

**Contract Number: CBCVF/00202**

**AMENDMENT No. 1 to  
AIRCRAFT CARRIER  
MANUFACTURING PHASE  
FLOW THROUGH CONTRACT**

**DATED 12<sup>th</sup> February 2010**

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

**and**

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

## MFTC AMENDMENT NO. 1

### 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 BVT Surface Fleet Limited (registered with company number 06160534) were parties to the aircraft carrier manufacturing phase manufacturing phase flow through contract, dated 3 July 2008 (the “**MFTC**”).
- (B) Since the date of the MFTC, BVT Surface Fleet Limited has changed its name to BAE Systems Surface Ships Limited and its registered office from Daring Building, Bldg 2-166, Postal Point 100, Portsmouth Naval Base, Portsmouth, Hampshire PO1 3NJ to Warwick House, PO Box 87, Farnborough Aerospace Centre, Farnborough, Hampshire, GU14 6YU, as stated above.
- (C) As a consequence of the Authority receiving fully ratified approvals, the Manufacturing Alliance Participants are now in a position to amend the Key Project Agreements to reflect the outcome of the Authority’s Planning Round 09 (PR09) Equipment Examination (the “**Equipment Examination**”) together with the other changes agreed between the Manufacturing Alliance Participants by an amendment to the MAA (the “**MAA Amendment No. 1**”), an amendment to the MFTC (this “**MFTC Amendment No. 1**”) and an amendment to each of the IP MFTC Sub-Contracts (together the “**IP MFTC Sub-Contract Amendments No. 1**”), each of even date herewith.
- (D) 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.

- (E) 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. 1, 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.1 are an integral part of it and any reference to this MFTC Amendment No. 1 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. 1 and its recitals unless otherwise defined in this MFTC Amendment No. 1 or the context otherwise requires.
- 1.3 Headings to clauses of this MFTC Amendment No. 1 are inserted for convenience only and shall not affect the interpretation or construction of this MFTC Amendment No. 1.

## **2 Amendment to the MFTC**

- 2.1 With effect on and from the date of this MFTC Amendment No. 1 the MFTC shall be amended as set out in schedule 1 and annex A to this MFTC Amendment No. 1 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. 1, (including schedule 1 and annex A attached hereto), the MFTC shall continue unamended and 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. 1 shall be enforceable in all respects as if executed as a deed.

2.4 The Parties do not intend this MFTC Amendment No. 1 to become legally binding on either of them until the date of this MFTC Amendment No. 1 is written at its head, notwithstanding that either or both of them may have signed this MFTC Amendment No. 1 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. 1 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. 1. No person who is not a Party to this MFTC Amendment No. 1 (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. 1 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. 1 (including any one or more of the clauses of, or paragraphs of the schedule or the annex to, this MFTC Amendment No. 1 or any part of one or more of the clauses of this MFTC Amendment No. 1 or paragraphs of the schedule or annex to this MFTC Amendment No. 1) 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. 1 and replaced by provisions which shall be determined in accordance with the Change Procedure.

**6 Law**

6.1 This MFTC Amendment No. 1 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. 1 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: ...**P. R. Tozer**.....  
Name: ...**P. R. Tozer**.....  
Date: ...**12<sup>th</sup> February 2010**....

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

Signed: ...**[REDACTED]**.....  
Name: ...**[REDACTED]**.....  
Date: ...**12<sup>th</sup> February 2010**....

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

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

A. All references to "BVT" which do not appear as part of the name "BVT Surface Fleet Limited" to be replaced with "BAES SS"

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

**CHANGE DEFINITION OF "CONTRACT" AS FOLLOWS:**

AFTER "means this Deed" INSERT "dated 3 July 2008"; and

AFTER "expressly made part of this Deed" ADD ", as amended by the Parties from time to time"

**C. SCHEDULE 3 – CARDINAL DATE PROGRAMME**

**DELETE:** Existing Schedule 3 in entirety

**INSERT:** Revised Schedule 3 as attached at Annex A to this MFTC Amendment No. 1

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

Paragraph 1.4(b)

**DELETE:** "the amount, if any, of the Phase 1 Incentive Payment"

**INSERT:** "the Phase 1 Mark Up"

Paragraph 2.5

**DELETE:** Existing Paragraph in entirety

**INSERT:**

**"2.5 Phase 1 Mark Up**

Following Cost Audit of the Phase 1 Final Cost Certificates in accordance with Paragraph 1.4(b) above, the Phase 1 Mark Up will be agreed"

Paragraph 4.1(a)

**DELETE:** Existing Paragraph in entirety

**INSERT:** Revised Paragraph as follows:

- (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"

### Schedule 3 Cardinal Date Programme

Aircraft Carrier Airline Programme  
 B & B Option 02.2 Revised Plan with Agreed Changes and CDF Details

Notes from B&B Baseline CDP  
 Version Date: 16-05-2024

Item	Description	Start Date	End Date	Duration	Dependencies
0	Option 02 Scenario Plan Version 2.2	12 Dec '98	04 Jun '19	105 Months	
1	Ship 01	18 Dec '98	21 Dec '18	24 Months	
2	LB01-CB01	18 Dec '98	08 Dec '13	35 Months	01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

Notes:

1. LB01-CB01: Includes the period from 18 Dec 1998 to 08 Dec 2013. This period includes the construction of the ship and the installation of the aircraft carrier. The remaining dates are provided for information only.

2. Port Sponsors: Includes the period from 14 Apr 1999 to 21 Dec 2014. This period includes the construction of the ship and the installation of the aircraft carrier. The remaining dates are provided for information only.

3. LB05: Includes the period from 01 Jun 1998 to 28 Mar 2012. This period includes the construction of the ship and the installation of the aircraft carrier. The remaining dates are provided for information only.

4. LB04: Includes the period from 04 Jan 1999 to 01 Nov 2012. This period includes the construction of the ship and the installation of the aircraft carrier. The remaining dates are provided for information only.

5. CB00: Includes the period from 01 Mar 1999 to 17 Oct 2011. This period includes the construction of the ship and the installation of the aircraft carrier. The remaining dates are provided for information only.

6. Port Sponsors: Includes the period from 19 Feb 1999 to 05 Jun 2013. This period includes the construction of the ship and the installation of the aircraft carrier. The remaining dates are provided for information only.

7. CB02: Includes the period from 08 Jun 1999 to 24 May 2012. This period includes the construction of the ship and the installation of the aircraft carrier. The remaining dates are provided for information only.

8. AFT Island: Includes the period from 04 Aug 1999 to 28 Jan 2013. This period includes the construction of the ship and the installation of the aircraft carrier. The remaining dates are provided for information only.

9. FWD Island: Includes the period from 04 Jan 1999 to 29 Jun 2012. This period includes the construction of the ship and the installation of the aircraft carrier. The remaining dates are provided for information only.

10. CB04: Includes the period from 04 Sep 1999 to 26 Nov 2012. This period includes the construction of the ship and the installation of the aircraft carrier. The remaining dates are provided for information only.

11. LB03 (T-U): Includes the period from 04 Jun 1999 to 18 Mar 2014. This period includes the construction of the ship and the installation of the aircraft carrier. The remaining dates are provided for information only.

12. Assembly: Includes the period from 07 Aug 1999 to 28 Jun 2014. This period includes the construction of the ship and the installation of the aircraft carrier. The remaining dates are provided for information only.

13. Commissioning and Trials: Includes the period from 01 Jan 2000 to 28 Aug 2016. This period includes the construction of the ship and the installation of the aircraft carrier. The remaining dates are provided for information only.

14. PAC: Includes the period from 04 Aug 2000 to 31 Aug 2015. This period includes the construction of the ship and the installation of the aircraft carrier. The remaining dates are provided for information only.

15. CSC: Includes the period from 21 Dec 1999 to 21 Dec 2016. This period includes the construction of the ship and the installation of the aircraft carrier. The remaining dates are provided for information only.

16. SHIP 02: Includes the period from 08 Mar 1999 to 04 Jun 2019. This period includes the construction of the ship and the installation of the aircraft carrier. The remaining dates are provided for information only.

17. LB01-CB01: Includes the period from 08 Mar 1999 to 26 Nov 2014. This period includes the construction of the ship and the installation of the aircraft carrier. The remaining dates are provided for information only.

18. LB05: Includes the period from 04 Apr 1999 to 28 Feb 2014. This period includes the construction of the ship and the installation of the aircraft carrier. The remaining dates are provided for information only.

19. Port Sponsors: Includes the period from 28 Apr 1999 to 04 Apr 2016. This period includes the construction of the ship and the installation of the aircraft carrier. The remaining dates are provided for information only.

20. CB00: Includes the period from 10 Jun 1999 to 09 Apr 2016. This period includes the construction of the ship and the installation of the aircraft carrier. The remaining dates are provided for information only.

21. LB04: Includes the period from 01 Feb 1999 to 14 Aug 2016. This period includes the construction of the ship and the installation of the aircraft carrier. The remaining dates are provided for information only.

22. LB01: Includes the period from 02 Sep 1999 to 18 Jan 2015. This period includes the construction of the ship and the installation of the aircraft carrier. The remaining dates are provided for information only.

23. Port Sponsors: Includes the period from 16 Oct 1999 to 25 Aug 2016. This period includes the construction of the ship and the installation of the aircraft carrier. The remaining dates are provided for information only.

24. CB02: Includes the period from 01 Jan 1999 to 22 Aug 2014. This period includes the construction of the ship and the installation of the aircraft carrier. The remaining dates are provided for information only.

25. FWD Island: Includes the period from 04 Nov 1999 to 29 Apr 2016. This period includes the construction of the ship and the installation of the aircraft carrier. The remaining dates are provided for information only.

26. CB04: Includes the period from 06 Jan 1999 to 07 Sep 2015. This period includes the construction of the ship and the installation of the aircraft carrier. The remaining dates are provided for information only.

27. LB03 (T-U): Includes the period from 05 Feb 1999 to 29 Sep 2016. This period includes the construction of the ship and the installation of the aircraft carrier. The remaining dates are provided for information only.

28. AFT Island: Includes the period from 15 May 1999 to 15 Dec 2016. This period includes the construction of the ship and the installation of the aircraft carrier. The remaining dates are provided for information only.

29. Assembly: Includes the period from 29 Mar 1999 to 29 Nov 2016. This period includes the construction of the ship and the installation of the aircraft carrier. The remaining dates are provided for information only.

30. Commissioning and Trials: Includes the period from 08 Jun 1999 to 02 Feb 2018. This period includes the construction of the ship and the installation of the aircraft carrier. The remaining dates are provided for information only.

31. PAC: Includes the period from 06 Feb 1999 to 23 Feb 2018. This period includes the construction of the ship and the installation of the aircraft carrier. The remaining dates are provided for information only.

32. CSC: Includes the period from 04 Jun 1999 to 04 Jun 2019. This period includes the construction of the ship and the installation of the aircraft carrier. The remaining dates are provided for information only.