Contract.

Firm Price means a price excluding Value Added Tax (VAT) which is not subject to variation.

Government Furnished Assets (GFA) is a generic term for any MOD asset such as equipment, information or resources issued or made available to the Contractor in connection with the Contract by or on behalf of the Authority.

Hazardous Contractor Deliverable means a Contractor Deliverable or a component of a Contractor Deliverable that is itself a hazardous material or substance or that may in the course of its use, maintenance, disposal, or in the event of an accident, release one or more hazardous materials or substances and each material or substance that may be so released.

Issued Property means any item of Government Furnished Assets (GFA), including any materiel issued or otherwise furnished to the Contractor in connection with the Contract by or on behalf of the Authority.

Legislation means in relation to the United Kingdom any Act of Parliament, any subordinate legislation within the meaning of section 21 of the Interpretation Act 1978, any exercise of Royal Prerogative or any enforceable community right within the meaning of Section 2 of the European Communities Act 1972.

Mixture means a mixture or solution composed of two or more substances.

Notices means all notices, orders, or other forms of communication required to be given in writing under or in connection with the Contract.

Parties means the Contractor and the Authority, and Party shall be construed accordingly.

PPT means a tax called “plastic packaging tax” charged in accordance with Part 2 of the Finance Act 2021.

PPT Legislation means the legislative provisions set out in Part 2 and Schedules 9-15 of the Finance Act 2021 together with any secondary legislation made under powers contained in Part 2 of the Finance Act 2021. This includes, but is not limited to, The Plastic Packaging Tax (Descriptions of Products) Regulations 2021 and The Plastic Packaging Tax (General) Regulations 2022.

Plastic Packaging Component(s) shall have the same meaning as set out in Part 2 of the Finance Act 2021 together with any associated secondary legislation.

Sensitive Information means the information listed as such in Schedule 4, being information notified by the Contractor to the Authority, which is acknowledged by the Authority as being sensitive, at the point at which the Contract is entered into or amended (as relevant) and remains sensitive information at the time of publication.

Substance means a chemical element and its compounds in the natural state or obtained by any manufacturing process, including any additive necessary to preserve its stability and any impurity deriving from the process used, but excluding any solvent which may be separated without affecting the stability of the substance or changing its composition.

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

2 General

- a. The Contractor shall comply with all applicable Legislation, whether specifically referenced in this Contract or not.
- b. Any variation to the Contract shall have no effect unless expressly agreed in writing and signed by both Parties.
- c. If there is any inconsistency between these terms and conditions and the associated documents expressly referred to therein, the conflict shall be resolved according to the following descending order of priority:
 - (1) the terms and conditions.
 - (2) the schedules; and
 - (3) the documents expressly referred to in the agreement.
- d. Neither Party shall be entitled to assign the Contract (or any part thereof) without the prior written consent of the other Party.
- e. Failure or delay by either Party in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of its rights under the Contract.
- f. The Parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a Party to it.
- g. The Contract and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English Law, and subject to Clause 15 and without prejudice to the dispute resolution procedure set out therein, the Parties submit to the exclusive jurisdiction of the English courts. Other jurisdictions may apply solely for the purpose of giving effect to this Clause 2.g and for enforcement of any judgement, order or award given under English jurisdiction.

3 Application of Conditions

- a. These terms and conditions, schedules and the specification govern the Contract to the entire exclusion of all other terms and conditions. No other terms or conditions are implied.
- b. The Contract constitutes the entire agreement and understanding and supersedes any previous agreement between the Parties relating to the subject matter of the Contract.

4 Disclosure of Information

Information received or in connection with the Contract shall be managed in accordance with DEFCON 531 (SC1) and Clause 5.

5 Transparency

- a. Notwithstanding another condition of this Contract, including 531 (SC1), the Contractor understands that the Authority may publish the Transparency Information to the general public.
- b. Subject to Clause 5.c, the Authority shall publish and maintain an up-to-date version of the Transparency Information in a format readily accessible and reusable by the general public under an open licence where applicable.
- c. If, in the Authority's reasonable opinion, publication of any element of the Transparency Information would be contrary to the public interest, the Authority shall be entitled to exclude such information from publication. The Authority acknowledges that it would expect the public interest by default to be best served by publication of the Transparency Information in its entirety. Accordingly, the Authority acknowledges that it shall only exclude Transparency Information from publication in exceptional circumstances and agrees that where it decides to exclude information from publication on that basis, it will provide a clear statement to the general public explaining the categories of information that have been excluded from publication and reasons for withholding that information.
- d. The Contractor shall assist and co-operate with the Authority as reasonably required to enable the Authority to publish the Transparency Information, in accordance with the principles set out above. Where the Authority publishes Transparency Information, it shall:
 - (1) before publishing redact any information that would be exempt from disclosure if it was the subject of a request for information under the FOIA and/or the EIR, for the avoidance of doubt, including the Sensitive Information.
 - (2) taking into account the Sensitive Information set out in Schedule 4, consult with the Contractor where the Authority intends to publish information which has been identified as Sensitive Information. For the avoidance of doubt the Authority, acting reasonably, shall have absolute discretion to decide what information shall be published or be exempt from disclosure in accordance with the FOIA and/or the EIR; and
 - (3) present information in a format that assists the general public in understanding the relevance and completeness of the information being published to ensure the public obtain a fair view on how this Contract is being performed.

6 Notices

- a. A Notice served under the Contract shall be:
 - (1) in writing in the English Language.
 - (2) authenticated by signature or such other method as may be agreed between the Parties.
 - (3) sent for the attention of the other Party's representative, and to the address set out in the Contract.
 - (4) marked with the number of the Contract; and
 - (5) delivered by hand, prepaid post (or airmail), facsimile transmission or, if agreed

in the Contract, by electronic mail.

b. Notices shall be deemed to have been received:

(1) if delivered by hand, on the day of delivery if it is a Business Day in the place of receipt, and otherwise on the first Business Day in the place of receipt following the day of delivery.

(2) if sent by prepaid post, on the fourth Business Day (or the tenth Business Day in the case of airmail) after the day of posting.

(3) if sent by facsimile or electronic means:

(a) if transmitted between 09:00 and 17:00 hours on a Business Day (recipient's time) on completion of receipt by the sender of verification of the transmission from the receiving instrument; or

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

7 Intellectual Property

a. The Contractor shall as its sole liability keep the Authority fully indemnified against an infringement or alleged infringement of any intellectual property rights or a claim for Crown use of a UK patent or registered design caused by the use, manufacture, or supply of the Contractor Deliverables.

b. The Authority shall promptly notify the Contractor of any infringement claim made against it relating to any Contractor Deliverable and, subject to any statutory obligation requiring the Authority to respond, shall permit the Contractor to have the right, at its sole discretion to assume, defend, settle, or otherwise dispose of such claim. The Authority shall give the Contractor such assistance as it may reasonably require to dispose of the claim and will not make any statement which might be prejudicial to the settlement or defence of the claim.

c. Notwithstanding any other provisions of the Contract and for the avoidance of doubt, award of the Contract by the Authority and placement of any contract task under it does not constitute an authorisation by the Crown under Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949. The Contractor acknowledges that any such authorisation by the Authority under its statutory powers must be expressly provided in writing, with reference to the acts authorised and the specific intellectual property involved.

Notification of Intellectual Property Rights (IPR) Restrictions

d. Where any of the Conditions listed below (1 to 3) have been added to these Conditions of the Contract as Project Specific DEFCONs at Clause 21, the Contractor warrants and confirms that all Intellectual Property Rights restrictions and associated export restrictions relating to the use or disclosure of the Contractor Deliverables that are notifiable under those Conditions, or of which the Contractor is or should reasonably be aware as at Effective Date of Contract, are disclosed in Schedule 5 (Notification of Intellectual Property Rights (IPR) Restrictions):

(1) DEFCON 15 - including notification of any self-standing background Intellectual Property.

(2) DEFCON 90 - including copyright material supplied under clause 5;

(3) DEFCON 91 - limitations of Deliverable Software under clause 3b.

e. The Contractor shall promptly notify the Authority in writing if they become aware during the performance of the Contract of any required additions, inaccuracies, or omissions in Schedule 5.

f. Any amendment to Schedule 5 shall be made in accordance with DEFCON 503 (SC1).

8 Supply of Contractor Deliverables and Quality Assurance

- a. This Contract comes into effect on the Effective Date of Contract.
- b. The Contractor shall supply the Contractor Deliverables to the Authority at the Firm Price stated in the Contract.
- c. The Contractor shall ensure that the Contractor Deliverables:
 - (1) correspond with the specification.
 - (2) are of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) except that fitness for purpose shall be limited to the goods being fit for the particular purpose held out expressly by or made known expressly to the Contractor and in this respect the Authority relies on the Contractor's skill and judgement; and
 - (3) comply with any applicable Quality Assurance Requirements specified in the Contract.
- d. The Contractor shall apply for and obtain any licences required to import any material required for the performance of the Contract in the UK. The Authority shall provide to the Contractor reasonable assistance with regard to any relevant defence or security matter arising in the application for any such licence.

9 Supply of Hazardous Substances, Mixtures and Articles in Contractor Deliverables

- a. Nothing in this Clause 9 shall reduce or limit any statutory duty or legal obligation of the Authority or the Contractor.
- b. As soon as possible and in any event within the period specified in the Contract (or if no such period is specified no later than one month prior to the delivery date), the Contractor shall provide to the Authority's representatives in the manner and format prescribed in the Contract:
 - (1) confirmation as to whether or not to the best of its knowledge any of the Contractor Deliverables contain hazardous Substances, Mixtures or Articles; and
 - (2) for each Substance, Mixture or Article supplied in meeting the criteria of classification as hazardous in accordance with the GB Classification, Labelling and Packaging (GB CLP) a UK REACH compliant Safety Data Sheet (SDS);
 - (3) where Mixtures supplied do not meet the criteria for classification as hazardous according to GB CLP but contain a hazardous Substance an SDS is to be made available on request; and
 - (4) for each Article whether supplied on its own or part of an assembly that contains a Substance on the UK REACH Authorisation List, Restriction List and / or the Candidate List of Substances of Very High Concern (SVHC) in a proportion greater than 0.1% w/w of the Article, sufficient information, available to the supplier, to allow safe use of the Article including, as a minimum, the name of that Substance.
- c. For substances, Mixtures or Articles that meet the criteria list in clause 9.b above:
 - (1) if the Contractor becomes aware of new information which may affect the risk management measures or new information on the hazard, the Contractor shall update the SDS/safety Information and forward it to the Authority and to the address listed in Schedule 3; and
 - (2) if the Authority becomes aware of new information that might call into question the appropriateness of the risk management measures identified in the safety information supplied, shall report this information in writing to the Contractor.
- d. If the Substances, Mixtures or Articles in Contractor Deliverables are Ordnance,

Munitions or Explosives (OME), in addition to the requirements of the GB CLP and UK REACH the Contractor shall comply with hazard reporting requirements of DEF STAN 07-085 Design Requirements for Weapons and Associated Systems.

e. If the Substances, Mixtures or Articles in Contractor Deliverables, are or contain or embody a radioactive substance as defined in the Ionising Radiation Regulations SI 2017/1075, the Contractor shall additionally provide details on DEFFORM 68 of:

- (1) activity; and
- (2) the substance and form (including any isotope).

f. If the Substances, Mixtures and Articles in Contractor Deliverables have magnetic properties which emit a magnetic field, the Contractor shall additionally provide details on DEFFORM 68 of the magnetic flux density at a defined distance, for the condition in which it is packed.

g. Failure by the Contractor to comply with the requirements of this Condition shall be grounds for rejecting the affected Substances, Mixtures and Articles in Contractor Deliverables. Any withholding of information concerning hazardous Substance, Mixtures or Articles in Contractor Deliverables shall be regarded as a material breach of Contract under Condition 18 (Material Breach) for which the Authority reserves the right to require the Contractor to rectify the breach immediately at no additional cost to the Authority or to terminate the Contract in accordance with Condition 18.

h. Where delivery is made to the Defence Fulfilment Centre (DFC) and / or other Team Leidos location / building, the Contractor must comply with the Logistic Commodities and Services Transformation (LCST) Supplier Manual.

10 Delivery / Collection

- a. The Contract shall specify whether the Contractor Deliverables are to be delivered to the consignee by the Contractor or collected from the consignor by the Authority.
- b. Title and risk in the Contractor Deliverables shall pass from the Contractor to the Authority on delivery or on collection in accordance with Clause 10.a.
- c. The Authority shall be deemed to have accepted the Contractor Deliverables thirty (30) days after title and risk has passed to the Authority unless it has rejected the Contractor Deliverables within the same period.

11 Marking of Contractor Deliverables

- a. Each Contractor Deliverable shall be marked in accordance with the requirements specified in Contract, or if no such requirement is specified, the Contractor shall mark each Contractor Deliverable clearly and indelibly in accordance with the requirements of the relevant DEF-STAN 05-132 as specified in the contract or specification. In the absence of such requirements, the Contractor Deliverables shall be marked with the MOD stock reference, NATO Stock Number (NSN) or alternative reference number specified in the schedule of requirements.
- b. Any marking method used shall not have a detrimental effect on the strength, serviceability, or corrosion resistance of the Contractor Deliverables.
- c. The marking shall include any serial numbers allocated to the Contractor Deliverable.
- d. Where because of its size or nature it is not possible to mark a Contractor Deliverable with the required particulars, the required information should be included on the package or carton in which the Contractor Deliverable is packed, in accordance with condition 12 (Packaging and Labelling (excluding Contractor Deliverables containing Ammunition or Explosives)).

12 Packaging and Labelling of Contractor Deliverables (Excluding Contractor Deliverables Containing Ammunition or Explosives)

- a. The Contractor shall pack or have packed the Contractor Deliverables in accordance with any requirements specified in the Contract and Def Stan 81-041 (Part 1 and Part 6).
- b. The Contractor shall establish if the Contractor Deliverables are, or contain, Dangerous Goods as defined in the Regulations set out in this Clause 12. Any that do shall be packaged for UK or worldwide shipment by all modes of transport in accordance with the following unless otherwise specified in the Contract.:
 - (1) the Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO), IATA Dangerous Goods Regulations.
 - (2) the International Maritime Dangerous Goods (IMDG) Code.
 - (3) the Regulations Concerning the International Carriage of Dangerous Goods by Rail (RID); and
 - (4) the European Agreement Concerning the International Carriage of Dangerous Goods by Road (ADR).
- c. Certification markings, incorporating the UN logo, the package code and other prescribed information indicating that the package corresponds to the successfully designed type shall be marked on the packaging in accordance with the relevant regulation.

13 Plastic Packaging Tax

- a. The Contractor shall ensure that any PPT due in relation to this Contract is paid in accordance with the PPT Legislation.
- b. The Contract Price includes any PPT that may be payable by the Contractor in relation to the Contract.
- c. On reasonable notice being provided by the Authority, the Contractor shall provide and make available to the Authority details of any PPT they have paid that relates to the Contract.
- d. The Contractor shall notify the Authority, in writing, in the event that there is any adjustment required to the Contract Price in accordance with section 70 of the Finance Act 2021 and, on reasonable notice being provided by the Authority, the Contractor shall provide any such information that the Authority requires in relation to any such adjustment.
- e. In accordance with DEFCON 609 (SC1) the Contractor (and their sub-contractors) shall maintain all records relating to PPT and make them available to the Authority when requested on reasonable notice for reasons related to the Contract.
- f. Where the Contractor manufactures, purchases or imports into the UK any Plastic Packaging Component in relation to the Contract the Contractor shall, on reasonable notice being given, provide the Authority with such information and documentation that it requires to enable the Authority to carry out due diligence checks and satisfy itself that the Contractor has complied with the requirements of the PPT Legislation. This shall include, but is not limited to the Contractor providing:
 - (1) confirmation of the tax status of any Plastic Packaging Component.
 - (2) documents to confirm that PPT has been properly accounted for.
 - (3) product specifications for the packaging components, including, but not limited to, the weight and composition of the products and any other product specifications that may be required; and
 - (4) copies of any certifications or audits that have been obtained or conducted in relation to the provision of Plastic Packaging Components.
- g. The Authority shall have the right, on providing reasonable notice, to physically inspect or conduct an audit on the Contractor, to ensure any information that has been provided in

accordance with clause 13.f above is accurate.

h. In the event the Contractor is not required to register for PPT they (and to the extent applicable, their sub-contractors) shall provide the Authority with a statement to this effect and, to the extent reasonably required by the Authority on reasonable notice, supporting evidence for that statement.

i. The Contractor shall provide, on the Authority providing reasonable notice, any information that the Authority may require from the Contractor for the Authority to comply with any obligations it may have under the PPT Legislation.

14 Progress Monitoring, Meetings and Reports

The Contractor shall attend progress meetings and deliver reports at the frequency or times (if any) specified in the Contract and shall ensure that its Contractor's representatives are suitably qualified to attend such meetings. Any additional meetings reasonably required shall be at no cost to the Authority.

15 Payment

a. Payment for Contractor Deliverables will be made by electronic transfer and prior to submitting any claims for payment under clause 15b the Contractor will be required to register their details (Supplier on-boarding) on the Contracting, Purchasing and Finance (CP&F) electronic procurement tool.

b. Where the Contractor submits an invoice to the Authority in accordance with clause 15a, the Authority will consider and verify that invoice in a timely fashion.

c. The Authority shall pay the Contractor any sums due under such an invoice no later than a period of 30 days from the date on which the Authority has determined that the invoice is valid and undisputed.

d. Where the Authority fails to comply with clause 15b and there is undue delay in considering and verifying the invoice, the invoice shall be regarded as valid and undisputed for the purpose of clause 15c after a reasonable time has passed.

e. The approval for payment of a valid and undisputed invoice by the Authority shall not be construed as acceptance by the Authority of the performance of the Contractor's obligations nor as a waiver of its rights and remedies under this Contract.

f. Without prejudice to any other right or remedy, the Authority reserves the right to set off any amount owing at any time from the Contractor to the Authority against any amount payable by the Authority to the Contractor under the Contract or under any other contract with the Authority, or with any other Government Department.

16 Dispute Resolution

a. The Parties will attempt in good faith to resolve any dispute or claim arising out of or relating to the Contract through negotiations between the respective representatives of the Parties having authority to settle the matter, which attempts may include the use of any alternative dispute resolution procedure on which the Parties may agree.

b. In the event that the dispute or claim is not resolved pursuant to Clause 16.a the dispute shall be referred to arbitration and shall be governed by the Arbitration Act 1996. For the purposes of the arbitration, the arbitrator shall have the power to make provisional awards pursuant to Section 39 of the Arbitration Act 1996.

c. For the avoidance of doubt, it is agreed between the Parties that the arbitration process and anything said, done or produced in or in relation to the arbitration process (including any awards) shall be confidential as between the Parties, except as may be lawfully required in judicial proceedings relating to the arbitration or otherwise. No report relating to anything said, done or produced in or in relation to the arbitration process may be made

beyond the tribunal, the Parties, their legal representatives, and any person necessary to the conduct of the proceedings, without the concurrence of all the Parties to the arbitration.

17 Termination for Corrupt Gifts

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

- a. where the Authority becomes aware that the Contractor, its employees, agents or any sub-contractor (or anyone acting on its behalf or any of its or their employees):
 - (1) has offered, promised or given to any Crown servant any gift or financial or other advantage of any kind as an inducement or reward.
 - (2) commits or has committed any prohibited act or any offence under the Bribery Act 2010 with or without the knowledge or authority of the Contractor in relation to this Contract or any other contract with the Crown.
 - (3) has entered into this or any other contract with the Crown in connection with which commission has been paid or has been agreed to be paid by it or on its behalf, or to its knowledge, unless before the contract is made particulars of any such commission and of the terms and conditions of any such agreement for the payment thereof have been disclosed in writing to the Authority.
- b. In exercising its rights or remedies to terminate the Contract under Clause 17.a. the Authority shall:
 - (1) act in a reasonable and proportionate manner having regard to such matters as the gravity of, and the identity of the person committing the prohibited act.
 - (2) give due consideration, where appropriate, to action other than termination of the Contract, including (without being limited to):
 - (a) requiring the Contractor to procure the termination of a subcontract where the prohibited act is that of a Subcontractor or anyone acting on its or their behalf.
 - (b) requiring the Contractor to procure the dismissal of an employee (whether its own or that of a Subcontractor or anyone acting on its behalf) where the prohibited act is that of such employee.
- c. Where the Contract has been terminated under Clause 17.a. the Authority shall be entitled to purchase substitute Contractor Deliverables from elsewhere and recover from the Contractor any costs and expenses incurred by the Authority in obtaining the Contractor Deliverables in substitution from another supplier.

18 Material Breach

In addition to any other rights and remedies, the Authority shall have the right to terminate the Contract (in whole or in part) with immediate effect by giving written notice to the Contractor where the Contractor is in material breach of their obligations under the Contract. Where the Authority has terminated the Contract under Clause 18 the Authority shall have the right to claim such damages as may have been sustained as a result of the Contractor's material breach of the Contract.

19 Insolvency

The Authority shall have the right to terminate the contract if the Contractor is declared bankrupt or goes into liquidation or administration. This is without prejudice to any other rights or remedies under this Contract.

20 Limitation of Contractor's Liability

- a. Subject to Clause 20.b the Contractor's liability to the Authority in connection with this Contract shall be limited to £5m (five million pounds).
- b. Nothing in this Contract shall operate to limit or exclude the Contractor's liability:
 - (1) for:
 - a. any liquidated damages (to the extent expressly provided for under this Contract);
 - b. any amount(s) which the Authority is entitled to claim, retain or withhold in relation to the Contractor's failure to perform or under-perform its obligations under this Contract, including service credits or other deductions (to the extent expressly provided for under this Contract);
 - c. any interest payable in relation to the late payment of any sum due and payable by the Contractor to the Authority under this Contract.
 - d. any amount payable by the Contractor to the Authority in relation to TUPE or pensions to the extent expressly provided for under this Contract.
 - (2) under Condition 7 of the Contract (Intellectual Property), and DEFCONs 91 or 638 (SC1) where specified in the contract.
 - (3) for death or personal injury caused by the Contractor's negligence or the negligence of any of its personnel, agents, consultants, or sub-contractors.
 - (4) For fraud, fraudulent misrepresentation, wilful misconduct, or negligence.
 - (5) in relation to the termination of this Contract on the basis of abandonment by the Contractor.
 - (6) for breach of the terms implied by Section 2 of the Supply of Goods and Services Act 1982; or
 - (7) for any other liability which cannot be limited or excluded under general (including statute and common) law.
- c. The rights of the Authority under this Contract are in addition to, and not exclusive of, any rights or remedies provided by general (including statute and common) law.

21 The project specific DEFCONs and SC variants that apply to this Contract.

DEFCON 503 (SC1) (Edn. 06/22) - Formal Amendments to the Contract

DEFCON 531 (SC1) (Edn. 09/21) - Disclosure of Information

DEFCON 534 (Edn 06/21) - Subcontracting and Prompt Payment

DEFCON 537 (Edn 12/21) - Rights of Third Parties

DEFCON 538 (Edn 06/02) - Severability

DEFCON 566 (Edn 10/20) - Change of Control of Contractor

General Conditions

Third Party IPR Authorisation

AUTHORISATION BY THE CROWN FOR USE OF THIRD-PARTY INTELLECTUAL PROPERTY RIGHTS

Notwithstanding any other provisions of the Contract and for the avoidance of doubt, award of the Contract by the Authority and placement of any contract task under it does not constitute an authorisation by the Crown under Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949. The Contractor acknowledges that any such authorisation by the Authority under its statutory powers must be expressly provided in writing, with reference to the acts authorised and the specific intellectual property involved.

22 The special conditions that apply to this Contract are

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22.1 IR35

The Off Payroll Rules (Intermediaries Legislation – IR35) for working in the Public Sector are in place to ensure that where a worker would have been an employee if they were providing their services directly, they are broadly paying the same tax and National Insurance Contributions (NICs) as an employee.

The Authority has decided that the provision of this service is out of scope of this legislation, for this particular requirement.

22.2 PERFORMANCE TASKS - REQUIREMENT

- a. The Contractor shall be responsible for the Provision of Strategic Leadership Education as detailed in the attached Statement of Requirement, as required by the Authority, in accordance with the Contract (each a “service and. Together, the “services).
- b. The Authority shall not be bound to order any Service, nor to accept or pay for any work other than actually ordered.
- c. The Authority make no guarantee as to the number of orders it will place.
- d. All Services shall be in compliance with the Statement of Requirements to be assessed by the Authority's Designated Officer or the DO's authorised representative (individually and collectively the "DO") (see DEFORM 111).
- e. The DO shall notify the Contractor in writing were, in the reasonable opinion of the DO any Service does not materially comply with the Statement of Requirements, such notice stating the measures required to bring such Service back into compliance. In such circumstances, the Contractor shall make best endeavours to ameliorate its provision of that Service such that it complies, in the reasonable opinion of the DO, with the Statement of Requirements as soon as possible but, in any event, no later than 14 days of the date of issue of the notice.
- f. If after the expiry of 14 days from the date of notice issued by the Authority, the relevant Service continues to be non - compliant with the Statement of Requirements, in the reasonable opinion of the DO, the Authority shall be entitled, at its absolute discretion, to either.
 - (i) suspend the relevant Service until such time as the Contractor can fulfil such Service in accordance with the Statement of Requirements and, where the Authority elects to proceed on this basis, the Authority shall be entitled at its absolute discretion to reduce the Guaranteed Minimum Service by the number of hours during which the relevant Service was ordered but unavailable with a commensurate reduction in Contract Price equal to that number multiplied by the hourly rate for the relevant Service (the "Price Reduction"). The Authority shall also be entitled to offset any costs over and above the Price Reduction for the provision of a compliant Service by any third party during that period as well as for all direct and consequential losses arising as a result of the Contractor's failure to provide the Service; or
 - (ii) seek resolution of the matter via the Dispute Resolution process as contained in this Contract; or
 - (iii) terminate the Contract for material breach.
- g. In the event that the Contractor fails to provide any Service on the dates and/or times required by the Authority in accordance with the terms of the Contract, then save for reasons properly

attributable to a Force Majeure Event as defined below, the Authority shall be entitled at its absolute discretion to reduce the relevant Guaranteed Minimum Service by the number of hours during which the relevant Service was ordered but unavailable with a commensurate Price Reduction. The Authority shall also be entitled to offset against any future payment any costs over and above the Price Reduction actually expended for the provision of a compliant Service by any third party during that period as well as for all direct and consequential losses arising as a result of the Contractor's failure to provide the Service.

22.3 PERFORMANCE OF TASK

a. This Contract establishes terms and conditions and Firm Prices that will apply to the provision of the Services by the Contractor for the duration of the Contract (as specified in Schedule 3).

b. Payments shall be made in arrears on the [last working day of each month] commencing after contract start, utilising the CP&F payment process in accordance with Conditions.

22.4 ORDERING REQUIREMENTS

a. The Authority reserves the right to invite competitive quotations and/or place orders other than with the Contractor for any or all of the services listed in the Statement of Requirement during the period of the Contract.

22.5 Key Performance Indicators

Key Performance Indicators (KPIs)

KPI Number	KPI Description	Incident Measure	Relevant SoR Items
1	Ease of booking	Each Booking must be able to be made in less than 5 minutes through a web portal accessible through the MoD NET system.	B.3, B.4, B.10-11
2	Availability of desired training	The supplier must be able to achieve and maintain 90% delivery of all requested interventions,	B.5-B.7
3	Efficiency of training request process	Confirmation of the training must be received via email to the requester and delegate within 24hours of the booking being requested. Any potential changes to training dates must be notified within this window.	B.7-B.11, B.13

22.5.a Key Performance Indicator Processes

a. The Contract shall be monitored by the Authority against the 4 overarching Key Performance Indicators (KPI) at Annex A of the SOR. Routine monitoring shall be undertaken by the Designated (DO) and Contractor; however, the Contractor is to ensure

that any potential or actual KPI failures are reported to the DO as soon as they are known.

- b. The Authority shall review with the Contractor the KPI process, and the Authority may make minor adjustments, if required.
- c. The Contractor and the DO will work closely together to deliver the required output. KPIs will be formally reported on and reviewed at each meeting carried out monthly for the first six months then bimonthly for the remainder of the contract.

46.7 Key Performance Indicators

- a. The KPIs have only 2 possible values, either the contracted Service has been provided in accordance with the Performance indicators, or it has not. Accordingly, there are no other assessment criteria defined. Refer to the performance standard for each KPI detailed in Schedule 11 KPI Performance monitoring.

46.8 KPI Failure Notification

- a. It is expected that the Contractor shall work closely with the DO in monitoring the contracted Service(s) so that any issues with performance may be rectified before reaching KPI failure. Any performance issues which cannot be resolved will be referred to Air Commercial for their intervention.

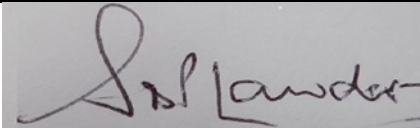
Offer and Acceptance

Offer and Acceptance

708981460- The Provision of Enhanced Strategic Leadership Education for the Royal Air Force

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

For and on behalf of the Contractor:

Name and Title	Mr Simon Lawder, Executive Director
Signature	
Date	28 February 2024

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

Name and Title	Mr George Ort
Signature	<i>George Ort</i>
Date	22/02/2024

SC1B Schedules

Schedule 1 - Additional Definitions of Contract

Schedule 2 - Schedule of Requirements – see Attached.

Please provide a **FIRM** Price for **Schedule 2** for the requirement :

Enhanced Strategic Leadership Education

SC1B - Schedule 3 - Contract Data Sheet

Contract Period	Effective date of Contract: 01/04/2024 The Contract expiry date shall be: 31/03/2029
Clause 6 - Notices	Notices served under the Contract can be transmitted by electronic mail- Yes
Clause 8 – Supply of Contractor Deliverables and Quality Assurance	Is a Deliverable Quality Plan required for this Contract? No
Clause 9 – Supply of Data for Hazardous Substance, Articles and Materials in Contractor Materials	Not Applicable
Clause 10 – Delivery/Collection	Not Applicable
Clause 12 – Packaging and Labelling of Contractor Deliverables	Not Applicable
Clause 14 – Progress Meetings	The Contractor shall be required to attend the following meetings: Frequency: Quarterly Location: MS TEAMS
Clause 14 – Progress Reports	The Contractor is required to submit KPI Performance Reports: Frequency: Quarterly Method of Delivery: Electronic mail

Schedule 4 - Contractor's Sensitive Information Form (i.a.w. Clause 5)

This list shall be agreed in consultation with the Authority and the Contractor and may be reviewed and amended by agreement. The Authority shall review the list before publication of any information.

Contract No:	708981460-ITT
Description of Contractor's Sensitive Information:	The price information in this bid is sensitive.
Cross Reference(s) to location of Sensitive Information:	Section 3 of the ITT
Explanation of Sensitivity:	Our pricing for the programme is commercially sensitive.
Details of potential harm resulting from disclosure:	Unfair competition from large organisations.
Period of Confidence (if applicable):	N/A
Contact Details for Transparency / Freedom of Information matters:	<p>Name: John Jupp</p> <p>Position: Executive Director</p> <p>Address: 4 Meeting House Lane, Brant Broughton, Lincolnshire, LN5 0SH</p> <p>Telephone Number: 07795143403</p> <p>Email Address: john@partnersforleadership.co.uk</p>

Schedule 5 - Notification of IPR restrictions - Not Applicable

DEFFORM 111

DEFFORM 111

Appendix - Addresses and Other Information

1. Commercial Officer

Name: Miss Selina Groves

Address: Air Commercial, Nimrod Building, 3 Site, RAF High Wycombe, HP14 4UE

Email: Selina.groves106@mod.gov.uk ☎☎ NOT APPLICABLE

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

Name: Wg Cdr Daniela Nowalski

Address Trenchard Hall, RAF Cranwell, Sleaford, Lincs, NG34 8HB

Email: daniela.nowalski607@mod.gov.uk ☎☎ NOT APPLICABLE

3. Packaging Design Authority Organisation & point of contact:

NOT APPLICABLE

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

☎☎ NOT APPLICABLE

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

Branch/Name: NOT APPLICABLE

☎☎ NOT APPLICABLE

(b) U.I.N. NOT APPLICABLE

5. Drawings/Specifications are available from NOT APPLICABLE

6. Intentionally Blank

7. Quality Assurance Representative:

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

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

9. Consignment Instructions The items are to be consigned as follows: NOT APPLICABLE

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

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

Air Freight Centre

IMPORTS ☎☎ 030 679 81113 / 81114 Fax 0117 913 8943

EXPORTS ☎☎ 030 679 81113 / 81114 Fax 0117 913 8943

Surface Freight Centre

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

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

B.JSCS

JSCS Helpdesk No. 01869 256052 (select option 2, then option 3)

JSCS Fax No. 01869 256837

www.freightcollection.com**11. The Invoice Paying Authority**

Ministry of Defence, DBS Finance, Walker House, Exchange Flags Liverpool, L2 3YL

☎☎ 0151-242-2000 Fax: 0151-242-2809

Website is: <https://www.gov.uk/government/organisations/ministry-of-defence/about/procurement#invoice-processing>**12. Forms and Documentation are available through *:**

Ministry of Defence, Forms and Pubs Commodity Management PO Box 2, Building C16, C Site, Lower Arncott, Bicester, OX25 1LP (Tel. 01869 256197 Fax: 01869 256824)

Applications via fax or email: Leidos-FormsPublications@teamleidos.mod.uk*** NOTE**1. Many **DEFCONs** and **DEFFORMs** can be obtained from the MOD Internet Site:<https://www.kid.mod.uk/maincontent/business/commercial/index.htm>

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

Deliverables**Deliverables Note**

This matrix is intended to provide an overview of the parties' contractual obligations to assist with contract management. It does not form part of the contract and should not be relied upon to aid interpretation of the contract. In the event of any conflict, inconsistency or discrepancy between this matrix and the contract, the terms of the contract shall take precedence.

Negotiation Deliverables N/a**All Negotiation Deliverables N/a****Buyer Contractual Deliverables**

Name	Description	Due	Responsible Party

Termination Condition 16, 17, 18	Written notice of Termination due to corrupt Gifts as stipulated in the contract		Buyer Organization
Notification of Claim Condition 7.b	Notify contractor of any third party claim and assist the contractor to dispose of said claim		Buyer Organization
Import Licences Condition 8.d	Assist application for licences that are defence/security related		Buyer Organization
Transparency Condition 5.b	Redact documents prior to publishing in line with contract.		Buyer Organization

Supplier Contractual Deliverables

Name	Description	Due	Responsible Party
Import Licences Condition 8.d	Apply for and obtain all necessary licences		Supplier Organization
Obligation DEFCON 21 (Edn 06/21) Clause - 3a - Maintenance of Deliverables (reminder)	To maintain at least one copy of all deliverable information to which DEFCON 21 applies during the period of the Contract and for at least two years after the Contract, or period as may be specified in the contract.		Supplier Organization
Commercial Exploitation Levy - Reminder that Statements of Sales and Auditor Certificate are required annually	Applicable to contracts with Commercial Exploitation Agreements. A reminder to Suppliers that Statements of Sales along with Auditor Certificate are required annually.	01-JAN-2020	Supplier Organization
Closure Activity - Assets on MoD Property	Contractor assets on MOD property dealt with in accordance with the contract		Supplier Organization
Payment Condition 14.b	Submission of Invoices		Supplier Organization
Contract Data Sheet Condition 9.c	provide a Safety Data Sheet in respect of each Dangerous/Hazardous Material or substance supplied or deliverable containing such.		Supplier Organization
Marking of Hazardous Deliverables Condition 9.b	Ensure packaging is marked in accordance with the contract		Supplier Organization
Payment Condition 14.c	Payment		Supplier Organization
Marking of Articles Condition 11	Articles to be marked in accordance with the contract.		Supplier Organization
Progress Meetings Condition 13	Attendance at progress meetings in accordance with the contract		Supplier Organization

20 Project specific DEFCONs and DEFCON SC variants that apply to this Contract:

DEFCON 076 (SC1)

DEFCON 76 (SC1) (Edn. 11/22) - Contractor's Personnel At Government Establishments

DEFCON 514A

DEFCON 514A (Edn 03/16) - Failure of Performance under Research and Development Contracts

DEFCON 532B

DEFCON 532B (Edn. 12/22) - Protection Of Personal Data (Where Personal Data is being processed on behalf of the Authority)

DEFCON 602B

DEFCON 602B (Edn 12/06) - Quality Assurance (Without Deliverable Quality Plan)

DEFCON 608

DEFCON 608 (Edn 07/21) - Access and Facilities to be Provided by the Contractor

DEFFORM 532

Personal Data Particulars

DEFFORM 532

Edn 10/19

This Form forms part of the Contract and must be completed and attached to each Contract containing DEFCON 532B.

Data Controller	<p>The Data Controller is the Secretary of State for Defence (the Authority).</p> <p>The Personal Data will be provided by:</p> <p>The Tedder Academy of Leadership, Trenchard Hall RAF Cranwell, Sleaford, Lincolnshire NG34 8HB POC: Deputy Commandant Wg Cdr Daniela Nowalski Daniela.nowalski607@mod.gov.uk</p>
Data Processor	<p>The Data Processor is the Contractor.</p> <p>The Personal Data will be processed at:</p> <p>simon@partnersforleadership.co.uk</p>
Data Subjects	<p>The Personal Data to be processed under the Contract concern the following Data Subjects or categories of Data Subjects: <i>[please specify]</i></p> <p>RAF Whole Force personnel selected to attend a programme of strategic leadership education</p>
Categories of Data	<p>The Personal Data to be processed under the Contract concern the following categories of data: <i>[please specify]</i></p> <p>Name Rank Service Number Email / telephone number (personal and work) Place of work / address (if required)</p>
Special Categories of data (if appropriate)	<p>The Personal Data to be processed under the Contract concern the following Special Categories of data: <i>[A Special Category of Personal Data is anything that reveals racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, sex life or sexual orientation or genetic or biometric data]</i> N/A</p>
Subject matter of the processing	<p>The processing activities to be performed under the contract are as follows: <i>[please specify]</i></p> <p>Personal data will be processed while booking personnel onto courses and during the course if required. Personal data will be used in the creation of course documentation as well as by the company's own records of completion/certification. This will be exclusive to</p>

	the fields defined in the 'categories of data' part of the form.
Nature and the purposes of the Processing	<p>The Personal Data to be processed under the Contract will be processed as follows: <i>[please specify]</i></p> <p>Data will be collected by the Authority and shared with the company to facilitate the course booking. This will be limited to the data defined above. The data should be removed from the company's system following the course unless agreement is made with the individual to retain it.</p>
Technical and organisational measures	<p>The following technical and organisational measures to safeguard the Personal Data are required for the performance of this Contract: <i>[please specify]</i></p> <p>Data should be used and processed in line with GDPR regulations and DP18. The minimum data required to process the course booking should always be used, exclusive to the categories defined above. Data should be removed from the system following the completion of the course. Any changes need express permission from the individual.</p>
Instructions for disposal of Personal Data	<p>The disposal instructions for the Personal Data to be processed under the Contract are as follows (where Disposal Instructions are available at the commencement of Contract): <i>[please specify]</i></p> <p>Booking and course information should be retained for no longer than is required. Realistically this should be no greater than 12 months. Record of completion should be held for as long as the course qualification is valid for. Disposal of information should be in accordance with GDPR and DP18.</p>
Date from which Personal Data is to be processed	<p>Where the date from which the Personal Data will be processed is different from the Contract commencement date this should be specified here:</p> <p>Data will be processed from the start to the end of the contract.</p>

The capitalised terms used in this form shall have the same meanings as in the General Data Protection Regulations.

Russian and Belarusian Exclusion Condition for Inclusion in Contracts

1. The Contractor shall, and shall procure that their Sub-contractors shall, notify the Authority in writing as soon as they become aware that:
 - a. the Contract Deliverables and/or Services contain any Russian/Belarusian products and/or services; or
 - b. that the Contractor or any part of the Contractor's supply chain is linked to entities who are constituted or organised under the law of Russia or Belarus, or under the control (full or partial) of a Russian/Belarusian person or entity. Please note that this does not include companies:
 - (1) registered in the UK or in a country with which the UK has a relevant international agreement providing reciprocal rights of access in the relevant field of public procurement; and/or
 - (2) which have significant business operations in the UK or in a country with which the UK has a relevant international agreement providing reciprocal rights of access in the relevant field of public procurement.
2. The Contractor shall, and shall procure that their Sub-contractors shall, include in such notification (or as soon as reasonably practicable following the notification) full details of the Russian products, services and/or entities and shall provide all reasonable assistance to the Authority to understand the nature, scope and impact of any such products, services and/or entities on the provision of the Contract Deliverables and/or Services.
3. The Authority shall consider the notification and information provided by the Contractor and advise the Contractor in writing of any concerns the Authority may have and/or any action which the Authority will require the Contractor to take. The Contractor shall be required to submit a response to the concerns raised by the Authority, including any plans to mitigate those concerns, within 14 business days of receipt of the Authority's written concerns, for the Authority's consideration.
4. The Contractor shall include provisions equivalent to those set out in this clause in all relevant Sub-contracts.

Quality Assurance Conditions

No Specific QMS

No Specific Quality Management System requirements are defined. This does not relieve the Supplier of providing conforming Products under this Contract.