



DE&S Helicopter Commercial Category Procurement Team

Contract No: HELSS/0062

For:

**The Sustainment of the Aircrew Moving
Map & Wire Alerting System
(AMMWAS) Capability for Apache Mk1,
Griffen HAR Mk2, Lynx Mk9A, Merlin
Mk2 & Bell 212 and the Automatic
Identification System (AIS) Capability
for Merlin Mk2.**

Between Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland	And
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The Schedules that apply to this Contract are:

Schedule 1	Definitions of Contract
Schedule 2	Schedule of Requirements
Schedule 3	Contract Data Sheet Annex A to Schedule 3
Schedule 4	Contract Change Process Procedure (i.a.w. clause A2.b)
Schedule 5	Specification – Statement of Requirement
Schedule 6	Contractor's Commercially Sensitive Information Form
Schedule 7	Firm Labour Man-Hour Rates
Schedule 8	Task Authorisation Form (TAF)
Schedule 9	Agreed Firm Prices for Authorised TAFs
Schedule 10	Software Licence Agreements – DEFFORM 701 – Schedule Nos 7 and 8
Schedule 11	List of Authorised Training Events
Schedule 12	Government Furnished Information
Schedule 13	Contract Assumptions, Exclusions and Dependencies
Schedule 14	Milestone Payment Plan – Contract Items Nos 1 to 4 & 7 to 8

MOD Conditions for the Provision of Services:

Contract No: HELSS/0062

A General Contract Provisions

A1. Interpretation

- a. The defined terms in the Contract shall be as set out in Schedule 1.
- b. Unless the context otherwise requires:
 - (1) The singular includes the plural and vice versa, and the masculine includes the feminine and vice versa.
 - (2) The words “include”, “includes”, “including” and “included” are to be construed as if they were immediately followed by the words “without limitation”, except where explicitly stated otherwise.
 - (3) The expression “person” means any individual, firm, body corporate, unincorporated association or partnership, government, state or agency of a state or joint venture.
 - (4) References to any statute, enactment, order, regulation, or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation, or instrument as amended, supplemented, replaced or consolidated by any subsequent statute, enactment, order, regulation, or instrument.
 - (5) The heading to any Contract provision shall not affect the interpretation of that provision.
 - (6) Any decision, act or thing which the Authority is required or authorised to take or do under the Contract may be taken or done only by the person (or their nominated deputy) authorised in Schedule 3 (Contract Data Sheet) to take or do that decision, act, or thing on behalf of the Authority.
 - (7) Unless excluded within the terms of the Contract or required by law, references to submission of documents in writing shall include electronic submission.

A2. Amendments to Contract

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

A3. Variations to Specification

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

- (1) fit, form, function or characteristics of the Contractor Deliverables;
- (2) the cost;
- (3) Delivery Dates;
- (4) the period required for the production or completion; or
- (5) other work caused by the alteration,

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

A4. Precedence

a. If there is any inconsistency between the different provisions of the Contract the inconsistency shall be resolved according to the following descending order of precedence:

- (1) Sections A - H (and J - L, if sections J - L are included in this Contract) of the Conditions of the Contract shall be given equal precedence with Schedule 1 (Definitions of Contract) and Schedule 3 (Contract Data Sheet);
- (2) Schedule 2 (Schedule of Requirements) and, where included, Schedule 8 (Acceptance Procedure);
- (3) the remaining Schedules; and
- (4) any other documents expressly referred to in the Contract.

b. If either Party becomes aware of any inconsistency, within or between the documents referred to in clause A4.a such Party shall notify the other Party forthwith and the Parties will seek to resolve that inconsistency on the basis of the order of precedence set out in clause A4.a. Where the Parties fail to reach agreement, and if either Party considers the inconsistency to be material to its rights and obligations under the Contract, then the matter will be referred to the dispute resolution procedure in accordance with condition A21 (Dispute Resolution).

A5. Severability

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

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

A6. Assignment of Contract

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

A7. Waiver

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

A8. Third Party Rights

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

A9. Governing Law

- a. Subject to clause A9.d, the Contract shall be considered as a contract made in England and subject to English Law.
- b. Subject to clause A9.d and A21 (Dispute Resolution) and without prejudice to the dispute resolution process set out therein, each Party submits and agrees to the exclusive jurisdiction of the Courts of England to resolve, and the laws of England to govern, any actions proceedings, controversy or claim of whatever nature arising out of or relating to the Contract or breach thereof.
- c. Subject to clause A.9.d any dispute arising out of or in connection with the Contract shall be determined within the English jurisdiction and to the exclusion of all other jurisdictions save that other jurisdictions may apply solely for the purpose of giving effect to this clause A9 and for the enforcement of any judgment, order or award given under English jurisdiction.
- d. If the Parties agree pursuant to the Contract that Scots Law should apply then the following amendments shall apply to the Contract:

- (1) Clause A9.a, A9.b and A9.c shall be amended to read:

- “a. The Contract shall be considered as a contract made in Scotland and subject to Scots Law.

- b. Subject to clause A21 (Dispute Resolution) and without prejudice to the dispute resolution process set out therein, each Party submits and agrees to the exclusive jurisdiction of the Courts of Scotland to resolve, and the laws of Scotland to govern, any actions, proceedings, controversy or claim of whatever nature arising out of or relating to the Contract or breach thereof.

- c. Any dispute arising out of or in connection with the Contract shall be determined within the Scottish jurisdiction and to the exclusion of all other jurisdictions save that other jurisdictions may apply solely for the purpose of giving effect to this clause A9 and for the enforcement of any judgment, order or award given under Scottish jurisdiction.”

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

- “In the event that the dispute or claim is not resolved pursuant to clause A21.a the dispute shall be referred to arbitration. Unless otherwise agreed in writing by the Parties, the arbitration and this clause A21.b shall be governed by the Arbitration (Scotland) Act 2010. The seat of the arbitration shall be Scotland. For the avoidance of doubt, for the purpose of arbitration the tribunal shall have the power to make provisional awards pursuant to Rule 53 of the Scottish Arbitration Rules, as set out in Schedule 1 to the Arbitration (Scotland) Act 2010.”

- e. Each Party warrants to each other that entry into the Contract does not, and the performance of the Contract will not, in any way violate or conflict with any provision of law, statute, rule, regulation, judgement, writ, injunction, decree or order applicable to it. Each Party also warrants that the Contract does not conflict with or result in a breach or termination of any provision of, or constitute a default under, any mortgage, contract or other liability, charge or encumbrance upon any of its properties or other assets.

- f. Each Party agrees with each other Party that the provisions of this clause A9 shall survive any termination of the Contract for any reason whatsoever and shall remain fully enforceable as between the Parties notwithstanding such a termination.

g. Where the Contractor's place of business is not in England or Wales (or Scotland where the Parties agree pursuant to this Contract that Scots Law should apply), the Contractor irrevocably appoints the solicitors or other persons in England and Wales (or Scotland where the Parties agree pursuant to the Contract that Scots Law should apply) detailed in Schedule 3 (Contract Data Sheet) as its agents to accept on its behalf service of all process and other documents of whatever description to be served on the Contractor in connection with any litigation or arbitration within the English jurisdiction (or Scottish jurisdiction where the Parties agree pursuant to this Contract that Scots Law should apply) arising out of or relating to the Contract or any issue connected therewith.

A10. Entire Agreement

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

A11. Disclosure of Information

a. Subject to clauses A11.d, A11.e, A11.h and A14 each Party:

- (1) shall treat in confidence all Information it receives from the other;
- (2) shall not disclose any of that Information to any third party without the prior written consent of the other Party, which consent shall not unreasonably be withheld, except that the Contractor may disclose Information in confidence, without prior consent, to such persons and to such extent as may be necessary for the performance of the Contract;
- (3) shall not use any of that Information otherwise than for the purpose of the Contract; and
- (4) shall not copy any of that Information except to the extent necessary for the purpose of exercising its rights of use and disclosure under the Contract.

b. The Contractor shall take all reasonable precautions necessary to ensure that all Information disclosed to the Contractor by or on behalf of the Authority under or in connection with the Contract:

- (1) is disclosed to its employees and Subcontractors, only to the extent necessary for the performance of the Contract; and
- (2) is treated in confidence by them and not disclosed except with the prior written consent of the Authority or used otherwise than for the purpose of performing work or having work performed for the Authority under the Contract or any subcontract.

c. The Contractor shall ensure that its employees are aware of the Contractor's arrangements for discharging the obligations at clauses A11.a and A11.b before receiving Information and shall take such steps as may be reasonably practical to enforce such arrangements.

d. Clauses A11.a and A11.b shall not apply to any Information to the extent that either Party:

- (1) exercises rights of use or disclosure granted otherwise than in consequence of, or under, the Contract;
- (2) has the right to use or disclose the Information in accordance with other Conditions of the Contract; or
- (3) can show:
 - (a) that the Information was or has become published or publicly available for use otherwise than in breach of any provision of the Contract or any other

agreement between the Parties;

(b) that the Information was already known to it (without restrictions on disclosure or use) prior to receiving the Information under or in connection with the Contract;

(c) that the Information was received without restriction on further disclosure from a third party which lawfully acquired the Information without any restriction on disclosure; or

(d) from its records that the same Information was derived independently of that received under or in connection with the Contract;

provided that the relationship to any other Information is not revealed.

e. Neither Party shall be in breach of this condition where it can show that any disclosure of Information was made solely and to the extent necessary to comply with a statutory, judicial or parliamentary obligation. Where such a disclosure is made, the Party making the disclosure shall ensure that the recipient of the Information is made aware of and asked to respect its confidentiality. Such disclosure shall in no way diminish the obligations of the Parties under this condition.

f. The Authority may disclose the Information:

(1) on a confidential basis to any central government body for any proper purpose of the Authority or of the relevant central government body, which shall include: disclosure to the Cabinet Office and / or HM Treasury for the purpose of ensuring effective cross-Government procurement processes, including value for money and related purposes;

(2) to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;

(3) to the extent that the Authority (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;

(4) on a confidential basis to a professional adviser, consultant or other person engaged by any of the entities defined in Schedule 1 (including benchmarking organisations) for any purpose relating to or connected with this Contract;

(5) on a confidential basis for the purpose of the exercise of its rights under the Contract; or

(6) on a confidential basis to a proposed body in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under the Contract;

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

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

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

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

A12. Publicity and Communications with the Media

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

A13. Protection of Personal Data

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

A14. Transparency

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

b. Before publishing the Transparency Information to the general public in accordance with clause A14.a, the Authority shall redact any Information that would be exempt from disclosure if it was the subject of a request for Information under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004, and any Information which has been acknowledged by the Authority at Schedule 6 (Contractor's Commercially Sensitive Information).

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

d. For the avoidance of doubt, nothing in this condition A14 shall affect the Contractor's rights at law.

A15. Equality

a. The Contractor shall not unlawfully discriminate either directly or indirectly on the grounds of age, disability, gender (including re-assignment), sex or sexual orientation, marital status (including civil partnerships), pregnancy and maternity, race, or religion or belief.

b. Without prejudice to the generality of the obligation in clause A15.a, the Contractor shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010 (or any statutory modification or re-enactment thereof) or other relevant or equivalent Legislation in the country where the Contract is being performed.

c. The Contractor agrees to take reasonable efforts to secure the observance of the provisions of this condition A15 by any of its employees, agents, or other persons acting under

its direction or Control who are engaged in the performance of the Contract.

d. The Contractor agrees to take reasonable efforts to reflect this condition A15 in any subcontract that it enters into to satisfy the requirements of the Contract and to require its Subcontractors to reflect this condition A15 in their subcontracts that they enter into to satisfy the requirements of the Contract.

A16. Child Labour and Employment Law

a. In performing the Contract, the Contractor shall comply in all material respects with Child Labour Legislation and applicable employment legislation of those jurisdiction(s) where the Contract is being performed.

b. The Contractor agrees to use reasonable efforts to reflect this Condition in any subcontract that it enters into to satisfy the requirements of the Contract and to require its Subcontractors to reflect this Condition in their subcontracts that they enter into to satisfy the requirements of the Contract.

A17. Subcontracting

a. Subcontracting any part of the Contract shall not relieve the Contractor of any obligation, duty or liability attributable to the Contractor under the Contract.

b. The Contractor shall ensure, to the extent that they are applicable, that the Conditions of the Contract are reflected in any subcontracts for any part of the Contractor Deliverables.

c. In all circumstances the Contractor shall ensure that all subcontracts in relation to this Contract include:

(1) a requirement that either party to the subcontract may release to the Authority any of those parts of the subcontract documentation as are necessary to demonstrate the Contractor's compliance with the provisions of the Contract and that any such release shall not amount to a breach of any provision of confidentiality contained within the subcontract; and

(2) a term which requires payment to be made to the Subcontractor within a specified period not exceeding thirty (30) days from receipt of a valid invoice as defined by the subcontract requirements.

d. Where the Contractor places any subcontract with a value of more than £50,000 in connection with this Contract, it shall ensure that it has the right to terminate that subcontract for convenience in the event that the Authority exercises its right to terminate this Contract under Condition A22 (Termination for Convenience), with twenty (20) Business Days notice (or such other notice period as the Authority shall give under this Contract).

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

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

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

A18. Change of Control of Contractor

a. The Contractor shall inform the Mergers & Acquisitions section, Supplier Relations Team, Poplar Level 1 # 2119, MOD Abbey Wood South, Bristol BS34 8JH as soon as practicable of any intended, planned or actual change of Control. The Contractor shall not be required to submit any notice which is unlawful or is in breach of either any pre-existing non-disclosure agreement or any regulations governing the change of Control of the Contractor in the UK or other jurisdictions. The Authority's Representative shall consider the potential change of Control and advise the Contractor in writing of any concerns that the Authority may have. Such concerns may include but are not limited to potential threats to national security, the ability of the Authority to comply with its statutory obligations or matters covered by the declarations made by the Contractor prior to Contract Award.

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

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

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

A19. Termination for Insolvency or Corrupt Gifts

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

Insolvency:

a. where the Contractor is an individual:

(1) the application by the Contractor for an interim order pursuant to Section 252 of the Insolvency Act 1986 (the "IA 86") or the court making an interim order pursuant to Section 253 of the IA 86;

(2) any composition, compromise, assignment, assignation or arrangement is made with any of the Contractor's creditors (including, without limitation, an individual voluntary arrangement under IA 86 and a trust deed for the benefit of any of the Contractor's creditors) or a moratorium on any of the Contractor's indebtedness comes into force;

(3) a debt payment programme under the Debt Arrangement and Attachment (Scotland) Act 2002 (the "DAAS Act") is approved in respect of a Contractor, an application is made by a Contractor to the Debt Arrangement Scheme (DAS) Administrator under the DAAS Act for approval of a debt payment programme or a Contractor gives written intimation to the DAS Administrator of their intention to make such an application;

(4) the presentation of a petition or other application for the appointment of any liquidator (whether provisional, interim or otherwise), administrator, receiver,

administrative receiver, compulsory manager, trustee (in sequestration or otherwise), insolvency official or other similar officer in respect of the Contractor or any of its assets, unless it is withdrawn within three (3) Business Days from the date on which the Contractor is notified of it;

(5) the appointment of any liquidator (whether provisional, interim or otherwise) administrator, receiver, administrative receiver, compulsory manager, trustee (in sequestration or otherwise), insolvency official or other similar officer in respect of the Contractor or any of its assets;

(6) where the Contractor is either unable to pay its debts as they fall due or has no reasonable prospect of being able to pay debts which are not immediately payable. The Authority shall regard the Contractor as being unable to pay its debts if:

(a) it has failed to comply with or to set aside a statutory demand under section 268 of the Insolvency Act 1986 or section 7 of the Bankruptcy (Scotland) Act 1985 within twenty-one (21) Business Days of service of the statutory demand on it;

(b) an execution or other process to enforce a debt due under a judgment or order of the court has been returned unsatisfied in whole or in part;

(c) a charge for payment of a debt has been served on the Contractor and has not been satisfied, returned or avoided within fourteen (14) Business Days of service; or

(d) it is apparently insolvent within the meaning of the Bankruptcy (Scotland) Act 1985; or

(7) any analogous procedure or step is taken in any jurisdiction;

b. where the Contractor is a firm:

(1) the Contractor preparing and submitting documents to a nominee or filing or lodging documents in court, in each case in respect of a moratorium on creditor action under schedule A1 of IA 86 in respect of the Contractor;

(2) any composition, compromise, assignment, assignation or arrangement is made with any of the Contractor's creditors (including, without limitation, an individual voluntary arrangement under IA 86 and a trust deed for the benefit of any of the Contractor's creditors) or a moratorium on any of the Contractor's indebtedness comes into force;

(3) any event listed in clause A19.a occurs in respect of any partner of the Contractor who is an individual in connection with a liability or debt of the Contractor;

(4) any event listed in clause A19.c occurs in respect of any partner of the Contractor which is a company or limited liability partnership registered in England and Wales or Scotland in connection with a liability or debt of the Contractor;

(5) an event listed in clause A19.e in respect of any partner of the Contractor which is a company or similar entity (including any incorporated entity) registered other than in England and Wales or Scotland in connection with a liability or debt of the Contractor;

(6) any event listed in this clause A19.b occurs in respect of any partner of the Contractor which is itself a firm in connection with a liability or debt of the Contractor;

(7) the presentation of a petition or other application for the appointment of any liquidator (whether provisional, interim or otherwise), administrator, receiver, administrative receiver, compulsory manager, trustee (in sequestration or otherwise), insolvency official or other similar officer in respect of the Contractor or any of its assets, unless it is withdrawn within three (3) Business Days from the date on which the Contractor is notified of it;

(8) the appointment of any liquidator (whether provisional, interim or otherwise)

administrator, receiver, administrative receiver, compulsory manager, trustee (in sequestration or otherwise), insolvency official or other similar officer in respect of the Contractor or any of its assets;

(9) any resolution is passed or order made for the winding up, dissolution, administration or reorganisation of (or the institution of any other insolvency proceedings or procedure in relation to) the Contractor;

(10) where the Contractor is either unable to pay its debts as they fall due or has no reasonable prospect of being able to pay debts which are not immediately payable. The Authority shall regard the Contractor as being unable to pay its debts if:

(a) it is apparently insolvent within the meaning of the Bankruptcy (Scotland) Act 1985; or

(b) it is unable to pay its debts in terms of section 221 of IA 86; or

(11) any analogous procedure or step is taken in any jurisdiction;

c. where the Contractor is a company or limited liability partnership registered in England and Wales or Scotland:

(1) the Contractor preparing and submitting documents to a nominee or filing or lodging documents in court in each case in respect of a moratorium on creditor action under schedule A1 of IA 86;

(2) any composition, compromise, assignment, assignation or arrangement is made with any of its creditors (including, without limitation, a company voluntary arrangement under IA 86) or a moratorium on any of the Contractors indebtedness comes into force;

(3) the presentation of a petition or other application for the appointment of any liquidator (whether provisional, interim or otherwise), administrator, receiver, administrative receiver, compulsory manager, trustee (in sequestration or otherwise), insolvency official or other similar officer in respect of the Contractor or any of its assets, unless it is withdrawn within three (3) Business Days from the date on which the Contractor is notified of it;

(4) the appointment of any liquidator (whether provisional, interim or otherwise) administrator, receiver, administrative receiver, compulsory manager, trustee (in sequestration or otherwise), insolvency official or other similar officer in respect of the Contractor or any of its assets;

(5) any resolution is passed or order made for the winding up, dissolution, administration or reorganisation of (or the institution of any other insolvency proceedings or procedure in relation to) the Contractor;

(6) where the Contractor is either unable to pay its debts as they fall due or has no reasonable prospect of being able to pay debts which are not immediately payable. The Authority shall regard the Contractor as being unable to pay its debts if the Contractor is unable to pay its debts in terms of section 123 of IA 86; or

(7) any analogous procedure or step is taken in any jurisdiction;

d. where the Contractor is unable or admits inability to pay its debts as they fall due or is deemed to be or declared to be unable to pay its debts, suspends or threatens to suspend making payments or any of its debts or, by reason of actual or anticipated financial difficulties, or commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness;

e. where the Contractor is a company or similar entity (including any incorporated entity) registered other than in England and Wales or Scotland, events occur or are carried out which, within the jurisdiction to which it is subject, are similar in nature or effect to those specified above;

Corrupt Gifts

f. where the Authority becomes aware that the Contractor, its employees, agents or any Subcontractor (or anyone acting on its behalf or any of its or their employees):

- (1) has offered, promised or given to any Crown servant any gift or financial or other advantage of any kind as an inducement or reward:
 - (a) for doing or not doing (or for having done or not having done) any act in relation to the obtaining or execution of this Contract or any other contract with the Crown; or
 - (b) for showing or not showing favour or disfavour to any person in relation to this Contract or any other contract with the Crown;
- (2) commits or has committed any prohibited act or any offence under the Prevention of Corruption Acts 1889 – 1916, under sub sections 108 – 109 of the Anti-Terrorism or Crime and Security Act 2001 before these Acts or sub sections are revoked or an offence under the Bribery Act 2010 with or without the knowledge or authority of the Contractor in relation to this Contract or any other contract with the Crown;
- (3) has entered into this Contract or any other contract with the Crown in connection with which commission has been paid or has been agreed to be paid by it or on its behalf, or to its knowledge, unless before the Contract is made particulars of any such commission and of the conditions of any such agreement for the payment thereof have been disclosed in writing to the Authority.

g. In exercising its rights or remedies to terminate the Contract under A19 f. the Authority shall:

- (1) act in a reasonable and proportionate manner having regard to such matters as the gravity of, and the identity of the person committing the prohibited act;
- (2) give due consideration, where appropriate, to action other than termination of the Contract, including (without being limited to):
 - (a) requiring the Contractor to procure the termination of a subcontract where the prohibited act is that of a Subcontractor or anyone acting on its or their behalf;
 - (b) requiring the Contractor to procure the dismissal of an employee (whether its own or that of a Subcontractor or anyone acting on its behalf) where the prohibited act is that of such employee.

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

A20. Consequences of Termination

The termination of the Contract, however arising, shall be without prejudice to the rights and duties of either Party accrued prior to termination. The Conditions that expressly or by implication have effect after termination shall continue to be enforceable even after termination.

A21. Dispute Resolution

- a. The Parties will attempt in good faith to resolve any dispute or claim arising out of or relating to the Contract through negotiations between the respective representatives of the Parties having authority to settle the matter, which attempts may include the use of any alternative dispute resolution procedure on which the Parties may agree.
- b. In the event that the dispute or claim is not resolved pursuant to clause A21.a the dispute shall be referred to arbitration. Unless otherwise agreed in writing by the Parties, the arbitration and this clause A21.b shall be governed by the Arbitration Act 1996. For the purposes of the

arbitration, the arbitrator shall have the power to make provisional awards pursuant to Section 39 of the Arbitration Act 1996.

c. For the avoidance of doubt, anything said, done or produced in or in relation to the arbitration process (including any awards) shall be confidential between the Parties, except as may be lawfully required in judicial proceedings relating to the arbitration or otherwise.

A22. Termination for Convenience

a. The Authority shall have the right at any time to terminate the Contract in whole or in part by giving the Contractor written Notice to expire at the end of the period specified in Schedule 3 (Contract Data Sheet) or if no such period is specified at the end of twenty (20) Business Days.

b. In the event that the Authority exercises its rights in accordance with clause A22.a, the Authority shall indemnify the Contractor against any commitments, liabilities or expenditure which are reasonably and properly chargeable by the Contractor in connection with the Contract and which would otherwise represent an unavoidable loss by the Contractor by reason of termination of the Contract or the relevant part thereof.

c. The Authority's total liability under clause A22.b shall be limited to the total price of the Contractor Deliverables payable under the Contract or the relevant part thereof, including any sums paid, due or becoming due to the Contractor at the date of termination.

A23. Contractor's Records

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

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

whichever occurs latest.

A24. Duration of Contract

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

A25. Contractor's Warranties

a. The Contractor warrants and represents, that:

- (1) it has the full capacity and authority to enter into, and to exercise its rights and perform its obligations under, the Contract;
- (2) from the Effective Date of Contract and for so long as the Contract remains in force it shall give the Authority Notice of any litigation, arbitration (unless expressly prohibited from doing so in accordance with the terms of the arbitration), administrative or adjudication or mediation proceedings before any court, tribunal, arbitrator, administrator or adjudicator or mediator or relevant authority against itself or a Subcontractor which would adversely affect the Contractor's ability to perform its obligations under the Contract;
- (3) as at the Effective Date of Contract no proceedings or other steps have been taken and not discharged (nor, to the best of the knowledge of the Contractor, threatened) for its winding-up or dissolution or for the appointment of a receiver, administrative receiver,

administrator, liquidator, trustee or similar officer in relation to any of its assets or revenues;

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

B The Contractor Deliverables

B1. Supply of Contractor Deliverables and Quality Assurance

- a. The Contractor shall provide the Contractor Deliverables to the Authority, in accordance with the Schedule of Requirements and the Specification, and shall allocate sufficient resource to the provision of the Contractor Deliverables to enable it to comply with this obligation.
- b. The Contractor shall:
 - (1) comply with any applicable quality assurance requirements specified in Schedule 3 (Contract Data Sheet) in providing the Contractor Deliverables;
 - (2) comply with all applicable Legislation; and
 - (3) discharge its obligations under the Contract with all due skill, care, diligence and operating practice by appropriately experienced, qualified and trained personnel.
- c. The provisions of clause B1.b. shall survive any performance, acceptance or payment pursuant to the Contract and shall extend to any remedial services provided by the Contractor.
- d. The Contractor shall:
 - (1) observe, and ensure that the Contractor's Team observe, all health and safety rules and regulations and any other security requirements that apply at any of the Authority's premises;
 - (2) notify the Authority as soon as it becomes aware of any health and safety hazards or issues which arise in relation to the Contractor Deliverables; and
 - (3) before the date on which the Contractor Deliverables are to start, obtain, and at all times maintain, all necessary licences and consents in relation to the Contractor Deliverables.

B2. Environmental Requirements

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

B3. Disruption

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

c. The Contract shall have robust contingency plans in place to ensure that, in the event of industrial action by the Contractor's Team, provision of the Contractor Deliverables is maintained and such contingency plans shall be available for the Authority to inspect and / or comment on at any reasonable time and shall be updated and revised as necessary by the Contractor throughout the contract period.

C Price

C1. Contract Price

a. The Contractor shall provide the Contractor Deliverables to the Authority at the Contract Price. The Contract Price shall be a Firm Price unless otherwise stated in Schedule 3 (Contract Data Sheet).

b. Subject to condition G2 the Contract Price shall be inclusive of any UK custom and excise or other duty payable. The Contractor shall not make any claim for drawback of UK import duty on any part of the Contract Deliverables supplied which may be for shipment outside of the UK.

D Intellectual Property

D1. Third Party Intellectual Property – Rights and Restrictions

a. The Contractor shall promptly notify the Authority as soon as they become aware of:

(1) any invention or design the subject of patent or registered Design Rights (or application thereof) owned by a third party which appears to be relevant to the performance of the Contract or to use by the Authority of anything required to be done or delivered under the Contract;

(2) any restriction as to disclosure or use, or obligation to make payments in respect of any other intellectual property (including technical Information) required for the purposes of the Contract or subsequent use by the Authority of anything Delivered under the Contract and, where appropriate, the notification shall include such Information as is required by Section 2 of the Defence Contracts Act 1958;

(3) any allegation of infringement of intellectual property rights made against the Contractor and which pertains to the performance of the Contract or subsequent use by the Authority of anything required to be done or delivered under the Contract.

Clause D1.a does not apply in respect of Contractor Deliverables normally available from the Contractor as a commercial off the shelf (COTS) item or service.

b. If the Information required under clause D1.a has been notified previously, the Contractor may meet its obligations by giving details of the previous notification.

c. For COTS Contractor Deliverables patents and registered designs in the UK, in respect of any question arising (by way of an allegation made to the Authority or Contractor, or otherwise) that the manufacture or provision under the Contract of Contractor Deliverables normally available from the Contractor as a COTS item or service is an infringement of a UK patent or registered design not owned or controlled by the Contractor or the Authority, the Contractor shall, subject to the agreement of the third party owning such patent or registered design, be given exclusive conduct of any and all negotiations for the settlement of any claim or the conduct of any litigation arising out of such question. The Contractor shall indemnify the Authority, its officers, agents and employees against any liability and cost arising from such allegation. This clause shall not apply if:

(1) the Authority has made or makes an admission of any sort relevant to such question;

(2) the Authority has entered or enters into any discussions on such question with any third party without the prior written agreement of the Contractor;

- (3) the Authority has entered or enters into negotiations in respect of any relevant claim for compensation in respect of Crown Use under Section 55 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1977;
- (4) legal proceedings have been commenced against the Authority or the Contractor in respect of Crown Use, but only to the extent of such Crown Use that has been properly authorised.
- d. The indemnity in clause D1.c does not extend to use by the Authority of anything supplied under the Contract where that use was not reasonably foreseeable at the time of the Contract.
- e. In the event that the Authority has entered into negotiation in respect of a claim for compensation, or legal proceedings in respect of the Crown Use have commenced, the Authority shall forthwith authorise the Contractor for the purposes of performing the Contract (but not otherwise) to utilise a relevant invention or design in accordance with Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949 and to use any model, document or information relating to any such invention or design which may be required for that purpose.
- f. For all other Contractor Deliverables patents and registered designs in the UK, if a relevant invention or design has been notified to the Authority by the Contractor prior to the Effective Date of the Contract, then unless it has been otherwise agreed, under the provisions of Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949, the Contractor is hereby authorised to utilise that invention or design, notwithstanding the fact that it is the subject of a UK Patent or UK Registered Design, for the purpose of performing the Contract.
- g. If, under clause D.1a, a relevant invention or design is notified to the Authority by the Contractor after the Effective Date of Contract, then:
- (1) if the owner (or its exclusive licensee) takes or threatens in writing to take any relevant action against the Contractor, the Authority shall issue to the Contractor a written authorisation in accordance with the provisions of Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949, and
- (2) in any event, unless the Contractor and the Authority can agree an alternative course of action, the Authority shall not unreasonably delay the issue of a written authorisation in accordance with the provisions of Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949.
- h. The Authority shall assume all liability and shall indemnify the Contractor, its officers, agents and employees against liability, including the Contractor's costs, as a result of infringement by the Contractor or their suppliers of any patent, utility model, registered design or like protection outside the United Kingdom in the performance of the Contract when such infringement arises from or is incurred by reason of the Contractor following any specification, statement of work or instruction in the Contract or using, keeping or disposing of any item given by the Authority for the purpose of the Contract in accordance with the Contract.
- i. The Contractor shall assume all liability and shall indemnify the Authority, its officers, agents and employees against liability, including the Authority's costs, as a result of infringement by the Contractor or their suppliers of any patent, utility model, registered design or like protection outside the UK in the performance of the Contract when such infringement arises from or is incurred otherwise than by reason of the Contractor following any specification, statement of work or instruction in the Contract or using, keeping or disposing of any item given by the Authority for the purpose of the Contract in accordance with the Contract.
- j. The Contractor shall not be entitled to any reimbursement of any royalty, licence fee or similar expense incurred in respect of anything to be done under the Contract, where:
- (1) a relevant discharge has been given under Section 2 of the Defence Contracts Act 1958, or relevant authorisation in accordance with Sections 55 or 57 of the Patents Act 1977, Section 12 of the Registered Designs Act 1949 or Section 240 of the Copyright, Designs and Patents Act 1988 in respect of any intellectual property; or

- (2) any obligation to make payments for intellectual property has not been promptly notified to the Authority under clause D1.a.
- k. Where authorisation is given by the Authority under clause D1.e, D1.f or D1.g, to the extent permitted by Section 57 of the Patents Act 1977, Section 12 of the Registered Designs Act 1949 or Section 240 of the Copyright, Designs and Patents Act 1988, the Contractor shall also be:
- (1) released from payment whether by way of royalties, licence fees or similar expenses in respect of the Contractor's use of the relevant invention or design, or the use of any relevant model, document or information for the purpose of performing the Contract; and
 - (2) authorised to use any model, document or information relating to any such invention or design which may be required for that purpose.
- l. The Contractor shall assume all liability and indemnify the Authority and its officers, agents and employees against liability, including costs as a result of:
- (1) infringement or alleged infringement by the Contractor or their suppliers of any copyright, database right, Design Right or the like protection in any part of the world in respect of any item to be supplied under the Contract or otherwise in the performance of the Contract;
 - (2) misuse of any confidential information, trade secret or the like by the Contractor in performing the Contract;
 - (3) provision to the Authority of any information or material which the Contractor does not have the right to provide for the purpose of the Contract.
- m. The Authority shall assume all liability and indemnify the Contractor, its officers, agents and employees against liability, including costs as a result of:
- (1) infringement or alleged infringement by the Contractor or their suppliers of any copyright, database right, Design Right or the like protection in any part of the world in respect of any item provided by the Authority for the purpose of the Contract but only to the extent that the item is used for the purpose of the Contract;
 - (2) alleged misuse of any confidential Information, trade secret or the like by the Contractor as a result of use of information provided by the Authority for the purposes of the Contract, but only to the extent that Contractor's use of that Information is for the purposes intended when it was disclosed by the Authority.
- n. The general authorisation and indemnity is:
- (1) Clauses D1.a – D.1.m represents the total liability of each Party to the other under the Contract in respect of any infringement or alleged infringement of patent or other Intellectual Property Right (IPR) owned by a third party;
 - (2) Neither Party shall be liable, one to the other, for any consequential loss or damage arising as a result, directly or indirectly, of a claim for infringement or alleged infringement of any patent or other IPR owned by a third party;
 - (3) A Party against whom a claim is made or action brought, shall promptly notify the other Party in writing if such claim or action appears to relate to an infringement which is the subject of an indemnity or authorisation given under this Condition by such other Party. The notification shall include particulars of the demands, damages and liabilities claimed or made of which the notifying Party has notice;
 - (4) The Party benefiting from the indemnity or authorisation shall allow the other Party, at its own expense, to conduct any negotiations for the settlement of the same, and any litigation that may arise therefrom and shall provide such information as the other Party may reasonably require;

(5) Following a notification under clause D1.n.(3), the Party notified shall advise the other Party in writing within thirty (30) Business Days whether or not it is assuming conduct of the negotiations or litigation. In that case the Party against whom a claim is made or action brought shall not make any statement which might be prejudicial to the settlement or defence of such a claim without the written consent of the other Party;

(6) The Party conducting negotiations for the settlement of a claim or any related litigation shall, if requested, keep the other Party fully informed of the conduct and progress of such negotiations.

o. If at any time a claim or allegation of infringement arises in respect of copyright, database right, Design Right or breach of confidence as a result of the provision of any Contractor Deliverable by the Contractor to the Authority, the Contractor may at its own expense replace the item with an item of equivalent functionality and performance so as to avoid infringement or breach. The Parties will co-operate with one another to mitigate any claim or damage which may arise from use of third party IPR.

p. Nothing in condition D1 shall be taken as an authorisation or promise of an authorisation under Section 240 of the Copyright, Designs and Patents Act 1988.

E Facilities And Assets

E1. Access to Contractor's Premises

The Contractor shall provide to the Authority's Representatives following reasonable notice, relevant accommodation / facilities, at no direct cost to the Authority, and all reasonable access to its premises for the purpose of monitoring the Contractor's progress and quality standards in performing the Contract.

F Delivery

F1. Authority's Remedies for Breach of Contract

a. If the Contractor:

(1) fails to provide the Contractor Deliverables (or any part thereof) by the relevant date specified in Schedule of Requirements and / or the Specification;

(2) provides Contractor Deliverables (or any part thereof) that are not in accordance with, or the Contractor fails to comply with, any terms of the Contract;

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

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

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

(a) a single Key Performance Indicator (KPI) on [INSERT NUMBER] or more occasions in a rolling [INSERT NUMBER] month period; or

(b) [INSERT NUMBER] or more KPIs on a rolling [INSERT NUMBER] month period,

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

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

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

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

Authority, by giving written Notice to the Contractor;

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

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

(10) purchase substitute services from elsewhere;

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

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

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

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

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

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

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

G Payment And Receipts

G1. Payment and Recovery of Sums Due

a. Payment for Contractor Deliverables under the Contract shall be made via Contracting, Purchasing & Finance (CP&F) electronic procurement tool.

b. The Authority shall pay all valid and undisputed claims for payment submitted by the Contractor to DBS Finance on or before the day which is thirty (30) days after the later of:

(1) the day upon which a valid request for approval of payment is received by the Authority; and

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

c. 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.

d. 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.

G2. Value Added Tax

- a. The Contract Price excludes any UK output Value Added Tax (VAT) and any similar EU (or non-EU) taxes chargeable on the provision of any Contractor Deliverables by the Contractor to the Authority.
- b. If the Contractor is required by UK VAT law to be registered for UK VAT (or has registered voluntarily) in respect of its business activities at the time of any supply, the Contractor shall include separately in any claim for payment a sum equal to any VAT chargeable at the prevailing rate on the Contract Price claimed and the Authority shall pay it. In the event of any doubt about the applicability of the tax in such cases, the Authority may require the Contractor to obtain and pass to the Authority a formal ruling from HM Revenue and Customs (HMRC).
- c. The Contractor is responsible for the determination of VAT liability. In cases of doubt, the Contractor shall consult HMRC and not the Authority's Representative. The Contractor shall notify the Authority's Representative (Commercial) of the Authority's VAT liability under this Contract, when the liability is other than at the standard rate of VAT, and any changes to it.
- d. Where the provision of any Contractor Deliverables comes within the scope of UK VAT, but the Contractor is not required by UK VAT law to be registered for UK VAT (and has not registered voluntarily), the Authority shall be responsible for assessing and paying over directly to HMRC any UK output VAT due in respect of the Contractor Deliverables.
- e. Where Contractor Deliverables are deemed to be supplied to the Authority outside the UK, the Contractor may be required by the laws of the country where the supply takes place to register there for EU (or non-EU) turnover or similar tax. In that event, the Authority shall pay to the Contractor in addition to the Contract Price (and any other sum due to the Contractor under the Contract) a sum equal to the tax the Contractor is liable to pay to the tax authorities of the country in question in relation to the Contractor Deliverables.

G3. Debt Factoring

- a. Subject to the Contractor obtaining the prior written consent of the Authority in accordance with condition A6 (Assignment of Contract), the Contractor may assign to a third Party ("the Assignee") the right to receive payment of the Contract Price or any part thereof due to the Contractor under the Contract (including interest which the Authority incurred through late payment under the Late Payment of Commercial Debts (Interest) Act 1998 ('the Act')). Any assignment of the right to receive payment of the Contract Price (or any part thereof) under this condition G3 shall be subject to:
 - (1) reduction of any sums in respect of which the Authority exercises its right of recovery under clause G1.i;
 - (2) all related rights of the Authority under the Contract in relation to the recovery of sums due but unpaid; and
 - (3) the Authority receiving notification under both clauses G3.b and G3.c.(2).
- b. In the event that the Contractor obtains from the Authority the consent to assign the right to receive the Contract Price (or any part thereof) under clause G3.a, the Contractor shall notify the Authority in writing of the assignment and the date upon which the assignment becomes effective.
- c. The Contractor shall ensure that the Assignee:
 - (1) is made aware of the Authority's continuing rights under clauses G3.a.1 and G3.a.2; and
 - (2) notifies the Authority of the Assignee's contact information and bank account details to which the Authority shall make payment, subject to any reduction made by the

Authority in accordance with sub-clauses G3.a.(1) and G3.a.(2).

d. The provisions of condition G1 (Payment) shall continue to apply in all other respects after the assignment and shall not be amended without the prior approval of the Authority.

H Contract Administration

H1. Progress Monitoring, Meetings and Reports

a. The Contractor shall attend progress meetings at the frequency or times (if any) specified in Schedule 3 (Contract Data Sheet) and shall ensure that its Contractor's Representatives are suitably qualified to attend such meetings.

b. The Contractor shall submit progress reports to the Authority's Representatives at the times and in the format (if any) specified in Schedule 3 (Contract Data Sheet). The reports shall detail as a minimum:

- (1) performance/Delivery of the Contractor Deliverables;
- (2) risks and opportunities;
- (3) any other information specified in Schedule 3 (Contract Data Sheet); and
- (4) any other information reasonably requested by the Authority.

H2. Authority Representatives

a. Any reference to the Authority in respect of:

- (1) the giving of consent;
- (2) the delivering of any Notices; or
- (3) the doing of any other thing that may reasonably be undertaken by an individual acting on behalf of the Authority,

shall be deemed to be references to the Authority's Representatives in accordance with this condition H2.

b. The Authority's Representatives detailed in Schedule 3 (Contract Data Sheet) (or their nominated deputy) shall have full authority to act on behalf of the Authority for all purposes of the Contract. Unless notified in writing before such act or instruction, the Contractor shall be entitled to treat any act of the Authority's Representatives which is authorised by the Contract as being expressly authorised by the Authority and the Contractor shall not be required to determine whether authority has in fact been given.

c. In the event of any change to the identity of the Authority's Representatives, the Authority shall provide written confirmation to the Contractor, and shall update Schedule 3 (Contract Data Sheet) in accordance with condition A2 (Amendments to Contract).

H3. Notices

a. A Notice served under the Contract shall be:

- (1) in writing in the English Language;
- (2) authenticated by signature or such other method as may be agreed between the Parties;
- (3) sent for the attention of the other Party's representative, and to the address set out in Schedule 3 (Contract Data Sheet);

- (4) marked with the number of the Contract; and
 - (5) delivered by hand, prepaid post (or airmail), facsimile transmission or, if agreed in Schedule 3 (Contract Data Sheet), by electronic mail.
- b. Notices shall be deemed to have been received:
- (1) if delivered by hand, on the day of delivery if it is a Business Day in the place of receipt, and otherwise on the first Business Day in the place of receipt following the day of delivery;
 - (2) if sent by prepaid post, on the fourth Business Day (or the tenth Business Day in the case of airmail) after the day of posting;
 - (3) if sent by facsimile or electronic means:
 - (a) if transmitted between 09:00 and 17:00 hours on a Business Day (recipient's time) on completion of receipt by the sender of verification of the transmission from the receiving instrument; or
 - (b) if transmitted at any other time, at 09:00 on the first Business Day (recipient's time) following the completion of receipt by the sender of verification of transmission from the receiving instrument.

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

DEFCON 76 (SC3) (Edn 12/14) – Contractor's Personnel at Government Establishments
 DEFCON 127 (Edn 12/14) – Price Fixing Condition for Contracts of Lesser Value
 DEFCON 611 (SC3) (Edn 02/16) – Issued Property
 DEFCON 659A (Edn 11/14) – Security Measures
 DEFCON 660 (Edn 12/15) – Official-Sensitive Security Requirements
 DEFCON 694 (SC3) (Edn 03/16) – Accounting for Property of the Authority

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

K1 - Certificate of Conformity

- a. Where required in Schedule 3 (Contract Data Sheet) the Contractor shall provide a Certificate of Conformity (CofC) in accordance with Schedule 2 (Schedule of Requirements). One copy of the CofC shall be sent to the Authority's Representative (Commercial) upon Delivery, and one copy shall be provided to the Consignee upon Delivery.
- b. The Contractor shall consider the CofC to be a record in accordance with condition A23 (Contractor's Records).
- c. The Information provided on the CofC shall include:
 - (1) Contractor's name and address;
 - (2) Contractor unique CofC number;
 - (3) Contract number and where applicable Contract amendment number;
 - (4) details of any approved concessions;
 - (5) acquirer name and organisation;
 - (6) Delivery address;
 - (7) Contract Item Number from Schedule 2 (Schedule of Requirements);
 - (8) description of Contractor Deliverable, including part number, Specification and configuration status;
 - (9) identification marks, batch and serial numbers in accordance with the Specification;
 - (10) quantities;

- (11) a signed and dated statement by the Contractor that the Contractor Deliverables comply with the requirements of the Contract and approved concessions.

Exceptions or additions to the above are to be documented.

- d. Where Schedule 2 (Schedule of Requirements) and any applicable Quality Plan require demonstration of traceability and design provenance through the supply chain the Contractor shall include in any relevant subcontract the requirement for the Information called for at clause c. The Contractor shall ensure that this Information is available to the Authority through the supply chain, upon request in accordance with condition A23 (Contractor Records).

K2 - Marking of Contractor Deliverables

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

K3 and K4 - Not Used

K5 - Rejection

- a. If any of the Contractor Deliverables Delivered to the Authority do not conform to the Specification or any other terms of this Contract, then (without limiting any other right or remedy that the Authority may have) the Authority may reject the Contractor Deliverables (in whole or in part). The Authority shall return these Contractor Deliverables to the Contractor at the Contractor's risk and cost.
- b. Rejection of any of the Contractor Deliverables under clause a. shall take place by the time limit for rejection specified in Schedule 3 (Contract Data Sheet), or if no such period is specified within 20 (twenty) Business Days.

K6 - Delivery/Collection

- a. Schedule 3 (Contract Data Sheet) shall specify whether the Contractor Deliverables are to be Delivered to the Consignee by the Contractor or Collected from the Consignor by the Authority.
- b. Where the Contractor Deliverables are to be Delivered by the Contractor (or a third party acting on behalf of the Contractor), the Contractor shall, unless otherwise stated in writing:
- (1) contact the Authority's Representative as detailed in Schedule 3 (Contract Data Sheet) in advance of the Delivery Date in order to agree administrative arrangements for Delivery and provide any Information pertinent to Delivery requested;
 - (2) comply with any special instructions for arranging Delivery in Schedule 3 (Contract Data Sheet);
 - (3) ensure that each consignment of the Contractor Deliverables is accompanied by, (as

specified in Schedule 3 (Contract Data Sheet)), a DEFFORM 129J in accordance with the instructions;

- (4) be responsible for all costs of Delivery; and
 - (5) Deliver the Contractor Deliverables to the Consignee at the address stated in Schedule 2, (Schedule of Requirements) by the Delivery Date between the hours agreed by the Parties;
- c. Where the Contractor Deliverables are to be collected by the Authority (or a third Party acting on behalf of the Authority), the Contractor shall, unless otherwise stated in writing:
- (1) contact the Authority's Representative (Transport) as detailed in box 10 of DEFFORM 111 at Annex A to Schedule 3 (Contract Data Sheet) in advance of the Delivery Date in order to agree specific arrangements for Collection and provide any Information pertinent to the Collection requested;
 - (2) comply with any special instructions for arranging Collection in Schedule 3 (Contract Data Sheet);
 - (3) ensure that each consignment of the Contractor Deliverables is accompanied by, (as specified in Schedule 3 (Contract Data Sheet)), a DEFFORM 129J in accordance with the instructions;
 - (4) ensure that the Contractor Deliverables are available for Collection by the Authority from the Consignor (as specified in Schedule 3 (Contract Data Sheet) by the Delivery Date between the hours agreed by the Parties; and
 - (5) in the case of Overseas consignments, ensure that the Contractor Deliverables are accompanied by the necessary transit documentation. All Customs clearance shall be the responsibility of the Authority's Representative (Transport).
- d. Title and risk in the Contractor Deliverables shall only pass from the Contractor to the Authority:
- (1) on the Delivery of the Contractor Deliverables by the Contractor to the Consignee in accordance with clause b; or
 - (2) on the Collection of the Contractor Deliverables from the Consignor by the Authority once they have been made available for Collection by the Contractor in accordance with clause c.

K7 – Not Used

K8 - Acceptance

- a. Acceptance of the Contractor Deliverables shall occur in accordance with any acceptance procedure specified in SC3 Core Plus Schedule "Acceptance Procedure". If no acceptance procedure is so specified acceptance shall occur when either:
- (1) the Authority does act in relation to the Contractor Deliverable which is inconsistent with the Contractor's ownership; or
 - (2) the time limit in which to reject the Contractor Deliverables defined in clause K5.b has elapsed

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

- a. The Contractor shall pack or have packed the Contractor Deliverables:
- (1) in accordance with any requirements specified in Schedule 2, (Schedule of Requirements) (which if represented by packing codes shall be interpreted by reference to DEFFORM 96 and DEF STAN 81-041 (Part 1));

- (2) to ensure that each Deliverable may be transported in an undamaged and serviceable condition.
- b. The Contractor shall ensure that each package containing the Contractor Deliverables is labelled to include:
 - (1) the name and address of the Consignor and Consignee as specified in Schedule 3 (Contract Data Sheet) including:
 - (a) the Delivery destination / address if not of the Consignee;
 - (b) the transit destination / address (for aggregation/disaggregation, onward shipment etc.);
 - (2) the DEFFORM 129J in accordance with the instructions;
 - (3) the description and quantity of the Contractor Deliverables enclosed;
 - (4) the full 13 digit NATO Stock Number (NSN) where the UK is registered as a user of it, or, where the requirement does not have an NSN, with the alternative reference number specified in Schedule 2, (Schedule of Requirements);
 - (5) the makers part, catalogue, serial or batch number as appropriate;
 - (6) the Contract number (call off order numbers if Framework or as appropriate);
 - (7) any statutory Hazard markings and any handling markings, including the mass of 8 of 20 any package which exceeds 3kg;
 - (8) the Packaging level (Military J, N or P, special H, Commercial A etc.) as specified in Schedule 2, (Schedule of Requirements);
 - (9) where applicable, any particulars which cannot be marked on each Contractor Deliverable in accordance with clause K2.b;
 - (10) any additional markings specified in Schedule 2, (Schedule of Requirements);
 - (11) the Primary Packaged Quantity (PPQ) (if Trade Packaging); and
 - (12) if Trade Packaging to be marked in blue "TRADE PACKAGE" or if Export Trade Packaging to be marked in black "EXPORT TRADE PACKAGING".

Where UK Military or NATO Packaging is required, labelling of the Contractor Deliverables shall be in accordance with DEF STAN 81-041 (Part 6) and clause b.

- c. Bar code markings shall be applied to the external surface of each package and to each PPQ package within. The minimum information shall include; the full 13 digit NSN, Denomination of Quantity (D of Q) see DEFFORM 96, actual quantity in package, Serial Number and/or batch number, if applicable. The bar code symbology used shall meet the requirements of STANAG 4329. Code 39 shall be the default symbology for the Packaging marking application. Requirements for positioning bar codes are defined in DEF STAN 81-041 (Part 6).
- d. Where the Contractor Deliverables are, or contain Dangerous Goods within the meaning of the regulations set out in clauses K3.a and K3.b, the Packaging level is always Trade or Export Trade Packaging not Military Level as noted in DEF STAN 81-041 (All Parts).
- e. Where UK Military or NATO Packaging is required, the Contractor shall meet the requirements as specified in Schedule 2, (Schedule of Requirements). The Contractor Deliverables shall be contained in packages which comply with the requirements of DEF STAN 81-041 (parts 1, 2 and 5) and be capable of meeting the appropriate test requirements of DEF STAN 81-041 (part 3).

- f. Where there is requirement to design UK Military or NATO level Packaging, the work shall be undertaken by a company which is registered and certified to Military Packaging Accreditation Scheme (MPAS), (ISO 9001 based), or which is able to demonstrate that its quality systems and Military package design expertise are of an equivalent standard. Military Level Packages shall be designed to comply with the relevant requirements of DEF STAN 81-041; testing to DEF STAN 81-041 (Part 3) or DEF STAN 00-035. Packaging designs shall be prepared on a Services Packaging Instruction Sheet (SPIS), in accordance with DEF STAN 81-041 (Part 4).
- g. New designs shall not be made where there is an existing SPIS or one that may be easily modified to be in accordance with the contract requirements, (see clause f.). Application should be made to the Project Team (PT) or other access point for a search to establish the SPIS status using DEFFORM 129a (Application for Packaging Designs and Authorisation for Package Design Work); media format as per clause j.
- h. Where there is a usable Standard Family Specification (SFS), it shall be used in place of a SPIS design.
- i. SPIS designs are maintained on a central Master Packaging Database (MPD), the SPIS Index (SPIN), held on the MOD design repository or other authorised secure servers, for monitoring by the MOD and review by MPAS certified contractors and the MOD.
- j. All SPIS, new or modified (and associated documentation) shall on completion be provided for uploading on to SPIN in the agreed electronic format which shall be Adobe "PDF" compatible with Adobe Acrobat version 5. Any other format shall be agreed between the Packaging Design Authority (PDA) and MOD and must be compatible with access to SPIN.
- k. Production of Military Level Packaging; where it is necessary to use a SPIS design the Packaging manufacturer should also be a registered contractor as stated in clause g. The manufacturer is responsible for confirming that the design is suitable.
- l. Minor alterations/updates and similar to existing designs may be carried out by MPAS Certificated designers, all major/significant changes and new designs need to be authorised by the Authority's Representative (Project Manager) (unless that power is delegated to a Prime or MPAS Registered company).
- m. Intellectual Property Rights (IPR); the MOD shall retain the rights to the SPIS designs or to copy or use any information relating to them, if otherwise specified.
- n. Where applicable one of the following procedures for the production of new or modified SPIS designs shall be applied:
 - (1) If the Contractor is the PDA, they shall:
 - (a) on receipt of instructions received from the Authority's Representative, (Project Manager), prepare the required package design in accordance with DEF STAN 81-041;
 - (b) where the Contractor is certified they shall, on completion of any design work, provide the Authority's Representative (Project Manager) with the following documents electronically:
 - (i) a list of all SPIS which have been prepared or revised against the Contract; and
 - (ii) a copy of all new / revised SPIS, complete with all continuation sheets and associated drawings, where applicable, to be uploaded onto SPIN.
 - (c) where the PDA is not a certified organisation, they shall obtain approval for their design from a certified organisation before proceeding, then continue with sub-clause n.(1)(b) of this condition.

- (2) Where the Packaging contractor is not the PDA and is un-certified, they shall not produce, modify, or update etc SPIS Designs. They shall obtain current SPIS design(s) from SPIN or a certified organisation before proceeding with manufacture of Packaging. To allow designs to be provided in ample time, they shall apply for SPIS information as soon as practicable after receipt of Contract or order.
- (3) Where the Contractor is un-certified and has been given authority to produce, modify, and update SPIS Designs by contract, they shall obtain approval for their design from a certified organisation before proceeding, then continue with sub-clause n (1)(b) of this condition.
- (4) Where the Contractor is not a PDA but is certified; follow sub-clauses n (1)(a) and (b) of this condition.

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

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

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

The certification scheme (MPAS) detail is available from:

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

- (2) Military Level packages shall be designed to comply with the relevant requirements of DEF STAN 81-041, testing to DEF STAN 81-041 (Part 3) or DEF STAN 00-035. Packaging designs shall be prepared on a Services Packaging Instruction Sheet (SPIS), in accordance with DEF STAN 81-041 (Part 4);
 - (3) all Packaging contractors on receipt of a requirement shall search SPIN or apply for a search of SPIN to establish the SPIS status (using DEFFORM 129a 'Application for Packaging Designs or their Status', media format as per clause g.);
 - (4) new designs shall not be made where there is an existing usable SPIS, or one that may be easily modified;
 - (5) where there is a usable Standard Family Specification (SFS), it shall be used in place of a SPIS design unless otherwise stated in this Contract. When an SFS is used or replaces a SPIS design, the Contractor shall upload this information as with SPIS, see clause f;
 - (6) all SPIS, new or modified (and associated documentation) shall on completion be provided for uploading on to SPIN in the agreed electronic format;
 - (7) the default electronic media format of a SPIS shall be Adobe "PDF" compatible with SPIN requirements;
 - (8) manufacture of Military Level Packaging; where it is necessary to use a SPIS design then the packaging manufacturer should also be a certified contractor as per clause a. The Packaging manufacturer is responsible for confirming that the design is suitable.
- p. The Authority shall retain all Intellectual Property Rights (IPR) relating to the designs unless otherwise agreed in writing.

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

K10, K11, K12 and K13 – Not Used

K14 – Diversion Orders

- a. The Authority shall notify the Contractor at the earliest practicable opportunity if it becomes aware that a Contractor Deliverable is likely to be subject to a Diversion Order.
- b. Where necessary the Authority may issue (or having issued, cancel) a Diversion Order for urgent Delivery of the Contractor Deliverables identified in it:
 - (1) where a Diversion Order is issued the Contractor Deliverables are to be Delivered by the quickest means available, unless otherwise directed;
 - (2) a Diversion Order which is beyond the scope of the Contract is to be returned immediately to the Authority's Representative (Commercial) with an appropriate explanation;
 - (3) if the terms of the Diversion Order are unclear, the Contractor shall contact the Authority's Representative who issued it immediately for clarification or further instruction, copying the Authority's Representative (Commercial) in on all correspondence;
 - (4) the Contractor shall be entitled to any additional Delivery and Packaging costs generated in complying with the Diversion Order or cancellation thereof, claims for which are to be submitted by the Contractor to the Authority's Representative (Commercial) together with appropriate receipts and shall be priced and agreed in writing as an amendment to the Contract in accordance with condition A2. The Contractor shall not delay complying with the Diversion Order whilst awaiting agreement of any additional Delivery and Packaging costs.

K15 – Copyright

- a. This Condition shall apply to all copyright works generated under the Contract, or delivered to the Authority under the provisions of the Contract, except that it shall not apply to copyright works consisting of technical data and software where such rights are granted elsewhere in the Contract.
- b. The Contractor shall use all reasonable endeavours to ensure that copyright in any work generated under the Contract shall be the property of and vest in the Contractor, subject to the rights of third parties in pre-existing works.
- c. The Contractor agrees not to publish any copyright work generated under the Contract without the consent in writing of the Authority. The Authority will not normally raise objection to publication unless delay or limited publication only is considered necessary in the national interest. The Authority will review, upon request by the Contractor, any such restriction on publication.
- d. The Authority shall have, in respect of any copyright work to which this Condition applies, a free licence:
 - (1) to copy the work and to circulate and use the work or any copy thereof within any United Kingdom Government Department (which term includes the United Kingdom Armed Forces) provided that no part of the work nor any copy thereof shall, except with the prior written permission of the Contractor or pursuant to clauses b., c. or d. of this condition, be made available to any third party;

(2) to issue the work or any part of the work or any copy of the work or any part thereof to any contractor or agent for the purpose of use only in connection with a contract for the United Kingdom Government for the study, management, evaluation, and/or assessment of the work, provided that any such contractor or agent shall be placed under an obligation which restricts disclosure and use of such work to the said purpose;

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

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

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

- e. As soon as it becomes aware that any copyright work or part thereof Delivered or proposed to be Delivered is a work subject to special conditions or any third party rights known to the Contractor, or is a work or part thereof not generated under the Contract, the Contractor shall inform the Authority and upon Delivery shall appropriately mark such work or part thereof to identify the same and indicate the relevant conditions or rights.
- f. The Contractor may mark or include in any copyright work to which this Condition applies a copyright notice provided that such copyright notice acknowledges the Authority's rights under this Condition. Any such notice shall be perpetuated in any copies of such work made by the Authority or any other United Kingdom Government Department or its agents or contractors.
- g. This Condition shall constitute an "agreement to the contrary" for the purposes of Section 48 of the Copyright, Design and Patents Act 1988.
- h. In this Condition "copyright work" shall be understood to include any works, data or other materials in which a database right subsists.

K16 – Limitation of Contractor's Liability

- a. The Contractor's liability under, or in relation to, the contract, shall be limited in respect of the risks as set out in Schedule 3.
- b. The Authority has agreed the limitations(s) to the Contractor's liability, as set out at Schedule 3, based on the risk assessment and proposed risk mitigation activities provided by the Contractor.
- c. Subject to the agreed exclusions and limitations set out in Schedule 3, nothing in this condition shall exclude or limit the Contractor's liability in respect of the following:
 - (1). Any liability arising under or by reason of the Contractor's indemnities granted to the Authority set out in condition D1;
 - (2). Death or personal injury;
 - (3). Fraud or fraudulent misrepresentation;
 - (4). Wilful misconduct.

K17 – Training

- a. The Contractor shall provide training events to the Authority's personnel as formally agreed between the Contractor and the Authority's Representative (Project Manager) in accordance with Condition L1 of the Contract.
- b. The Firm prices under Item 5 of the Schedule 2 – Schedule of Requirements shall apply for the duration of the Contract.
- c. The Authority's Representative (Project Manager) shall identify the date and location of each future training event and provide this information to the Contractor with no less than 15 working days notice of the required date for each UK based training event, and no less than 30 working days notice of the required date for each Overseas based training event.
- d. Any UK based training event which is cancelled or postponed less than 5 working days in advance of the event shall be subject to a maximum cancellation charge of [REDACTED] (ex VAT) with any irrecoverable Travel and Subsistence (T&S) incurred by the Contractor being claimed on an 'actuals' basis up to the aforementioned maximum threshold. In such circumstances, the Contractor shall provide evidence to support its T&S claim.
- e. Any overseas based training event which is cancelled or postponed less than 30 working days in advance of the event shall be subject to a maximum cancellation charge of [REDACTED] (Ex VAT) with any irrecoverable Travel and Subsistence (T&S) incurred by the Contractor being claimed on an 'actuals' basis up to the aforementioned maximum threshold. In such circumstances, the Contractor shall provide evidence to support its T&S claim.

K18 – Ad Hoc Tasking

- a. The Contractor shall undertake ad hoc tasking as formally agreed between the Contractor and the Authority in accordance with Condition L2 of the Contract.
- b. Firm Labour hourly rates used in the calculation of the Firm Price for Item 6 of the Schedule 2 - Schedule of Requirements are detailed at Schedule 7 to the Contract and shall apply for the duration of the Contract.

K19 – Option

- a. In addition to the provision of services under Items 1 to 6 and 8 of Schedule 2 to the Contract, the Contractor hereby grants to the Authority the irrevocable option to extend the contract for a period of six months beyond the contract expiry date based on the continuation of Contractor Deliverables detailed in the Statement of Requirement at Schedule 5 to the Contract. The Option shall be granted by the Contractor on the proviso that the Authority exercises such option by no later than six months prior to the Contract expiry date.
- b. The option prices stated under Item 9 of Schedule 2 to the Contract are firm prices, i.e. not subject to variation.
- c. The Authority shall not be obligated to exercise the option and shall notify the Contractor, by the timescale stated in sub-paragraph a. above, if the option shall be invoked.
- d. Both parties shall reserve the right to revisit the Contractor Deliverables for the extended period of the Contract and submit any recommended changes to the other party for their consideration and agreement. In the event of any agreed changes to the Contractor Deliverables, then the firm pricing under Item 9 shall be re-assessed to establish if the current values are commensurate. If the pricing is not reflective of the revised Contractor Deliverables then the Contractor shall submit a firm price quotation to the Authority for its review and contractual agreement.

K20 – Software Licences

- a. The Aircrew Moving Map & Wire Alerting System (AMMWAS) and Automatic Identification System (AIS) for the Military Aircraft identified in the Contract will be subject to End User

Software Licence Agreements under individual Schedules Numbers 7 and 8 respectively (DEFFORM 701), as signed by both parties and held under Schedule 10 to the Contract.

K21 – Government Furnished Information

- a. The Authority shall provide the Government Furnished Information (GFI) stated at Schedule 12 to the Contract. The relevant DEFCONs under Condition J of the Contract shall apply to the Authority provided GFI.

L. The processes that apply to this Contract are:

L1 – Procedure for Training Request

- a. Training shall be delivered by the Contractor at the request of the Authority's Representative (Project Manager) in accordance with Item 5 of Schedule 2 to the Contract. Subject to the provisions of Condition K17 c., the Authority's Representative (Project Manager) shall specify the date and location of each future training event and provide this information to the Contractor.
- b. The Authority's Representative (Commercial) shall apply the appropriate firm price as agreed under Schedule 2 to the Contract and issue an electronic Purchase Order (PO) on the CP&F System. The Contractor shall be advised of the relevant PO Number and shall consequently undertake the relevant training course.
- c. When the Contractor has delivered the training course in accordance with the Statement of Work as agreed in writing prior to course commencement and to the satisfaction of the Authority's Representative (Project Manager), the Contractor shall input an invoice on CP&F for the contracted firm price and provide the Authority's Representative (Project Manager) with a completed DEFFORM 129J – Electronic Business Delivery Form.
- d. On receipt of the DEFFORM 129J, the Authority's Representative (Project Manager) shall arrange for the receipting of CP&F PO.
- e. If the Order, Invoice and Receipt prices all match on CP&F then payment shall be made to the Contractor electronically via the Authority's Bill Paying Authority at Liverpool.
- f. Schedule 11 to the Contract shall be updated on a periodic basis to record a number of training events.

L2 – Ad Hoc Tasking Procedure

- a. When work is identified under Item 6 of the Schedule 2 to the Contract, the Authority's Representative (Project Manager) shall submit a Task Authorisation Form (TAF) to the Contractor, and in the format at Schedule 8 of the Contract. The TAF shall detail the full description of the work required.
- b. The Contractor shall submit to the Authority's Representative (Project Manager) in the first instance the completed TAF with a copy to Authority's Representative (Commercial), detailing the number of labour man hours estimated for each Task and any other costs to complete the Task. The labour man hours stated in the TAF shall be identified in terms of the year(s) in which the work shall be carried out. In compiling the quotation, the Contractor shall utilise the agreed Firm Labour Rates at Schedule 7 of the Contract
- c. Once the TAF has been fully authorised by the Authority and returned to the Contractor to commence the required work, an electronic Purchase Order (PO) will be issued on the CP&F System. The Authority's Representative (Commercial) shall advise the Contractor of the relevant PO Number.
- d. When the Contractor has delivered the Task in accordance with the agreed TAF and to the satisfaction of the Authority's Representative (Project Manager), the Contractor shall input an invoice on CP&F for the contracted firm price and provide the Authority's Representative (Project Manager) with a completed DEFFORM 129J – Electronic Business Delivery Form.

- e. On receipt of the DEFFORM 129J, the Authority's Representative (Project Manager) confirms completion of the relevant Ad Hoc Tasking and then arranges for the receipting of CP&F PO.
- f. If the Order, Invoice and Receipt prices all match on CP&F then payment will be made to the Contractor electronically via the Authority's Bill Paying Authority at Liverpool.
- g. Schedule 9 to the Contract will be updated on a 'per arising' basis to record the authorised TAF.

Schedule 1 - Definitions of Contract

Core Definitions

Assets	means items / materials which the Contractor has acquired for the purposes of performing their obligations under the Contract;
Authority	means the Secretary of State for Defence acting on behalf of the Crown;
Authority's Representative(s)	shall be those person(s) defined in Schedule 3 (Contract Data Sheet) who will act as the Authority's Representative(s) in connection with the Contract. Where the term "Authority's Representative(s)" in the Conditions is immediately followed by a functional description in brackets, the appropriate Authority's Representative(s) shall be the designated person(s) for the purposes of clause H2.b;
Business Day	means any day excluding: a. Saturdays, Sundays and public and statutory holidays in the jurisdiction of either Party; b. privilege days notified in writing by the Authority to the Contractor at least ten (10) Business Days in advance; and c. such periods of holiday closure of the Contractor's premises of which the Authority is given written Notice by the Contractor at least ten (10) Business Days in advance;
Central Government Body	a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics: a. Government Department; b. Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal); c. Non-Ministerial Department; or Executive Agency.
Child Labour Legislation	means those International Labour Law Conventions concerning economic exploitation of children through the performance of work which is likely to be hazardous or to interfere with a child's health or development, including but not limited to slavery, trafficking, debt bondage or forced labour, which are ratified and enacted into domestic law and directly applicable to the Contractor in the jurisdiction(s) in which it performs the Contract.
Conditions	means the terms and conditions set out in this document;
Consignee	means that part of the Authority identified in Schedule 3 (Contract Data Sheet) to whom the Contractor Deliverables are to be supplied;
Contract	means the Contract including its Schedules and any amendments agreed by the Parties in accordance with condition A2 (Amendments);
Contract Implementation Date	means the day upon which the Contractor is fully responsible for the provision of all of the Contractor Deliverables required;

Contract Price	means the amount set out in Schedule 2 (Schedule of Requirements) to be paid (inclusive of packaging and exclusive of any applicable VAT) by the Authority to the Contractor, for the full and proper performance by the Contractor of its obligations under the Contract;
Contractor	means the person who, by the Contract, undertakes to provide the Contractor Deliverables, for the Authority as is provided by the Contract. Where the Contractor is an individual or a partnership, the expression shall include the personal representatives of the individual or of the partners, as the case may be, and the expression shall also include any person to whom the benefit of the Contract may be assigned by the Contractor with the consent of the Authority;
Contractor Commercially Sensitive Information	means the Information listed in the completed Schedule 6 - Contractor's Commercially Sensitive Information Form, which is Information notified by the Contractor to the Authority, which is acknowledged by the Authority as being commercially sensitive;
Contractor Deliverables	means the services and, where appropriate the documents, which the Contractor is required to provide under the Contract in accordance with the Schedule of Requirements and the Specification;
Contractor's Representative	means a person or persons employed by the Contractor in connection with the provision of the Contractor Deliverables and in connection with this Contract;
Contractor's Team	means all employees, consultants, agents and Subcontractors which the Contractor engages in relation to the Contract;
Control	means the power of a person to secure that the affairs of the Contractor are conducted in accordance with the wishes of that person: a. by means of the holding of shares, or the possession of voting powers in, or in relation to, the Contractor; or b. by virtue of any powers conferred by the constitutional or corporate documents, or any other document, regulating the Contractor; and a change of Control occurs if a person who Controls the Contractor ceases to do so or if another person acquires Control of the Contractor;
Crown Use	in relation to a patent means the doing of anything by virtue of Sections 55 to 57 of the Patents Act 1977 which otherwise would be an infringement of the patent and in relation to a Registered Design has the meaning given in paragraph 2A(6) of the First Schedule to the Registered Designs Act 1949;
DEFFORM	means the MOD DEFFORM series which can be found at https://www.gov.uk/acquisition-operating-framework ;
DEF STAN	means Defence Standards which can be accessed at https://www.dstan.mod.uk ;
Deliver	means hand over the Contractor Deliverables to the Consignee. This shall include unloading, and any other specific arrangements, agreed in accordance with SC3 Condition "Delivery / Collection" and Delivered and Delivery shall be construed accordingly;

Delivery Date	means the date as specified in Schedule 2 (Schedule of Requirements) on which the Contractor Deliverables, or the relevant portion of them are to be Delivered or made available for Collection;
Design Right(s)	has the meaning ascribed to it by Section 213 of the Copyright, Designs and Patents Act 1988;
Effective Date of Contract	means the date specified on the Authority's acceptance letter. For example the DEFFORM 159, or where the standstill period applies, the relevant Notice of Entry into Contract letter;
Firm Price	means a price (Excl. VAT) which is not subject to variation;
Full Service Provision	means the provision by the Contractor of all of the Contractor Deliverables in accordance with the Conditions of this Contract;
Information	means any Information in any written or other tangible form disclosed to one Party by or on behalf of the other Party under or in connection with the Contract, including information provided in the tender or negotiations which preceded the award of the Contract;
Key Performance Indicators	means the agreed method of monitoring and measuring the Contractor's performance against the Contract as set out in Section L (Processes) where this Contract includes Core Plus condition "Key Performance Indicators and Performance Management";
Legislation	means in relation to the United Kingdom: a. any Act of Parliament; b. any subordinate Legislation within the meaning of section 21 of the Interpretation Act 1978; c. any exercise of the Royal Prerogative; or d. any enforceable community right within the meaning of section 2 of the European Communities Act 1972;
Minor Change	means any change that does not significantly/materially affect the nature of the Contractor Deliverables;
Notices	shall mean 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;
Schedule of Requirements	means Schedule 2 (Schedule of Requirements), which identifies, either directly or by reference, Contractor Deliverables to be provided, the performance dates involved and the price or pricing terms in relation to each Contractor Deliverable;
Specification	means Schedule 5 (Specification) which provides the detailed description of the Contractor Deliverables and sets out any performance dates by which the Contractor shall provide such Contractor Deliverables;
Subcontractor	means any person engaged by the Contractor from time to time as may be permitted by the Contract to provide the Contractor Deliverables (or any part thereof);

Supported Businesses

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

Transparency Information

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

Appendix A to Schedule 1 – Core+ Definitions of Contract

Core+ Definitions

Articles	means the Contractor Deliverables (goods and / or the services), including packaging (and Certificate(s) of Conformity and supplied in accordance with any QA requirements if specified) which the Contractor is required to provide under the Contract in accordance with Schedule 2 (Schedule of Requirements), but excluding incidentals outside Schedule 2 (Schedule of Requirements) such as progress reports. (This definition only applies to Core Plus Schedule “Hazardous Articles, Materials or Substances supplied under the Contract” and any DEFCONs if either are included in this Contract);
Collect	means pick up the Contractor Deliverables from the Consignor. This shall include loading, and any other specific arrangements, agreed in accordance with clause K14.c and Collected and Collection shall be construed accordingly;
Consignor	means the name and address specified in Schedule 3 (Contract Data Sheet) from whom the Contractor Deliverables will be dispatched or Collected;
CPET	means the UK Government’s Central Point of Expertise on Timber, which provides a free telephone helpline and website to support implementation of the UK Government timber procurement policy
Denomination of Quantity (D of Q)	means the quantity or measure by which an item of material is managed;
Diversion Order	means the Authority’s written instruction (typically given by MOD Form 199) for urgent Delivery of specified quantities of Contractor Deliverables to a Consignee other than the Consignee stated in Schedule 3 (Contract Data Sheet);
Employee	shall include any person who is an employee or director of the Contractor or who occupies the position of a director of the Contractor, by whatever title given. (This definition only applies to the narrative condition “Security Measures”);
Evidence	means either: a. an invoice or delivery note from the timber supplier or subcontractor to the Contractor specifying that the product supplied to the Authority is FSC or PEFC certified; or b. other robust evidence of sustainability or FLEGT licensed origin, as advised by CPET;
FLEGT	means the Forest Law Enforcement, Governance and Trade initiative by the European Union to use the power of timber-consuming countries to reduce the extent of illegal logging;
Hazardous Contractor Deliverable	means a Contractor Deliverable or a component of a Contractor Deliverable that is itself a hazardous material or substance or that may in the course of its use, maintenance, disposal, or in the event of an accident, release one or more hazardous materials or substances and each material or substance that may be so released;

Independent Verification	means that an evaluation is undertaken and reported by an individual or body whose organisation, systems and procedures conform to “BS EN ISO / IEC 17065: 2012 Conformity assessment - Requirements for bodies certifying products, processes and services”, and who is accredited to audit against forest management standards by a body whose organisation, systems and procedures conform to “ISO 17011: 2004 General Requirements for Providing Assessment and Accreditation of Conformity Assessment Bodies or equivalent”;
Legal and Sustainable	means production and process methods, also referred to as timber production standards, as defined by the document titled “UK Government Timber Production Policy: Definition of legal and sustainable for timber procurement”. The edition current on the day the contract documents are issued by the Authority shall apply;
Military Level Packaging	Packaging that by the nature of the packaged items nature, or envisaged transport / movement or handling within the military supply chain and requires enhanced protection beyond that which commercial Packaging normally provides;
Military Packaging Accreditation Scheme (MPAS)	is a MOD sponsored scheme to accredit military packaging designers capable of producing SPIS designs acceptable to the MOD by meeting its requirements and thereby assure good Military Level Packaging. MPAS supersedes MPCAS/DR14. MPAS detail is available from DESJSCSCM-EngTLS-Pkg@mod.uk ;
MPAS Registered Organisation	is a packaging organisation having one or more MPAS Certificated Designers capable of Military level designs. A company capable of both Military Level and commercial Packaging designs including MOD labelling requirements;
MPAS Certificated Designer	shall mean an experienced Packaging Designer trained and certified to MPAS requirements;
NATO	means the North Atlantic Treaty Organisation which is an intergovernmental military alliance based on the North Atlantic Treaty which was signed on 4 April 1949;
Overseas	shall mean non UK or Foreign
Packaging	Verb. The operations involved in the preparation of materiel for: transportation, handling, storage and Delivery to the user; Noun. The materials and components used for the preparation of the Contractor Deliverables for transportation and storage in accordance with the Contract;
Packaging Design Authority (PDA)	shall mean the organisation that is responsible for the original design of the Packaging except where transferred by agreement. The PDA shall be identified in the Contract, see Annex A to Schedule 3 (Appendix – Addresses and Other Information), Box 3. The PDA should be MPAS registered or accepted as having an equivalent certification;
Primary Packaging Quantity (PPQ)	means the quantity of an item of material to be contained in an individual package, which has been selected as being the most suitable for issue(s) to the ultimate user;

Recycled Timber	means recovered wood that prior to being supplied to the Authority had an end use as a standalone object or as part of a structure. Recycled Timber covers: a. pre-consumer reclaimed wood and wood fibre and industrial by products but excluding sawmill co-products which fall within the category of Virgin Timber; b. post-consumer reclaimed wood and wood fibre, and driftwood; c. reclaimed timber abandoned or confiscated at least ten years previously; it excludes sawmill co-products;
Short-Rotation Coppice	means a specific management regime whereby the poles of trees are cut every one to two years and which is aimed at producing biomass for energy. It is exempt from the UK Government timber procurement policy. For avoidance of doubt, Short-Rotation Coppice is not conventional coppice, which is subject to the timber policy;
STANAG 4329	means the publication NATO Standard Bar Code Symbolologies which can be sourced from Information at www.dstan.mod.uk/fags.html;
Subcontractor	means any subcontractor of the Contractor or associated company at any level of the supply chain who provides contractor deliverables wholly or substantially in connection with this contract.
Timber and Wood-Derived Products	means timber (including Recycled Timber and Virgin Timber but excluding Short-Rotation Coppice) and any products that contain wood or wood fibre derived from those timbers. Such products range from solid wood to those where the manufacturing processes obscure the wood element;
Virgin Timber	means Timber and Wood-Derived Products that do not include Recycled Timber.

Schedule 2 - Schedule of Requirements for Services for Contract No: **HELSS/0062**

For: the Sustainment of the Aircrew Moving Map & Wire Alerting System (AMMWAS) Capability for Apache Mk1, Griffen HAR Mk2, Lynx Mk9A, Merlin Mk2 & Bell 212 and the Automatic Identification System (AIS) Capability for Merlin Mk2.

Item Number	Contractor Deliverables	Quantities	Firm Price £ (ex-VAT)
1	The Maintenance and Support of the AMMWAS Capability (GECO JHC System) for Apache Mk1, Griffen HAR Mk2, Lynx Mk9A, Merlin Mk2 and Bell 212 Aircraft in accordance with the Statement of Requirement (SoR) at Schedule 5 to the Contract as effective from 11 December 2016 to 10 April 2018.	<u>Total:</u> Qty 115 PC Tablets Qty 28 PC Base Stations	████████
2	Provision of Software Licences for AMMWAS Capability (GECO JHC System) for Apache Mk1, Griffen HAR Mk2, Lynx Mk9A, Merlin Mk2 and Bell 212 Aircraft in accordance with the Statement of Requirement (SoR) at Schedule 5 to the Contract as effective from 11 December 2016 to 10 April 2018.	<u>Total:</u> Qty 115 PC Tablets Qty 28 PC Base Stations	████████
3	Maintenance and Support of AIS Capability for Merlin Mk2 in accordance with the Statement of Requirement (SoR) at Schedule 5 to the Contract as effective from 11 December 2016 to 10 April 2018.	<u>Total:</u> Qty 33 PC Tablets Qty 12 PC Base Stations	████████
4	Provision of Software Licences for AIS Capability for Merlin Mk2 in accordance with the Statement of Requirement (SoR) at Schedule 5 to the Contract as effective from 11 December 2016 to 10 April 2018.	<u>Total:</u> Qty 33 PC Tablets Qty 12 PC Base Stations	████████
5	The Provision of User Training Events in accordance with the Statement of Requirement (SoR) at Schedule 5 to the Contract.	As required	████████ per course (UK) ████████ per course (Overseas)
6	The Provision of Ad Hoc Tasking in accordance with the Statement of Requirement (SoR) at Schedule 5 to the Contract.	As required	To be agreed in accordance with. Contract Condition L2.
7	The Provision of replacement Batteries for the Winmate M700D PC Tablets in accordance with the Statement of Requirement (SoR) at Schedule 5 to the Contract. All deliveries to be completed by 31 Jan 2017.	Qty 200	████████ Total

Item Number	Contractor Deliverables	Quantities	Firm Price £ (ex-VAT)
8	The Provision of Third Party Software Product Licences accordance with the Statement of Requirement (SoR) at Schedule 5 to the Contract.	See Product Licences and Quantities at Schedule 5	
9	Option Period – 6 Month Extension 11 Apr 2018 to 10 Oct 2018:- a. As per Item 1 above b. As per Item 2 above c. As per Item 3 above d. As per Item 4 above e. As per Item 5 above f. As per Item 6 above g. As per Item 8 above	) See) corresponding) Quantities) against) the) above) relevant) Item) Number	per course (UK) per course (Overseas) To be agreed in accordance with. Contract Condition L2 (Total)

Schedule 3 - Contract Data Sheet for Contract No: HELSS/0062

Condition A9 Governing Law	Contract to be governed and construed in accordance with: (one must be chosen) English Law ☒ Scots Law ☐ clause A9.d shall apply Solicitors or other persons based in England and Wales (or Scotland if Scots Law applies) irrevocably appointed for Contractors without a place of business in England (or Scotland, if Scots Law applies) in accordance with clause A9.g (if applicable) are as follows:
Condition A22 Termination for Convenience	The Notice period for terminating the Contract shall be 20 Business Days.
Condition A24 Contract Period	The Contract shall commence on 11 December 2016 and expire on 10 April 2018 (or on 10 October 2018 should the Authority elect to exercise its option to extend the Contract under Contract Condition K19.
Clause B1.b.(1) Contractor's Obligations – Quality Assurance	Is a Deliverable Quality Plan required for this Contract? Yes ☐ No ☒ If Yes the Deliverable Quality Plan must be set out as defined in AQAP 2105 and delivered to the Authority (Quality) within Business Days of Contract Award. Once agreed by the Authority the Quality Plan shall be incorporated into the Contract. The Contractor shall remain at all times, solely responsible for the accuracy, suitability and applicability of the Deliverable Quality Plan. Other Quality Assurance Requirements: To the extent applicable to the Contractor's performance of the Contract and supply of Contractor Deliverables: AQAP 2110 Edn 3 – NATO QA Requirements for Design, Development & Production (Edition D Version 1) AQAP 2210 (Edition A Version 2) – NATO Supplementary Software QA Requirements to AQAP 2110 Def Stan 05-57 Issue 6 – Configuration Management of Defence Material Def Stan 05-61 Part 1 Issue 6 – Concessions Def Stan 05-135 Issue 1 – Avoidance of Counterfeit Material To the extent applicable to the Contractor's performance of the Contract and supply of the Contractor Deliverables, the Contractor shall comply with the following MAA Regulatory Publications (MRP) issued by the Military Aviation Authority (the Regulator):-

	Overarching documents: • MAA01: MAA Regulatory Policy • MAA02: MAA Master Glossary Regulatory Articles (RA): • MRP RA 5201 – Interchangeability Requirements* • MRP RA 5404 – Fault Reporting and Investigation The Contractor shall comply with the Regulations set out in the above RA by following: a. the acceptable means of compliance (AMC) prescribed therein; b. where there is more than one AMC, an AMC or AMCs agreed by the Contractor with the Regulator; or c. other alternative means as may be agreed by the Contractor with the Regulator. Complying with the MRP does not reduce or limit any statutory or legal obligation of the Contractor. * In connection with part identification for the GECO System, it is agreed that Systems will continue to be identified against agreed Codification Documents using the adhesive labelling which is applied to the component parts during System build in accordance with local Work Instructions [REDACTED]
Condition C1 Contract Price (Excl. Vat)	All Schedule 2 line items shall be Firm Price other than those stated below: Line Items: Not Applicable Clause K refers
Clause H1.a Progress Monitoring	The Contractor shall be required to attend the following meetings: Type: Project review Meetings Frequency: Quarterly Location: At either the Contractor's or the Authority's premises as specified in the Statement of Requirement (SoR) at Schedule 5
Clause H1.b Progress Reports	The Contractor is required to submit the following Reports: Type: Not Applicable Frequency: Not Applicable Content: Not Applicable Method of Delivery: Not Applicable Delivery Address: Not Applicable
Clause H2.b Authority's Representatives	The Authority's Representatives for the Contract are as follows: Commercial: DEFFORM 111 (Annex A to Schedule 3) – Box 1 Project Manager: DEFFORM 111 (Annex A to Schedule 3) – Box 2 Payment: DEFFORM 111 (Annex A to Schedule 3) – Box 11
Clause H3.a.(3) Notices	Notices served under the Contract shall be sent to the following address: Authority: DEFFORM 111 (Annex A to Schedule 3) – Box 1 Contractor: Jessica.Wood@lnzpire.com
Clause H3.a.(5) Notices	Notices served under the Contract can be transmitted by electronic mail: Yes ☒ No ☐

Condition K1 Certificate of Conformity (Core+ Only)	Is a Certificate of Conformity Required for this Contract? Yes ☒ No ☐ Line Item: 7 If Yes does the Contractor Deliverables require Traceability throughout the supply chain? Yes ☒ No ☐ Line Item: 7 It is agreed that the Contractor's obligation to supply a Certificate of Conformity shall be satisfied through production to the Authority of the Certificate of Conformity supplied to the Contractor by the manufacturer, Winmate Inc.
Condition K2 Marking of Contractor Deliverables (Core+ Only)	It is agreed that the Contractor Deliverables supplied under Line Item 7 will be marked in accordance with the Contractor's internal Work Instruction (ref: [REDACTED]).
Condition K3 Supply of Data for Hazardous Contractor Deliverables, Materials and Substances (Core+ Only)	Not Applicable A completed SC3 Core Plus Schedule "Hazardous Articles, Materials or Substance Statement", and if applicable, Safety Data Sheet(s) are to be provided by e-mail with attachments in Adobe PDF or MS WORD format to: a) The Authority's Representative (Commercial) b) DSA-Land-MovTpt-DGHSIS@mod.uk or if only a hardcopy is available to: a) The Authority's Representative (Commercial) b) Hazardous Stores Information System (HSIS) Defence Safety Authority (DSA) Movement Transport Safety Regulator (MTSR) Hazel Building Level 1, #H019 MOD Abbey Wood (North) Bristol, BS34 8QW DSA-DLSR-MovTpt-DG HSIS (MULTIUSER) to be Delivered no later than one (1) month prior to the Delivery Date for the Contract Deliverable or by the following date:
Clause K4.i Timber and Wood-Derived Products (Core+ Only)	Not Applicable A completed SC3 Core Plus Schedule "Timber and Wood-Derived Products Supplied under the Contract: Data Requirements", is to be provided by e-mail with attachments in Adobe PDF or MS WORD format to: The Authority's Representative (Commercial) or, if only a hardcopy is available to: The Authority's Representative (Commercial) to be Delivered by the following date: N/A

Clause K5.b Rejection (Core+ Only) (Note: If no period is inserted here the time period shall be 20 Business days)	Time limit for rejection of the Contractor Deliverables shall be 20 Business Days.
Clause K6.a Delivery (for Schedule 2 (Core+ Only)	The transport requirements shown below are applicable: Line Items: 1 to 6 and 8: Where applicable, as directed by the Authority's Representative (Project Manager). Line Item: 7 (To be delivered to the Authority's designated User Unit Locations that require the Contractor Deliverables with each consignment packaged in accordance with the Manufacturer's packaging requirements.
Clause K6.b Delivery by the Contractor (for Schedule 2)(Core+ Only)	(Where applicable, see box "Delivery" above.) Special Delivery Instructions: Line Item 7: The Contractor shall ensure that the Contractor Deliverables are sent to the appropriate logistics focal point at each of the Authority's designated User Unit Locations. Each consignment of the Contractor Deliverables to be accompanied by: Line Items 7 Contractor Delivery Note
Clause K6.c Collection by the Authority (for Schedule 2, (Core+ Only)	(Where applicable, see Box "Delivery" above) Special Collection Instructions: As applicable and directed by the Authority Each consignment of the Contractor Deliverables to be accompanied by: Line Items: Not Applicable Consignor Address: Line Items: Not Applicable
Condition K7 Self to Self Delivery (Core+ Only)	Is Self to Self Delivery required: Yes ☐ No ☒ If Yes, Delivery address applicable:
Clause K16.a Limitation of Contractor's Liability	The Contractor's liability under, or in relation to, the contract shall be limited in respect of the following risks as set out below: [loss of, or damage to Issued Property - £M];

	[loss of, or damage to, Contractor Deliverables - £[REDACTED]]; [Third Party claims - £M]; [death, personal injury, or damage to property arising from maritime claims - £M]; [Default - £M]; [negligence - £M]; [consequential/indirect costs - £M]. <u>In accordance with Condition K16, the following exclusions and limitations shall apply</u> a. [REDACTED]
Other Addresses and Other Information (Covers forms and publications addresses and official use information)	See Annex A to Schedule 3 (DEFFORM 111)

See Annex A to Schedule 3 (DEFFORM 111)

Appendix - Addresses and Other Information

1. Commercial Officer

[Redacted]

[Redacted]

DESHels-Comrci-CatProc-6@mod.uk

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

[Redacted]

DESApache-CapDel-MSSISS@mod.uk

3. Packaging Design Authority

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

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

N/A
Tel No:

(b) U.I.N. [Redacted]

5. Drawings/Specifications are available from

N/A

6. THIS BOX IS INTENTIONALLY BLANK**7. Quality Assurance Representative:**

Apache Project Team QA Rep

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

8. Public Accounting Authority

1. Returns under DEFCON 694 (or SC equivalent) should be sent to DBS Finance ADMT – Assets In Industry 1, Level 4 Piccadilly Gate, Store Street, Manchester, M1 2WD
☎ 44 (0) 161 233 5397

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

9. Consignment Instructions

The items are to be consigned as follows:

As directed by the Authority's Representative (Project Manager)

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 (see Note 1)

Ministry of Defence ☎ 0151-242-2000

DBS Finance

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

Liverpool, L2 3YL

Website is:

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

12. Forms and Documentation are available through *:

Ministry of Defence, Forms and Pubs Commodity Management

PO Box 2, Building C16, C Site

Lower Arncliffe

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

Applications via fax or email: DESLCSLS-

OpsFormsandPubs@mod.uk

NOTES

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

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

Schedule 4 - Contract Change Process (i.a.w. clause A2.b) for Contract No: HELSS/0062

1. Authority Changes

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

2. Notice of Change

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

3. Contractor Change Proposal

- a. As soon as practicable, and in any event within fifteen (15) Business Days (or such other period as the Parties may agree) after having received the Authority Notice of Change, the Contractor shall deliver to the Authority a Contractor Change Proposal.
- b. The Contractor Change Proposal shall include:
 - (1) the effect of the Change on the Contractor's obligations under the Contract;
 - (2) a detailed breakdown of any costs which result from the Change;
 - (3) the programme for implementing the Change;
 - (4) any amendment required to this Contract as a result of the Change, including, where appropriate, to the Contract Price; and
 - (5) such other information as the Authority may reasonably require.
- c. The price for any Change shall be based on the prices (including all rates) already agreed for the Contract and shall include, without double recovery, only such charges that are fairly and properly attributable to the Change.

4. Contractor Change Proposal – Process and Implementation

- a. As soon as practicable after the Authority receives a Contractor Change Proposal, the Authority shall:
 - (1) evaluate the Contractor Change Proposal;
 - (2) where necessary, discuss with the Contractor any issues arising and, following such discussions, the Authority may modify the Authority Notice of Change and the Contractor shall, as soon as practicable, and in any event not more than ten (10) Business Days (or such other period as the Parties may agree) after receipt of such modification, submit an amended Contractor Change Proposal.
- b. As soon as practicable after the Authority has evaluated the Contractor Change Proposal (amended as necessary) the Authority shall:
 - (1) indicate its acceptance of the Change Proposal by issuing an amendment to the Contract in accordance with condition A2 (Amendments to Contract); or
 - (2) serve a Notice on the Contractor rejecting the Contractor Change Proposal and withdrawing (where issued) the Authority Notice of Change.

- c. If the Authority rejects the Change Proposal it shall not be obliged to give its reasons for such rejection.
- d. The Authority shall not be liable to the Contractor for any additional work undertaken or expense incurred unless a Contractor Change Proposal has been accepted in accordance with clause 4.b.(1).

5. Contractor Changes

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

**STATEMENT OF REQUIREMENT (SOR) FOR THE SUSTAINMENT OF ROTARY WING
AIRCREW MOVING MAP WIRES ALERTING SYSTEM (RWAMMWAS) INCLUDING
AUTOMATIC IDENTIFICATION SYSTEM (AIS) SOFTWARE MODULE**

THE SERVICES

System Support

[illegible]

SoR Items 1 & 3:

¹ The Apache AH Mk 1 platform, based at Wattisham will be allocated a combination of 24 Panasonic FZ-M1 Tablets and 16 M700D Tablets.

[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
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[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

SoR Items 2 & 4 :

[REDACTED]

[REDACTED]

SoR Item 5:

[REDACTED]

[REDACTED]

[REDACTED]

SoR Item 6:

[REDACTED]

SoR Item 7:

[REDACTED]

SoR Item 8:

[REDACTED]

Product	Licenced Equipment	Renewal Date
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

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

Contract No: HELSS/0062
Description of Contractor's Commercially Sensitive Information:
Cross Reference(s) to location of sensitive information:
Explanation of Sensitivity:
Details of potential harm resulting from disclosure:
Period of Confidence (if applicable): For the duration of Contract HELSS/0062
Contact Details for Transparency / Freedom of Information matters: Name: Jessica Wood Position: Legal & Commercial Director Address: Inzpire Limited, Landmark House West, Unit 1B Alpha Court, Kingsley Road, Lincoln, LN6 3TA Telephone Number: 01522 688231 Email Address: jessica.wood@inzpire.com

FIRM LABOUR MAN-HOUR RATES

Labour Rates Per Man-Hour (including Overheads and Profit)

Hourly Contract Rate 2016	Hourly Contract Rate 2017	Hourly Contract Rate 2018

TASK AUTHORISATION FORM (TAF)

<u>CONTRACTOR</u> Inzpire Limited Landmark House West Unit 1B, Alpha Court Kingsley Road, Lincoln LN6 3TA	<u>MOD PROJECT OFFICE</u> 	<u>TASK NO</u> TAF 00.....
		<u>CONTRACT NO</u> HELSS/0062

Part 1 - Task Definition

(use Continuation Sheet if necessary)

Originator:	Contract Schedule of Requirements Item No:
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Part 2 - Firm Price Quotation

The work as described in Part 1 is submitted for MoD authorisation against the following quotation:

a.	Materials at cost	= £
b.	Man hours: _____ hrs at £_____	= £
c.	Spares	= £
d.	Delivery	= £
e.	Other	= £
f.	Total Firm Price	= £

(For a. and/or c. please provide a breakdown of the costs involved)

g.	Firm price valid until:
h.	Start date:
i.	Completion date:
j.	Comments/Assumptions:

SIGNATURE:
 APPOINTMENT:

TELEPHONE NO:
 DATE:

<u>Part 3 - MoD Project Manager Authorisation</u> The Firm Price Quotation at Part 2 of this TAF is confirmed as fair and reasonable and commensurate with the work detailed at Part 1 of this TAF. The forecast Start and Completion dates at Part 2 of this TAF are acceptable.	<u>Part 4 – MoD Commercial Officer Authorisation</u> The Contractor is hereby authorised to carry out the work detailed at Part 1 of this TAF within the Firm Price detailed at Part 2 of this TAF.
SIGNATURE: NAME:	SIGNATURE: NAME:
POST:	POST :
DATE:	DATE:

AGREED FIRM PRICES FOR AUTHORISED TAFs

[illegible]

ATTACHMENT TO ANNEX TO HEAD AGREEMENT – STANDARD FORM OF LICENSING SCHEDULE

SCHEDULE 7 TO THE HEAD AGREEMENT [REDACTED]
[REDACTED]

CONTRACT REFERENCE NUMBER: HELSS/0062 dated 07 December 2016

By their respective signatures of this Schedule the Secretary of State For Defence (the “AUTHORITY”) undertakes to purchase and Inzpire Ltd. (the “LICENSOR”) undertakes to supply the Licensed Software for Use on the Designated Equipment at the Designated Site (all as identified below) under the Standard Conditions set down in the Annex to the Head Agreement and any Special Conditions set down in Part VIII below which may vary or add to those Standard Conditions.

PART I - LICENSED SOFTWARE PROGRAMS
[REDACTED]
[REDACTED]

PART II - DESIGNATED EQUIPMENT

The 33 (Thirty Three) Tablet PCs and 12 (Twelve) Base Stations provided to the AUTHORITY by the LICENSOR under Contract HELSS/0062 for use on Merlin Mk2 Platform.

PART III - DESIGNATED SITE

Any site owned or operated by the AUTHORITY including, for the avoidance of doubt, temporary sites used during operations.

PART IV – ACCEPTANCE PERIOD & TEST
[REDACTED]

PART V - LICENCE FEES

[REDACTED] excluding VAT (and any other applicable customs and excise duties).

PART VI - INVOICE ARRANGEMENTS

As set out within Contract HELSS/0062.

PART VII - WARRANTY PERIOD

11 December 2016 to 10 April 2018.

PART VIII - SPECIAL CONDITIONS

The Licensed Software under this schedule is provided under Contract HELSS/0062. This licence is without prejudice to any provision of that Contract concerned with delivery, acceptance, payment, warranty or liability in respect of the Licensed Software. The liability for intellectual property rights actions shall be the greater of any specified in this license or under the Contract.

For the avoidance of doubt, this License is non-exclusive.

The Agreed Standard Conditions set out within the Annex to the Head Agreement [REDACTED] shall be varied and / or supplemented as follows:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

PART IX – LIMITS OF LICENSOR’S LIABILITY



FOR LICENSOR

FOR AUTHORITY

Signed

Signed

Name

Name

[Print Name]

[Print Name}

Appointment

Appointment

Date.....

Date

ATTACHMENT TO ANNEX TO HEAD AGREEMENT – STANDARD FORM OF LICENSING SCHEDULE

SCHEDULE 8 TO THE HEAD AGREEMENT [REDACTED]
[REDACTED]

CONTRACT REFERENCE NUMBER: HELSS/0062 dated 07 December 2016

By their respective signatures of this Schedule the Secretary of State For Defence (the “AUTHORITY”) undertakes to purchase and Inzpire Ltd. (the “LICENSOR”) undertakes to supply the Licensed Software for Use on the Designated Equipment at the Designated Site (all as identified below) under the Standard Conditions set down in the Annex to the Head Agreement and any Special Conditions set down in Part VIII below which may vary or add to those Standard Conditions.

PART I - LICENSED SOFTWARE PROGRAMS
[REDACTED]
[REDACTED]

PART II - DESIGNATED EQUIPMENT

The 115 (One Hundred and Fifteen) Tablet PCs and 28 (Twenty Eight) Base Stations provided to the AUTHORITY by the LICENSOR under Contract HELSS/0062 for use on Apache Mk1, Griffen HAR Mk2, Lynx Mk9A, Merlin Mk2 and Bell 212 Platforms.

PART III - DESIGNATED SITE

Any site owned or operated by the AUTHORITY including, for the avoidance of doubt, temporary sites used during operations.

PART IV – ACCEPTANCE PERIOD & TEST
[REDACTED]

PART V - LICENCE FEES

[REDACTED] excluding VAT (and any other applicable customs and excise duties).

PART VI - INVOICE ARRANGEMENTS

As set out within Contract HELSS/0062.

PART VII - WARRANTY PERIOD

11 December 2016 to 10 April 2018

PART VIII - SPECIAL CONDITIONS

The Licensed Software under this schedule is provided under Contract HELSS/0062. This licence is without prejudice to any provision of that Contract concerned with delivery, acceptance, payment, warranty or liability in respect of the Licensed Software. The liability for intellectual property rights actions shall be the greater of any specified in this license or under the Contract.

For the avoidance of doubt, this License is non-exclusive.

The Agreed Standard Conditions set out within the Annex to the Head Agreement [REDACTED] shall be varied and/or supplemented as follows:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

PART IX – LIMITS OF LICENSOR’S LIABILITY



FOR LICENSOR

FOR AUTHORITY

Signed	Signed
Name	Name
[Print Name]	[Print Name}
Appointment	Appointment
Date.....	Date

LIST OF AUTHORISED TRAINING EVENTS

[illegible]

GOVERNMENT FURNISHED INFORMATION

ITEM NUMBER	DESCRIPTION	DATE REQUIRED
1	[REDACTED]	11 December 2016 to 10 April 2018
2	[REDACTED]	11 December 2016 to 10 April 2018
3	[REDACTED]	11 December 2016 to 10 April 2018

CONTRACT ASSUMPTIONS, EXCLUSIONS AND DEPENDENCIES

The Contractor Deliverables in respect of SoR Items 1 to 8 shall at all times be provided by the Contractor on and subject to the Assumptions, Dependencies, Exclusions, Project Delivery Risks and Requirements for Customer Furnished Information / Equipment set out within:

[REDACTED]

MILESTONE PAYMENT PLAN - CONTRACT ITEMS Nos 1 to 4 & 7 to 8

Payment of the firm Contract Price shall be made in accordance with the milestone payment plan set out below:

Invoice / Milestone Number	Milestone Description	Acceptance Criteria	Payment Dates	Firm Price (ex VAT)
1	Provision of AMMWAS (GECO JHC) and AIS Module Software Licences under Contract Item Nos 2 & 4 for 11 Dec 16 to 10 Apr 17	Signature of DEFFORM 701 Software Licence Schedules by the Contractor and the Authority	[REDACTED]	[REDACTED]
2	Provision of Third Party Software Licences under Contract Item No 8	As identified under the Statement of Requirement (Item 8) under Schedule 5 to Contract	[REDACTED]	[REDACTED]
3 - 6	Maintenance and Support of AMMWAS (GECO JHC) and AIS Module Capabilities under Contract Item Nos 1 & 3 for 11 Dec 16 to 10 Apr 17	Authority's Representative (Project Manager) acceptance of the Contractor's support service	[REDACTED]	[REDACTED]
7	Provision of Batteries for Winmate M700D PC Tablets under Contract Item No 7	Receipt by the Authority's Representative (Project Manager) of the completed Delivery Notes for all of the Authority's User Unit locations.	[REDACTED]	[REDACTED]
8	Provision of AMMWAS (GECO JHC) and AIS Module Software Licences under Contract Item Nos 2 & 4 for 11 Apr 17 to 10 Apr 18	As per Signature of DEFFORM 701 Software Licence Schedules by the Contractor and the Authority under Invoice/Milestone Number 1 above	[REDACTED]	[REDACTED]
9 - 20	Maintenance and Support of AMMWAS (GECO JHC) and AIS Module Capabilities under Contract Item Nos 1 & 3 for 11 Apr 17 to 10 Apr 18	Authority's Representative (Project Manager) acceptance of the Contractor's support service	[REDACTED]	[REDACTED]

