

**Contract Number: CBCVF/00202**

**AMENDMENT No. 2 to  
AIRCRAFT CARRIER  
MANUFACTURING PHASE  
FLOW THROUGH CONTRACT**

**DATED 30 June 2010**

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**THE SECRETARY OF STATE FOR DEFENCE (1)**

**and**

**BAE SYSTEMS SURFACE SHIPS LIMITED (2)**

## MFTC AMENDMENT NO. 2

### BETWEEN

- (1) **THE SECRETARY OF STATE FOR DEFENCE** of Whitehall, London, SW1 (the “**Authority**”); and
- (2) **BAE SYSTEMS SURFACE SHIPS LIMITED**, (formerly BVT SURFACE FLEET LIMITED) (company registration number: 06160534) whose registered office is situate at Warwick House, PO Box 87, Farnborough Aerospace Centre, Farnborough, Hampshire, GU14 6YU (“**BAES SS**”).

(together the “**Parties**”)

### WHEREAS

- (A) The Authority and BAES SS are parties to the Aircraft Carrier Manufacturing Phase Flow Through Contract, dated 3 July 2008 as amended by MFTC Amendment No.1 dated 12 February 2010 (the “**MFTC**”).
- (B) The Manufacturing Alliance Participants have agreed a number of changes to the Key Project Agreements by an amendment to the MAA (the “**MAA Amendment No. 2**”), an amendment to the MFTC (this “**MFTC Amendment No. 2**”) and an amendment to each of the remaining IP MFTC Sub-Contracts , each of even date herewith.
- (C) In accordance with the provisions of clause 17 of the MFTC, any change to the MFTC is governed by the provisions of clause 26 of, and the Change Procedure set out in schedule 16 to, the MAA.
- (D) In accordance with clause 26.2 of the MAA, any alteration or variation of any Key Project Agreement, which includes the MFTC, is required to be agreed in writing by all of the Manufacturing Alliance Participants. Agreement to the proposed alterations and variations to the MFTC, as set out in this MFTC Amendment No. 2, and to the proposed alterations and variations to the other Key Project Agreements, has been given in writing by all Manufacturing Alliance Participants.

NOW IT IS HEREBY AGREED AS FOLLOWS:

**1 Definitions and Interpretation**

- 1.1 Schedule 1 and annex A to this MFTC Amendment No.2 are an integral part of it and any reference to this MFTC Amendment No. 2 shall include the schedule and annex to it.
- 1.2 All terms which are defined in schedule 1 to the MFTC, or which apply to the MFTC pursuant to paragraph 1.6 of schedule 1 to the MFTC, shall have the same meanings when used in this MFTC Amendment No. 2 and its recitals unless otherwise defined in this MFTC Amendment No. 2 or the context otherwise requires.
- 1.3 Headings to clauses of this MFTC Amendment No. 2 are inserted for convenience only and shall not affect the interpretation or construction of this MFTC Amendment No. 2.

**2 Amendment to the MFTC**

- 2.1 With effect on and from the date of this MFTC Amendment No. 2 the MFTC shall be amended as set out in schedule 1 and annex A to this MFTC Amendment No. 2 and the Parties agree to be bound by the terms of the MFTC as so amended.
- 2.2 The Parties agree that, other than the amendments referred to in this MFTC Amendment No. 2, (including schedule 1 and annex A attached hereto), the MFTC shall continue in full force and effect and otherwise without prejudice to all subsisting rights and obligations under it.
- 2.3 The Parties agree that, in accordance with paragraph 14.2 of schedule 16 to the MAA the provisions of this MFTC Amendment No. 2 shall be enforceable in all respects as if executed as a deed.

2.4 The Parties do not intend this MFTC Amendment No. 2 to become legally binding on either of them until the date of this MFTC Amendment No. 2 is written at its head, notwithstanding that either or both of them may have signed this MFTC Amendment No. 2 prior to that date being inserted.

### **3 Dispute Resolution**

3.1 Any dispute or claim arising out of or in connection with this MFTC Amendment No. 2 shall be resolved in accordance with the Dispute Resolution Procedure.

### **4 Third Party Rights**

4.1 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this MFTC Amendment No. 2. No person who is not a Party to this MFTC Amendment No. 2 (including any Other Industrial Participant, or any member of the Relevant Group of BAES SS or any Other Industrial Participant, any employee, officer, agent, representative, sub-contractor, Sub-Contractor or Indemnified Sub-Contractor of any Manufacturing Alliance Participant or, in relation to BAES SS or any Other Industrial Participant, of any member of its Relevant Group) shall have the right (whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise) to enforce any provision of this MFTC Amendment No. 2 which expressly or by implication confers a benefit on that person without the express prior agreement in writing of the Parties which agreement must refer to this clause 4.1.

### **5 Severability**

5.1 If at any time any part of this MFTC Amendment No. 2 (including any one or more of the clauses of, or paragraphs of the schedule or the annex to, this MFTC Amendment No. 2 or any part of one or more of the clauses of this MFTC Amendment No. 2 or paragraphs of the schedule or annex to this MFTC Amendment No. 2) is held to be or becomes void or otherwise unenforceable for any reason under any applicable law, the same shall be deemed omitted from this MFTC Amendment No. 2 and replaced by provisions which shall be determined in accordance with the Change Procedure.

**6 Law**

6.1 This MFTC Amendment No. 2 and any dispute or claim arising out of or in connection with it shall be governed by, and construed in accordance with, the laws of England.

**7 Jurisdiction**

7.1 Subject to the Dispute Resolution Procedure, the Parties hereby submit to the exclusive jurisdiction of the English courts.

**8 Counterparts**

8.1 This MFTC Amendment No. 2 may be entered into in the form of two counterparts each signed by one or both of the Parties but, taken together and provided that each party duly signs such a counterpart, each of the signed counterparts, when duly exchanged, shall be deemed to be an original, but, taken together, they shall constitute one instrument.

Signed for and on behalf of **THE SECRETARY OF STATE FOR DEFENCE**

Signed: [REDACTED]

Name: [REDACTED]

Signed for and on behalf of **BAE SYSTEMS SURFACE SHIPS LIMITED**

Signed: [REDACTED]

Name: [REDACTED]

**SCHEDULE 1 TO MFTC AMENDMENT NO. 2**

**AMENDMENTS TO AIRCRAFT CARRIER MANUFACTURING PHASE FLOW THROUGH CONTRACT**

**A. SCHEDULE 1 – DEFINITIONS AND INTERPRETATION**

Paragraph 2 - DEFCONs

**ADD**

“DEFCON 129J (Edn 07/08)      The Use of Electronic Business Delivery Form – as qualified by paragraph 2.10 of Schedule 6.”

DEFCON 522J (Edn 05/03)      Payments under P2P – as qualified by paragraph 2.10 of Schedule 6.”

**B. SCHEDULE 6 - PRICE AND PAYMENT**

- DELETE:**      Existing Schedule 6 in entirety
- INSERT:**      Revised Schedule 6 as attached at Annex A.

**Schedule 6**

**Price and Payment**

**1 Calculation of Prices**

**1.1 Application of DEFCON 653 (Pricing of Ascertained Costs) ("DEFCON 653")/Payment of Incurred Costs**

The Authority shall pay Incurred Costs to BAES SS in accordance with this Schedule 6 and DEFCON 653 save only that DEFCON 653 clause 1 shall be deleted and replaced with the following:

"Subject to the following provisions of this Condition, the Authority shall pay a price exclusive of Value Added Tax fixed by agreement between the Authority and the Contractor, the Other Industrial Participants and their Audited Sub-Contractors, on the basis of costs incurred and any other amounts calculated as being payable under schedule 4 (Risk and Reward Incentive Arrangement) of the Manufacturing Phase Alliance Agreement."

**1.2 Application of QMAC**

- (a) Reference in this Schedule 6 to the QMAC shall mean the QMAC agreed for BAES SS, the Other Industrial Participants and their respective Sub-Contractors as appropriate with the Authority from time to time which is prevailing at the time of submission of the relevant invoice.
- (b) Interim trend and estimated (provisional) rates calculated on the basis of QMAC agreed with the Authority may be used for the purposes of invoicing by BAES SS, the Other Industrial Participants and their respective Sub-Contractors due to the time typically taken to agree the final QMAC based rates.

**1.3 Interim Cost Certificates**

- (a) BAES SS shall submit, and shall ensure that the Other Industrial Participants and its and their respective Audited Sub-Contractors shall submit, to the Authority annually, except for the year ending 2009/10, within three (3) months of the Authority's financial year end, and again within three (3) months of 30 June 2010 and the end of Phase 2, an interim cost certificate setting out all Incurred Costs incurred during such financial year (or in the case of any such

interim cost certificates submitted after 30 June 2010 and end of Phase 2, since the last interim cost certificate) in the form set out in Appendices A and B to General Notice to Defence Contractors No 1 issued under DEFCON 653

- (b) On receipt of such Interim Cost Certificates, the Authority shall, within a reasonable period of time (and shall in any event use its reasonable endeavours to do so within three (3) months), carry out the Cost Audit in respect of the Interim Cost Certificates and reconcile the Incurred Costs set out in the Interim Cost Certificate against all the Incurred Costs claimed for the relevant period to determine the Allowable Costs for the purpose of finalising the price payable against the Interim Cost Certificate.

#### **1.4 Final Cost Certificates**

- (a) BAES SS shall submit, and shall ensure that the Other Industrial Participants and their respective Audited Sub-Contractors shall submit, to the Authority within six (6) months of 30 June 2010 and the end of Phase 2, a final cost certificate for the relevant Phase setting out all Incurred Costs during that Phase, in the form set out in Appendices A and B to General Notice to Defence Contractors No 1 issued under DEFCON 653. The Final Cost Certificate for each IP at end of June 2010 will align with the relevant IP's Invoice for June 2010 and be based on the actual date of the relevant IP's accounting month end for June 2010.
- (b) On receipt of such Final Cost Certificates, the Authority shall, within a reasonable period of time (and shall in any event use its reasonable endeavours to do so within three (3) months), carry out any Cost Audit in respect of the Final Cost Certificates and reconcile the Incurred Costs set out in the relevant Final Cost Certificate against all the Incurred Costs claimed for the relevant period to determine the total Allowable Costs with each of the Industrial Participants for the purpose of calculating in respect of Phase 1 the Phase 1 Mark up and in respect of Phase 2 the final amount of any Gain Share or Pain Share, in each case payable under the RRIA.

#### **1.5 Allowable Costs Reconciliation**

If interim trend and estimated (provisional) rates have been used in any Interim Cost Certificates or Final Cost Certificates pursuant to Paragraph 1.2(b) above, the Authority may at any time (whether during or after the Manufacturing Period and even after all payments and reconciliations have been carried out under the RRIA in respect of Gain Share or Pain Share as appropriate) carry out a further reconciliation



of the Incurred Costs and Allowable Costs as appropriate agreed in any affected Interim Cost Certificate or Final Cost Certificate to reflect any retrospective adjustment to the rates based on QMAC which may be required and which have not been reflected in the relevant Interim or Final Cost Certificate.

## **2 Payment**

### **2.1 Recovery of Sums Due**

- (a) Subject to Paragraph 2.1(c) below and save as otherwise expressly set out in this Contract, where any Industrial Participant owes any amount to the Authority under any other contract with the Authority (which is not a Key Project Agreement), and where the Authority has a right of set-off under that other contract, the Authority shall have the right to set-off such amounts against invoices from BAES SS submitted under this Schedule 6 after consultation with the Alliance Management Board.
- (b) Subject to Paragraph 2.1(c) below, whenever under any of the Key Project Agreements any sum of money shall be recoverable from or payable by any of the Industrial Participants to the Authority, the same may be deducted by the Authority from any sum then due, or which at any time thereafter may become due, to the relevant Industrial Participant under any of the Key Project Agreements, or under any other contract entered into by the relevant Industrial Participant with the Authority, or with any Government Department
- (c) The Authority shall only be entitled to set off amounts so owing:
  - (i) by any Other Industrial Participant to the Authority against the amount invoiced by that Industrial Participant to BAES SS; or
  - (ii) by BAES SS to the Authority against the amount invoiced by BAES SS in respect of any part of the Statement of Work which is not sub-contracted by BAES SS to the Other Industrial Participants pursuant to the IP MFTC Sub-Contracts,in each case which is included in the relevant aggregated invoice.
- (d) If there are no invoices in respect of Incurred Costs from which the Authority can set off amounts pursuant to this Paragraph 2.1, then the Authority shall be entitled to make a claim for payment of Pain Share from BAES SS of, and BAES SS shall pay, any amounts which remain owing to the Authority from BAES SS under the Manufacturing Phase Alliance Agreement or this Contract.

## 2.2 **Payments of amounts calculated under MAA**

Save as otherwise expressly provided in schedule 14 (Liability/Indemnity/Insurance) of the Manufacturing Phase Alliance Agreement any payments to be calculated pursuant to the provisions of the Manufacturing Phase Alliance Agreement must be paid under this Schedule 6.

## 2.3 **Application of DEFCON 35 (Progress Payments) and DEFCON 522 (Payment)**

- (a) DEFCON 35 (Progress Payments) shall apply to this Contract subject only to the following variations:
  - (i) the reference to the rejection of Articles under the Contract in clause 6 shall not apply;
  - (ii) clauses 1(b) and 3(b) shall not apply;
  - (iii) delete clause 2 and replace with "BAES SS's monthly invoice shall clearly show the total expenditure to date, and the total amount of all payments already claimed from the Authority";
  - (iv) delete clause 3(c);
  - (v) if, by reason of progress payments made to BAES SS it comes to light that an overpayment has been made by the Authority, the Authority shall be entitled to recover such overpayment from BAES SS in accordance with the process in Paragraph 3.4(b) below;
  - (vi) BAES SS shall submit a monthly invoice in the format of AG Form 173 with supporting information summarising the Incurred Costs incurred during the previous month in the format set out in Annex A to this Schedule 6;
  - (vii) clause 5 shall not apply unless the Authority has reason to believe that BAES SS is not performing in accordance with this Contract. In such circumstances the Authority shall obtain the approval of the Alliance Management Board prior to withholding any progress payment; and
  - (viii) clause 7 shall not apply.
- (b) DEFCON 522 (Payment) shall apply to this Contract and DEFFORM 522A (as referenced in DEFCON 522 (Payment)) is attached as Annex B to this Schedule 6

## **2.4 Phase 1 Monthly Progress Payments**

During Phase 1 the Authority shall pay the Incurred Costs monthly in arrears plus ■% of such costs by way of a Monthly Progress Payment. BAES SS shall be entitled to submit invoices to the Authority for such payments pursuant to Paragraph 3.2 below.

## **2.5 Phase 1 Mark Up**

Following Cost Audit of the 30 June 2010 Final Cost Certificate in accordance with Paragraph 1.4(b) above, the Phase 1 Mark Up will be agreed.

## **2.6 Phase 2 Monthly Progress Payments**

During Phase 2, the Monthly Progress Payment shall, subject to Paragraph 4 below, consist of the Incurred Costs payable monthly in arrears to BAES SS and the Other Industrial Participants under the IP MFTC Sub-Contracts and the portion of the Phase 2 Fixed Fee Indexed calculated in accordance with Paragraph 2.7 below. The Authority shall pay to BAES SS the Monthly Progress Payment pursuant to Paragraph 3.3(b) below. BAES SS may invoice the Authority separately for Incurred Costs and for the Phase 2 Fixed Fee Indexed.

## **2.7 Payment of the Phase 2 Fixed Fee**

- (a) The amount of the Phase 2 Fixed Fee payable shall be proposed by the Alliance Management Board and agreed by the Authority at the commencement of Phase 2 in accordance with paragraph 4.6 of schedule 4 (Risk and Reward Incentive Arrangement) of the MAA.
- (b) 50% of the Phase 2 Fixed Fee calculated in accordance with schedule 4 (Risk and Reward Incentive Arrangement) and schedule 5 (Indexation) to the Manufacturing Phase Alliance Agreement shall be payable to BAES SS against the Milestones and 50% against EVM as defined.
- (c) For the purposes of calculating that part of the Phase 2 Fixed Fee payable against EVM pursuant to Paragraph 2.7(b) above, an Alliance level (WBS Level 0) schedule shall be used for calculating the schedule performance index (SPI). If the SPI as calculated by the EVM system operated by BAES SS (as agreed under the Project Control Requirements) is equal to or greater than:

- (i) [REDACTED] then 100% of that part of the Phase 2 Fixed Fee payable against EVM pursuant to Paragraph 2.7(b) above for that month shall be paid
- (ii) [REDACTED] then 90% of that part of the Phase 2 Fixed Fee payable against EVM pursuant to Paragraph 2.7(b) above for that month shall be paid
- (iii) [REDACTED] then 80% of that part of the Phase 2 Fixed Fee payable against EVM pursuant to Paragraph 2.7(b) above for that month shall be paid
- (iv) [REDACTED] then 70% of that part of the Phase 2 Fixed Fee payable against EVM pursuant to Paragraph 2.7(b) above for that month shall be paid

If the SPI is below [REDACTED], none of that part of the Phase 2 Fixed Fee payable against EVM pursuant to Paragraph 2.7(b) above shall be payable against EVM for that month.

Any part of the Phase 2 Fixed Fee which is payable against EVM pursuant to Paragraph 2.7(b) above that cannot be claimed due to SPI being below [REDACTED] as set out above shall be deferred and can be claimed when the SPI recovers in subsequent months.

- (d) For the purposes of calculating the part of the Phase 2 Fixed Fee which is payable against Milestones pursuant to Paragraph 2.7(b) above, the Milestones shall be selected from the Alliance level (WBS level 2) schedule.
- (e) The Milestones for the first twelve months of Phase 2 shall be as follows:

<b>Milestone Ref No</b>	<b>Description</b>	<b>Milestone Date</b>
	To be confirmed	

- (f) Thereafter, the quarterly Milestones shall be agreed by the Alliance Management Board, on a rolling twelve (12) month cycle.

- (g) The element of the Phase 2 Fixed Fee which is payable against achievement of a Milestone pursuant to Paragraph 2.7(b) above shall be payable on achievement of that Milestone. If a Milestone is delayed no part of the Phase 2 Fixed Fee which is payable against achievement of such Milestone shall be payable until the Milestone has been achieved.
- (h) The percentage split between EVM and the Milestones, the EVM SPI criteria and the Milestones and the process for payment against such EVM and Milestones are subject to review and agreement by the Alliance Management Board three (3) months prior to the commencement of Phase 2.
- (i) Upon achievement of the requisite EVM or Milestones in accordance with this Schedule 6, BAES SS may submit an invoice to the Authority for the relevant amount of the Phase 2 Fixed Fee Indexed payable which shall be annotated with the statement "Claim for Phase 2 Fixed Fee in accordance with Paragraph 2.7(i) of Schedule 6 of the MFTC" and the Authority shall pay such invoices in accordance with Paragraph 3.3(b).

## **2.8 Payment of Gain Share**

- (a) The Authority shall pay to BAES SS any Gain Share which may become payable in accordance with paragraph 2.4 and paragraph 3.2(a) of schedule 4 (Risk and Reward Incentive Arrangement) to the Manufacturing Phase Alliance Agreement. Such Gain Share shall be calculated on a provisional basis at the end of Phase 2 (prior to the certification of Incurred Costs incurred in Phase 2 through submission of a Final Cost Certificate and the Cost Audit of those Incurred Costs by the Authority) and payment of 75% of the Gain Share so calculated shall be made to BAES SS within one month of Vessel Acceptance of the Second Vessel
- (b) If, following the D3B Clearance Date for the Second Vessel and following the Cost Audit of the Phase 2 Final Cost Certificate, the Outturn Cost is less than the Final Target Cost then, within twenty (20) Business Days of the Authority's recommendation to the AMB and the AMB's agreement, BAES SS shall submit for payment by the Authority, an invoice for the balance (if any) of the Gain Share calculated in accordance with schedule 4 (Risk and Reward Incentive Arrangement) of the Manufacturing Phase Alliance Agreement.

## **2.9 Payment of Sums Due under DEFCON 656 (Break)**

For the purposes of recovery by BAES SS of amounts payable by the Authority under clauses 24.7(h) and 24.8 of the MAA following BAES SS's and/or any Other Industrial Participant's exclusion under clauses 24.3(e) or (f) of the MAA and DEFCON 656 (Break):

- (a) all amounts due under DEFCON 656 (Break) paragraph 3(c) (indemnity for commitments, liabilities and expenditure, etc) shall be payable to BAES SS within 25 Business Days following invoice by BAES SS therefor following agreement by the Authority of BAES SS's and/or the Other Industrial Participant's claims in accordance with DEFFORM 43; and
- (b) all other amounts incurred by BAES SS and/or the Other Industrial Participant in respect of the orderly rundown of the Works, including profit under clause 24.8(c)(ii) of the MAA, shall be payable monthly in arrears as if the same were Incurred Costs, by submission of invoices under Paragraph 3.2 below and the Authority shall process and pay all such invoices in accordance with Paragraphs 3.3 and 3.4 below.

## **2.10 Use of "P2P" system for future payments**

- (a) Following implementation of the Purchase to Payment (P2P) system the following paragraphs and the DEFCONs referred to in Schedule 1 shall apply. All other obligations in this Schedule shall continue to apply.
- (b) The Authority and BAES SS shall comply with the Electronic Transactions Agreement comprised in the completed DEFFORM 30, reference MES/BVT/DEFFORM30CORP EDN01/07 dated 26 June 2008.
- (c) The Authority shall issue a Purchase Order Message in order to establish Unique Order Identifiers for payments under the Contract for the purpose of subsequent P2P transactions. BAES SS shall respond with an Acknowledgement Message. In these circumstances, Purchase Order Messages serve only to convey to BAES SS the information necessary against which to supply an item, prepare a delivery label and to submit an Invoice Message; the Purchase Order Acknowledgement Message serves only to confirm receipt of a Purchase Order Message. No new contract is understood to be formed by this Purchase Order transaction.

- (d). Messages under DEFFORM 30 referenced under paragraph 2.10(b) received by BAES SS shall be regarded as having been authorised by the Authority.

### **3 Invoicing**

#### **3.1 Aggregation and Separate Identification of Invoices**

- (a) BAES SS shall, on each invoice it submits, clearly and separately identify all sums referable to invoices submitted to BAES SS by the Other Industrial Participants properly received in accordance with the IP MFTC Sub-Contract.
- (b) In the event that BAES SS does not receive an invoice or invoices from one or more of the Other Industrial Participants, in accordance with the IP MFTC Sub-Contract, then BAES SS shall still be entitled to submit its invoice and the Authority shall still pay such invoice, in accordance with the terms of this Schedule 6.

#### **3.2 Submission of Invoices**

- (a) BAES SS shall submit all its invoices to the Authority for payment and simultaneously copy the invoice to the AMT Finance Department and the Other Industrial Participants.
- (b) All invoices shall be submitted on form AG Form 173 with form DAB-10.
- (c) Supporting information for all invoices (except for invoices sent out pursuant to Paragraph 2.7(i) above) shall be provided with the relevant invoice in the form set out in Annex A to this Schedule 6.

#### **3.3 Payment of Invoices Submitted**

- (a) The Authority shall process all invoices properly submitted by BAES SS under this Contract and subject to Paragraph 3.4 below and subject to there being no manifest error in an invoice, the Authority shall use its reasonable endeavours to approve all such invoices within five (5) Business Days of receipt of the original invoice from BAES SS.
- (b) The Authority shall pay all invoices properly submitted to the Authority by BAES SS under this Contract within twenty five (25) days of receipt. The date falling thirty (30) days from receipt by the Authority of BAES SSs invoice shall be the "relevant date" for the purposes of the Late Payment of Commercial Debts (Interest) Act 1998 s4(2). The periods of twenty five (25) days and thirty

(30) days shall exclude any days during which the invoice has been returned by the Authority to BAES SS under Paragraph 3.3(d) below. Where interest on any late payment is paid to BAES SS by the Authority, BAES SS shall, within five (5) Business Days of receipt from the Authority, pay over to the Other Industrial Participants interest calculated on a pro-rata basis by reference to the Industrial Participants' invoiced amounts included in the relevant aggregated invoice from BAES SS to the Authority.

- (c) BAES SS will endeavour to make payment to the Other Industrial Participants in cleared funds within one (1) Business Day following receipt of payment from the Authority and shall in any event make such payment within three (3) Business Days.
- (d) In the event that the Authority discovers a manifest error in an invoice submitted by BAES SS it shall return the invoice to BAES SS and BAES SS shall re-submit a corrected invoice for payment.

#### **3.4 Clarification and Reconciliation of Invoices**

- (a) The Authority may seek clarification of any aspect of any invoice but such clarification shall not delay the payment of such invoice.
- (b) If the Authority considers that it has been incorrectly invoiced for any part or all of any invoice and has thereby overpaid BAES SS then it may require that the next following invoice submitted by BAES SS, has an amount equal to the amount considered to have been overpaid, deducted from it and if such invoice is not so adjusted then it shall be deemed to contain a manifest error.
- (c) If an invoice is submitted with a deduction pursuant to Paragraph 3.4(b) above and it is subsequently agreed by the Authority and BAES SS and/or any of the Other Industrial Participants (as appropriate) that such amount deducted should not have been deducted then the amount can properly be invoiced, in the next following invoice. The parties shall agree any deduction or adjustment within one month of the adjustment or deduction being made.

#### **4 Repayments**

##### **4.1 Notwithstanding the other provisions of this Schedule 6:**

- (a) where there is Pain Share, the amount of which shall be calculated in accordance with schedule 4 (Risk and Reward Incentive Arrangement) of the Manufacturing Phase Alliance Agreement, the Authority shall have the right to



require BAES SS to repay (in accordance with Paragraph 4.2 below) some or all of the Phase 2 Fixed Fee; and

- (b) in respect of any overpayments to BAES SS identified through reconciliation of Incurred Costs or Allowable Costs, the Authority shall have the right to require BAES SS to repay (in accordance with Paragraph 4.2 below) the amount of any such overpayment.

4.2 BAES SS shall adjust its invoices to recover only the reduced amounts of Incurred Costs as detailed in paragraph 2.3 of schedule 4 (Risk and Reward Incentive Arrangement) of the Manufacturing Phase Alliance Agreement and any repayment as part of the reconciliation of Interim Cost Certificates and/or Final Cost Certificates under Paragraphs 1.3 and 1.4 above.

4.3 In respect of any underpayments by the Authority to BAES SS identified as part of the reconciliation of Interim Cost Certificates and/or Final Cost Certificates under Paragraph 1.5 above the amount of any such underpayment shall be reimbursed to BAES SS within twenty five (25) Business Days of receipt of the invoice from BAES SS.

Annex A

**Form of Supporting Information to be Submitted with invoices**

The form set out in this Annex A is a sample form only and the codes and figures included with in the form are for illustrative purposes only.

**AIRCRAFT CARRIER ALLIANCE  
TYPICAL FORMAT FOR APPLICATION FOR PAYMENT - SUMMARY PAGE**

Industrial Participant: BAE SFS (incl SS)		Period Ended Nov-07		
Contract No.: CBCVF/104		Date Issued 03/12/2007		
		For Work Covering 30/06/2007 to 23/11/2007		
<b>Level 2</b>		<b>LEDGER COSTS / APPLICATION FOR PAYMENT</b>		
		<b>PERIOD</b>	<b>PREVIOUS</b>	<b>CUMULATIVE</b>
				<b>Accrual @ period end</b>
A.1	AMT Mgt; Project Mgt Services			
A.2	AMT Mgt; IM/IT			
A.3	AMT Mgt; Procurement Mgt			
A.5	AMT Mgt; ILS			
A.6	AMT Mgt; Client Assurance			
A.7	AMT Mgt; Commercial			
A.8	AMT Mgt; Human Resources			
B.A	Engineering Project Management			
B.1	Engineering Systems Design			
B.2	Engineering Stage 2/3 Mobilisation			
B.3	Engineering Stage 2/3 Mgt			
B.4	Engineering Stage 1 Support			
B.6	Engineering Stage 2/3 Wholeship			
B.7	Engineering Stage 2			
B.9	Engineering Stage 2/3 Support to Build			
C	Materials			
D.1	Shipbuild			
D.3	Facilities			
D.A	Integration, Test & Commissioning			
X	Demonstration Phase Activities			
<b>Subtotal</b>				
<b>HO Allocation</b>		<i>stand alone calculation</i>		
<b>Subtotal</b>				
<b>Fee</b>		<i>stand alone calculation</i>		
<b>Profit</b> █%				
<b>Total</b>				

Check

█ █

Total to 2 decimal places

█

VAT

█

Grand Total

█

Allocation of Invoice Period to SS and SFS

Period Costs SS

█

Period Costs SFS (balance)

█

**Back-up of Costs for Invoice**  
**Cumulative to October (July to October)**

WBS Level 1	Invoice Data				EVM Reconciliation			
	Actual Costs			Grand Total	Actuals	Accruals	Total	Total
	1070	1071	Subs		SFS	SFS	SFS	EVM
A.1	████			████	████		████	████████
A.2	████			████	████		████	████████
A.3	████			████	████	████	████	████████
A.5	████			████	████	████	████	████████
A.6	████			████	████		████	████████
A.7	████			████	████		████	████████
A.8								
B.A	████			████	████		████	████████
B.1	████	████		████	████	████	████	████████
B.2	████	████		████	████		████	████████
B.3	████	████		████	████		████	████████
B.4								
B.6	████	████		████	████		████	████████
B.7	████	████		████	████		████	████████
B.9		████		████				
C				-	-		-	
D.1	████	████		████	████		████	████████
D.3		████		████				
D.A	████			████	████		████	████████
X	████			████	████		████	████████
<b>Totals</b>	-	████	████	████	████	████	████	████
<i>Check</i>		████	████	████	████	████	████	████

**Actual Costs 341071 - October Cum**

Class AA

**Accruals October Cum**

Class AC

**Total including accruals**

Class (All)

Level 1	Data		Level 1	Data		Level 1	Data	
	Sum of Hours	Sum of Pounds		Sum of Units	Sum of Pounds		Sum of Units	Sum of Pounds
A.1	█	█	A.3		█	A.1	█	█
A.2	█	█	A.5	█	█	A.2	█	█
A.3	█	█	B.1	█	█	A.3	█	█
A.5	█	█	Grand Total	█	█	A.5	█	█
A.6	█	█				A.6	█	█
A.7	█	█				A.7	█	█
B.1	█	█				B.1	█	█
B.2	█	█				B.2	█	█
B.3	█	█				B.3	█	█
B.6	█	█				B.6	█	█
B.7	█	█				B.7	█	█
B.A	█	█				B.A	█	█
D.1	█	█				D.1	█	█
D.A	█	█				D.A	█	█
X	█	█				X	█	█
Total	█	█				Total	█	█
B.7		█				B.7		█
<b>Grand Total</b>		█				<b>Grand Total</b>		█

**WBS  
ANALYSIS**

To be completed by each Industrial Participant

Period: 31-Aug-07  
End: 07

IP: KBR

WBS Number	Cost Type	Description	LEDGER COSTS / APPLICATION FOR PAYMENT			ACCRUALS
			PERIOD	PREVIOUS	CUMULATIVE	
xxxxx	Labour	WBS Level 2 heading				
xxxxx	Non labour					
xxxxx		WBS Level 2 heading				
xxxxx						
xxxxx		WBS Level 1 Subtotal				
xxxxx						
xxxxx		WBS Level 2 heading				
xxxxx						
xxxxx		WBS Level 2 heading				
xxxxx						
xxxxx		WBS Level 1 Subtotal				
xxxxx						
xxxxx		WBS Level 2 heading				
xxxxx						
xxxxx		WBS Level 2 heading				
xxxxx						
xxxxx		WBS Level 1 Subtotal				
		<b>TRANSFER TO SUMMARY</b>				

