



Ministry
of Defence

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28 March 2021

Dear Sir / Madam

Invitation to Tender Reference 701551542

1. You are invited to tender for the Provision of Senior Leadership Executive Coaching in accordance with the attached documentation.
2. The requirement is set out in the Statement of Requirements.
3. Funding has been approved. The total budget is £19,750.00 (excluding VAT).
4. You should submit your Tender electronically via the Defence Sourcing Portal, as soon as possible, by email to the Commercial Officer shown above.

Yours faithfully

Lee Culshaw
Commercial Manager

**Ministry of Defence
Invitation to Tender (ITT)
Less Complex Requirements
(Non-Competitive)**

To:	ITT Reference No: 701551542 ITT Issue Date: 28 March 2021 Due for return by (Due Date): As soon as possible
	From: Navy Commercial Address: MP1.1, NCHQ, Leach Building, Whale Island, Portsmouth, PO2 8BY Commercial Officer: Lee Culshaw Telephone: 03001552535 Email:lee.culshaw100@mod.gov.uk

This ITT consists of:

1. Invitation to Tender – Less Complex Requirements Non-Competitive.
2. Annex A - Offer.
3. Annex B - Tender Evaluation Criteria.
4. Special Notices and Instructions to Tenderers.
5. Purchase Order, including the Schedule of Requirements.
6. Statement of Requirements.
7. MOD Terms and Conditions for Less Complex Requirements.
8. DEFFORM 68 (see Clause 9 of Terms and Conditions).
9. Statement Relating to Good Standing.
10. Cyber Risk Assessment

The Tenderer must return:

1. Completed Annex A to this ITT.
2. Completed Purchase Order.
3. Any other documentation requested in the Tender

Notices To Tenderers

1. You are invited to tender, in accordance with the following Conditions, for the supply of Deliverables detailed in the accompanying ITT Material. This ITT has been issued only to the addressee; it is not an invitation to participate in competitive tendering. Any inferred reference to competitive tendering in this document is to be construed as a reference to a single tender. **The issue of an ITT is not a commitment by the Secretary of State for Defence - 'the Authority' - to place an order as a result of the tendering exercise or at a later stage. Any expenditure, work or effort undertaken prior to an offer of Contract and acceptance thereof, is a matter solely for the commercial judgement of your company. The Authority reserves the right to:**

- a. undertake an iterative tendering process following receipt of the tender;
- b. waive or change the requirements of this ITT from time to time without prior (or any) notice being given by the Authority;
- c. seek clarification or documents in respect of a Tenderer's submission;
- d. disqualify any Tenderer that does not submit a compliant tender in accordance with the instructions in this ITT;
- e. disqualify any Tenderer that is guilty of serious misrepresentation in relation to its tender, expression of interest, the PQQ or the tender process;
- f. withdraw this ITT at any time, or to re-invite tenders on the same or any alternative basis;
- g. choose not to award any Contract as a result of the current procurement process; and / or
- h. make whatever changes it sees fit to the timetable, structure or content of the procurement process, depending on approvals processes or for any other reason.

Publicity Announcement

2. The Tenderer is advised that the MOD may wish to publicise the award of the Contract for the requirement described in the Schedule of Requirements in the attached Purchase Order.

3. Any Tenderer who wishes to make a similar announcement, either coincident with or subsequent to the MOD's announcement, should contact the Authority's Representative (Commercial Officer) named in the Purchase Order. The content of any announcement a successful Tenderer may wish to make must be cleared in writing and in advance by the MOD Authority's Representative (Commercial Officer) named in the Purchase Order who shall liaise with the MOD Security branch responsible for clearance of publicity material for open publication.

4. If the notice inviting tenders was advertised in Contracts Finder, the MOD will publish the following information on the Contract awarded unless the MOD decides that there are specific and valid reasons for not doing so:

- a. Contractor's Name;
- b. Nature of the Deliverables to be supplied;
- c. Award criteria;
- d. Rationale for Contract award;

e. Total price of the Contract awarded.

5. Under no circumstances should a successful Tenderer(s) confirm to any third party the fact of their acceptance of an offer of Contract prior to informing the MOD of their acceptance, and / or ahead of the MOD's announcement of the award of Contract.

Codes of Practice

The attention of Tenderers is drawn to the agreements that have been reached by the MOD / Industry Commercial Policy Group (CPG) on Codes of Practice. The Codes of Practice are intended to demonstrate a commitment by the MOD and its suppliers to the establishment of better working relationships in the supply chain, based on openness and trust. The opportunity also exists for Tenderers to advertise any subcontract valued at over £10,000 in the Defence Sourcing Portal and further details can be obtained directly from:

<https://www.gov.uk/guidance/subcontract-advertising>. This process is managed by the Strategic Supplier Management team who can be contacted at: DefComrcISSM-Suppliers@mod.gov.uk.

Submission of Tender

6. Tenderers must:

a. Sign and date Part A (but not Part C) ("Effective date") of the Offer and Acceptance box on both copies of the Purchase Order, scan and return them both as a PDF as part of their tender. The Terms and Conditions are to be kept by the Tenderer for their records.

b. Complete the Consignor Box with the name and address of the Consignor where the MOD stipulates that the Deliverables will be transported by the MOD (as defined in the Purchase Order under the Transport Instructions box);

c. Complete the Schedule to the Purchase Order by populating the Delivery Date column (if stated to do so), the Firm Price (£) Ex VAT sub columns (Per Item and Total inc. packing), finally completing the Total Firm Price at the bottom of the Schedule.

d. Sign, scan and return one copy of the tender form at Annex A to this Invitation to Tender – Less Complex Requirements – Non-Competitive Procurement, as a PDF as part of their tender.

e. Provide any other information requested in this Invitation to Tender.

7. Tenders must be submitted electronically via the Defence Sourcing Portal.

8. Tenderers must ensure they are registered on the Defence Sourcing Portal in order to submit their Tender response. A supplier registration guide and a supplier user guide is available on the Defence Sourcing Portal landing page.

9. The electronic copy of the Tender must be compatible with MS Office Word and other MS Office applications. If you password protect or encrypt any information containing prices, you must supply the password / use compatible encryption methods so that the Authority can undertake a pricing evaluation.

10. The Defence Sourcing Portal is accredited to OFFICIAL SENSITIVE. Material that is protectively marked above this classification must not be uploaded. Please contact [redacted] if you have a requirement to submit documents above OFFICIAL SENSITIVE

11. Tenderers must not upload any ITAR or Export Controlled information as part of your Tender or ITT documentation into the Defence Sourcing Portal. You must contact the MOD

Commercial Officer to discuss any exchange of ITAR or Export Controlled information. You must ensure that you have the relevant permissions to transfer information to the Authority.

12. If you have any difficulty accessing the Defence Sourcing Portal or if you have any questions with regards to the Tendering exercise itself, please contact the MOD Commercial Officer

13. Any request for an extension of the period for tendering must be submitted on the DSP at least four (4) Business Days before the Tender return date. Any extension will be at the sole discretion of the Authority. Correspondence connected with your tender which requires attention before the tender return date, or communications stating that no tender will be submitted, must be submitted on the DSP.

14. **No useful purpose is served by enquiring about the result of this ITT.** You will be notified of the Authority's decision as early as possible.

Formation of Contract

15. Once the evaluation process has been completed, the Tenderer will be notified of the outcome of the tender process. The Authority's Representative (Commercial) stipulated on the Purchase Order will accept a successful tender by signing and dating Part B of the Offer and Acceptance box of the Purchase Order and dating Part C to signify the Effective Date i.e. the date of the Contract. The Effective Date shall be no earlier than the date of acceptance of the tender and shall allow a reasonable time for the acceptance to be communicated to the Contractor. One copy of the completed Purchase Order will then be returned to the Contractor to be attached to their copy of the Terms and Conditions.

Instruction to Tenderers

1. **Small and Medium-sized Enterprises** The Authority is committed to supporting the Government's small and medium-sized enterprise (SME) initiative; its ambitious target is that every £1 in every £3 that the Government spends should be with small businesses by 2020. Our goal is that 25% of MOD spending should be spent with SMEs by 2020; this applies to the money which the MOD spends directly with SMEs and through the supply chain. The Authority uses the European Commission definition of an SME. A key aspect of the Government's SME Policy is ensuring that its suppliers throughout the supply chain are paid promptly. All suppliers to the Authority and their sub-contractors are encouraged to make their own commitment and register with the Prompt Payment Code. Suppliers are also encouraged to work with the Authority to support the Authority's SME initiative. Information on the Authority's purchasing arrangements, our commercial policies and our SME policy can be found at Gov.UK.

2. **Price** The prices quoted for the Deliverables and Packaging must be set out in strict accordance with the requirements of the Schedule to the Purchase Order. The Tenderer shall include in their Tender any additional information regarding their quotation price breakdown, equality of information etc. as requested elsewhere in this ITT Material

3. **Orders for Parts of the Tender** The Authority reserves the right, **unless the Tenderer expressly states that parts of the Tender may not be accepted separately in their tender**, to order some or all of the Deliverables stated in the Schedule to the Purchase Order.

4. **Alternative Conditions** The Tenderer shall comply with the notices and instructions set out in this ITT and submit a tender compliant with the MOD Terms and Conditions for Less Complex Requirements. Any offer made subject to additional or alternative contractual conditions will not be considered and will be rejected on the grounds of those conditions alone.

5. **Tender Evaluation** The Tender evaluation shall be carried out in accordance with the Evaluation Criteria stated in the ITT Tender documentation. **The Authority can only evaluate**

those things stated in your Tender.

6. **Alterations to Purchase Order** Any alteration to the Purchase Order suggested by the Tenderer e.g. an alternative Delivery offer, should be effected by striking through the original entry and inserting the alternative adjacent to it. The Tenderer's attention is, however, drawn to paragraphs 3 to 5 above.

7. **Completion of Tender**

a. In the event of a Deliverable appearing more than once in the attached Schedule of Requirements, whether separately or as part of an assembly, the Tenderer is requested to quote on the basis of the total quantity for that Deliverable.

b. The Tenderer should ensure that their tender is clear and in a form which will allow the Authority to take copies for evaluation purposes.

8. **Tenders for Selected Deliverables** Tenders need not necessarily be for all the Deliverables listed in the Schedule to the Purchase Order. The words "No Tender" should be inserted in the price column against items for which no offer is made.

9. **Bid costs** The Tenderer will bear all costs associated with preparing and submitting their Tender. If the Tender process is terminated or amended by the Authority, the Tenderer will not be reimbursed.

10. **ITT Material**

a. ITT Material means information (including for example, drawings, handbooks, manuals, instructions, specifications and notes of pre-tender clarification meetings, in whatever form or medium, patterns and samples) issued to you by the Authority or on its behalf, or to which you have been given access, for the purposes of responding to this ITT. ITT Material remains the property of the Authority or other owners and is released solely for the purpose of tendering. The Tenderer shall notify the Authority's Representative (Commercial Officer) without delay if any additional ITT Material is required for the purpose of tendering. The Tenderer shall be responsible for the safe custody and due return of ITT Material, and shall be responsible for all loss or damage sustained while in their care, and until re-delivered to the Authority.

b. **Destruction of ITT Material** You must immediately confirm destruction of (or in the case of software, that it is beyond use) all ITT Documentation, ITT Material and derived information of an unmarked nature, should you decide not to respond to this ITT, or you are notified by the Authority that your Tender has been unsuccessful.

c. **Intellectual Property Rights in ITT Material** The Intellectual Property Rights in ITT Material may belong to the Authority or a third party. The ITT Material may only be used for the purpose of responding to this ITT and shall not be copied, or disclosed to anyone other than employees of the Tenderer involved in the preparation of the tender, without the prior written approval of the Authority. If the Tenderer discloses the ITT Material other than to employees involved in the tender preparation, or uses the ITT Material other than for the purpose of tendering, the Authority, or the third party owner, may suffer damage for which compensation may be sought from the Tenderer.

d. **Confidentiality Agreements** Some or all of the ITT Material issued in connection with this ITT may already be the subject of Confidentiality Agreements. The provisions of such agreements are in addition to, and not in substitution for, any obligations arising from receipt of or access to ITT Material under the terms of this ITT, and the provisions of sub-paragraphs 10.a - c above.

11. **Samples**

a. Where it is indicated in Annex B that samples may be required for evaluation, the Tenderer must be prepared to submit them without charge. Samples should be clearly labelled with the following particulars:

- (1) The Tenderer's name and address.
- (2) The ITT Reference Number and Tender return date.
- (3) Description and Item Number as shown in the Schedule to the Purchase Order.

b. **The Authority shall retain all samples for 12 months.** After this period the Authority shall destroy the samples unless you specifically state you require their return. The sample of any subsequent contracts shall be kept indefinitely.

12. **Notification of Inventions etc.**

a. The Tenderer acknowledges that their prices shall include the use of any intellectual property rights which they own or control to the extent that their use is required for the performance of any resultant Contract. The Tenderer also acknowledges that their prices include subsequent use by the Authority of anything delivered under the Contract.

b. In their tender the Tenderer shall notify the Authority of:

- (1) any invention or design the subject of patent or registered design rights (or application therefore) of which the Tenderer is aware, and;
- (2) any other restriction (including any export requirement or restriction) as to disclosure or use or obligation to make payments in respect of intellectual property (including technical information) to which the Tenderer is subject, and;
- (3) any allegation of infringement of intellectual property rights made against the Tenderer;

which pertains to or appears to be relevant to the performance of any resultant Contract or to subsequent use by the Authority of anything required to be done or delivered under any resultant Contract.

c. The Tenderer shall, at the request of the Authority, give the Authority particulars of every restriction and obligation referred to in sub-paragraph 12.b.(2) above.

d. If the information required under this paragraph 12 has been provided previously, the Tenderer may satisfy these requirements by giving details of the previous notification.

13. **Ozone Depleting Substances** The Tenderer must state whether the Contractor Deliverables or any item provided in accordance with the Terms and Conditions of the Contract (including Packaging) use Substances that deplete the Ozone Layer, as defined in Regulation (EC) 1005/2009, as it applies in Great Britain as retained EU law, and as it applies in Northern Ireland directly.

14. **Hazardous Deliverables and Substances** It is a condition of this ITT that where the ITT calls for, or the Tenderer proposes, the use of Hazardous Deliverables or substances, the Tenderer shall provide with their tender a completed Safety Data Sheet in accordance with Clause 9 of the Terms and Conditions. Failure to comply fully with this condition may result in the tender being deemed non-compliant thus rendering it ineligible for further consideration by the

Authority.

15. **Elimination Of Asbestos** It is a condition of this ITT that the Deliverables shall not incorporate asbestos of any kind. The Tenderer will confirm this by signing and returning the tender form at Annex A to this ITT as part of their tender.

16. **Transparency, Freedom of Information and Environmental Information Regulations**

a. Tenderers should be aware that, if they are awarded the Contract, the content of the Contract may be published by the MOD to the general public in line with government policy set out in the Prime Minister's letter of May 2010 (<https://www.gov.uk/government/policies/improving-the-transparency-and-accountability-of-government-and-its-services>).

b. Before publishing the Contract, the MOD will redact any information which would be exempt from disclosure if it was the subject of a request for information under the Freedom of Information Act 2000 ("the FOIA") or the Environmental Information Regulations 2002 ("the EIR").

c. The FOIA and the EIR provide a more general statutory right of access to information held by or on behalf of public authorities, including information provided by third parties such as suppliers. This right of access is subject to a number of exemptions, including confidential information and commercially sensitive information. Further details of MOD policy on FOIA and EIR can be found on the Acquisition Operating Framework (<https://www.aof.mod.uk/aofcontent/tactical/toolkit/index.htm> click on "Commercial Toolkit" then "MOD Commercial Management" then "Freedom of Information").

d. In order to assist the MOD in applying the exemptions in the FOIA and the EIR, Tenderers should complete the appropriate Tenderer's Commercially Sensitive Information box in the Purchase Order, explaining which parts of their tender they consider to be sensitive or confidential. Tenderers are also requested to include in the box the details of a named individual who may be contacted with regard to this information.

e. Tenderers should note that, while their views will be taken into consideration, the ultimate decision whether to publish or disclose information provided to the MOD lies with the MOD. Tenderers are advised to give as much detail as possible on the Purchase Order. It is highly unlikely that a contract will be exempt from disclosure in its entirety. Should the MOD decide to publish or disclose information against the wishes of a Tenderer, the Tenderer will be given prior notification.

17. **Consultation with Credit Reference Agencies** The Authority may consult credit reference agencies to assess the creditworthiness of a Tenderer. Information on creditworthiness may be used by the MOD to support and influence decisions to enter into business with a Tenderer.

18. **Canvassing** Any Tenderer who directly or indirectly seeks to persuade any officer, member, employee, or agent of the MOD concerning this procurement except by responding to this ITT or who directly or indirectly obtains or attempts to obtain information from any such officer, member, employee or agent of the MOD concerning any other Tenderer, tender or proposed tender concerning this procurement before the end of the selection process will be disqualified from consideration for this procurement.

19. **Conflicts of Interest**

a. MOD policy states that it is sometimes in the MOD's wider business interests to allow suppliers to operate on both the client and supply side. Conflicts of Interest (CoI) can occur outside of direct commercial relationships between the MOD and its suppliers and therefore

all personnel involved in acquisition (both Authority and Tenderer) should be familiar with the Conflicts of Interest Commercial Policy Statement (CPS).

b. Accordingly, Tenderers shall notify immediately the Authority of any current or potential Col relating to the requirement and shall give particulars of every instance.

c. Where the Authority permits the Tenderer or any entity within the Tenderer's potential supply chain or any entity providing advisory services to the Tenderer or its potential supply chain to work on both the client and supply side, the Contractor shall, as a legally binding agreement or Condition of Contract, be required to:

(1) Adopt a formally agreed, legally binding, Compliance Regime (CR) between the Authority and the Contractor. This shall include but not be limited to:

(a) Manner of operation and management;

(b) Roles and responsibilities;

(c) Standards for integrity and fair dealing;

(d) Levels of access to and protection of competitors' sensitive information and Government Furnished Information;

(e) Confidentiality / Non-Disclosure Agreements (NDA's)(e.g. DEFFORM 702);

(f) The Authority rights of audit;

(g) Physical and Managerial separation.

(2) Identify potential or actual Conflicts of Interest;

(3) Investigate breaches.

20. **Collusive Behaviour** The Tenderer's attention is drawn to the requirements of the Competition Act 1998, Part 1. Any Tenderer found to have been part of a 'Concerted Practice' or 'Agreement', the purpose of which was to prevent, restrict or distort competition, shall be disqualified from consideration from this procurement. Disqualification will be without prejudice to any to any civil remedy available to the Authority or criminal liability which the conduct of the Tenderer may attract.

21. **Bribery** Any Tenderer who offers to pay or give or does pay or give any sum or sums of money, inducement or valuable consideration directly or indirectly to any party for doing or having done or causing or having caused to be done, any act or omission concerning this tender shall be disqualified. Disqualification will be without prejudice to any to any civil remedy available to the Authority or criminal liability which the conduct of the Tenderer may attract.

22. **Authority Remedies for Breach of Contract** Tenderers should be aware of the contractual remedies set out at Clause 17 of the Terms and Conditions of the Contract which may apply in the event of a breach of Contract by the Contractor. Damages for breach of contract are not limited under the contract. However Tenderers should also note under Clause 17 that in exercising its rights and remedies under the contract the Authority must act in a reasonable and proportionate manner having regard to the nature and consequences of the breach of contract. If Tenderers are unsure about the potential liability under the contract, they should seek advice as appropriate.

23. **Cyber Essentials Accreditation** For all new requirements advertised from 1st January

2016 which entail the transfer of MOD identifiable information from customer to supplier or the generation of information by a supplier specifically in support of the MOD contract, MOD will require suppliers to have a Cyber Essentials certificate by the contract start date at the latest, and for it to be renewed annually. This requirement must be flowed down the supply chain.

In this context '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.

Please notify the Authority as soon as you become aware of any issues with Supply Chain ability to comply with Cyber Essentials.

**THE TENDERER MUST SIGN AND RETURN ONE COPY OF SC1A ITT Non-Comp (Annex A)
WITH THEIR TENDER**

Ministry of Defence
TENDER

To the Secretary of State for Defence (hereinafter called "the Authority")

The undersigned Tenderer having read the Invitation to Tender – Less Complex Requirements – Non-Competitive Procurement and accompanying Terms and Conditions offers to supply the Deliverables (to the extent which the Authority may determine in ordering the Deliverables) at the price or prices and at the time or times stated and in accordance with any drawings and / or specifications stated in the Purchase Order and subject the above mentioned MOD Conditions.

The following additional information is provided:

Notification of Inventions	
Please state below details invention or design, other restriction and any allegation of infringement specified in Paragraph 12.b and 12.d (continue on a separate sheet if necessary).	
Ozone Depleting Substances	
Please state below details of the use of substances specified in Paragraph 13, or state "NIL RETURN" (continue on a separate sheet if necessary).	
Asbestos	
By signing this Offer, the Contractor confirms that the Deliverables do not incorporate asbestos as specified in Paragraph 15	
Premises where Contract will be performed (if applicable)	
The Deliverables, or any part of them supplied under this Contract resulting from this tender will be manufactured and or bought in from premises detailed below:	
Value of Tender (excluding VAT)	
Total cost of Deliverables, including packaging, required computed at the Tenderer's quoted price £	
Total value of tender (to be repeated below in WORDS) £	
(WORDS: _____)	
Value Added Tax	
If registered for Value Added Tax purposes, please insert	
a.	Registration No
b.	Total amount of Value Added Tax payable on this tender (at current rate(s)) £
Transparency	
Should the Tenderer be awarded a Contract resulting from this tender, it understands that the Authority may publish the content of the Contract to the general public. The Commercially Sensitive Information which forms part of the Purchase Order is completed to assist the Authority in applying the appropriate exemptions in the FOIA and the EIR.	
Dated this	day of Year
Signature:	In the capacity of (State official position e.g. Director, Manager, Secretary etc.)
Name: (in BLOCK CAPITALS)	
duly authorised to sign this tender for and on behalf of:	
(Tenderer's Name)	

Annex B - Tender Evaluation Criteria

D1. This section details how your Tender will be evaluated.

D2. Your tender must meet all evaluation requirements to be considered compliant.

D3. Should any exclusions, assumptions, dependencies or caveats apply to your Tender or any of the goods and/or services that you would provide when delivering the requirements, these should be clearly indicated in the relevant areas of the Tender.

Commercial Evaluation

D4. The Commercial Evaluation will assess if:

- any required delivery dates can be met
- all Terms & Conditions have been accepted.
- Tender Offer Annex A was submitted.
- the Statement Relating to Good Standing was submitted.
- any other requested were submitted.
- the Supplier Assurance Questionnaire (and Cyber Implementation Plan, if required) was submitted.

D5. A Tender may be considered non-compliant if any of the items detailed in D4 are not provided.

D6. The Authority reserves the right to undertake a financial health check as part of the Commercial Evaluation.

D7. In the event that a Parent Company or Bank guarantee is requested and is not provided, The Authority retains the right to consider the Tender non-compliant.

Financial Evaluation

D8. The Financial Evaluation will assess the Total Price the Tenderer has offered to deliver all the requirements set out in the Statement of Requirements.

D9. Prices should be provided for each item listed in the Schedule of Requirements. The Total Price should be confirmed on Tender Annex A. This shall be the total maximum cost for the provision of all requirements (goods and/or services) detailed in the Statement of Requirement for the full maximum duration of the requirement, including any optional services and periods.

D10. Where estimated Authority usage figures are shown on the Schedule of Requirements, the Total Price figure shall not be a guarantee of payments to be made under any resulting Contract.

D11. When the contract is in place, payments for goods and/or services will be made after the goods and/or services have been fully delivered. For example, payment for purchase of an item will be made after it has been delivered and installed or payment for annual maintenance of a piece of equipment will be made at the end of the contract year during which the maintenance was undertaken.

D12. A Tender may be considered non-compliant if the Total Price is greater than the total available funding of £19,750 or it has not provided prices for the all items in the Schedule of Requirements.

Technical Evaluation

D13. The Technical Evaluation will assess how much confidence the Tender gives The Authority, that the Tender can meet and deliver the requirements set out in the Statement of Requirements.

D14. Technical evaluators are considered to be Subject Matter Experts (SME) on the Statement of Requirements.

D15. A Tender may be considered non-compliant if it does not give The Authority confidence that it can deliver all requirements.

Invitation to Tender

Special Notices and Instructions to Tenderers

1. The contents of this Invitation to Tender must not be disclosed to un-authorized persons and must be used only for the purposes of tendering.
2. In addition to the Notices and Instructions specified elsewhere in the Invitation to Tender (ITT) the following shall also apply:

IR35 off payroll working rules are not considered to apply to this requirement unless the Winning Tenderer indicates that the personnel who will be used to deliver Services will not be employed through their payroll. In those circumstances, a relevant assessment will be raised.

A Cyber Risk Assessment has been raised for this requirement under Assessment number RAR-6DFT8KDF. The associated Cyber Risk Profile is 'very low'.

Where a Cyber Risk Assessment has been raised, Tenderers must complete a Supplier Assurance Questionnaire against this Cyber Risk Assessment, online at <https://supplier-cyber-protection.service.gov.uk/help/scp/completesaq>, and submit a copy of the completed questionnaire as part of the tender submission.

Further guidance on the Cyber Risk process can be found in the Cyber Security Model Industry Buyer and Supplier Guide at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/718566/20180203_Cyber_Industry_Buyer_and_Supplier_Guide_v2_1.pdf

If a Tenderers Supplier Assurance Questionnaire score does not meet the level set in the Cyber Risk Assessment, this does not prevent submission of a Tender. In those circumstances, a Cyber Implementation Plan should be completed as part of the tender submission, to demonstrate what actions will be taken to meet the required Cyber Risk level. Provided the actions and timescales were considered acceptable to The Authority, the Cyber Implementation Plan would then be included as a requirement in any resulting Contract.

Cyber Implementation Plan Template

MOD contract number:	
CSM Risk Acceptance Reference:	
CSM Cyber Risk Profile:	
Name of Supplier:	
Current level of Supplier compliance:	
Reasons unable to achieve full compliance:	
Measures planned to achieve compliance / mitigate the risk with dates:	
Anticipated date of compliance / mitigations in place:	



Ministry of Defence

PURCHASE ORDER

Contract No: 701551542

Contract Name: Provision of Senior Leadership Executive Coaching

Dated: 28 March 2021

Supply the Deliverables described in the Schedule to this Purchase Order, subject to the attached MOD Terms and Conditions for Less Complex Requirements (up to £122,979).

Contractor	Quality Assurance Requirements (Clause 8)
Name: Registered Address:	
Consignor (if different from Contractor's registered address)	Transport Instructions (Clause 10)
Name: Address:	Select method of transport of Deliverables To be Delivered by the Contractor <input checked="" type="checkbox"/> To be Collected by the Authority <input type="checkbox"/> Each consignment of the Deliverables shall be accompanied by a Delivery Note

Progress Meetings (Clause 13)	Progress Reports (Clause 13)
<p>The Contractor shall be required to attend the following meetings:</p> <p>To be arranged if and when required unless already detailed in Statement of Requirements.</p>	<p>The Contractor is required to submit the following Reports:</p> <p>To be arranged if and when required unless already detailed in Statement of Requirements.</p>
Payment (Clause 14)	
<p>Payment is to be enabled by CP&F.</p>	
Forms and Documentation	Supply of Hazardous Deliverables (Clause 9)
<p>Forms can be obtained from the following websites:</p> <p>https://www.aof.mod.uk/aofcontent/tactical/toolkit (Registration is required).</p> <p>https://www.gov.uk/government/organisations/ministry-of-defence/about/procurement#invoice-processing</p> <p>https://www.dstan.mod.uk/ (Registration is required).</p> <p>The MOD Forms and Documentation referred to in the Conditions are available free of charge from:</p> <p>Ministry of Defence, Forms and Pubs Commodity Management PO Box 2, Building C16, C Site Lower Arncott Bicester, OX25 1LP (Tel. 01869 256197 Fax: 01869 256824)</p> <p>Applications via email: DESLCSLS-OpsFormsandPubs@mod.uk</p> <p>If you require this document in a different format (i.e. in a larger font) please contact the Authority's Representative (Commercial Officer), detailed below.</p>	<p>A completed DEFFORM 68 and, if applicable, Safety Data Sheet(s) are to be provided by email with attachment(s) in Adobe PDF or MS WORD format to:</p> <p>a. The Commercial Officer detailed in the Purchase Order, and</p> <p>b. DSA-DLSR-MovTpt-DGHSIS@mod.uk</p> <p>by the following date:</p> <p>or if only hardcopy is available to the addresses below:</p> <p>Hazardous Stores Information System (HSIS) Defence Safety Authority (DSA) Movement Transport Safety Regulator (MTSR) Hazel Building Level 1, #H019 MOD Abbey Wood (North) Bristol BS34 8QW</p>

Appendix - Addresses and Other Information

1. Commercial Officer:

Name: Lee Culshaw

Address: MP1.1, NCHQ, Leach Building, Whale Island, Portsmouth,
PO2 8BY

Email: lee.culshaw100@mod.gov.uk

☎ 03001552535

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

Name:

Address:

Email



3. Packaging Design Authority:

Organisation and point of contact:

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



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

As per box 2



(b) U.I.N.

5. Drawings/Specifications are available from:

6. Intentionally Left Blank

7. Quality Assurance Representative:

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

AQAPS and DEF STANs are available from UK Defence Standardization, for access to the documents and details of the helpdesk visit <http://dstan.uwh.diif.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 detailed in Schedule of Requirements

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

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

Air Freight Centre

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

Surface Freight Centre

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

B. **JSCS**

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

Users requiring an account to use the MOD Freight Collection Service should contact DESWATERGUARD-ICS-Support@mod.gov.uk in the first instance.

11. The Invoice Paying Authority:

Ministry of Defence ☎ 0151-242-2000
DBS Finance
Walker House, Exchange Flags Fax: 0151-242-2809
Liverpool, L2 3YL **Website is:**
<https://www.gov.uk/government/organisations/ministry-of-defence/about/procurement#invoice-processing>

12. Forms and Documentation are available through *:

Ministry of Defence, Forms and Pubs Commodity Management
PO Box 2, Building C16, C Site
Lower Arncott
Bicester, OX25 1LP (Tel. 01869 256197 Fax: 01869 256824)
Applications via fax or email: Leidos-FormsPublications@teamleidos.mod.uk

* NOTE

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

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

Contractor's Commercially Sensitive Information (Clause 5). Not to be Published

Description of Contractor's Commercially Sensitive Information:

Cross reference to location of sensitive information:

Explanation of Sensitivity:

Details of potential harm resulting from disclosure:

Period of Confidence (if Applicable):

Contact Details for Transparency / Freedom of Information matters:

Name:

Position:

Address:

Telephone Number:

E-Mail Address:

Offer and Acceptance

A) The Purchase Order constitutes an offer by the Contractor to supply the Deliverables. This is open for acceptance by the Authority for 90 days from the date of signature. By signing the Purchase Order the Contractor agrees to be bound by the attached Terms and Conditions for Less Complex Requirements (up to £122,979)

Name (Block Capitals):

Position:

For and on behalf of the Contractor:

Authorised Signatory

Date:

B) Acceptance

Name (Block Capitals):

Position:

For and on behalf of the Authority:

Authorised Signatory

Date:

C) **Effective Date of Contract:**

Schedule of Requirements

Deliverables in accordance with Statement of Requirements

Item Number	Description	Delivery Date (exact dates to be confirmed on contract award)	Unit of Measurement	Quantity	Firm Price (£) Ex VAT – Per Item (including any packaging, delivery and importing)	Firm Price (£) Ex VAT -Total (including any packaging, delivery and importing)
1	1SL: Face-to-Face coaching sessions					
2	3*s: 2SL and Fleet Commander (3 hours)					
3	2*s: NC only (3 hours)					
Quantities shown are expected numbers and not a guarantee of amounts required or due. Quantity ordered under the contract may differ dependent on The Authority requirements					Total Price	

Item Number	Consignee Address (XY code only)
All	NCHQ Portsmouth
Item Number	Payment Schedule
1-3	Payments to be made following delivery of service

Statement of Requirements

Background

Coaching has been utilised to provide reflective coaching services to the RN's Senior Leadership Team. This has included facilitating individual coaching sessions, small group discussions and prompting interventions, all aimed at enhancing a learning mindset and empowerment culture across Navy Command and improving organisational development.

Reflective coaching is commonplace within organisations, it can provide vital support for senior executives, not only in their personal learning and development but in supporting the organisation's objectives, improving effective communication and supporting culture change/transformation agenda.

Requirement

1. Individual reflective coaching-style conversations:

1SL: Min of 6 face-to-face coaching sessions.
3*s: 2SL and Fleet Commander only. 3 hours each.
2*s: NC only. 3 hours each.

2. Facilitating 3 small group coaching conversations between 1SL/2SL/FC.

Contract Start Date and Duration

This contract should run for the next FY: 1 Apr 21 – 31 Mar 22.

Security Considerations

All information discussed will not be higher classification than OFFICIAL.



**MOD Terms and Conditions for Less
Complex Requirements
(up to £122,979)**

1 Definitions - In the Contract:

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

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

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

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

Contractor Commercially Sensitive Information means the information listed as such in the purchase order, which is information notified by the Contractor to the Authority, which is acknowledged by the Authority as being commercially sensitive;

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

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

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

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;

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

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

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

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.

2 General

a. The Contractor shall comply with all applicable Legislation, whether specifically referenced in this Contract or not.

b. Any variation to the Contract shall have no effect unless expressly agreed in writing and signed by both Parties.

c. If there is any inconsistency between these terms and conditions and the purchase order or the documents expressly referred to therein, the conflict shall be resolved according to the following descending order of priority:

- (1) the terms and conditions;
- (2) the purchase order; and
- (3) the documents expressly referred to in the purchase order.

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

e. Failure or delay by either Party in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of its rights or remedies. No waiver in respect of any right or remedy shall operate as a waiver in respect of any other right or remedy.

f. The Parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a Party to it.

g. The Contract and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English Law, and subject to Clause 15 and without prejudice to the dispute resolution procedure set out therein, the Parties submit to the exclusive jurisdiction of the

English courts. Other jurisdictions may apply solely for the purpose of giving effect to this Clause 2.g and for enforcement of any judgement, order or award given under English jurisdiction.

3 Application of Conditions

a. The purchase order, these terms and conditions and the specification govern the Contract to the entire exclusion of all other terms and conditions. No other terms or conditions are implied.

b. The Contract constitutes the entire agreement and understanding and supersedes any previous agreement between the Parties relating to the subject matter of the Contract.

4 Disclosure of Information

Disclosure of information under the Contract shall be managed in accordance with DEFCON 531 (SC1).

5 Transparency

a. Subject to Clause 5.b, but notwithstanding Clause 4, 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 5.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, including the Contractor Commercially Sensitive Information.

c. The Authority may consult with the Contractor before redacting any information from the Transparency Information in accordance with Clause 5.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 Clause 5 shall affect the Contractor's rights at law.

6 Notices

a. A Notice served under the Contract shall be:

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

b. Notices shall be deemed to have been received:

- (1) if delivered by hand, on the day of delivery if it is the recipient's Business Day and otherwise on the first Business Day of the recipient immediately following the day of delivery;
- (2) if sent by prepaid post, on the fourth Business Day (or the tenth Business Day in the case of airmail) after the day of posting;
- (3) if sent by facsimile or electronic means:
 - (a) if transmitted between 09:00 and 17:00 hours on a Business Day (recipient's time) on completion of receipt by the sender of verification of the transmission from the receiving instrument; or
 - (b) if transmitted at any other time, at 09:00 on the first Business Day (recipient's time) following the completion of receipt by the sender of verification of transmission from the receiving instrument.

7 Intellectual Property

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

b. The Authority shall promptly notify the Contractor of any infringement claim made against it relating to any Contractor

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

8 Supply of Contractor Deliverables and Quality Assurance

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

9 Supply of Data for Hazardous Contractor Deliverables

- a. The Contractor shall establish if the Contractor Deliverables are, or contain, Dangerous Goods as defined in the Regulations set out in this Clause 9. Any that do shall be packaged for UK or worldwide shipment by all modes of transport in accordance with the following unless otherwise specified in the Schedule to the purchase order:
 - (1) the Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO), IATA Dangerous Goods Regulations;
 - (2) the International Maritime Dangerous Goods (IMDG) Code;
 - (3) the Regulations Concerning the International Carriage of Dangerous Goods by Rail (RID); and
 - (4) the European Agreement Concerning the International Carriage of Dangerous Goods by Road (ADR).
- b. Certification markings, incorporating the UN logo, the package code and other prescribed information indicating that the package corresponds to the successfully designed type shall be marked on the packaging in accordance with the relevant regulation.
- c. As soon as possible and in any event within the period specified in the purchase order (or if no such period is specified no later than one month prior to the delivery date), the Contractor shall provide to the Authority's representatives in the manner and format prescribed in the purchase order:
 - (1) confirmation as to whether or not to the best of its knowledge any of the Contractor Deliverables are Hazardous Contractor Deliverables; and
 - (2) for each Hazardous Contractor Deliverable, a Safety Data Sheet containing the data set out at Clause 9.d, which shall be updated by the Contractor during the period of the Contract if it becomes aware of any new relevant data.
- d. Safety Data Sheets if required under Clause 9.c shall be provided in accordance with the REACH Regulations (EC) No 1907/2006 and any additional information required by the Health and Safety at Work etc. Act 1974 and shall contain:
 - (1) information required by the Classification, Labelling and Packaging (CLP) Regulation 1272/2008 or any replacement thereof; and
 - (2) where the Hazardous Contractor Deliverable is, contains or embodies a radioactive substance as defined in the Ionising Radiation Regulations SI 1999/3232, details of the activity, substance and form (including any isotope); and
 - (3) where the Hazardous Contractor Deliverable has

magnetic properties, details of the magnetic flux density at a defined distance, for the condition in which it is packed.

- e. The Contractor shall retain its own copies of the Safety Data Sheets provided to the Authority in accordance with Clause 9.d for 4 years after the end of the Contract and shall make them available to the Authority's representatives on request.
- f. Nothing in this Clause 9 reduces or limits any statutory or legal obligation of the Authority or the Contractor.
- g. Where delivery is made to the Defence Fulfilment Centre (DFC) and / or other Team Leidos location / building, the Contractor must comply with the Logistic Commodities and Services Transformation (LCST) Supplier Manual.

10 Delivery / Collection

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

11 Marking of Contractor Deliverables

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

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

The Contractor shall pack or have packed the Contractor Deliverables in accordance with any requirements specified in the purchase order and Def Stan 81-041 (Part 1 and Part 6).

13 Progress Monitoring, Meetings and Reports

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

14 Payment

- a. Payment for Contractor Deliverables will be made by electronic transfer and prior to submitting any claims for payment under clause 14b the Contractor will be required to register their details (Supplier on-boarding) on the Contracting, Purchasing and Finance (CP&F) electronic procurement tool.
- b. Where the Contractor submits an invoice to the Authority in accordance with clause 14a, the Authority will consider and verify that invoice in a timely fashion.
- c. The Authority shall pay the Contractor any sums due under such an invoice no later than a period of 30 days from the date on which the Authority has determined that the invoice is valid and undisputed.
- d. Where the Authority fails to comply with clause 14b and there is undue delay in considering and verifying the invoice, the invoice shall be regarded as valid and undisputed for the purpose of clause 14c after a reasonable time has passed.
- e. The approval for payment of a valid and undisputed invoice by the Authority shall not be construed as acceptance by the

Authority of the performance of the Contractor's obligations nor as a waiver of its rights and remedies under this Contract.

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

15 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 15.a the dispute shall be referred to arbitration and shall be governed by the Arbitration Act 1996. For the purposes of the arbitration, the arbitrator shall have the power to make provisional awards pursuant to Section 39 of the Arbitration Act 1996.

c. For the avoidance of doubt it is agreed between the Parties that the arbitration process and anything said, done or produced in or in relation to the arbitration process (including any awards) shall be confidential as between the Parties, except as may be lawfully required in judicial proceedings relating to the arbitration or otherwise. No report relating to anything said, done or produced in or in relation to the arbitration process may be made beyond the tribunal, the Parties, their legal representatives and any person necessary to the conduct of the proceedings, without the concurrence of all the Parties to the arbitration.

16 Termination for Corrupt Gifts

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

a. where the Authority becomes aware that the Contractor, its employees, agents or any sub-contractor (or anyone acting on its behalf or any of its or their employees):

- (1) has offered, promised or given to any Crown servant any gift or financial or other advantage of any kind as an inducement or reward;
- (2) commits or has committed any prohibited act or any offence under the Bribery Act 2010 with or without the knowledge or authority of the Contractor in relation to this Contract or any other contract with the Crown;
- (3) has entered into this or any other contract with the Crown in connection with which commission has been paid or has been agreed to be paid by it or on its behalf, or to its knowledge, unless before the contract is made particulars of any such commission and of the terms and conditions of any such agreement for the payment thereof have been disclosed in writing to the Authority.

b. In exercising its rights or remedies to terminate the Contract under Clause 16.a. the Authority shall:

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

c. Where the Contract has been terminated under Clause 16.a. the Authority shall be entitled to purchase substitute Contractor Deliverables from elsewhere and recover from the Contractor any costs and expenses incurred by the Authority in obtaining the Contractor Deliverables in substitution from another supplier.

17 Material Breach

In addition to any other rights and remedies, the Authority shall have the right to terminate the Contract (in whole or in part) with

immediate effect by giving written notice to the Contractor where the Contractor is in material breach of its obligations under the Contract. Where the Authority has terminated the Contract under Clause 17 the Authority shall have the right to claim such damages as may have been sustained as a result of the Contractor's material breach of the Contract.

18 Insolvency

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

19 Limitation of Contractor's Liability

a. Subject to Clause 19.b the Contractor's liability to the Authority in connection with this Contract shall be limited to £5m (five million pounds).

b. Nothing in this Contract shall operate to limit or exclude the Contractor's liability:

- (1) for:
 - a. any liquidated damages (to the extent expressly provided for under this Contract);
 - b. any amount(s) which the Authority is entitled to claim, retain or withhold in relation to the Contractor's failure to perform or under-perform its obligations under this Contract, including service credits or other deductions (to the extent expressly provided for under this Contract);
 - c. any interest payable in relation to the late payment of any sum due and payable by the Contractor to the Authority under this Contract;
 - d. any amount payable by the Contractor to the Authority in relation to TUPE or pensions to the extent expressly provided for under this Contract;
 - (2) under Condition 7 of the Contract (Intellectual Property), and DEFCONs 91 or 638 (SC1) where specified in the contract;
 - (3) for death or personal injury caused by the Contractor's negligence or the negligence of any of its personnel, agents, consultants or sub-li;
 - (4) for fraud, fraudulent misrepresentation, wilful misconduct or negligence;
 - (5) in relation to the termination of this Contract on the basis of abandonment by the Contractor;
 - (6) for breach of the terms implied by Section 2 of the Supply of Goods and Services Act 1982; or
 - (7) for any other liability which cannot be limited or excluded under general (including statute and common) law.
- c. The rights of the Authority under this Contract are in addition to, and not exclusive of, any rights or remedies provided by general (including statute and common) law.

20 The Project Specific DEFCONs and DEFCON SC Variants that apply to this Contract are:

- DEFCON 5J (Edn 11/16) - Unique Identifiers
- DEFCON 76 SC1 (Edn 12/16) - Contractor's Personnel at Government Establishments
- DEFCON 129J SC1 (Edn 06/17)– The Use of the Electronic Business Delivery Form
- DEFCON 502 SC1 (Edn 11/16)- Specifications Changes
- DEFCON 503 SC1 (Edn 12/16) – Formal Amendments to Contract
- DEFCON 532B (Edn 04/20) - Protection of Personal Data (Where Personal Data is being processed on behalf of the Authority)
- DEFCON 534 (Edn 06/17) – Subcontracting and Prompt Payment
- DEFCON 538 (Edn 06/02) - Severability
- DEFCON 566 (Edn 10/20) - Change of Control of Contractor
- DEFCON 609 (Edn 08/18) or SC1 (Edn 08/18) - Contractor's Records
- DEFCON 620 SC1 (Edn 12/16)– Contract Change Control Procedure
- DEFCON 656A (Edn 08/16) - Termination for Convenience Under £5m
- DEFCON 658 SC1 (Edn.11/17) - Cyber
Further to DEFCON 658 the Cyber Risk Level of the Contract is Very Low, as defined in Def Stan 05-138

21 The special conditions that apply to this Contract are: AUTHORISATION BY THE CROWN FOR USE OF THIRD PARTY

INTELLECTUAL PROPERTY RIGHTS

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

22 The processes that apply to this Contract are:

The Contractor shall notify the Authority as soon as they become aware of any circumstance which will impact on their ability to deliver any of the requirements or meet any of the stated timescales.