

**ANNEX J TO CONTRACT ISSCCT/0239**

**INTELLECTUAL PROPERTY RIGHTS AND INDEMNITY**

## **INTELLECTUAL PROPERTY RIGHTS AND INDEMNITY**

- 1.1 Save as granted under this Contract, neither the Authority nor the Contractor shall acquire any right, title or interest in the other's Pre-Existing Intellectual Property Rights. The Contractor acknowledges that the Authority Data is the property of the Authority and the Authority hereby reserves all Intellectual Property Rights which may subsist in the Authority Data.
- 1.2 The Contractor shall ensure that no unlicensed software or open source software (other than the Open Source Ordered Software) is interfaced with or embedded within any software which is proprietary to the Authority or which is developed by or on behalf of the Contractor under this Contract.
- 1.3 The Authority acknowledges that the Open Source Ordered Software is subject to the open source licensing terms set out in Appendix 1 of Annex J and that the Intellectual Property Rights in the Open Source Ordered Software are owned by a variety of third parties.
- 1.4 The Contractor will convey to the Authority the Open Source Ordered Software and associated documentation (including technical specifications, user manuals, operating manuals, process definitions and procedures) on the applicable open source licence terms set out in Appendix 1 of Annex J.
- 1.5 All Contract Generated Intellectual Property Rights shall be proprietary to and owned by the Contractor. The Contractor hereby grants to the Authority a royalty-free, irrevocable, non-exclusive licence to use such of the Contractor's Contract Generated Intellectual Property Rights and for such term as the Authority shall require solely for the purposes of this Contract and such other purposes as it shall reasonably require that relate to the use and provision of the Ordered Software Application Solutions, together with the ability to sub-licence the same.
- 1.6 Where the applicable open sourcing licensing terms set out in Appendix 1 of Annex J require that relevant Contract Generated Intellectual Property Rights shall be subject to licensing on the same terms as set out in such open source licensing terms the Authority shall take all steps necessary to comply with the licensing terms, including making available the source code of the Contract Generated Intellectual Property Rights where required by the applicable open source licensing terms.
- 1.7 Where the applicable open source licensing terms set out in Appendix 1 of Annex J do not require that any relevant Contract Generated Intellectual Property Rights shall be subject to licensing on the same terms as set out in such open source licensing terms, the Authority shall be entitled at its discretion either:
  - 1.7.1 to take all steps necessary to place the Contract Generated Intellectual Property Rights into open source, including complying with the applicable licensing terms and making available the source code of the Contract Generated Intellectual Property Rights; or
  - 1.7.2 otherwise (in which case the Authority will licence the Contractor to use and modify the Contract Generated Intellectual Property Rights to the extent necessary to perform its obligations under this Contract).
- 1.8 The CONTRACTOR
  - 1.8.1 Subject to any and all necessary third party licences or consents, the Authority hereby grants to the Contractor a non-exclusive licence or sub-licence (as the case may be) to use any AUTHORITY Furnished Software included within the Authority Furnished Items for the term of this Contract solely for the purposes of performing the Ordered Software Application

Solutions and for no other purposes. The Contractor shall be entitled to copy such Authority Furnished Software for operational purposes in accordance with the foregoing licence and in order to make back up copies of such Authority Furnished Software. Upon termination of this Contract or upon the Contractor ceasing to use such Authority Furnished Software, the Contractor shall, subject to Annex G , either return or destroy all copies of such Authority Furnished Software as directed by the Authority.

1.9 The CONTRACTOR:

- 1.9.1 hereby grants to the Authority a licence to use the Contractor Software on its standard licence terms (set out in Appendix 2 of Annex J);
  - 1.9.2 shall procure that the owners or the authorised licensors of any Third Party Software hereby grant a licence to the Authority on the Third Party Software owner's standard licence terms (as set out in Appendix 3 of Annex J); and
  - 1.9.3 hereby grants to the Authority a non-exclusive licence to copy the descriptions of the Ordered Software Application Solutions, including technical specifications, user manuals, operating manuals, process definitions and procedures, for any purpose that is connected with or otherwise incidental to the exercise of the rights granted to the Authority under paragraph 1.8.
- 1.10 To the extent that the Contractor creates any materials (in whatever form or media), outside the scope of the open source licensing terms, including training, marketing, promotional or publicity materials, relating to the provision of the Ordered Software Application Solutions ("**Materials**") it shall provide copies of all Materials to the Authority promptly and the Contractor hereby grants to the Authority a royalty free, irrevocable, non-exclusive licence for such term as the Authority shall require to use all and any Intellectual Property Rights in the Materials as it shall reasonably require with the ability to sub-licence the same.
- 1.11 The Contractor shall ensure and procure that the availability, provision and use of the Catalogue and Ordered Software Application Solutions and the performance of the Contractor's responsibilities and obligations hereunder shall not infringe any Intellectual Property Rights of any third party.
- 1.12 The Contractor shall indemnify the Authority against all claims, demands, actions, costs, expenses (including legal costs and disbursements on a solicitor and client basis), losses and damages arising from or incurred by reason of any infringement or alleged infringement (including the defence of such alleged infringement) of any Intellectual Property Right by the:
- 1.12.1 availability, provision or use of the Catalogue and/or Ordered Software Application Solutions (or any parts thereof); and
  - 1.12.2 performance of the Contractor's responsibilities and obligations hereunder.
- 1.13 The Contractor shall promptly notify the Authority if any claim or demand is made or action brought against the Contractor for infringement or alleged infringement of any Intellectual Property Right that may affect the availability, provision or use of the Catalogue and/or Ordered Software Application Solutions (or any parts thereof) and/or the performance of the Contractor's responsibilities and obligations hereunder.
- 1.14 The Authority shall promptly notify the Contractor if any claim or demand is made or action brought against the Authority to which Paragraph 1.11 may apply. The Contractor shall at its own expense conduct any litigation arising therefrom and all

negotiations in connection therewith and the Authority hereby agrees to grant to the Contractor exclusive control of any such litigation and such negotiations.

- 1.15 The Authority shall at the request of the Contractor afford to the Contractor all reasonable assistance for the purpose of contesting any claim or demand made or action brought against the Authority to which Paragraph 1.11 may apply or any claim or demand made or action brought against the Contractor to which Paragraph 1.13 may apply. The Contractor shall reimburse the Authority for all costs and expenses (including legal costs and disbursements on a solicitor and client basis) incurred in so doing.
- 1.16 Except where required by Law, the Authority shall not make any admissions that may be prejudicial to the defence or settlement of any claim, demand or action for infringement or alleged infringement of any Intellectual Property Right to which paragraph 1.11 may apply or any claim or demand made or action brought against the Contractor to which paragraph 1.13 may apply.
- 1.17 If a claim or demand is made or action brought to which paragraph 1.11, 1.13 and/or 1.14 may apply, or in the reasonable opinion of the Contractor is likely to be made or brought, the Contractor may at its own expense and within a reasonable time either:
  - 1.17.1 modify any or all of the affected Catalogue and/or Ordered Software Application Solutions without reducing the performance and functionality of the same, or substitute alternative goods and/or services of equivalent performance and functionality for any or all of the affected Catalogue and/or Ordered Software Application Solutions, so as to avoid the infringement or the alleged infringement, provided that:
    - 1.17.1.1 the terms herein shall apply mutatis mutandis to such modified or substituted goods and/or services;
    - 1.17.1.2 such substitution shall not increase the burden on the Authority; and
    - 1.17.1.3 such modified or substituted goods and/or services items shall be acceptable to the Authority, such acceptance not to be unreasonably withheld; or
  - 1.17.2 procure a licence to use the Catalogue and/or Ordered Software Application Solutions on terms that are reasonably acceptable to the Authority; and
  - 1.17.3 in relation to the performance of the Contractor's responsibilities and obligations hereunder, promptly re-perform those responsibilities and obligations.
- 1.18 The provisions of paragraphs 1.12 and 1.17 shall not apply insofar as any such claim or demand or action is in respect of any:
  - 1.18.1 use by the Authority of the Catalogue and/or Ordered Software Application Solutions in combination with any item, good or service not supplied or approved by the Contractor (or its Sub-Contractors) where such use of the Ordered Software Application Solutions directly gives rise to the claim, demand or action; or
  - 1.18.2 modification carried out by or on behalf of the Authority to the Catalogue and/or any Ordered Software Application Solutions provided under this Contract if such modification is not authorised by the Contractor (or its Sub-Contractors) in writing; or
  - 1.18.3 use by the Authority of the Catalogue and/or Ordered Software Application

Solutions in a manner not reasonably to be inferred from the specification or requirements of the Authority.

- 1.19 In the event that the Contractor has availed itself of its rights to modify the Catalogue and/or Ordered Software Application Solutions or to supply substitute goods and/or services pursuant to paragraph 1.17.1 or to procure a licence under Paragraph 1.17.2 and such exercise of the said rights has avoided any claim, demand or action for infringement or alleged infringement, then the Contractor shall have no further liability in respect of the said claim, demand or action.
- 1.20 In the event that a modification or substitution in accordance with paragraph 1.17.1 above is not possible so as to avoid the infringement, or the Contractor has been unable to procure a licence in accordance with paragraph 1.17.2:
  - 1.20.1 the Authority shall be entitled to terminate this Contract pursuant to this paragraph
  - 1.20.2 the Contractor shall be liable for the value of the additional costs incurred in implementing and maintaining replacement services.
- 1.21 Paragraphs 1.12 and 1.17 set out the entire financial liability of the Contractor with regard to the infringement of any Intellectual Property Right by the availability, provision or use of the Catalogue and/or Ordered Software Application Solutions (or any parts thereof) and/or the performance of the Contractor's responsibilities and obligations hereunder. This shall not affect the Contractor's financial liability for other Defaults or causes of action that may arise hereunder.
- 1.22 The Authority warrants that the Contractor's use of any third party item supplied directly by the Authority in accordance with any instructions given by the Authority in connection with the use of such item shall not cause the Contractor to infringe any third party's Intellectual Property Rights in such item.



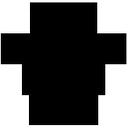
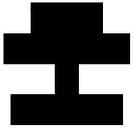
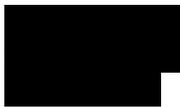
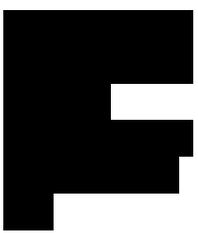
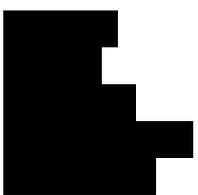
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] [REDACTED] [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] [REDACTED] [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] [REDACTED] [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]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

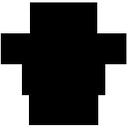
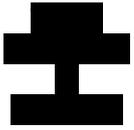
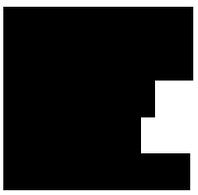
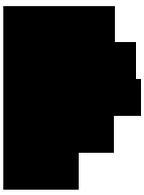
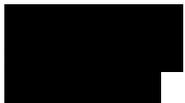
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]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










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

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

[REDACTED]  
[REDACTED]  
[REDACTED]

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



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

**APPENDIX 2 to ANNEX J  
CONTRACTOR SOFTWARE**

The Contractor Software in paragraph 3.1.1 of Appendix 1 of Annex J is subject to HPE's Standard COTS licence terms.

[REDACTED]



**APPENDIX 4 of ANNEX J**  
**GRANT OF LICENCE TERMS AND CONDITIONS**  
**SPECIALLY WRITTEN SOFTWARE**

**1. DEFINITIONS**

- 1.1. "Licence" shall mean this Licence together with the Contract of which this Appendix 4 to Annex J forms part.
- 1.2. "Licensed Program" shall mean the Specially Written Software together with the related Documentation and User Guides.
- 1.3. "Licensor" shall mean HP Enterprise Services UK Limited.
- 1.4. "Licensee" shall mean the Authority.
- 1.5. "TI" shall mean the Technical Infrastructure.
- 1.6. "Technical Infrastructure" shall mean the combination of computer hardware, Software, computer peripherals and other items required to provide the Core Services
- 1.7. References are to Clauses in the Contract. All capitalised terms shall have the meaning set out in the Contract of which this Licence forms part.
- 1.8. Use shall mean to load, execute, store, transmit, display, copy (for the purposes of loading, execution, storage, transmission or display) or otherwise to utilise the Specially Written Software for purposes of processing the Authority's data.

**2. LICENCE**

- 2.1. This Licence allows the Licensee, its employees and sub-contractors when working on the Licensee's business, to Use the Licensed Program on a non-exclusive, transferable and irrevocable basis only on the TI. The Licensee may not otherwise provide any Licensed Program, in any form, to any other person. This is subject to Condition 31 of the Contract – Consequences of Termination.

**3. MODIFICATIONS**

- 3.1. The Licensee may not modify the Licensed Program in any way.

**4. COPIES**

- 4.1. A single copy of the Licensed Program will be provided to the Licensee in machine readable form. This may be executed only on the TI. A single duplicate copy of the Licensed Program may be produced for security purposes. A single copy of the User's Guide will be provided to the licensee in human readable form. Duplicate copies of the whole or any part of that document must not be made.

## **5. TERM**

- 5.1. If this Licence is revoked, all rights of Licensee granted by Licensor shall cease, and within twenty-four (24) hours from the effective date of revocation of this Licence, Licensee shall return to Licensor, or at Licensor's request destroy, the Licensed Program and all copies of the Licensed Program within Licensee's possession or under its control at any time during the term of Contract.
- 5.2. The parties' rights and obligations hereunder in connection with the warranty disclaimers and protection of Licensor's confidential information shall remain in effect.

## **6. RIGHTS**

- 6.1. The Licensee expressly acknowledges the Licensor's ownership of intangible property in the Licensed Program consisting of trade secrets, patents, copyright and other information of a confidential nature. The Licensee undertakes to provide protection for such material and information to the same extent that it provides protection for its own intellectual property and assets. Without limiting the foregoing such protection shall include reasonable measures designed to:-
  - 6.1.1. prevent the removal of any of Licensor's property, whether real or intangible, from the Licensee's premises;
  - 6.1.2. prevent copying of any material or information provided under this Licence;
  - 6.1.3. prevent distribution of any material or information provided under this Licence;
  - 6.1.4. prevent disclosure of any material or information provided under this Licence to any of Licensee's employees other than those who have a need to know the same for the permitted purposes, or to any third party;
  - 6.1.5. ensure that all employees having access to the material or information provided under this Licence are aware of the necessity of maintaining its confidentiality at all times; and
  - 6.1.6. ensure that all employees permitted access to the Licensed Programs comply with all the security measures required herein to protect the proprietary, confidential and trade secret information of the Licensor disclosed under this licence.