



Ministry
of Defence



**SCHEDULE J – SPECIMEN COMMERCIAL EXPLOITATION AGREEMENT
(PLACEHOLDER – SUBJECT TO NEGOTIATION WITH CONTRACTOR)**

MERLIN AND APACHE ENGINES FUTURE SUPPORT

**CONTRACT NUMBER
HELSS/0102**

OFFICIAL-SENSITIVE COMMERCIAL

V2.0

1

SCHEDULE J

SPECIMEN COMMERCIAL EXPLOITATION AGREEMENT

Annex E - Specimen Profit-Sharing Agreement

CEL AGREEMENT No.

CONTRACT No

1. This Agreement is made the [.....] day of [.....] 20[.] between the Secretary of State for Defence (the 'Ministry') and [.....] (the 'Contractor'), and is supplemental to the Agreement dated [.....] and made between the parties hereto (the 'Main Agreement') and it is agreed that the levy payable to the Ministry in respect of the sale of [.....] to the [.....] Government (the 'customer') under contract(s) [.....] shall be determined in accordance with the Conditions herein on the basis of the outturn profitability of the sale, expressed as a percentage on the allowable costs as prescribed for this purpose by the Ministry.

2. The outturn profitability of the sale shall be determined by deducting from the gross selling price, i.e. the price for which the Contractor invoices its customer, the allowable costs as prescribed by the Ministry for this purpose and expressing the difference as a percentage on such allowable costs. The outturn profit so determined shall be shared between the Contractor and the Ministry as below, but in no circumstances will any loss be shared:

2.1. The first [.....] per cent shall be retained by the Contractor;

2.2. The next [.....] per cent shall be shared between the Contractor and the Ministry in the ratio of [.....];

2.3. The remaining profit shall be shared between the Contractor and the Ministry in the ratio of [.....].

3. Except as provided for at paragraph F below, in lieu of the provisions in Clauses 21, 22, 23, 24 and 25 of the Main Agreement the following provisions shall apply to this Agreement:

3.1. The Contractor shall provide as soon as possible after delivery of the sale articles a statement, in a form prescribed by the Ministry, of the outturn profitability showing the gross selling price and a summary of the allowable costs together with a certificate from its statutory auditors that the statement is correct and complete and that it complies with the accounting conventions agreed by the Ministry for the purpose.

3.2. The Contractor shall provide such facilities as may be necessary for the Ministry, if it so desires, to verify the statements and for this purpose the Contractor shall maintain proper books of accounts and records at its premises and shall make them available for inspection at all reasonable times by representatives of the Ministry.

3.3. The liability of the Contractor to the Ministry for any sum due under this Agreement including interim payment of levy as prescribed in paragraph D below shall

accrue on the date of delivery ex-Contractor's works or, where the sale contract so prescribes, upon shipment.

3.4. Pending determination of the outturn profitability of the sales in accordance with the above provisions, an interim payment of levy shall accrue in accordance with paragraph C above at the rate of [.....] per cent of the gross selling price in respect of individual deliveries. A final adjustment to or from the Ministry shall be made as soon as it is practicable after completion of the sale. The Ministry reserves the right to review and alter interim rates of levy from time to time and agrees to carry out such a review upon request by the Contractor.

3.5. Should the Contractor fail to provide the statement and certificate under paragraph A above within a reasonable time the Ministry reserves the right to assess the levy payable and to recover the same.

3.6. Interim levy accruing under paragraph C above shall be reported as part of the statements of accrued levy required to be submitted under Clause 21 of the main Agreement and shall be paid in accordance with the procedures in the Main Agreement applying to accrued levies reported in such statements.

4. This Agreement shall be read and construed as if it were part of the Main Agreement and the terms and conditions of the Main Agreement other than those referred to in Clause 3 thereof shall as far as the same are relevant be applicable to this Agreement. However, in the case of conflict between the provisions of the Main Agreement and this Agreement, for the purpose of this Agreement, the provisions herein set out shall prevail.

Signed:
(MOD Contracts)

Signed:
(Contractor)

Date:
* Delete words in parentheses as appropriate.

Date: