



**MOD Terms and Conditions for Less
Complex Requirements
(£118,133 - £363,424)**

CONTRACT NO 700193341

MEDL Device Build and Post Deployment Support

Table of Contents

SC1B – Schedules

Schedule 1 - Standardised Definitions of Contract

- Project specific DEFCONs and DEFCON SC variants that ply to this Contract:
- Special Conditions that apply to the Contract

Schedule 2 - Schedule of Requirements

Schedule 3 - Contract Data Sheet

Schedule 4 - Contractor's Commercially Sensitive Information Form

DEFFORM 111

Annex A - Statement of Work

Annex B – Milestone Payment Plan

Annex C - DEFFORM 701 - Annex to the Head Agreement for Licence Terms for Commercial Software

Annex D – DEFFORM 129J - Shipping Form Design

SCHEDULE 1 - Standardised Contracting Terms

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, specifications, plans, drawings, schedules and other documentation, expressly made part of the agreement in accordance with Clause 2.c;

Contractor means the person, firm or company specified as such in the Contract;

Contractor Commercially Sensitive Information means the information listed as such in the Contract, 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 of requirements.

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

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

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 associated documents expressly referred to therein, the conflict shall be resolved according to the following descending order of priority:

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

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

e. Failure or delay by either Party in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of its rights under the Contract.

d. 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.

f. The Contract and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English Law, and subject to Clause 15 and without prejudice to the dispute resolution procedure set out therein, the Parties submit to the exclusive jurisdiction of the English courts. Other jurisdictions may apply solely for the purpose of giving effect to this Clause 2.g and for enforcement of any judgement, order or award given under English jurisdiction.

3 Application of Conditions

a. These terms and conditions, schedules and the specification govern the Contract to the entire exclusion of all other terms and conditions. No other terms or conditions are implied.

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

4 Disclosure of Information

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

5 Transparency

a. 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 Contract;
- (4) marked with the number of the Contract; and
- (5) delivered by hand, prepaid post (or airmail), facsimile transmission or, if agreed in the Contract, by electronic mail.

b. Notices shall be deemed to have been received:

- (1) if delivered by hand, on the day of delivery if it is a Business Day in the place of receipt, and otherwise on the first Business Day in the place of receipt following the day of delivery;
- (2) if sent by prepaid post, on the fourth Business Day (or the tenth Business Day in the case of airmail) after the day of posting;
- (3) if sent by facsimile or electronic means:

- (a) if transmitted between 09:00 and 17:00 hours on a Business Day (recipient's time) on completion of receipt by the sender of verification of the transmission from the receiving instrument; or
- (b) if transmitted at any other time, at 09:00 on the first Business Day (recipient's time) following the completion of receipt by the sender of verification of transmission from the receiving instrument.

7 Intellectual Property

- a. The Contractor shall as its sole liability keep the Authority fully indemnified against an infringement or alleged infringement of any intellectual property rights or a claim for Crown use of a UK patent or registered design caused by the use, manufacture or supply of the Contractor Deliverables.
- b. The Authority shall promptly notify the Contractor of any infringement claim made against it relating to any Contractor Deliverable and, subject to any statutory obligation requiring the Authority to respond, shall permit the Contractor to have the right, at its sole discretion to assume, defend, settle or otherwise dispose of such claim. The Authority shall give the Contractor such assistance as it may reasonably require to dispose of the claim and will not make any statement which might be prejudicial to the settlement or defence of the claim

8 Supply of Contractor Deliverables and Quality Assurance

This Contract comes into effect on the Effective Date of Contract.

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

9 Supply of Hazardous 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 Contract.:
the Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO), IATA Dangerous Goods Regulations;
 - (1) the International Maritime Dangerous Goods (IMDG) Code;
 - (2) the Regulations Concerning the International Carriage of Dangerous Goods by Rail (RID);and
 - (3) 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 Contract (or if no such period is specified no later than one month prior to the delivery date), the Contractor shall provide to the Authority's representatives in the manner and format prescribed in the Contract:
 - (1) confirmation as to whether or not to the best of its knowledge any of the Contractor Deliverables 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 Chemicals (Hazardous Information and Packaging for Supply) (CHIP) Regulations 2009 and / or the Classification, Labelling and Packaging (CLP) Regulation 1272/2008 (whichever is applicable) 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.

10 Delivery / Collection

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

11 Marking of Contractor Deliverables

- a. The Contractor shall ensure that each Contractor Deliverable is marked clearly and indelibly:
 - (1) in accordance with the requirements specified in the Contract, or if no such requirement is specified, with the MOD stock reference number, NATO Stock Number (NSN) or alternative reference number specified in the 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 the Contract or in the absence of such requirement, 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 Contractor Deliverable with the required particulars, these should be included on the package in which the Contractor Deliverable is packed.

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 Contract 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 Contract and shall ensure that its Contractor's representatives are suitably qualified to attend such meetings.

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.
- e. 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. 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.

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

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

(1) for:

- (a) any liquidated damages (to the extent expressly provided for under this Contract);
- (b) any amount(s) which the Authority is entitled to claim, retain or withhold in relation to the Contractor's failure to perform or under-perform its obligations under this Contract, including service credits or other deductions (to the extent expressly provided for under this Contract);
- (c) any interest payable in relation to the late payment of any sum due and payable by the Contractor to the Authority under this Contract;
- (d) any amount payable by the Contractor to the Authority in relation to TUPE or pensions to the extent expressly provided for under this Contract;

(2) under Condition 7 of the Contract (Intellectual Property), and DEFCONs 91 or 638 (SC1) where specified in the contract;

(3) for death or personal injury caused by the Contractor's negligence or the negligence of any of its personnel, agents, consultants or sub-contractors;

(4) for fraud, fraudulent misrepresentation, wilful misconduct or negligence;

(5) in relation to the termination of this Contract on the basis of abandonment by the Contractor;

(6) for breach of the terms implied by Section 2 of the Supply of Goods and Services Act 1982; or

(7) for any other liability which cannot be limited or excluded under general (including statute and common) law.

c. The rights of the Authority under this Contract are in addition to, and not exclusive of, any rights or remedies provided by general (including statute and common) law.

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

DEFCON 502 (SC1) (Edn. 12/16) - Specifications Changes

DEFCON 503 (SC1) (Edn. 12/16) - Formal Amendments To Contract

DEFCON 531 (SC1) (Edn. 06/17) - Disclosure of Information

DEFCON 532B (Edn. 05/18) - 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 537 (Edn. 06/02) - Rights of Third Parties

DEFCON 538 (Edn. 06/02) – Severability

DEFCON 566 (Edn. 12/18) - Change of Control of Contractor

Special Indemnity Conditions

DEFCON 76 (Edn 16/16) – Contractors Personnel and Government Establishments

DEFCON 90 (Edn 11/06) - Copyright

DEFCON 127 (Edn. 12/14) - Price Fixing Condition for Contracts of Lesser Value

DEFCON 129J (SC1) (Edn. 06/17) - The Use of The Electronic Business Delivery Form

DEFCON 601 (SC) (Edn. 03/15) - Redundant Material

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

DEFCON 608 (Edn. 10/14) - Access and Facilities to be Provided by the Contractor

DEFCON 609 (SC1) (Edn. 08/18) - Contractor's Records

DEFCON 611 (SC1) Edn 12/16) – Issued Property

DEFCON 624 (SC1) (Edn. 12/16) - Use of Asbestos

DEFCON 627 (Edn. 12/10) - Quality Assurance - Requirement for a Certificate of Conformity

DEFCON 649 (SC1) (Edn 12/16) – Vesting

DEFCON 658 (SC1) (Edn. 11/17) - Cyber

Note: Further to DEFCON 658 the Cyber Risk Profile of the Contract is Low, as defined in Def Stan 05-138.

DEFCON 694 (SC1) (Edn 08/18) – Accounting for Property of the Authority

Personal Data Particulars

DEFFORM 532

Edn 10/19

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

Data Controller	The Data Controller is the Secretary of State for Defence (the Authority). The Personal Data will be provided by: <i>Artillery Systems Delivery Team (address details can be found at DEFFORM111)</i>
Data Processor	The Data Processor is the Contractor. The Personal Data will be processed at: <i>[SBL – East Moor House, Green Park Business Centre, Goose Lane, Sutton-on-the Forest, Your YO67 7ET</i>
Data Subjects	The Personal Data to be processed under the Contract concern the following Data Subjects or categories of Data Subjects: <i>[please specify]</i> <i>[Examples include: Staff (including volunteers, agents, and temporary workers), customers/clients, suppliers, patients, students / pupils, members of the public, users of a particular website etc]</i>
Categories of Data	The Personal Data to be processed under the Contract concern the following categories of data: <i>[please specify]</i> <i>[Examples include name, address, telephone number, medical records etc]</i>
Special Categories of data (if appropriate)	The Personal Data to be processed under the Contract concern the following Special Categories of data: <i>[A Special Category of Personal Data is anything that reveals racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, sex life or sexual orientation or genetic or biometric data]</i>
Subject matter of the processing	The processing activities to be performed under the contract are as follows: <i>[please specify]</i> <i>This should be a high-level, short description of what processing will be taking place and its overall outcome i.e. its subject matter]</i>

Nature and the purposes of the Processing	
Technical and organisational measures	<p>The following technical and organisational measures to safeguard the Personal Data are required for the performance of this Contract: <i>[please specify]</i> <i>[Provide an overview of the measures described in the System Requirements, Statement of Work and/or the controls required in accordance with the Cyber Risk Profile relevant to the Contract, as detailed in Annex A to Def Stan 05-138.</i> <i>Examples</i></p> <p><i>include anonymisation, authorised access, data processed on closed/restricted systems]</i></p>
Instructions for disposal of Personal Data	<p>The disposal instructions for the Personal Data to be processed under the Contract are as follows (where Disposal Instructions are available at the commencement of Contract): <i>[please specify]</i> <i>[Describe how long the data will be retained for and how it will be returned or destroyed]</i></p>
Date from which Personal Data is to	<p>Where the date from which the Personal Data will be processed is different from the Contract commencement date this should be specified here: <i>[please specify if applicable]</i></p>

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

21. Special Conditions

21.1 Licences

1. Where the Contractor obtains Proprietary software, this shall be licensed to the Authority under either:
 - a. DEFFORM 701 (04/06) agreed between the Authority and the Sub-Contractor concerned;
 - b. Any standard inward proprietary software license agreed between the Authority and the Contractor or Sub-Contractor concerned; or
 - c. Such other licence (express or implied) as the Authority may agree in writing.

DEFFORM 701 (Edn 04/06) - HEAD AGREEMENT for Licence Terms for Commercial Software Purchased by The Secretary Of State For Defence (Annex C)

21.2 Options to Purchase

1. The option prices detailed in the Schedule of Requirements are firm prices not subject to variation.
2. In addition to the quantity detailed at Items 1-6 of the Schedule of Requirements, the Contractor hereby grants to the Authority the following irrevocable options to purchase quantities of equipment/stores/services in accordance with the terms and conditions set out in this contract or any such subsequent contract or contracts where such options are taken up, it being agreed that the Authority has no obligation to exercise such options.
3. The Authority shall have the right to exercise the options by the specified dates detailed in the Schedule of Requirements or within such further period as corresponds to the aggregate of any period(s):
 - a. of delay in the delivery programme whether constituting any breach of the Contract or resulting from any force majeure event within Condition - NA or
 - b. for the duration of which the Authority is prevented from exercising any such option due to any other breach of the Contract by the Contractor.
4. The Authority shall not be obliged to exercise the options.

21.3 Milestone Payments - SOR Item 6

1. The Authority shall, subject to the following provisions of this Condition, make to the Contractor advances against the price(s) payable for SOR Item 6 ("interim payments") in accordance with the Stage Payment Scheme set out in Annex B to the Contract.
2. The Contractor shall be entitled to interim payments, to be claimed in accordance with Condition Annex A, Clause 13 – Service for each stage under the Stage Payment Scheme, when:
 - a. the Contractor has completed all work comprised in the stage for which the interim payment is sought in accordance with Annex A Clause 13
 - b. all previous stages have been completed, unless the parties expressly agree otherwise; and
 - c. the Contractor shall have complied with all its contractual obligations which enable the Authority to monitor the Contractor's contractual performance, including but not limited to those obligations related to the provision of information to the Authority.

3. Notwithstanding clause 2 above, the Authority shall not be obliged to make an interim payment to the Contractor if it has reasonable cause to believe that the Contractor will be unlikely to render complete performance of its obligations in respect of items 6 of the Contract.
4. Where the Authority intends to rely on clause 3 above as the basis for rejecting any claim for an interim payment which the Contractor may make, the Authority shall give to the Contractor notice in writing of its intention together with the Authority's reasons for the rejection.
5. The Authority shall without prejudice to any other right / remedy of either party be entitled to recover in full all interim payments made under the Contract where:
 - a. the Contract, or the part of the Contract under which Items 6 are to be provided, is terminated otherwise than in accordance with DEFCON 656, or expires by reason of passing of time; and
 - b. the Contractor has failed to complete performance of Items 6.
6. In the event of repayment to the Authority under the provisions of clause 5 above then all that which vested in the Authority under the provisions of DEFCON 649 and which related to Items 6 shall re-vest in and become the absolute property of the Contractor.
7. Payment of an interim payment by the Authority under this clause shall not, unless expressly stated to do so, constitute:
 - a. acceptance by the Authority of any contractual deliverable;
 - b. a representation by the Authority that the Contractor has complied with any contractual obligations; or
 - c. a waiver of the Authority's right to subsequently claim that the conditions for payment of that interim payment were not satisfied

SC1B SCHEDULE 2

Schedule of Requirement – Contract No 700193341

Item No	Specification	Consignee Address Code (full address is detailed in DEFFORM 96)	Delivery Date	Total Qty	Firm Price (£) Ex VAT
1	Receipt of initial Panasonic TOUGHBOOK 33 MK1, 2-in-1, Intel Core i5-7300U, 12.0_QHD, 8GB RAM, 256GB SSD, Windows 10 Pro, 3+3 Cell Battery, UK & English Std Keyboard, UK-3P in AC Cord devices by the Contractor & TOUGHBOOK Rotation Hand Strap	N/A	3 weeks from Contract placement	2	Included in the Price of Item 4
2	Gold Image MEDL device received into Artillery Systems Deliver Team	ARTY SYS [REDACTED] NH3 MP 3260 CEDAR 2B MOD ABBEY WOOD BRISTOL BS34 8JH	5 weeks from Contract placement	2	Included in the Price of Item 4
3	Acceptance and Sign-off of Gold Image in accordance with SBL Service Design Document Reference ARTP002 -1.1 and [REDACTED]	ARTY SYS [REDACTED] NH3 MP 3260 CEDAR 2B MOD ABBEY WOOD BRISTOL BS34 8JH	6 weeks from Contract placement	2	Included in the Price of Item 4
4	Delivery Panasonic Tablet 33 Mk1 Receipt of initial Panasonic TOUGHBOOK 33 MK1, 2-in-1, Intel Core i5-7300U, 12.0_QHD, 8GB RAM, 256GB SSD, Windows 10 Pro, 3+3 Cell Battery, UK & English Std Keyboard, UK-3P in AC Cord Devices & TOUGHBOOK Rotation Hand Strap by the Contractor	Self to Self	11 weeks from Contract placement	72	[REDACTED]

5.	a. Service Set Up & Delivery of Qty 74 MEDL devices  - c - d. - e	TBA	11 weeks from Contract placement	1 32 32 42 32 74	Included in price of Item 4
6.	Support to Qty 74 MEDL devices with Gold Image (inc licensed software, etc) in accordance with SOW (Annex A to the Contract) for 12 months support		Commencing 11 weeks from Contract placement	74	 Payment Quarterly in arrears after quarterly meeting – See Milestone Payment Plan at Annex B
TOTAL FIRM PRICE				£204,507.72	

Options to Purchases additional Goods and Services

Item No	Description	Packaging Requirement	Option to be Exercised by (Date)	Delivery Date	Qty	Price Each (£)
A	Peripheral Consumables Items: Panasonic TOUGHBOOK 33 Bay Battery Charger		12 months from date of Contract	TBA	TBA	
B	Panasonic TOUGHBOOK 33 Spare Battery (3 Cell)			TBA	TBA	£ 
C	Panasonic CF-VNP023U Digitizer Stylus Pen			TBA	TBA	£ 
D	AMN&D Repair/Disposal to MEDL Devices		6 Months from date of Contract	As per Tasking Form (TBA)		Ad Hoc on a Case by Case Basis

E	Licences: [REDACTED]		12 months from date of Contract	TBA TBA TBA		£ [REDACTED]
F	Support Services for 12 months Commencing 01 May 2021 in accordance with SOW at Annex A		9 months from date Contract		74	£ [REDACTED]

SCHEDULE 2 Contract DATA Sheet	
Contract Period	<p>Effective date of Contract: 28 January 2020</p> <p>Contract duration: 15 months after contract award</p>
Clause 6 - Notices	<p>Notices served under the Contract can be transmitted by electronic mail</p> <p>Notices served under the Contract shall be sent to the following address:</p> <p>Authority: Arty Sys Delivery Team</p> <p>Contractor: Software Box Ltd, East Moor House, Green Park Business Centre Goose Lane, Sutton-on-the-Forest, York, YO61 1ET</p>
Clause 8 – Supply of Contractor Deliverables and Quality Assurance Adf;slfslsdf	<p>Is a Deliverable Quality Plan required for this Contract? - No</p> <p>Other Quality Assurance Requirements: DEFSTAN 05-06 Part 1 Issue 6 DEFSTAN 05-06 Part 4 Issue 3</p>
Clause 9 – Supply of Data for Hazardous Contractor Deliverables, Materials and Substances	<p>A completed DEFFORM 68</p> <p>(Hazardous Articles, Materials or Substance Statement), and if applicable, Safety Data Sheet(s) are to be provided by e-mail with attachments in Adobe PDF or MS WORD format to:</p> <p>a) The Authority's</p>

	<p>Representative (Commercial) b) DSALand-MovTpt-DGHSIS@mod.uk</p>
	<p>or: if only a hardcopy is available to:</p> <p>a) The Authority's Representative (Commercial) b) Hazardous Stores Information System (HSIS)</p> <p style="padding-left: 40px;">Defence Safety Authority (DSA)</p> <p style="padding-left: 40px;">Movement Transport Safety Regulator (MTSR)</p> <p style="padding-left: 40px;">Hazel Building Level 1, #H019</p> <p style="padding-left: 40px;">MOD Abbey Wood (North)</p> <p style="padding-left: 40px;">Bristol, BS34 8QW</p> <p>DSA-DLSR-MovTpt-DG HSIS (MULTIUSER) to be Delivered no later than one (1) month prior to the Delivery</p>
	<p>Date for the Contract Deliverable or by the following date:</p>
<p>Clause 10 – Delivery/Collection</p>	<p>Contract Deliverables are to be:</p> <p>Delivered by the Contractor</p>
	<p>SOR Item 1 & 3 Self to Self SOR Item 5 – Arty Sys to Confirm</p>
	<p style="text-align: right;">address if different from</p>

Clause 12 – Packaging and Labelling of Contractor Deliverables	Additional packaging requirements: _____TBA_
Clause 13 – Progress Meetings	The Contractor shall be required to attend the following meetings: Type: Frequency: SOR Item 2 & 3 – weekly teleconference or otherwise directed by Arty Sys DOM SOR Item 6 – Quarterly commencing 01/08/2020 Location: SBL or otherwise Directed by Arty SYS Deputy Operations Manager
Clause 13 – Progress Reports	The Contractor is required to submit the following Reports:
Type, Frequency, Method of Delivery, Delivery Address	Quarterly Report (see details of content in SOW, Annex A to the Contract) - 2 weeks prior to quarterly meeting (word document – electronic delivery)

Appendix - Addresses and Other Information

1. Commercial Officer:

Name: Helen Hughes

Address:
Cedar 2B, #3260, Ministry of Defence, DE&S, Bristol, BS348JH

Email: helen.hughes134@mod.gov.uk

☎ 0781192728

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

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

Name: Darren Curtis

Address: Cedar 2B, #3260, Ministry of Defence, DE&S, Bristol, BS348JH

Email: Darren.Curtis108@mod.gov.uk

☎ 030 679 88949

9. Consignment Instructions:

The items are to be consigned as follows:

See Schedule of Requirement

3. Packaging Design Authority:

Organisation and point of contact:

DES IMOC SCP TLS Packaging

MOD Abbey Wood,

Bristol, BS34 8JH

DESIMOCSCP-TLS-Pkg@mod.uk

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

☎ +44(0)30 679 35353

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**

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

☎ 03067937578

(b) U.I.N. P5192A

5. Drawings/Specifications are available from:

Project Team (please contact the Project team in Box 2)

6. Intentionally Left Blank

7. Quality Assurance Representative:

Martin Mould (DES LE STSP-PgMO-QM)

Martin.Mould554@mod.gov.uk

0306 79 87141

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]

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

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

Applications via fax or email: DESLCCLS-OpsFormsandPubs@mod.uk.

NOTES

* Many **DEFCONs** and **DEFFORMs** can be obtained from the MOD Internet Website [extranet, registration needed]:

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

ANNEX A TO CONTRACT NUMBER 700193341

MEDL Device Build and Post Deployment Support

STATEMENT OF WORK

1. Terms of Reference

DOM	Deputy Operations Manager
EBS	Equipment Breakdown Structure
ITIL	Information Technology Infrastructure Library
OEM	Original Equipment Manufacturer
MEDL	██
██████	██
MoD	Ministry of Defence
RFI	Request For Information
SBL	Software Box Limited
SDD	Service Design Document
SLA	Service Level Agreement

2. Proposal Overview

The Contractor has provided The Authority with the deployment of and support for 42 devices (known as MEDLs) since 2010. These devices have reached a point where a hardware refresh is required. The Authority has now identified a requirement for 74 devices. The hardware, software and services the Contractor shall provide to The Authority to support the technical refresh of the MEDL devices is detailed below. The MEDL devices need to be secured by encryption and application control with a requirement for emails to be sent to a specific location. The image shall include a video player and an application for Document Management.

Requirement

3. Implementation Approach

a. The Contractor shall allocate an experienced Project Manager to the implementation phase of the Project, who shall work closely with The Authority to ensure successful delivery of the project. The Authority's Project Manager shall be invited to a Project Initiation meeting at the Contractor's premises in which key personnel, milestones and delivery methodology shall be agreed and documented by the Contractor. The Contractor shall also capture the technical specifications of the required build in terms of security clamp, User Accounts, software and any other details within a Build Document. This is a standard document used by the Contractor to detail the technical and procedural aspects of the service delivery. The Build Document shall be agreed and signed by the Contractor and prior to the build and deployment of the devices. This shall ensure that all parties are in full agreement with the implementation approach and the specifications of the device configuration. This shall therefore reduce the risk of introducing

errors and assuring a level of governance around the project delivery. The Contractor shall provide the Authority's Project Manager weekly catch up meetings during the Project Phase.

b. The Contractors PM shall work with the Authority's PM to agree all implementation activities, milestones, start and finish dates and the dependencies for each activity. This shall include the creation of a Risk Register detailing the risks and potential risks which might impact the delivery schedule, including all actions which shall be taken to avoid or mitigate each risk. Please see section 4, of Annexe B to the contract, for an initial draft of the Risk Register. This shall be a live document and shall be updated regularly throughout the duration of the contract.

c. All Contractor resources assigned to this project shall have MoD Security Clearance as a minimum and the Technical Lead for this project shall hold DV. All work shall take place within the Contractors MoD Accredited List X Facility.

d. The Contractor shall create a Service Design Document (SDD) detailing the support levels, which, once agreed and approved, shall be signed by both the Contractor and The Authority.

4. Hardware

Qty 74 Panasonic TOUGHBOOK 33 MK1, 2-in-1, Intel Core i5-7300U, 12.0_QHD, 8GB RAM, 256GB SSD, Windows 10 Pro, 3+3 Cell Battery, UK & English Std Keyboard, UK-3Pin AC Cord

Qty 74 TOUGHBOOK 33 Rotation Hand Strap

5. Licenses



6. Service Set Up and ServiceNow

a. The Authority shall be set up on all the Contractors internal systems, including our Service Desk platform ServiceNow.

b. The 74 Panasonic devices procured by SBL under this contract shall be asset tagged and information entered onto the Asset Management tool on ServiceNow. This information shall include, but is not limited to, serial number, asset tag ID, device manufacturer and model, and any dispatch information.

c. Peripheral items shall not be serialised, but descriptions and quantities shall be entered onto ServiceNow.

d. The Contractor shall create virtual stockrooms for The Authority on ServiceNow. The Contractor shall initially assign all devices & peripherals in the Contractors secure facilities as per DEFCON. The Contractor shall also use ServiceNow to monitor stock levels of laptops and peripherals throughout the life of the contract.

7. Image build

a. All staff who work on building the image for The Authority shall hold Security Clearance or DV Clearance. They shall use the existing Gold Image as a basis and create a Windows 10 image to be compatible with the new hardware. The Contractor understand this image and shall additionally include a video player with the ability to view 3D images of parts, and the ability to send emails to a specific location.

b. The Contractors technicians shall hold several workshops with The Authority to fully understand the requirements. They shall then create a test image, deploy this to a device and send it to The Authority. This build shall be fully documented in a Build Document which shall be sent to The Authority, within 6 weeks of contract award or post pen test. Any necessary amendments shall be made to the image and the documents. Once the Authority is fully satisfied the Authority will arrange the Pen-test penetration testing of the build (as per section 3.5 of this document) and then the sign off of the build document and this image shall become the Gold Image.

c. Upon arrival of the hardware into the Contractor, security cleared technicians shall initially perform a DOA check on the devices and liaise with the manufacturer for any necessary repairs.

d. Devices shall then be moved to the Contractors List X facility where they shall then have the Gold Image deployed to them, prior to dispatch to the customer.

8. Penetration Testing & Acceptance of Gold Image Build

a. The Gold Image shall be in accordance with SBL Service Design Document Reference ARTP002 -1.1 and [REDACTED]. Once the build of the Gold Image is completed, the Authority's Project Manager shall submit the device for penetration testing to [REDACTED]. Following successful completion of the penetration testing The Authority shall sign off the Gold Image build document. No more amendments shall be allowed to the Gold Image after this time without the approval of both the Contractor and the Authority's Programme team.

Support Contract

The post-deployment support that the Contractor shall provide for 74 MEDL devices is detailed below.

9. Access to the Service Desk

a. The Authority shall have access to the Contractors Service Desk by telephone, email and online portal between the hours 08:30 – 17:30 Monday to Friday. The Contractor's Service Desk operates within the ITIL best practice framework. The Service Desk can be accessed via telephone, email or the online portal, at which point a unique ticket shall be raised, allocated a severity level in accordance with The Contractors Severity Matrix and managed through to completion and acceptance within the Service Desk management system. The Contractor shall reference the originator ticket number for reference throughout the resolution and closure of the incident.

10. Secure Return to Base

a. If a MEDL device develops a fault, the user shall contact the Contractor via their Service Desk where the device shall be triaged.

b. The Contractors 2nd or 3rd line support staff shall attempt to remotely fix the device. However, if this fix is not possible, the user will need to send the device back to the Contractor, via an appropriate courier, for fault investigation, device warranty repair or rebuilding. All fault investigations, device warranty repair or rebuilding shall be conducted by The Contractors Security Cleared Engineer. Once the device has been repaired it shall be returned to The Authority via an appropriate courier. The Authority shall be kept informed of the status of any devices at the Contractor via email or our online support portal.

c. All warranty repairs shall be conducted by the OEM. However, if the fault lies outside of the OEM warranty the Contractor shall request a cost estimate for the fix and notify the Authority.

No repairs shall be carried out at this stage until authorised by the Authority's Deputy Operations Manager (Detailed in DEFFORM 111).

d. Every MEDL device that is returned to the OEM for warranty repair, all data shall be wiped by the Contractor prior to dispatch to the OEM.

11. Spares Stock

a. The Contractor shall store a buffer stock of the Authority's spare devices in his secure warehouse ([REDACTED]). Should a device develop a fault and be required to be returned to the Contractor for repair, the Contractor shall immediately send one of the buffer stock devices to the user in order to minimise any disruption.

12. Annual Image Refresh

a. As part of this support contract, The Authority is entitled to one image refresh per year. The Authority are responsible for arranging the transport of the MEDLs to the Contractor, where an updated image shall be applied.

b. The updated image shall be tested by The Authority in the manner detailed in section 3.2 and this image shall then become the Gold Image.

13. Service Reviews & Quarterly Progress Meetings

a. The Contractor is dedicated to the delivery of quality products and services and dedicated to continuously improve these. The Contractor shall hold regular weekly "catch-up" calls during the initial stages of the Gold Image Build. The Contractor shall hold quarterly service reviews with Artillery System either by conference call or in person at the Contractors premises or the Authority's site. The Contractor shall provide, one week in advance of the quarterly review meeting a report containing the following information:

- i. Incident review/Service desk calls within quarterly period
- ii. Stock holdings
- iii. Inventory overview
- iv. Project Review (Continuous Improvement Suggestions)

b. At each quarterly meeting the following agenda shall be followed:

- i. Introductions
- ii. Review of previous actions
- iii. Review of quarterly Report
- iv. Incident Review
- v. Project Update
- vi. A.O.B
- vii. Action roundup

ANNEX B TO CONTRACT NO 700193341 – Milestone Payment Plan

Date of Milestone	Delivery Criteria	Milestone Payment £
31/07/2020	Receipt of Quarterly Report by Arty Sys DOM and successful delivery of Quarterly Progress meeting by the Contractor	██████████
31/10/2020	Receipt of Quarterly Report by Arty Sys DOM and successful delivery of Quarterly Progress meeting by the Contractor	██████████
31/01/2021	Receipt of Quarterly Report by Arty Sys DOM and successful delivery of Quarterly Progress meeting by the Contractor	██████████
30/04/2021	Receipt of Quarterly Report by Arty Sys DOM and successful delivery of Quarterly Progress meeting by the Contractor	██████████

ANNEX C TO CONTRACT NO 700193341

**ANNEX TO THE HEAD AGREEMENT FOR LICENCE TERMS FOR COMMERCIAL
SOFTWARE BETWEEN THE SECRETARY OF STATE FOR DEFENCE AND SOFTWARE
BOX LTD DATED 28 January 2020**

AGREED STANDARD CONDITIONS

1 DEFINITIONS

- 1.1 "AUTHORITY" shall mean the Secretary of State for Defence.
- 1.2 "LICENSOR" shall mean the Company identified in the Head Agreement or the wholly owned subsidiary of the Company identified in the Schedule as being the Party granting the Licence to the AUTHORITY.
- 1.3 "Licensed Software" means the computer programs listed in Part I of the Schedule together with any user documentation, update programs and anything else furnished to the AUTHORITY by the LICENSOR under the Licence in connection with those listed programs, and any portion and copy of any of them.
- 1.4 "Use" (or "to Use") in relation to the Licensed Software means copying the software from a store unit or medium into equipment, customising it within its existing functionality and consistent with the user documentation, running or processing it, operating upon it, all of these acts either alone or with other programs, and producing copies including, where appropriate, in eye-readable form.
- 1.5 "Designated Equipment" means that equipment in respect of which Use of the Licensed Software is licensed. It shall be the equipment specified in Part II of the Schedule unless changed to alternative equipment in accordance with the provisions of Clauses 2.3 or 2.4.
- 1.6 "Designated Site" means that site for which the Licensed Software is licensed. It shall be the site specified at Part III of the Schedule unless changed to an alternative site in accordance with the provisions of Clause 2.3.
- 1.7 "Licence" means the rights granted by the LICENSOR to the AUTHORITY in respect of the Licensed Software and all the conditions associated with it, as set out in the Standard Conditions in combination with a relevant Schedule.
- 1.8 "Schedule" means a schedule to the Head Agreement (in the format provided in the Attachment to this Annex) established by signature of the AUTHORITY and the

LICENSOR, under which the LICENSOR undertakes to supply the Licensed Software for Use by the AUTHORITY under the conditions of the Licence. Each Schedule, in combination with these Standard Conditions, constitutes a distinct Licence independent of any other Licence existing by operation of the Head Agreement.

- 1.9 "Standard Conditions" means the conditions set out in this Annex to the Head Agreement, comprising Clauses 1 to 15.
- 2.0 "Special Conditions" means those conditions (if any) specified in Part VIII of the Schedule.

2 LICENCE GRANT

- 2.1 The AUTHORITY may Use the Licensed Software on the Designated Equipment at the Designated Site in accordance with the Licence from the date of receipt of the Licensed Software by the AUTHORITY.
- 2.2 The AUTHORITY may allow contractors of the AUTHORITY and their sub-contractors to Use the Licensed Software on the Designated Equipment at the Designated Site on AUTHORITY contracts only, provided that the AUTHORITY ensures or procures that those contractors and sub-contractors are bound by the conditions of the Licence and that, unless prevented by security considerations, the AUTHORITY shall notify the LICENSOR of the identity of those contractors or sub-contractors as soon as is reasonably practical. The AUTHORITY shall not charge for that Use.
- 2.3 The AUTHORITY may specify alternative Designated Equipment or an alternative Designated Site by notification to the LICENSOR, in which case Clause 2.1 shall apply only to the alternative Designated Equipment or Designated Site as notified. However, in the event that the alternative Designated Equipment shall be equipment of a greater processing capacity or capability or a different operating system outside the parameters of the original Designated Equipment the LICENSOR may require the AUTHORITY to pay a fair and reasonable additional fee which will not exceed the difference between the corresponding fees shown in respect of Use of the Licensed Software on the existing and alternative Designated Equipment respectively in the LICENSOR's price list current at the time when the AUTHORITY has specified the alternative Designated Equipment.
- 2.4 The AUTHORITY may Use the Licensed Software on alternative equipment if the Designated Equipment is temporarily inoperative until the Designated Equipment is again operative without notification or additional payment to the LICENSOR.

- 2.5 Notwithstanding the above, the AUTHORITY may copy the Licensed Software in machine-readable form for back-up purposes for Use of the Licensed Software. The AUTHORITY may also create eye readable copies of documentation solely for utilisation by operating personnel of the Licensed Software. All copyright in such copies shall remain the property of the LICENSOR.

3 DELIVERY AND ACCEPTANCE

- 3.1 The LICENSOR shall deliver the Licensed Software at a time and to a place agreed with the AUTHORITY.
- 3.2 The LICENSOR or the AUTHORITY as mutually agreed shall install each program of the Licensed Software on the Designated Equipment and test it against acceptance tests if agreed between the LICENSOR and the AUTHORITY.
- 3.3 The AUTHORITY may reject the Licensed Software within the acceptance period specified in Part IV of the Schedule only (which period starts on receipt of the Licensed Software by the AUTHORITY) if it fails an agreed acceptance test or if it does not perform on the Designated Equipment in accordance with the functionality set out in an agreed statement or user document provided by the LICENSOR. The AUTHORITY shall be understood to have accepted the Licensed Software if it has not been validly rejected before the expiry of the acceptance period.
- 3.4 If the AUTHORITY rejects the Licensed Software in accordance with Clause 3.3 the Licence for it shall terminate and the AUTHORITY shall be entitled to reimbursement of any fees paid in respect of the Licensed Software.
- 3.5 The AUTHORITY and the LICENSOR may mutually agree to extend the acceptance period, or to amend the Schedule appropriately, for any Licensed Software that would otherwise have been rejected under Clause 3.3.

4 PAYMENT

- 4.1 The LICENSOR will invoice the AUTHORITY for the agreed licence fees in the amount and in accordance with the invoice arrangements set out respectively in Parts V and VI of the Schedule on or after receipt by the AUTHORITY of the Licensed Software.
- 4.2 The AUTHORITY shall pay the invoice value within 30 days from the later of delivery of the Licensed Software or the date of receipt of a valid invoice related to that Licensed Software. Payment does not constitute acceptance of the Licensed Software.

5 CONFIDENTIALITY

5.1 Subject to Clause 5.2 and except as otherwise agreed in writing, the AUTHORITY and the LICENSOR shall each hold in confidence and shall not use, disclose or otherwise make available, except in accordance with the Licence, all the following information received from the other under or in connection with the Licence:

- a. the Licensed Software;
- b. details of the AUTHORITY's use and application of the Licensed Software;
- c. any other information which is identified as being disclosed in confidence at the time of disclosure

provided that:

the obligation for b. and c. relates only to information received in writing or other material form; and

if such information is disclosed orally, the obligation shall apply for 30 days unless the discloser confirms such information in writing or other material form within 30 days when the obligation of confidence shall apply thereafter.

5.2 The obligations under Clause 5.1 shall not require the receiving Party to maintain confidence in, or refrain from using, any part of the information to the extent that the receiving Party can show that such part of the information:

- a. was already known to that Party, without restraint on use or disclosure, prior to the date of receipt or acquisition under or in connection with the Licence; or
- b. has been received by that Party, without restraint on use or disclosure, from a third party having the right to disclose it; or
- c. has entered the public domain otherwise than in breach of the Licence or any other agreement between the Parties; or
- d. was generated by that Party independently of the information which is subject to Clause 5.1;

provided that the relationship of such part of the information to the remainder of the information which is subject to Clause 5.1 is not revealed.

- 5.3 The obligations under Clause 5.1 shall be perpetual.
- 5.4 The AUTHORITY shall ensure or procure that any individual to whom the Licensed Software is made available is made aware of, and complies with, the obligations as to confidentiality and other relevant conditions of the Licence.
- 5.5 The AUTHORITY shall reproduce and maintain any copyright notices and trade marks on or in any of the copies of the Licensed Software made in accordance with the Licence, including partial copies, and on any software changed under the terms of the Licence.

6 IPR ACTIONS AND LIABILITIES FOR IPR INFRINGEMENT

- 6.1 The LICENSOR declares that he is entitled as either owner or licensee to provide the Licensed Software to the AUTHORITY on the terms and conditions of the Licence.
- 6.2 Subject to the limitations imposed in Clauses 6.3 and 6.4, the LICENSOR shall assume all liability and indemnify the AUTHORITY against all costs or liabilities arising under any valid claim or action brought by a third party against either Party, or against any of its contractors (which expression shall include any sub-contractor) engaged in tasks relevant to the provision of the Licensed Software or to the AUTHORITY's exercise of the Licence, in respect of any third party intellectual property right, including a patent, registered or unregistered design right, trade mark, copyright, trade secret or confidential information, which relates to the supply of the Licensed Software or the Use of the Licensed Software in accordance with the Licence by the AUTHORITY or its contractor, then:
- (a) If the claim or action is brought against the LICENSOR he shall take full responsibility for dealing with settling or defending the claim or action;
- (b) If any claim is made against the AUTHORITY or its contractors the LICENSOR shall be given full responsibility for dealing with settling or defending the claim as appropriate in his judgement;
- (c) If legal action is taken against the AUTHORITY or its contractor that Party shall be entitled to join the LICENSOR in the action.
- 6.3 Clause 6.2 shall not apply, and the AUTHORITY shall assume all liability for and indemnify the LICENSOR and its contractors, against all costs and liabilities under the claim or action in the event that it arises as a consequence of any of :

- a. Use of the Licensed Software by the AUTHORITY, or by a contractor permitted to use the Licensed Software pursuant to Clause 2.2, outside the LICENSOR's specification or user documentation on the Designated Equipment or in a manner outside the reasonable knowledge or expectation of the LICENSOR or in circumstances particular to the AUTHORITY as distinct from other customers for the equivalent Licensed Software;
- b. Use of modifications to the Licensed Software not provided or not approved in writing by the LICENSOR;
- c. infringement by the LICENSOR of any third party intellectual property right by reason only of use of any material provided by the AUTHORITY for the purposes of the Licence, but only to the extent that this material is held and used within the terms under which it was provided and used solely for the purposes of the Licence.

6.4 Clause 6.2 shall not apply in the event that, without the consent of the LICENSOR (which shall not be unreasonably withheld) the AUTHORITY:

- a. has made or makes an admission of any sort to the third party relevant to the claim or action;
- b. the AUTHORITY has entered or enters into negotiations with the third party relevant to the claim or action;
- c. the AUTHORITY has made or makes an offer to the third party for settlement of the claim or action.

6.5 Each Party undertakes to notify and consult the other promptly in the event of any enquiry, claim or action brought or likely to be brought against it or its contractor or the Parties jointly, which relates to infringement of any third party intellectual property right in connection with the supply or Use of the Licensed Software under the Licence. By joint agreement, the AUTHORITY may take the lead in dealing with settling and defending any such enquiry claim or action made against it directly in consultation with the LICENSOR and, subject to the LICENSOR's agreement as to the terms of any settlement, this shall not displace any liability of the LICENSOR arising under Clause 6.2. If any claim is made against the AUTHORITY under Section 55 of the Patents Act 1977 as a result of the AUTHORITY's use of the Software, and if the AUTHORITY offers a settlement of the claim, otherwise than as a result of a Court order and without the agreement of the LICENSOR, the LICENSOR shall be relieved of any liability which might otherwise arise under Clause 6.2.

- 6.6 In the event that any claim or action is made which is subject to Clause 6.2 or if in the LICENSOR's reasonable opinion such claim or action is likely to be made, the LICENSOR shall promptly utilise all reasonable endeavours to:
- a. establish or secure the AUTHORITY's right to continue to Use the Licensed Software or, failing to do so,
 - b. avoid that claim or action by, and after consultation with the AUTHORITY as to how to minimise the AUTHORITY's loss of Use of the Licensed Software, replacing or modifying the Licensed Software without significant change to the specification of the Licensed Software all at the LICENSOR's expense, including installation and testing.
- 6.7 In the event of the LICENSOR being unable to satisfy the requirements of sub-Clauses 6.6a. or 6.6b. the LICENSOR may terminate the Licence relating to the Licensed Software upon not less than three months written notice unless a lesser period is determined by any court order, and the LICENSOR shall make a refund of the licence fee to the AUTHORITY, either in full or with the agreement of the AUTHORITY (which shall not be unreasonably withheld) of a portion of the licence fee representing the lost portion of the Licence.
- 6.8 The conditions set forth in clauses 6.2 to 6.7 represents the total liability and responsibility of each Party to the other under a Licence in respect of any actual or alleged infringement of any intellectual property right owned by a third party, and take precedence over any other liability condition in the Licence.

7 WARRANTY

- 7.1 LICENSOR warrants that discrepancies between Licensed Software and the LICENSOR's specification or user documentation current at the time of delivery reported and demonstrated by the AUTHORITY during the warranty period stated in Part VII of the Schedule will be remedied by LICENSOR without unreasonable delay in a manner commensurate with good software industry practice and without payment by the AUTHORITY. During the warranty period the LICENSOR undertakes to provide to the AUTHORITY free of charge corrections to material errors known to the LICENSOR.
- 7.2 All warranties in the Licensed Software and its user documentation other than that given under Clause 7.1 are hereby excluded including, without limitation, the implied warranty and conditions of satisfactory quality and fitness for a particular purpose, but this shall not

prejudice the right of the AUTHORITY to reject the Licensed Software in accordance with Clause 3.3.

7.3 No oral or written information or advice given by the LICENSOR, its agents or employees shall create a warranty or extend the scope of the warranty given under Clause 7.1.

7.4 The LICENSOR shall utilise all reasonable endeavours to ensure that any Licensed Software supplied, irrespective of the mode of delivery, is free from any published computer virus. In the event that it can be shown that, at the time of delivery, the Licensed Software incorporated such a virus then the AUTHORITY may require the LICENSOR to remove the virus and within the limits of backup data provided by the AUTHORITY to restore any computer system incorporating the Designated Equipment to its pre-infected state or bear the cost of the necessary restoration work.

8 GENERAL LIABILITY CONDITIONS

8.1 The LICENSOR shall have no liability to the AUTHORITY for any indirect or consequential damages or losses which might arise by reason of Use of the Licensed Software by or for the AUTHORITY including, without limitation, loss of profit, loss of revenue, loss of use, loss of business information produced by Use of the Licensed Software.

8.2 The exclusion provided under Clause 8.1 shall not apply where the AUTHORITY suffers loss because of a defect within the Licensed Software which defect is known to the LICENSOR at the time the Licensed Software is furnished to the AUTHORITY unless the AUTHORITY has previously been made aware of and accepted the presence of the defect and its relevance to the AUTHORITY's application of the Licensed Software.

8.3 The total of the LICENSOR's liability under or in connection with this Agreement (whether arising from contract, negligence or any other basis) is limited in respect of each event or series of connected events to the value given in Part IX of the Schedule, provided that no limitation shall apply in respect of liability for death of or injury to persons arising from the LICENSOR's negligence, as provided by the Unfair Contracts Act 1977, and, except in relation to sub-Clause 13.2.2, no limitation shall apply in respect of any liability arising under the provisions of Clause 6.2.

9 TERM AND TERMINATION OF THE LICENCE

9.1 Each Licence shall continue until the AUTHORITY terminates it by written notification to the LICENSOR, or it is terminated pursuant to Clauses 3.4 or 6.7.

- 9.2 The AUTHORITY shall within thirty days of termination of a Licence, through all reasonable endeavours and to the best of its knowledge, return or destroy, at the LICENSOR's option, all originals and destroy all copies of the Licensed Software including partial copies and modifications except that the AUTHORITY may on prior written authorisation from the LICENSOR retain one copy for archival purposes only. The AUTHORITY shall promptly certify in writing once it has so done.
- 9.3 In the event of the LICENSOR drawing the attention of the AUTHORITY to a breach of any condition of a Licence then:
- a. where the breach is of a nature that cannot be remedied, the AUTHORITY undertakes to settle with the LICENSOR on fair and reasonable terms and to utilise all reasonable endeavours to ensure that a further breach does not occur,
 - b. where the breach is capable of being remedied, the AUTHORITY shall promptly remedy the breach and where appropriate put in place measures to ensure that a further breach does not occur. The AUTHORITY shall indemnify the LICENSOR for all loss and damage incurred by him as a result of the breach.
- 9.4 The termination of any Licence shall be without prejudice to the continuation of the Head Agreement or any other Licence under it.

10 COMBINATION OF SOFTWARE

- 10.1 The AUTHORITY may combine all or part of the Licensed Software with other materials to form a new work. Any portion of the Licensed Software included in a new work shall be Used only on Designated Equipment and shall be subject to the conditions of the Licence. The LICENSOR shall be absolved from any obligation or liability under the Licence to the extent that this arises as a result of the creation or use of any new work not approved in writing by the LICENSOR.

11 OUTPUT

- 11.1 The AUTHORITY may freely copy and utilise any output resulting from Use in accordance with LICENSOR - supplied documentation of the Licensed Software.

12 DISPUTES

- 12.1 Other than for any claim arising from non payment of a valid invoice should any question, dispute or difference whatsoever arise between the AUTHORITY and LICENSOR in relation to or in connection with this Agreement or the Schedule of any Licence granted

under it, the AUTHORITY or the LICENSOR may give notice to the other in writing of the existence of that question, dispute or difference and both Parties will attempt to reach a solution. If no mutually acceptable solution is found the AUTHORITY or the LICENSOR may give notice to the other in writing (the ADR notice) that the matter is to be referred to Alternative Dispute Resolution (ADR).

12.2 Upon receipt of the ADR notice and subject to sub-Clause 12.3, the Parties shall define the type of ADR to be adopted and the rules for its implementation. Failing agreement to adopt, or to achieve, resolution by one such type, the Parties may decide to adopt a second type of ADR. The Parties agree that after a period of two (2) months from the date of receipt of the ADR notice, or such other date as may be agreed by the Parties, and provided that the dispute remains unresolved, it shall finally be settled by arbitration by a sole arbitrator at the request in writing by either party to the other. Failing agreement on the appointment of the arbitrator within 14 days of receipt of such request, the arbitrator shall be appointed by the President for the time being of the Law Society, in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment of it. The costs of any ADR shall be shared equally by the AUTHORITY and the LICENSOR, however, the costs of arbitration shall be settled by the arbitrator.

12.3 Where a Party rejects the referral of the matter to ADR he shall promptly notify the other Party in writing of that rejection and the reasons for it.

13 TRANSFER

13.1 The LICENSOR shall not assign his interest in any Licence or the intellectual property licensed thereunder without providing for the continuance of the AUTHORITY'S rights under the Licence and without notifying the AUTHORITY in writing of the identity of the assignee.

13.2 Unless prevented by law or national regulation the AUTHORITY shall have the right to novate any Licence to a separate legal entity, without charge to itself or the legal entity, upon two months written notice to the LICENSOR, as provided below:

13.2.1 following a transfer from the AUTHORITY to the legal entity of any function of the AUTHORITY for which the Licensed Software has been obtained; or

13.2.2 on disposal to the legal entity of surplus Designated Equipment where the Licensed Software is essential to the running of that equipment, whether or not it is embedded in the equipment, provided that all warranties (whether express or implied) and all indemnities shall be void, the Licensed Software shall be supplied "as is", and the liability referred to in Clause 8.3 shall be ten pounds sterling only.

PROVIDED THAT the Licensed Software novated in accordance with this sub-Clause may only be used for the same purposes for which the Authority was licensed in accordance with Clause 2 and wider use shall require the written approval of, and the grant of a further licence by, the LICENSOR.

14 DISCONTINUANCE OF BUSINESS

- 14.1 The AUTHORITY shall have the right to secure from the LICENSOR, or from the authorised trustees or receivers acting on behalf of the LICENSOR, in the event of the LICENSOR permanently ceasing to maintain the Licensed Software or the LICENSOR permanently discontinuing in business because of bankruptcy, receivership, dissolution, or other form of permanent business disruption and that business is not continued by a successor in interest to the LICENSOR to whom the benefits and obligations of this Agreement and any licence granted under it have been assigned, Licensed Software documentation including program source code in the possession and control of the LICENSOR, but no more than the LICENSOR uses himself, as the AUTHORITY shall consider necessary for it to maintain and continue its normal Use of the Licensed Software for the duration of the Licence but for no other purpose.
- 14.2 If so required by a Special Condition, the LICENSOR shall compile and maintain, at a price or in accordance with a price formula identified in the Special Condition, an up to date copy of the Licensed Software documentation to which the AUTHORITY is entitled under Clause 14.1 which copy shall be held by the LICENSOR as a bailee without lien for the AUTHORITY and be made available to the AUTHORITY without additional charge. In the absence of such a Special Condition, the copy shall be prepared on the AUTHORITY's demand and it shall be made available to the AUTHORITY at a fair and reasonable price based on the cost of compilation, reproduction and dispatch.

14.3 The AUTHORITY shall have the right to utilise the Licensed Software documentation to which it is entitled under Clause 14.1 for the purpose of maintaining its Use of the Licensed Software for the duration of the Licence but for no other purpose. The AUTHORITY shall hold in confidence all information in the documentation.

15 GENERAL

15.1 If any provision of this Agreement is held to be invalid, illegal or unenforceable to any extent then:

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

15.2 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.

15.3 No waiver of any right or remedy shall operate as a waiver in respect of any other right or remedy.

15.4 Neither the LICENSOR nor the AUTHORITY shall be liable for failure to perform any of its obligations under the Licence if that failure results from circumstances beyond its reasonable control.

15.5 Headings have been included for convenience only and shall not be used in construing any condition of the Licence.

15.6 The Licence shall be subject to and construed and interpreted in accordance with the Laws of England and shall be subject to the non-exclusive jurisdiction of the Courts of England for the enforcement of any arbitral decision.

15.7 The Licence shall constitute the entire agreement between the Parties relating to the Licensed Software and supersedes any previous agreement.

15.8 No right is granted to any person who is not a Party to the Licence to enforce any term of the Licence in his own right and the Parties declare that they have no intention to grant any such right.

Annex D to the Contract - Shipping Form Design

Use the following design and complete the fields in accordance with Annex A:

DEFFORM 129J		Edn 09/17
From: 777 ANGEL ROAD St PAULS EDENVILLE HE6 40N		Unique Identifier:  823456-8234/823458234/82349245
Via:	To:	
Demand / Task Reference:  *BC278787*		
Description:		
RDD:	SPC:	UN Haz Code:
Date Shipped:	Batch Number:	Piece Number:
Weight:	Dimensions:	
NSN:	 *5120996260953*	
IMC/DMC:	D of Q:	Qty in Package: Total this Delivery:

NB Four fields have been completed for illustration purposes only.

ANNEX A TO DEFFORM 129J

Shipping Form Attributes

The following table details the shipping form fields.

Field	Field Name	Field Description		Field Size	Data Type	Format	Mandatory for:
A	From	Details of the supplier providing the Goods or Service.		256	alphanumeric		Goods & Services
B	Unique Identifier (UOI, URR I or EUPI)	<p>Unique Order Identifier (UOI) Produced by the Contracting, Purchasing and Finance (CP&F) electronic procurement tool for non inventory Purchase Orders</p>	<p>The identifier that CP&F uses to uniquely identify a specific shipment within a Purchase Order Line.</p> <p>These fields are joined together in the UOI.</p> <p>This field should be provided in both Bar Code Symbology 39 and human readable text.</p>	30	Alphanumeric and Bar Code Symbology 39	<p>The PO Number, PO Line Number and PO Shipment Number are separated by the forward slash character '/'</p> <p>If the PO Number is for a Blanket Purchase Agreement (BPA) then the format of the Number is: BPA Number and BPA Release Number delimited by the hyphen character '-'</p> <p>Example of a UOI for a BPA: <i>123456-1234/12345/1234</i></p> <p>If the PO Number is for a Standard PO and Contract Purchase Agreement (CPA) then the format of the Number is: Numeric</p> <p>Example of a UOI for a Standard PO or CPA: <i>23456/12345/1234</i></p>	Goods & Services
		<p>Unique Receipt Reference Identifier (URRI) Produced by CP&F for Inventory Orders</p>	<p>An alpha/numeric sequence that links the item received to original</p>	6	This attribute is provided in	<p>5 or 6 alphanumeric in the following formats:</p>	Goods and Services

Field	Field Name	Field Description		Field Size	Data Type	Format	Mandatory for:
			Purchase Order/Dues-In. For each full or part item delivery the Trading Partner will add an alpha suffix to the Unique Receipt Reference Number.		both Bar Code 39 and human readable text format.	For deliveries to Sea: Sxxxxxa e.g. S1234AA For deliveries to Land: Lxxxxxa e.g. L1234BA For deliveries to Air: xxxxxA e.g. 12345A	
		Electronic Business Capability Unique Package Identifier (EUPI)	An alphanumeric sequence generated by the supplier.	12	alphanumeric		Goods
C	Via	Intermediate Address responsible for forwarding the package to the final destination. The address to which the supplier should send the delivery if filled in.		256	alphanumeric		Goods and Services
D	To	The Final Address to which the package shall be delivered or, in the case of a service, the address of the receipting authority. Unit name Delivery Address 1 Delivery Address 2 Delivery Address 3 Delivery Address 4 Delivery Address 5		256	alphanumeric		Goods and Services

Field	Field Name	Field Description	Field Size	Data Type	Format	Mandatory for:
		Delivery Address Post Code Country				
E	Demand / Task Reference	Orders from CP&F (Where the Unique Identifier is either the UOI or URR1) <i>And if an inventory order</i>	Contract Number identifying the MoD contract placed on a supplier responsible for the supply of specific goods 20	alphanumeric		Goods and Services
		Inventory Orders from CP&F (where the Unique Identifier is the URR1)	Order Number identifying Purchase Order / warrant Order / Requisition placed against an Enabling Contract for the delivery of goods against that Contract. This attribute is provided in both Bar Code 39 and human readable test format.	alphanumeric & Barcode 39		Goods
		Non CP&F electronic Orders (Where the Unique Identifier is the EUPI)	Demand Date + Serial Number + Line number + UIN 8+5+6+6	alphanumeric	DDMMYYYY + 12345678 + 12345 + 123456 + 123456	Goods
F	Description	Description of the item or service as defined in the contract.	240	alphanumeric		Goods and Services
G	RDD	Required Delivery Date (RDD) that the package is required at the demander's point of delivery.	8	numeric	DD/MM/YYYY	Goods
H	SPC	The Standard Priority Code denoting at what speed the package should be handled within MoD Supply Chain.	2	numeric		Goods
J	UN Haz Code	UN Hazard Class. Denotes the potential hazard of the items within the package References: DEFCON 68 and DEFCON 129	2	alphanumeric		Goods

Field	Field Name	Field Description	Field Size	Data Type	Format	Mandatory for:
K	Date Shipped	Date package dispatched from the supplier or service provided.	8	Numeric	DD/MM/YYYY	Goods and Services
L	Batch Number	Batch Production Number indicated on the goods if required				Goods
M	Piece Number	The specific number of the package as a constituent of a number of packages delivered to complete one order. i.e. 1 of 1, 2 of 2 or 4 of 10	6	alphanumeric		Goods
N	Weight	The gross weight of the package in metric format.	8	numeric		Goods
P	Dimensions	The size of the package in L x B x H in metric format	15	alphanumeric		Goods
Q	NSN	The NATO Stock number. The NATO supply Classification code (NSC), Nation Code (NC) and Item Identity Number (IIN) that denotes the unique identification of a line item within the inventory system. This 13 character attribute (NSC 4, NC2, IIN 7) is provided in both Barcode 39 and human readable test format.	13	numeric & Barcode 39		Goods
R	IMC/DMC	The Inventory Management Code (IMC) / Domestic management Code (DMC) code given to a range of like or linked items managed by MoD Inventory manager	6	alphanumeric		Goods
S	DofQ	Denomination of Quantity of the items in the package	2	alphanumeric		Goods
T	Qty in Package	The total quantity of the item contained within the package	7	numeric		Goods

Field	Field Name	Field Description	Field Size	Data Type	Format	Mandatory for:
T	Total This Delivery	The total quantity of the item being delivered for a specific order shipment	9	numeric		Goods