

MASTER FRAMEWORK AGREEMENT

This master framework agreement ("Agreement") is dated []

PARTIES

- (1) [Customer legal entity name] a company registered in [country] with registered number [number] whose registered office is at [address] ("Customer"); and
- (2) **BAE Systems (Operations) Ltd t/a Techmodal** a company registered in England and Wales with registered number 01996687 whose registered office is at Victory Point, Lyon Way, Frimley, Camberley, Surrey, England, GU16 7EX ("**BAE Systems**");

each a "**Party**" and together the "**Parties**".

BACKGROUND

- (A) BAE Systems is in the business of providing IT services, software and hardware.
- (B) The Customer wishes to appoint BAE Systems to provide some or all such products and services under this Agreement from time to time.
- (C) This Agreement comprises this page, the General Terms and Conditions, the attached Annex(es) and such additional Annexes as may be mutually agreed and incorporated from time to time pursuant to a written variation to this Agreement in accordance with clause 17 (Variation) of the General Terms and Conditions.
- (D) When the Customer requests products or services from BAE Systems, and BAE Systems agrees to provide such products or services, the Parties will enter into a separate Order in accordance with this Agreement.
- (E) Each Order shall comprise a separate contract incorporating by reference the terms and conditions set out in this Agreement.

EXECUTION

This Agreement has been entered into on the date stated above.

Signed for and on behalf of the **Customer**

Signed for and on behalf of **BAE Systems**

Name: _____

Name: _____

Title: _____

Title: _____

Signature: _____

Signature: _____

GENERAL TERMS AND CONDITIONS

1 DEFINITIONS AND INTERPRETATION

1.1 The following definitions apply in this Agreement:

Affiliate: in relation to a body corporate, any other entity which directly or indirectly controls, is controlled by, or is under direct or indirect common control with, that body corporate from time to time.

Charges: the charges specified in the Order payable by the Customer for the supply of the Products and/or Services by BAE Systems.

Confidential Information: any and all non-public information relating to the business plans, pricing or other financial information, operations, processes, know-how, designs, trade secrets, products or services of the disclosing party, as well as such information with respect to a third party, disclosed by one Party to the other in connection with this Agreement or an Order that would be regarded as confidential by a reasonable business person, whether marked confidential or not; any information obtained by examination, testing or analysis in any way from such confidential information; and any derivative of any such confidential information provided that Confidential Information shall not include any information which the receiving Party can show through documentary evidence:

- (a) is or becomes publicly available otherwise than as a result of a breach of this Agreement or the fault of the receiving Party;
- (b) has been lawfully received from a third party without restriction as to its use or disclosure;
- (c) was already in its possession free of any such restriction as to its use or disclosure prior to receipt from the disclosing Party;
- (d) was independently developed by or for the receiving Party without making use of any Confidential Information; or
- (e) has been approved for release or use (in either case without restriction) by written authorisation of the disclosing Party;

and for the avoidance of doubt and without prejudice to the generality of the above, Confidential Information shall not be deemed to be publicly available merely because it may be derived from one or more items that are publicly available.

Contract Year: in respect of an Order, the period of 12 months from the Effective Date and (individually) each consecutive period of 12 months thereafter until the end of the Term.

Deliverable: any item expressly identified on the applicable Order as a 'Deliverable' to be delivered by BAE Systems as a tangible output of the Services, but always excluding any Products.

Effective Date: in respect of this Agreement, the date stated at the beginning of it and, in respect of an Order or Change Request, the date stated at the beginning of it or such other date set out therein.

Hardware: any hardware specified in the Order to be supplied by BAE Systems to the Customer pursuant to that Order, together with any associated peripherals and documentation delivered with the same.

Intellectual Property Rights: all rights in intellectual property, whether arising on registration or automatically, including: (a) rights to inventions and other rights to apply for registration; (b) applications for, and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights; (c) any goodwill that resides in such rights; (d) know-how, trade secrets and other rights in confidential information; and (e) all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Order: an agreement for the provision of Products and/or Services made between the Parties in accordance with clause 4 (Order process).

Products: any Software Product or Hardware.

Services: any professional services, or any cloud-based or hosted BAE Systems' on-demand services provided on a subscription basis (including any right to use any software or web portals required to use or access such services), to be provided by BAE Systems pursuant to an Order, together with any associated Deliverables.

Software: shall mean any software, firmware or microcode forming all or part of a Deliverable but always excluding any Products.

Software Product: any software products which are specified in an Order, and in respect of which BAE Systems grants a right of use to the Customer pursuant to that Order, together with any configuration, customisation, fixes or new releases of the same, and any associated documentation.

Term: in respect of an Order, the period commencing on its Effective Date (unless a different commencement date is set out in the Order) and continuing for the term specified therein, plus any renewal or extension of such term as agreed in accordance with the renewal or extension terms set out in the Order or otherwise in accordance with clause 17 (Variation) of this Agreement.

- 1.2 The Annexes form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Annexes.
- 1.3 References to clauses and Annexes are to the clauses and Annexes of this Agreement and references to paragraphs are to paragraphs of the relevant Annex. Clause, Annex and paragraph headings shall not affect the interpretation of this Agreement or any Order.
- 1.4 A reference to a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality). A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 Unless the context otherwise requires (a) words in the singular shall include the plural and in the plural shall include the singular; and (b) a reference to one gender shall include a reference to the other genders.
- 1.6 A reference to a statute or statutory provision (a) is a reference to it as amended, extended or re-enacted from time to time; and (b) shall include all subordinate legislation made from time to time.
- 1.7 A reference to writing or written includes email except where stated otherwise or where stated that such writing is required to be signed.
- 1.8 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.9 A reference to this Agreement or to any other agreement or document referred to in this Agreement is a reference to this Agreement or such other agreement or document as varied or novated (in each case, other than in breach of the provisions of this Agreement) from time to time.
- 1.10 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

2 COMMENCEMENT AND DURATION

- 2.1 This Agreement shall take effect on its Effective Date and shall continue, unless terminated earlier in accordance with clause 10 (Termination), until the later of:
 - (a) three years after its Effective Date; or
 - (b) 12 months after the termination or expiration of the last active Order in effect under this Agreement.
- 2.2 Each Order shall take effect on its Effective Date and shall continue for its Term, unless terminated earlier in accordance with clause 10 (Termination).

3 SUPPLY OF PRODUCTS AND SERVICES

- 3.1 BAE Systems shall provide such Products and/or Services to the Customer as set out in any agreed Order.

- 3.2 Each Party shall nominate from time to time a suitably qualified and empowered point of contact in respect of each Order, to facilitate the fulfilment of that Order.
- 3.3 Unless otherwise stated in an Order, all Services are provided remotely from BAE Systems' delivery centre locations and all Products, Services, Deliverables and documentation are provided in English language and during working hours only.

4 ORDER PROCESS

- 4.1 Except as expressly stated otherwise herein, an Order shall not enter into force, be legally binding or have any other effect unless:
- (a) it has been set out in a document that references this Agreement; and
 - (b) it has been mutually agreed and signed by the authorised representatives of both Parties; and
 - (c) as at the date the Order is signed, this Agreement has not been terminated.
- 4.2 Each Order shall take effect on its Effective Date and shall form a separate contract between the Parties incorporating by reference the relevant terms of this Agreement.
- 4.3 Any amendments to this Agreement agreed by the Parties in accordance with clause 17 (Variation) shall be deemed to apply to all future Orders entered into after the date of such amendment.

5 PRECEDENCE

- 5.1 In the event of any inconsistency between any of the provisions of an Order, the following order of precedence shall apply:
- (a) any terms of the Order which:
 - (i) are set out under a section headed 'Special Terms'; or
 - (ii) which expressly state they are intended to amend, supersede or otherwise take precedence over contrary provisions of this Agreement and identify those provisions;
 - (b) the provisions of the Annexes to this Agreement;
 - (c) the General Terms and Conditions set out in the main body of this Agreement; and
 - (d) the remaining provisions of the Order.

6 CUSTOMER OBLIGATIONS

- 6.1 The Customer shall provide BAE Systems, at no charge, with all necessary resources, access, information, data, documents, facilities, support, services and co-operation reasonably requested by BAE Systems for the proper and timely fulfilment of an Order, including any dependencies identified in the Order or agreed in writing during the course of that Order.
- 6.2 To the extent that a delay or failure by BAE Systems to achieve any of its obligations is due to a delay or failure of the Customer to comply with any of its obligations in this Agreement or the applicable Order, BAE Systems shall be allowed a reasonable extension of time, and relief from any affected service levels, commensurate with the delay or failure of the Customer. Where such delay or failure results in additional costs to BAE Systems, BAE Systems may charge these to the Customer calculated in accordance with BAE Systems' prevailing professional services rates for the actual time expended plus expenses and third party costs reasonably and properly incurred, subject to BAE Systems providing written evidence of the same to the Customer.
- 6.3 The Customer shall ensure that all relevant consents, permissions, permits, approvals and licences (including from all relevant third parties) are granted to BAE Systems that are required by BAE Systems for the fulfilment of an Order and to enable BAE Systems to comply with all applicable laws.

- 6.4 The Customer shall be responsible for ensuring the accuracy and completeness of all information, documentation and any other materials it provides to BAE Systems, and BAE Systems shall be entitled to rely on same as being accurate and complete without seeking to verify it unless otherwise agreed in an Order.
- 6.5 The Customer shall comply with all applicable laws and government regulations in its receipt and use of the Products and/or Services.

7 CHARGES AND PAYMENT

- 7.1 The Customer shall pay BAE Systems the Charges as specified in the applicable Order. BAE Systems will invoice the Charges in accordance with the applicable Order and the Customer shall pay all Charges within 30 days of the date of BAE Systems' invoice, without any set-off, counterclaim or deduction. If any sum payable to BAE Systems is not paid by the applicable due date, BAE Systems may, without prejudice to any other remedy and without liability to the Customer:
- (a) charge interest before and after judgment on such overdue sum on a day to day basis from the due date until paid in full at the lesser of 1% per month or the maximum rate permitted by applicable law; and/or
 - (b) suspend the provision of Services and/or any licence or right of use granted to the Customer under an Order upon 10 days' prior written notice, until paid in full.
- 7.2 Where the Customer's accounting system requires the issuance of purchase orders, the Customer shall issue purchase orders in a timely manner in advance of the date of issue of the applicable invoices and BAE Systems may, without liability to the Customer, suspend supply of the Products and/or Services if at any time it is not in possession of sufficient purchase order cover; however each Order shall constitute a binding agreement notwithstanding the absence of a purchase order from the Customer.
- 7.3 The Customer may withhold payment of an invoice disputed in good faith only if the Customer provides BAE Systems with written notification of such disputed invoice (with justification in sufficient detail to enable BAE Systems to investigate) along with payment of any undisputed portion within 30 days of the date of the applicable invoice. BAE Systems will not exercise its rights under clause 7.1 if the Customer disputes the applicable invoice reasonably and in good faith and cooperates diligently to resolve the dispute. Upon resolution of the dispute the Customer shall pay any resolved amounts within seven days.
- 7.4 Unless otherwise stated in the applicable Order, the Charges exclude travel, subsistence and materials expenses which will be charged to the Customer in addition at cost. An administration fee of up to 10% may be charged where a detailed, itemised breakdown of expenses is required.
- 7.5 The Charges do not include sales, consumption, use, VAT, GST or other similar taxes, customs duties, excise taxes, and regulatory and other fees or surcharges relating to the supply of the Products and/or Services ("**Transaction Taxes**") now or hereafter levied, all of which shall be invoiced to the Customer in addition to the Charges. If payment of any Charges is subject to any tax, deduction, levy or similar payment obligation that is required to be deducted or withheld from a payment under applicable law ("**Withholding Taxes**"), the Customer will gross up its payment to BAE Systems such that the net amounts received by BAE Systems after all deductions and withholdings will be not less than what would have been received in the absence of those Withholding Taxes. If BAE Systems is required to pay Transaction Taxes or Withholding Taxes, the Customer shall reimburse BAE Systems for such amounts. The Customer hereby agrees to indemnify BAE Systems for any Transaction Taxes, Withholding Taxes and related costs, interest and penalties.

8 WARRANTY

- 8.1 Each Party warrants that:
- (a) it has full capacity and authority to enter into and perform this Agreement;
 - (b) this Agreement is executed by a duly authorised representative of that party; and

(c) it shall comply with all Applicable Laws as they relate to their rights and obligations under this Agreement.

- 8.2 Subject to the other terms of this Agreement, BAE Systems warrants that the Services will be supplied with reasonable skill and care and substantially in accordance with the specification set out in the applicable Order and shall use reasonable endeavours to meet any timescales set out therein (or as agreed with the Customer in writing in accordance with the terms of the Order). Notwithstanding the foregoing, BAE Systems does not warrant that the Customer's use of the Services will be uninterrupted or error-free.
- 8.3 ALL OTHER CONDITIONS OR WARRANTIES NOT SET OUT IN THIS AGREEMENT, WHETHER WRITTEN OR ORAL, EXPRESS OR IMPLIED BY STATUTE, AT COMMON LAW OR OTHERWISE, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OR CONDITIONS OF SATISFACTORY QUALITY OR FITNESS FOR PURPOSE, ARE EXCLUDED TO THE FULLEST EXTENT PERMITTED AT LAW.

9 EXCLUSION AND LIMITATION OF LIABILITY

- 9.1 The restrictions on liability in this clause 9 (Exclusion and Limitation of Liability) apply to every liability arising under or in connection with this Agreement and any Order including but not limited to liability in contract, tort (including negligence), breach of statutory duty, misrepresentation, restitution or otherwise.
- 9.2 Nothing in this Agreement or any Order shall limit or exclude the liability of either Party for:
- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
 - (b) fraud or fraudulent misrepresentation; or
 - (c) any other liability which cannot be limited or excluded by applicable law.

Mutual Exclusions of Liability

- 9.3 Neither Party shall have any liability for any special, indirect or consequential loss.
- 9.4 Save in respect of liability arising as described in clause 9.6, neither Party shall have any liability for any loss of or damage to profit, opportunity, savings, revenue, use, contract, goodwill or business, injury to reputation, punitive damages or losses suffered by third parties.

BAE Systems' Exclusions of Liability

- 9.5 BAE Systems shall have no liability for any losses, damages, costs, expenses or other claims arising from:
- (a) any acts or omissions of the Customer, or any acts or omissions of BAE Systems when acting on instructions of the Customer;
 - (b) any software, code, firmware, hardware, components, documents, data or other materials supplied by or on behalf of the Customer (including any such things procured or obtained by BAE Systems acting on the instructions of the Customer);
 - (c) any failure by the Customer to comply with its obligations under this Agreement or an Order; or
 - (d) the Customer's use of any results or outputs from the Products and/or Services.

Unlimited Liability

- 9.6 Subject to clause 9.3, the Customer's liability arising under or in connection with breach of clause 12 (Intellectual Property) or any licence terms, right of use or usage restrictions set out or referenced in an applicable Annex or Order shall be **unlimited**.

9.7 Subject to clauses 9.3 to 9.6 inclusive, liability arising under or in connection with the following shall be **unlimited**:

- (a) BAE Systems' indemnification obligations set out in clause 13 (Intellectual Property Rights Indemnity); or
- (b) the Customer's indemnification obligations set out in this Agreement or any Order.

Limitations of Liability

9.8 Subject to clauses 9.3 to 9.7 inclusive:

- (a) the total aggregate liability of a Party arising under or in connection with breach of clause 14 (Confidentiality) and the Data Processing Annex (if applicable) of an Order in a Contract Year shall be limited to **250%** of the Charges paid or payable under that Order in respect of that Contract Year;
- (b) subject to clause 9.8(a), the total aggregate liability of a Party arising under or in connection with an Order in a Contract Year shall be limited to **125%** of the Charges paid or payable under that Order in respect of that Contract Year; and
- (c) the total aggregate liability of each Party arising under or in connection with this Agreement only (that is, this master framework agreement, not including any Orders placed under it) shall be limited to **£100,000**.

Conditions on the Right to Indemnification

9.9 In respect of any indemnification provided under this Agreement or any Order, as a condition to the right to receive indemnification for a claim, the indemnified Party shall:

- (a) give written notice of the claim promptly to the indemnifying Party;
- (b) give the indemnifying Party sole control of the defence and settlement of the claim, however the indemnified Party shall have the right, but not the obligation, to participate in the defence of such claim with counsel reasonably acceptable to the indemnifying Party and at the indemnified Party's sole cost and expense;
- (c) not compromise, settle or attempt to compromise or settle such claim;
- (d) provide to the indemnifying Party, at the indemnifying Party's expense, all available information and assistance; and
- (e) use all reasonable endeavours to mitigate any losses or damage.

9.10 In respect of any indemnification provided under this Agreement or any Order, the indemnifying Party shall not be responsible or liable for any settlement or admissions made without its written consent, nor liable for any indemnity in such circumstances. In no event may either Party enter into any third-party agreement, which would in any manner whatsoever, affect the rights of the other Party or bind the other Party in any manner to such third party, without the prior written consent of the other Party.

10 TERMINATION

10.1 Without affecting any other right or remedy available to it, either Party may terminate this Agreement and/or any affected Orders with immediate effect by giving written notice to the other Party if the other Party:

- (a) commits a material breach of any term of this Agreement or an Order, which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;
- (b) is unable to pay its debts as they fall due (or is deemed to be unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 as if the words "it is proved to the satisfaction

of the court" did not appear in sections 123(1)(e) or 123(2) of the Insolvency Act 1986), or a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986;

- (c) ceases or threatens to cease to trade, or makes an assignment for the benefit of (or a composition with) its creditors or other arrangement of similar import, or has a receiver (or administrative receiver, administrator or a similar officer) appointed over all or a substantial part of its assets, or if a petition is presented (or an order is made by a court of competent jurisdiction or an effective resolution is passed) for winding up of that party otherwise than for the purpose of a bona fide reconstruction or amalgamation on terms previously approved in writing by the terminating party.

- 10.2 Without affecting any other right or remedy available to it, either Party may terminate this Agreement on giving not less than 30 days' written notice to the other. A Party may not terminate an Order for convenience unless termination for convenience rights are expressly set out in the applicable Order.

11 CONSEQUENCES OF TERMINATION

- 11.1 On termination (or expiry) of this Agreement, howsoever arising, each Order then in force at the date of such termination shall continue in full force and effect for the remainder of the Term of such Order, unless terminated earlier in accordance with the terms of such Order.
- 11.2 The termination or expiry of an Order shall cause any licences or rights of use granted thereunder to terminate or expire, as the case may be, but neither termination nor expiry of an Order shall affect any other Orders or this Agreement.
- 11.3 Any provision of this Agreement or an Order that expressly or by implication is intended to come into or continue in force on or after termination, including clause 1 (Definitions and interpretation), clause 9 (Exclusion and Limitation of liability), clause 11 (Consequences of termination), clause 14 (Confidentiality) and clause 27 (Governing law and jurisdiction), shall remain in full force and effect.
- 11.4 Termination of this Agreement or any Order shall not affect any rights, remedies, obligations or liabilities of the Parties that have accrued up to the date of termination, including the right to claim damages in respect of any breaches of this Agreement or an Order which existed at or before the date of termination, or the obligation of the Customer to pay any Charges in respect of Products and/or Services supplied before the date of termination.
- 11.5 On termination of an Order the Customer will not be entitled to any refund of any Charges except as expressly set out in the applicable Order or except for any Charges paid in advance for Products and/or Services to be supplied after the date of termination where the Customer has terminated an Order in accordance with this Agreement.

12 INTELLECTUAL PROPERTY

- 12.1 BAE Systems and its licensors shall retain all Intellectual Property Rights in their pre-existing and proprietary materials including, but not limited to, all Intellectual Property Rights in the Products, Services, Deliverables, and any software, hardware, data, documentation or other materials used to fulfil an Order. No Intellectual Property Rights shall transfer to the Customer by operation of this Agreement or an Order. BAE Systems reserves all rights not expressly granted to the Customer under this Agreement or an Order. Notwithstanding the foregoing, where any reference is made in a Deliverable to any aspect of the Customer's business, the same shall be considered Confidential Information and shall not be used or disclosed by BAE Systems other than in accordance with clause 14 (Confidentiality).
- 12.2 The Customer shall comply with any licence or right of use terms, and any associated usage restrictions, for the Product, Services and Deliverables as set out or referenced in the applicable Annex and/or Order.
- 12.3 Any ideas, know-how, techniques, work products or other materials that may be developed by BAE Systems hereunder, including any enhancements or modifications made to the Products or Services or any software, hardware, data or other materials used to fulfil an Order and regardless of whether or not

influenced or suggested by Customer feedback, shall be the sole property of and vest solely in BAE Systems.

13 INTELLECTUAL PROPERTY RIGHTS INDEMNITY

13.1 Subject to clause 9 (Exclusion and Limitation of Liability) and the other provisions of this clause 13 (Intellectual property rights indemnity) BAE Systems shall:

- (a) defend or settle, at its option, any legal proceeding brought against the Customer, to the extent that it is based on a claim that any Products, Services or Deliverables (each an "**Indemnified Item**") infringe in the United Kingdom or the European Union a third party's patent, trade secret, or copyright (a "**Claim**"); and
- (b) indemnify the Customer against all damages and costs attributable exclusively to such claim awarded by the court finally determining the case (or the amount of any settlement BAE Systems enters into).

13.2 If any Indemnified Item is found to infringe, or in the reasonable opinion of BAE Systems is likely to be the subject of a Claim, BAE Systems may, at its option:

- (a) obtain for the Customer the right to use such Indemnified Item; or
- (b) replace or modify such Indemnified Item to make it non-infringing; or
- (c) withdraw or cease providing such Indemnified Item, remove it from the scope of the Order, and refund a pro-rated portion of the Charges then paid in advance in respect of such Indemnified Item, as assessed against the duration and business benefit realised from the use of such Indemnified Item;

and the Customer will abide by BAE Systems decision in this regard.

13.3 BAE Systems shall have no liability or obligation to the extent that any Claim results from:

- (a) use of any Indemnified Item other than in accordance with the licence terms set out in this Agreement and the applicable Order;
- (b) use of any Indemnified Item in combination with any software, hardware, products or other equipment or materials not supplied by or approved in writing by BAE Systems;
- (c) BAE Systems' compliance with designs or specifications of the Customer;
- (d) any software, hardware, products or other equipment or materials supplied by or on behalf of the Customer (including any such things procured or obtained by BAE Systems acting on the instructions of the Customer) that have been incorporated into such Indemnified Item;
- (e) use of an allegedly infringing version of such Indemnified Item, if the infringement could have been avoided by the use of a different version made available to the Customer by BAE Systems; or
- (f) modification, repair, adjustment or enhancement of the Indemnified Item other than at BAE Systems' written direction.

13.4 This clause 13 (Intellectual Property Rights Indemnity) states the entire liability and obligation of BAE Systems and exclusive remedy of the Customer in respect of any Claims.

14 CONFIDENTIALITY

14.1 In respect of any Confidential Information disclosed pursuant to this Agreement, each Party undertakes that it shall not at any time during this Agreement, and for a period of five years after expiry or termination of this Agreement, disclose or use any such Confidential Information of the other Party, except as permitted by this clause 14.

14.2 In respect of any Confidential Information disclosed pursuant to an Order, each Party undertakes that it shall not at any time during the Term of that Order, and for a period of five years after expiry or

termination of the Order, disclose or use any such Confidential Information of the other Party, except as permitted by this clause 14.

14.3 Each Party may disclose the other Party's Confidential Information:

- (a) to its employees, officers, professional advisers and (in the case of BAE Systems) its Affiliates, subcontractors and consultants, in each case, who need to know such information for the purposes of exercising the Party's rights or carrying out its obligations under or in connection with this Agreement and/or an Order, provided that each Party shall ensure that any such persons to whom it discloses the other Party's Confidential Information comply with this clause 14; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority, provided that, where possible without breaching any legal or regulatory requirements, it shall give the other Party advance notice of the disclosure requirement and will co-operate with the other Party in seeking to oppose, minimise or obtain confidential treatment of the requested disclosure to the extent reasonably practicable.

14.4 Neither Party shall use any of the other Party's Confidential Information for any purpose other than to exercise its rights and perform its obligations under or in connection with this Agreement and/or an Order.

15 ANTI-CORRUPTION

15.1 Each Party shall:

- (a) comply with all applicable laws, statutes and regulations relating to anti-bribery and anti-corruption, including without limitation the US Foreign Corrupt Practices Act and the UK Bribery Act of 2010 ("**Anti-Corruption Legislation**");
- (b) not engage in any activity, practice or conduct which would constitute an offence under the relevant sections of the Anti-Corruption Legislation; and
- (c) have and shall maintain in place throughout the Term of this Agreement its own policies and procedures to seek to ensure compliance with the Anti-Corruption Legislation and will enforce them where appropriate.

15.2 Breach of any provision of this clause shall be deemed a material breach of this Agreement entitling the other to termination.

16 FORCE MAJEURE

16.1 Each Party will be excused from performance and not be liable to the other during any period (each a "**Force Majeure Event**") during which, and to the extent that, it is prevented from performing its obligations due to (i) acts of nature (including natural disasters or bad weather); (ii) outbreak of illness, disease, pandemic or epidemic, war, riot, civil disturbance or acts of terrorism; (iii) acts (or any delay or failure to act) by of any government or authority (including the delay, refusal or revocation of any licence, permit, approval, permission or consent); (iv) fire, theft, or malicious or accidental damage; (v) failure of power, networking, telecommunications or underlying computer operating systems; (vi) strike or industrial action of any kind; or (vii) any other circumstances beyond the affected Party's reasonable control, provided that the affected Party promptly notifies the other Party and uses reasonable commercial efforts to minimise the effect of the Force Majeure Event.

16.2 If a Force Majeure Event continues for a period of more than 30 days, either Party may terminate this Agreement and/or the affected Order, without liability to the other Party, by giving not less than seven days' prior written notice.

17 VARIATION

17.1 No variation of this Agreement (including any Annexes) or any 'Special Terms' set out in an Order shall be effective unless it is in writing and signed by an authorised representative of both Parties.

- 17.2 The Parties may agree a change to the Products and/or Services provided under an Order ("**Change Request**") by either:
- (a) executing a written Change Request signed by an authorised representative of both Parties; or
 - (b) where available, executing a Change Request from any applicable standard catalogue of changes, and in accordance with BAE Systems' standard procedure for executing the same, as made available by BAE Systems from time to time (via BAE Systems' customer portal or otherwise in writing).
- 17.3 The Customer shall pay any additional Charges set forth in any agreed Change Request.
- 17.4 The Customer acknowledges that to consider a Change Request and prepare a quotation (except for those covered by any standard catalogue of changes made available by BAE Systems) may involve a diversion of resources, and accordingly accepts that if such activities result in a delay in the fulfilment of the Order then BAE Systems shall be entitled to a reasonable extension of time for performing its obligations.
- 17.5 Neither Party shall be entitled to or obligated by a Change Request until it has been presented and approved by both Parties in accordance with this clause 17 (Variation), and pending the execution of any Change Request, the time for performance regarding tasks dependent on resolution of the Change Request will be extended by the period of delay during which such dependent work could not reasonably proceed pending outcome of the Change Request.
- 17.6 Work performed by either Party to prepare, analyse or execute a Change Request will not be chargeable to the other Party.

18 WAIVER

- 18.1 A waiver of any right or remedy under this Agreement or any Order or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
- 18.2 A failure or delay by a Party to exercise any right or remedy provided under this Agreement or any Order or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this Agreement or any Order or by law shall prevent or restrict the further exercise of that or any other right or remedy.

19 RIGHTS AND REMEDIES

- 19.1 Except as expressly provided in this Agreement, the rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

20 SEVERANCE

- 20.1 If any provision or part-provision of this Agreement or any Order is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Agreement or any affected Order.
- 20.2 If any provision or part-provision of this Agreement or any Order is deemed deleted under clause 20.1 the Parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

21 ENTIRE AGREEMENT

- 21.1 This Agreement and each Order shall constitute the entire agreement between the Parties and supersede and extinguish all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to their subject matter. In the event that the Customer issues a purchase order or similar document in relation to an Order, any terms and conditions set out therein shall not apply unless agreed as a variation in accordance with clause 17 (Variation).

- 21.2 Each Party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement or an Order. Each Party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this Agreement or an Order. The Customer agrees that its purchases are not contingent on the delivery of any future functionality, capability or features unless expressly specified in an applicable Order.

22 ASSIGNMENT AND OTHER DEALINGS

- 22.1 BAE Systems may engage its Affiliates, and/or individuals or organisations on a sub-contract or consultancy basis, as BAE Systems sees fit to assist in the fulfilment of an Order.
- 22.2 Subject to clause 22.1, neither Party shall assign, transfer, novate, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under this Agreement or an Order without the prior written consent of the other Party.

23 NO PARTNERSHIP OR AGENCY

- 23.1 Nothing in this Agreement or an Order is intended to, or shall be deemed to, establish any partnership or joint venture between the Parties, constitute either Party as the agent of the other, or authorise either Party to make or enter into any commitments for or on behalf of the other.
- 23.2 Each Party confirms it is acting on its own behalf and not for the benefit of any other person.

24 THIRD PARTY RIGHTS

- 24.1 This Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.

25 NOTICES

- 25.1 Any notice given to a Party under or in connection with this Agreement or an Order shall be in writing and:
- (a) in the case of notice of breach, termination or a claim under an indemnity, shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office; or
 - (b) in the case of other notices, may be delivered by email to the email address of the nominated point of contact for this Agreement or Order (as applicable) or one of the methods set out in clause 25.1(a).
- 25.2 Any notice shall be deemed to have been received:
- (a) if delivered by hand, on signature of a delivery receipt; or
 - (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second working day after posting or at the time recorded by the delivery service; or
 - (c) if sent by email (subject to clause 25.1), upon delivery (provided delivery is not automatically rejected).
- 25.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

26 EXECUTION AND COUNTERPARTS

- 26.1 This Agreement and Orders may be executed:

- (a) in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement; and/or
- (b) electronically between Parties and the electronically signed version shall constitute a valid, legally enforceable document.

27 GOVERNING LAW AND JURISDICTION

- 27.1 This Agreement and Orders and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with any of them or their subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.
- 27.2 Each Party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement or an Order or any of their subject matters or formation.

28 PUBLICITY

- 28.1 Neither Party shall issue any press release, public statement or acknowledgement regarding this Agreement or any Order without the prior written consent of the other, except that the Customer agrees that BAE Systems may use the Customer's name in its customer listings.

29 COVID-19

- 29.1 BAE Systems shall not be in breach of an obligation under this Agreement or any Order to the extent that the impact of the coronavirus disease (COVID-19) has caused BAE Systems' failure to meet such obligation. Any required changes to an Order resulting from or connected to the impact of COVID-19, shall be subject to the mutual agreement in accordance with clause 17 (Variation).

DATA PROCESSING ANNEX

The provisions of this Annex apply to any Orders involving the Processing (as defined in paragraph 1 below) of Customer Data (as defined in paragraph 1 below) as part of BAE Systems' delivery of the Services.

To the extent that Customer Data is also Confidential Information, the provisions of this Data Processing Annex shall apply in respect of such Customer Data to the exclusion of the confidentiality provisions set out in the Agreement.

1 DEFINITIONS AND INTERPRETATION

1.1 The following definitions apply in this Annex:

Customer Data: any data (including Customer Personal Data), content or information made available by or on behalf of the Customer to BAE Systems for Processing as part of BAE Systems' delivery of the Services. This includes, without limitation, where such items (a) are entered into any software or web portal by the Customer's users; (b) originate from a third party provider in respect of which the Customer has a direct licence or other contract with the third party provider; or (c) are contained in Customer databases, data feeds or systems made available to BAE Systems. Customer Data does not include any component of the Services nor any proprietary materials, intellectual property or Confidential Information of BAE Systems or its licensors.

Customer Personal Data: any Personal Data Processed by BAE Systems on behalf of the Customer.

Data Protection Laws: the laws providing for the protection of natural persons with regard to any operations performed on information relating to them, and the movement of such information, including, without limitation, the GDPR and the UK GDPR.

EEA: the European Economic Area, being the Member States of the European Union plus Iceland, Liechtenstein and Norway.

GDPR: Regulation (EU) 2016/679 – the General Data Protection Regulation.

Processor to Processor Standard Contractual Clauses: the Standard Contractual Clauses comprising Module 3 thereof.

Standard Contractual Clauses: the standard contractual clauses adopted by the European Commission in Implementing Decision (EU) 2021/914 of 4 June 2021 on standard contractual clauses for the transfer of Personal Data to Third Countries pursuant to the GDPR.

Third Country: a country other than a country in the EEA.

UK GDPR: the retained EU law version of the GDPR, as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018, and as amended by secondary legislation.

UK SCCs: means either (a) the clauses set out in European Commission Decision 2010/87/EC on standard contractual clauses for the transfer of Personal Data to Processors established in Third Countries under Directive 95/46/EC (as such clauses are amended in consequence of the withdrawal of the UK from the EU, or provision made by regulations under section 8 or 23 of the European Union (Withdrawal) Act 2018)) or (b) any replacements for the same as may be adopted by the UK.

The terms "Controller", "Processor", "Data Subject", "Personal Data", "Personal Data Breach", "Processing" and "Processor" shall have the meanings given to them in the applicable Data Protection Laws and "Process" and "Processed" shall be construed accordingly. "Sub-processor" means an entity engaged by a Processor to carry out specific Processing activities on behalf of the Controller.

2 LICENCE

2.1 Subject to the other provisions of this Annex, the Customer grants to BAE Systems a world-wide, limited-term licence to store, host, copy, display and use Customer Data as reasonably necessary for BAE Systems

to provide, ensure proper operation of, and develop improvements to, the Services. Subject to the licence granted in this paragraph, all intellectual property rights, title and ownership of the Customer Data shall remain with the Customer at all times.

3 BAE SYSTEMS RESPONSIBILITIES

3.1 BAE Systems may disclose the Customer Data:

- (a) to its employees, officers, professional advisers, Affiliates, subcontractors and consultants, in each case, who need to know such information for the purposes of delivering the Services, provided that BAE Systems shall ensure that any such persons to whom it discloses the Customer Data comply with this Data Processing Annex; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority, provided that, where possible without breaching any legal or regulatory requirements, it shall give the Customer advance notice of the disclosure requirement and will co-operate with the Customer in seeking to oppose, minimise or obtain confidential treatment of the requested disclosure to the extent reasonably practicable.

3.2 BAE Systems shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk when Processing Customer Data. The Parties agree that, where provided, the measures specified in BAE Systems' Security Policy (as may be updated by BAE Systems from time to time without materially decreasing the security of the Services), together with any specific measures set out in the applicable Order, ensure a level of security appropriate to the risk presented by the Processing of the Customer Data.

3.3 BAE Systems warrants that it has obtained the third-party certifications and audits set forth in the BAE Systems Security Policy. Upon the Customer's written request at reasonable intervals (but not more than once in a 12-month period), BAE Systems shall make available to the Customer or to the Customer's independent, third-party auditor (provided such auditor is not a competitor of BAE Systems) a summary of BAE Systems' then most recent third-party audits or certifications, as applicable. The Customer acknowledges that any such documentation is BAE Systems' Confidential Information.

3.4 Upon the termination or expiry of the applicable Order, BAE Systems shall:

- (a) upon the Customer's request (provided such request is made with reasonable notice prior to the date of termination or expiry) deliver to the Customer an extract of the Customer Data then stored in the Services, using BAE Systems' standard format and delivery method; and
- (b) irretrievably destroy or render inaccessible all Customer Data stored in the Services as soon as reasonably practicable;

except to the extent that, and for such period as, BAE Systems is legally required to retain the Customer Data.

4 CUSTOMER RESPONSIBILITIES

32.1 The Customer represents, undertakes and warrants that:

- (a) all Customer Data has been and shall be collected and Processed by the Customer in accordance with applicable laws (including applicable Data Protection Laws);
- (b) its Processing of Customer Data does not and shall not infringe the rights (including intellectual property rights) of any third parties;
- (c) all Customer Data uploaded to the Services shall be compliant with any acceptable use policy set out or referenced in the relevant Order; and
- (d) without limitation to the foregoing, it shall:

- (i) take all steps necessary in order to ensure BAE Systems' Processing of the Customer Data on behalf of the Customer, as required by the applicable Order, can be carried out lawfully; and
- (ii) obtain all consents, permissions and licences from any third parties required to Process the Customer Data in connection with the Services, and shall ensure that all such consents, permissions and licenses cover BAE Systems' Processing of the Customer Data.

- 32.2 If BAE Systems reasonably believes that any Customer Data does not comply with the Customer's representations, undertakings and warranties set out at paragraph 4.1, BAE Systems may, without prejudice to any other rights and remedies, remove the relevant Customer Data from the Services and/or suspend the Services until the potential violation is resolved.
- 32.3 The Customer shall defend, indemnify and hold BAE Systems harmless against any and all losses, damages, costs and expenses (including reasonable legal fees) arising out of or relating to third party claims that result from the Customer's breach of paragraph 4.1.
- 32.4 The Customer shall be responsible for ensuring the accuracy and completeness of all Customer Data, and BAE Systems shall be entitled to rely on same as being accurate and complete without seeking to verify it, unless otherwise agreed in an Order.
- 32.5 The Customer shall be responsible for reconstituting Customer Data in the event of any corruption or deletion. BAE Systems shall not be responsible for the backup and/or reconstitution of any Customer Data unless otherwise agreed in the applicable Order.

33 CUSTOMER PERSONAL DATA

- 33.1 Where BAE Systems Processes Customer Personal Data in the provision of the Services it shall do so only on the documented instructions of the Customer (including with regard to the transfer of Customer Personal Data to other countries) which documented instructions shall include this Agreement and each applicable Order in relation to the Processing referred to therein, unless Processing is otherwise required by law, in which case BAE Systems shall inform the Customer of that legal requirement before such Processing, unless that law prohibits such information on important grounds of public interest.
- 33.2 In relation to the Processing of Customer Personal Data in the provision of the Services, the subject matter and duration of the Processing, the nature and purpose of the Processing, the type of Personal Data and the categories of Data Subjects, and the obligations and rights of the Customer as a Controller, shall be set out in a **data processing schedule** to each applicable Order.
- 33.3 BAE Systems shall ensure that persons authorised to Process Customer Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.
- 33.4 BAE Systems will be generally authorised to engage Sub-processors to Process the Customer Personal Data, subject to BAE Systems imposing by way of contract the same data protection obligations on the Sub-Processor as are imposed on BAE Systems under this Data Processing Annex.
- 33.5 BAE Systems shall promptly notify the Customer of any communication from a Data Subject regarding the Processing of Customer Personal Data, or any other communication relating to the Customer's obligations under applicable Data Protection Laws in respect of Customer Personal Data and, taking into account the nature of the Processing, assist the Customer by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Customer's obligation to respond to requests for exercising the Data Subject's rights laid down in applicable Data Protection Laws.
- 33.6 BAE Systems shall notify the Customer without undue delay of any Personal Data Breach of Customer Personal Data of which it becomes aware, and shall assist the Customer with its obligations pursuant to applicable Data Protection Laws, taking into account the nature of the Processing and information available to BAE Systems.

- 33.7 BAE Systems shall cease Processing the Customer Personal Data upon the termination or expiry of the applicable Order in accordance with paragraph 3.4 above.
- 33.8 BAE Systems shall make available to the Customer on request all information necessary to demonstrate compliance with this paragraph 5 (Customer Personal Data), and shall allow for and contribute to audits, including inspections, by the Customer or an auditor mandated by the Customer (not being a competitor of BAE Systems).
- 33.9 BAE Systems shall immediately inform the Customer if, in its opinion, an instruction infringes applicable Data Protection Laws.
- 33.10 Where BAE Systems as a Processor transfers Customer Personal Data to which the GDPR applies from the EEA, or a Third Country which ensures an adequate level of data protection (as determined by the European Commission), to a Sub-processor in a Third Country that does not ensure an adequate level of data protection, BAE Systems (as "data exporter") shall complete and enter into the Processor to Processor Standard Contractual Clauses with each Sub-processor.
- 33.11 Where BAE Systems as a Processor transfers Customer Personal Data to which the UK GDPR applies from the UK or a country which ensures an adequate level of data protection (as determined by the UK Information Commissioner), to a Sub-processor in a country which does not ensure an adequate level of data protection, then to the extent that it does not already do so pursuant to Article 28(4) of the UK GDPR, BAE Systems shall ensure that its sub-contract with the Sub-processor shall impose obligations on the Sub-processor equivalent to those imposed on the data importer under the Controller to Processor version of the UK SCCs, thereby ensuring an adequate level of data protection for the Customer Personal Data.

PROFESSIONAL SERVICES ANNEX

The provisions of this Annex apply to any Orders for professional services (where indicated in the Order).

1 LICENCE

- 1.1 Subject to the terms of this Agreement and the relevant Orders, each Order for professional services shall grant to the Customer a non-exclusive, worldwide, perpetual, non-transferable, non-assignable, non-sublicensable (except as permitted in paragraph 1.2 below) licence to use the Deliverables solely for its internal business purposes.
- 1.2 Subject to the terms of this Agreement, the Customer may copy, and/or create derivative works based on, the Deliverables and distribute to the Customer's Affiliates, solely for their internal business purposes only.
- 1.3 The rights granted under paragraph 1.2 above are expressly conditioned upon the Customer:
 - (a) ensuring any copies bear all such copyright or other proprietary notices as are affixed to the original; and
 - (b) being responsible for its Affiliates' compliance with the terms and conditions of this Agreement and the Order.

2 ACCEPTANCE

- 2.1 Acceptance of the Deliverables will be based on the acceptance criteria and/or process set out in the Order. In the absence of any acceptance criteria and/or process, acceptance will be deemed if BAE Systems has not received any reasonable written objection from the Customer that the Deliverables are materially non-compliant with the requirements of the Order, with a specific list of such failures, within seven days of delivery. If the Customer rejects the Deliverables in accordance with the foregoing, BAE Systems shall correct such failures in a reasonable period and resubmit for acceptance in accordance with this paragraph.
- 2.2 Notwithstanding the presence of any acceptance criteria and/or process or the raising of any objection, the Deliverables shall nevertheless be deemed accepted upon any use of the Deliverables in a live or operational environment or manner otherwise consistent with acceptance of such Deliverables.

3 PERSONNEL

- 3.1 BAE Systems' personnel shall, when working on the Customer's premises, conform to the Customer's reasonable general working policies and procedures, provided that BAE Systems has received reasonable notice of such policies and procedures prior to the personnel entering the premises. Where such policies or procedures materially affect the cost or performance of the Services or other obligations of BAE Systems and are presented to BAE Systems after execution of an Order, BAE Systems adherence to such policies and procedures shall be subject to mutual agreement and may be subject to additional charge.
- 3.2 In the event that official advice warns against travel to or around a location where BAE Systems' personnel are due to travel pursuant to any Order, any additional costs to ensure appropriate insurance will be charged to the Customer and BAE Systems reserves the right, without liability on its part, to repatriate any personnel who are already in that location and to postpone performance of the Services to a later date to be agreed by both Parties, and any associated delivery timescales shall be adjusted accordingly.
- 3.3 Neither Party shall during the Term of any Order and for a period of six months following its termination or expiry, either on its own account (through its employees or agents or otherwise) or on behalf of any other person or organization and other than by general advertising solicit, procure or entice away (or, in each case, attempt so to do), either directly or indirectly, the services of any person who is or was employed or engaged by the other Party in the provision of the Services without the prior written consent of that Party, such consent not to be unreasonably withheld.

CYBER SECURITY TESTING SERVICES ANNEX

The provisions of this Annex apply to any Orders for Cyber Security Testing Services (where indicated on the Order), in addition to the terms of the Professional Services Annex, where “**Cyber Security Testing Services**” means any Services for cyber security scanning, testing, vulnerability assessment, forensics or similar Services, including without limitation all such tasks and tests reasonably contemplated by or reasonably necessary to perform such Services and any other actions taken at the Customer’s direction in relation to the same.

1 AUTHORISATION

- 1.1 The Customer authorises BAE Systems to perform the Cyber Security Testing Services to achieve the objectives of the Cyber Security Testing Services as specified in, or agreed in accordance with, the Order.
- 1.2 The Customer undertakes that, if the Customer does not own the network resources or computer systems that are the subject of the Cyber Security Testing Services, it shall obtain consent and authorisation from the applicable third parties, prior to the commencement of the Cyber Security Testing Services, to permit BAE Systems to provide the Cyber Security Testing Services on such third parties’ network resources.
- 1.3 The Customer acknowledges that the absence of any consents, authorisations permissions and/or licences which the Customer is required to obtain pursuant to this Agreement in respect of the Cyber Security Testing Services may cause the Customer or BAE Systems to attract liability from third parties.
- 1.4 At the Customer’s expense, and subject as herein provided, the Customer shall defend, indemnify and hold BAE Systems and its Affiliates (and their respective directors, officers, employees, contractors and agents) harmless against any and all losses, damages, costs and expenses (including reasonable legal fees) arising out of or relating to third party claims resulting from BAE Systems performance of the Cyber Security Testing Services, provided that BAE Systems has performed the Cyber Security Testing Services in accordance with the objectives of the Cyber Security Testing Services as specified in, or agreed in accordance with, the Order.

2 DISCLAIMER

- 2.1 The Customer accepts that there are inherent risks associated with the provision of Cyber Security Testing Services which may result in adverse consequences including without limitation: systems downtime, loss of business, connectivity loss, service interruptions, degradation of bandwidth, systems loss and crashes, and information and access loss.
- 2.2 TO THE FULLEST EXTENT PERMITTED BY LAW, BAE SYSTEMS EXCLUDES ALL LIABILITY, REGARDLESS OF WHETHER LIABILITY IS BASED ON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, BREACH OF WARRANTY OR ANY OTHER LEGAL THEORY, FOR ANY LOSS OR DAMAGE ARISING FROM OR RELATED TO THE PERFORMANCE BY BAE SYSTEMS OF THE CYBER SECURITY TESTING SERVICES PROVIDED THAT BAE SYSTEMS HAS PERFORMED THE CYBER SECURITY TESTING SERVICES IN ACCORDANCE WITH THE OBJECTIVES OF THE CYBER SECURITY TESTING SERVICES AS SPECIFIED IN, OR AGREED IN ACCORDANCE WITH, THE APPLICABLE ORDER.

3 CUSTOMER RESPONSIBILITIES

- 3.1 The Customer shall:
 - (a) be responsible for backing-up its own networks and data prior to the commencement of the Cyber Security Testing Services, and ensuring the backup and independent resilience of any other data and networks which are dependent upon the Customer’s networks and data;
 - (b) immediately notify BAE Systems of any matters which may affect or be affected by the Cyber Security Testing Services, including without limitation any known system defects, sensitive data or data for which a back-up and disaster recovery process has not been implemented; and

- (c) be responsible for restoring its network and computer systems to a secure configuration after the completion of the Cyber Security Testing Services.

COMPLIANCE ADVISORY SERVICES ANNEX

The provisions of this Annex apply to any Orders for Compliance Advisory Services (where indicated on the Order), in addition to the terms of the Professional Services Annex, where "**Compliance Advisory Services**" means any Services for advisory, auditing, testing or assessment regarding compliance with legal, regulatory or industry standards.

1 ADVICE STATUS

- 1.1 The Customer agrees that, although the Compliance Advisory Services may discuss or relate to legal issues:
 - (a) BAE Systems does not provide legal advice or services and as a result none of such Compliance Advisory Services shall be deemed, construed as or constitute legal advice;
 - (b) any Deliverables or advice provided by BAE Systems shall not be deemed to be legal opinions and may not and should not be relied upon as proof, evidence or any guarantee or assurance as to the Customer's legal or regulatory compliance; and
 - (c) the Customer is ultimately responsible for retaining its own legal counsel to provide legal advice.
- 1.2 The Customer agrees that the Deliverables or advice provided by BAE Systems do not guarantee that the relevant standard certification body or regulator will conclude the same result. The Customer also agrees that BAE Systems is not responsible for updating its Deliverables or advice in light of changes to the relevant standards or changes to the Customer's systems, networks and assets, or for enquiring as to the occurrence or absence of such changes, after the date that BAE Systems issues its final Deliverable to the Customer.

ORDER FOR PROFESSIONAL SERVICES (TIME & MATERIALS)

Order reference:	
Date:	

Customer:	BAE Systems:
[Customer legal entity name] a company registered in [country] with registered number [number] whose registered office is at [address]	BAE Systems (Operations) Ltd t/a Techmodal a company registered in England and Wales with registered number 01996687 whose registered office is at Victory Point, Lyon Way, Frimley, Camberley, Surrey, England, GU16 7EX
Background:	
This Order is issued in accordance with and subject to the Master Framework Agreement (the " Agreement ") between BAE Systems and the Customer made on [insert date]. Any capitalised terms not defined herein shall have the meaning given in the Agreement.	
Applicable Annexes	
The Parties agree that the following Annexes to the Agreement will apply to this Order (and in the event of any inconsistency between any of the provisions of the Annexes, the following order of precedence will apply): • [Cyber Security Testing Services Annex] • [Compliance Advisory Services Annex] • Professional Services Annex • [Data Processing Annex – attach if any personal data will be processed]	
Agreed for and on behalf of the Customer:	Agreed for and on behalf of BAE Systems:
Name: Title: Signature:	Name: Title: Signature:

STATEMENT OF WORK

1 DEFINITIONS

1.1 The following definitions apply in this Statement of Work:

Working Day: a day other than a weekend or public/federal holiday (and, in the case of the USA, the day after Thanksgiving) in the location/time-zone specified on the Order (or the location from which BAE Systems provides the Services, if not specified).

Working Hours: an 7.5 hour work period between the hours of 0830-1730 on Working Days.

2 BACKGROUND

2.1 The Customer...[insert details of customer's problem]

2.2 As a result the Customer has initiated a programme to [outline overall programme of work being undertaken by the customer]

2.3 In support of this programme, the Customer has engaged BAE Systems to [insert summary description of services], as set out in this Order (the "Project").

2.4 The following are explicitly excluded from the scope of this Order. If the Customer requests that BAE Systems provides these services, this will be the subject of a future agreement(s) to be mutually agreed between the Parties:

(a) [key exclusion];

(b) [key exclusion]; and

(c) [any ongoing warranty, support or maintenance of any of the Deliverables or outputs produced under this Order].

3 SERVICES

3.1 BAE Systems shall provide the resources set out in the 'Resources' section below to work under the direction of the Customer's Project Manager.

3.2 The day-to-day activities of these resources are subject to agreement between the Parties' respective Project Managers through the Project Review Meetings. However, the Parties anticipate that the indicative activities of these resources may include:

(a) [insert indicative activity]

(b) [insert indicative activity]; and

(c) [insert indicative activity]

4 DELIVERABLES

4.1 There are no formal Deliverables under this Order. The only deliverables shall be timesheets confirming the time spent by the BAE Systems resources in providing the Services.

5 RESOURCES

5.1 BAE Systems proposes to perform the Services using the following resources (the "Resource Profile"):

Role	Start date	End date	Full time (FT) or part time (PT)?
[Insert role]	[Date]	[Date]	[FT / PT]

- 5.2 Any changes to the Resource Profile are subject to mutual agreement between Parties' respective Project Managers (email communication is acceptable), who shall review the Resource Profile as part of the Project Review Meetings subject to the following:
- (a) the Customer shall endeavour to provide BAE Systems with a minimum of two weeks' notice of request for new resources and/or increased loading;
 - (b) the Customer shall provide BAE Systems with a minimum of two weeks' notice for reductions in the number of resources and/or reduced loading; and
 - (c) BAE Systems shall endeavour to provide the Customer with a minimum of two weeks' notice for planned absences (for example due to annual leave).
- 5.3 BAE Systems shall use reasonable endeavours to provide an alternative resource as a result of any unplanned absences lasting longer than 5 Working Days (for example due to sickness or compassionate leave).
- 5.4 BAE Systems shall use reasonable endeavours to maintain continuity of resources but reserves the right to rotate resources in its discretion provided that:
- (a) it has given the Customer two weeks' notice of such rotations;
 - (b) the incoming resource has suitable skills and experience; and
 - (c) it provides, at its own cost, appropriate training and knowledge transfer for the incoming resource.
- 5.5 The Services are provided during Working Hours only, for a standard 8 hour working day with an hour break for lunch. Any requests for overtime or weekend working are subject to agreement by the BAE Systems Project Manager and shall be subject to additional charge as set out the 'Charges and Payment Plan' section below.

6 PROJECT PLAN

- 6.1 The Services will commence on the date mutually agreed between the Parties' respective Project Managers (the "**Services Start Date**") following execution of this Order. The Customer acknowledges that BAE Systems typically requires [2 weeks' following execution of the Order] to enable BAE Systems sufficient time to mobilise resources.
- 6.2 The Term of this Order will end on the last end date of the resources in the Resource Profile, as agreed in accordance with the 'Resources' section above.

7 DEPENDENCIES

- 7.1 The Customer shall provide BAE Systems with such cooperation, access and materials as it may reasonably require for the proper performance of the Services and within sufficient time to enable BAE Systems to perform the Services, including those dependencies set out below:

Ref	Dependency	Due Date
DEP01	The Customer shall provide access to relevant existing documentation, including, but not limited to: [Key document] [Key document]	Prior to the Services Start Date
DEP02	The Customer shall provide access to relevant key stakeholders and ensure their attendance at workshops and meetings upon reasonable notice by BAE Systems, including: [Stakeholder name] [Stakeholder name]	From Services Start Date and throughout

Ref	Dependency	Due Date
DEP03	The Customer shall provide access to and facilities within the Customer offices including: - Access cards to enter sites as visitors/contractors - Desk space with power for each of BAE Systems' resources - Meeting room space of sufficient size to run workshops - Internet access via Wi-Fi or cabled networks - Access to an on-site printer	From Services Start Date and throughout
DEP04	[etc]	
DEP05		

8 WORKING LOCATION

- 8.1 BAE Systems will deliver the Project from [insert locations] and during [UK] Working Hours

9 PROJECT GOVERNANCE

- 9.1 Each Party shall nominate a project manager ("**Project Manager**") who shall be responsible for day to day management of the Project and communication between the Parties. Each Party shall ensure that the Project Manager which it assigns is suitably qualified and experienced and shall use reasonable endeavours to maintain continuity of the Project Manager for the duration of the Project.
- 9.2 The BAE Systems Project Manager shall submit a progress report ("**Project Report**") to the Customer Project Manager on a weekly basis (or such frequency as may be agreed between the Project Managers).
- 9.3 The Parties' Project Managers shall hold weekly review meetings ("**Project Review Meetings**") to discuss the contents of the Project Report, review progress and agree any decisions regarding the day-to-day performance of the Services.
- 9.4 In the event that any day-to-day disputes regarding the Services, either Party may escalate to the first escalation level shown below. If the first escalation level is unable to agree on a suitable resolution within 5 Working Days either Party may escalate to the second escalation level for resolution within a further 10 Working Days.

Level	For BAE Systems	For the Customer
First level	[Role]	[Role]
Second level	[Role]	[Role]

- 9.5 Each Party agrees that it will not take any action or commence any proceedings against the other without first escalating through the process above. Notwithstanding the foregoing, nothing shall preclude either Party from applying to any court of competent jurisdiction for urgent conservatory, provisional or similar interlocutory relief that may be necessary to protect that Party's proprietary rights.

10 CHARGES AND PAYMENT PLAN

- 10.1 In consideration for providing the Services, the Customer shall pay BAE Systems on a time and materials basis using the daily rates shown below (rates shown exclude expenses):

Role	Estimated Days	Daily rate	Estimated Charges (excluding chargeable expenses)
[Insert role]	[Insert days]	[£xxx]	[£xxx]
[Insert role]	[Insert days]	[£xxx]	[£xxx]
Total estimated Charges (excluding chargeable expenses)			[£xxx]

10.2 In the event that BAE Systems' forecasts that the fees will exceed the estimate shown above the BAE Systems Project Manager shall inform the Customer Project Manager as soon as is reasonably practicable (email communication is acceptable). Provided BAE Systems has so notified the Customer, any additional effort shall continue to be charged at the applicable daily rate.

10.3 Any agreed overtime and/or weekend working shall be charged in hourly units (for full or part hours worked) as the pro-rated portion of the daily rates shown above subject to the following multipliers:

Overtime (on Working Days)	[150%]
Weekend (non-Working Days)	[200%]

10.4 Travel to and subsistence of BAE Systems personnel to Customer locations shall be charged in addition in accordance with the Agreement, up to an initial budget limit of **£10,000**.

10.5 Any travel and subsistence expenses above this limit, or any other reasonable expenses, will also be charged at cost subject to prior approval by the Customer's Project Manager.

10.6 The Charges and expenses shall be invoiced monthly in arrears, or upon completion of the Services, whichever is the sooner.

11 SPECIAL TERMS

None

ORDER FOR PROFESSIONAL SERVICES (FIXED PRICE)

Order reference:	
Date:	

Customer:	BAE Systems:
[Customer legal entity name] a company registered in [country] with registered number [number] whose registered office is at [address]	BAE Systems (Operations) Ltd t/a Techmodal a company registered in England and Wales with registered number 01996687 whose registered office is at Victory Point, Lyon Way, Frimley, Camberley, Surrey, England, GU16 7EX
Background:	
This Order is issued in accordance with and subject to the Master Framework Agreement (the " Agreement ") between BAE Systems and the Customer made on [insert date]. Any capitalised terms not defined herein shall have the meaning given in the Agreement.	
Applicable Annexes	
The Parties agree that the following Annexes to the Agreement will apply to this Order (and in the event of any inconsistency between any of the provisions of the Annexes, the following order of precedence will apply): • [Cyber Security Testing Services Annex] • [Compliance Advisory Services Annex] • Professional Services Annex • [Data Processing Annex – attach if any personal data will be processed]	
Agreed for and on behalf of the Customer:	Agreed for and on behalf of BAE Systems:
Name:	Name:
Title:	Title:
Signature:	Signature:

STATEMENT OF WORK

1 DEFINITIONS

1.1 The following definitions apply in this Statement of Work:

Working Day: a day other than a weekend or public/federal holiday (and, in the case of the USA, the day after Thanksgiving) in the location/time-zone specified on the Order (or the location from which BAE Systems provides the Services, if not specified).

Working Hours: an 7.5 hour work period between the hours of 0830-1730 on Working Days.

12 BACKGROUND

12.1 The Customer...[insert details of customer's problem]

12.2 As a result the Customer has initiated a programme to [outline overall programme of work being undertaken by the customer]

12.3 In support of this programme, the Customer has engaged BAE Systems to [insert summary description of services], as set out in this Order (the "Project").

12.4 The following are explicitly excluded from the scope of this Order. If the Customer requests that BAE Systems provides these services, this will be the subject of a future agreement(s) to be mutually agreed between the Parties:

- (a) [key exclusion];
- (b) [key exclusion]; and
- (c) [any ongoing warranty, support or maintenance of any of the Deliverables or outputs produced under this Order].

13 SERVICES

13.1 [Requirements analysis].

- (a) [BAE Systems will conduct an initial analysis phase with your nominated stakeholders to identify the key system requirements.]
- (b) BAE Systems shall provide Deliverable D1 as the output of this Service.

13.2 [Service title]

- (a) [Insert brief service description]
- (b) BAE Systems shall provide Deliverable D2 as the output of this Service.

13.3 [Service title]

- (a) [Insert brief service description]
- (b) BAE Systems shall provide Deliverable D3 as the output of this Service.

14 DELIVERABLES

14.1 BAE Systems shall provide the following Deliverables as the output of the Services:

Ref	Deliverable	Description	Format
[D1]	[Title]	[Description]	[Format]

14.2 The forecast delivery dates for these Deliverables are given in the Project Plan section below.

15 PROJECT PLAN

15.1 The Services will commence on the date mutually agreed between the Parties' respective Project Managers (the "**Services Start Date**") following execution of this Order. The Customer acknowledges that BAE Systems typically requires [2 weeks' following execution of the Order] to enable BAE Systems sufficient time to mobilise resources.

15.2 The Term of this Order will end upon acceptance of each and all of the Deliverables in accordance with the 'Acceptance' section below.

15.3 The expected timescales for the Services are shown in the project schedule shown below (the "**Project Schedule**").

[insert gantt chart / table]

15.4 Within the Project Schedule, the forecast delivery and acceptance dates for each of the Deliverables are as follows:

Ref	Deliverable	Forecast Delivery Date	Forecast Acceptance Date
[D1]	[Title]	[Description]	[Format]

16 DEPENDENCIES

16.1 The Customer shall provide BAE Systems with such cooperation, access and materials as it may reasonably require for the proper performance of the Services and within sufficient time to enable BAE Systems to perform the Services, including those dependencies set out below:

Ref	Dependency	Due Date
DEP01	The Customer shall provide access to relevant existing documentation, including, but not limited to: [Key document] [Key document]	Prior to the Services Start Date
DEP02	The Customer shall provide access to relevant key stakeholders and ensure their attendance at workshops and meetings upon reasonable notice by BAE Systems, including: [Stakeholder name] [Stakeholder name]	From Services Start Date and throughout
DEP03	The Customer shall, for each Deliverable and/or Service nominate and ensure the availability of a business representative empowered to provide direction and make decisions regarding the Service and accept the Deliverable on behalf of the Customer in accordance with the acceptance procedure set out in the 'Acceptance' section below (the " Business Owner ")	Within 5 Working Days of the Services Start Date
DEP04	The Customer shall nominate the reviewers for each Deliverable (up to a maximum of 3 reviewers per Deliverable unless otherwise agreed).	Within 5 Working Days of the Services Start Date

Ref	Dependency	Due Date
DEP05	The Customer shall provide access to and facilities within the Customer offices including: • Access cards to enter sites as visitors/contractors • Desk space with power for each of BAE Systems' resources • Meeting room space of sufficient size to run workshops • Internet access via Wi-Fi or cabled networks • Access to an on-site printer	From Services Start Date and throughout
DEP06	[etc]	
DEP07		

17 ACCEPTANCE

17.1 The process for acceptance of the Deliverables shall be as follows:

- (a) The Customer Project Manager shall identify in advance the nominated reviewers for the Deliverables and the Business Owner in accordance with the dependencies set out above.
- (b) The Business Owner shall coordinate the input of the nominated reviewers and, within 3 Working Days of issue of the Deliverable by BAE Systems, either confirm acceptance of the Deliverable or provide consolidated written feedback to the BAE Systems Project Manager.
- (c) The BAE Systems Project Manager shall respond with an updated Deliverable addressing any reasonable comments a reasonable period, and resubmit to the Business Owner for acceptance in accordance with this section.

17.2 In the event that the Customer does not provide written feedback or confirmation of acceptance in accordance with the timescales and process as set out above, the BAE Systems Project Manager shall escalate to the Customer Project Manager for resolution (email communication is acceptable). Provided BAE Systems has so escalated to the Customer Project Manager the Deliverable will be deemed accepted where no reasonable comments have been provided by the Customer within 3 Working Days following escalation.

18 WORKING LOCATION

18.1 BAE Systems will deliver the Project from [insert locations] and during [UK] Working Hours.

19 PROJECT GOVERNANCE

19.1 Each Party shall nominate a project manager ("**Project Manager**") who shall be responsible for day to day management of the Project and communication between the Parties. Each Party shall ensure that the Project Manager which it assigns is suitably qualified and experienced and shall use reasonable endeavours to maintain continuity of the Project Manager for the duration of the Project.

19.2 The BAE Systems Project Manager shall submit a progress report ("**Project Report**") to the Customer Project Manager on a weekly basis (or such frequency as may be agreed between the Project Managers).

19.3 The Parties' Project Managers shall hold weekly review meetings ("**Project Review Meetings**") to discuss the contents of the Project Report, review progress and agree any decisions regarding the day-to-day performance of the Services.

19.4 In the event that any day-to-day disputes regarding the Services, either Party may escalate to the first escalation level shown below. If the first escalation level is unable to agree on a suitable resolution within

5 Working Days either Party may escalate to the second escalation level for resolution within a further 10 Working Days.

Level	For BAE Systems	For the Customer
First level	[Role]	[Role]
Second level	[Role]	[Role]

- 19.5 Each Party agrees that it will not take any action or commence any proceedings against the other without first escalating through the process above. Notwithstanding the foregoing, nothing shall preclude either Party from applying to any court of competent jurisdiction for urgent conservatory, provisional or similar interlocutory relief that may be necessary to protect that Party's proprietary rights.

20 CHARGES AND PAYMENT PLAN

- 20.1 In consideration for providing the Services, the Customer shall pay BAE Systems the fixed price of [£xxx] plus any chargeable expenses as set out below.

- 20.2 The Charges shall be invoiced according to the following payment profile:

Milestone name	Deliverables / Criteria	Date	Amount
[Name]	[Deliverable]	[Date]	[£xxx]
[Name]	[Deliverable]	[Date]	[£xxx]
[Name]	[Deliverable]	[Date]	[£xxx]
		TOTAL	[£xxx]

21 SPECIAL TERMS

None

DATA PROCESSING SCHEDULE

1 SUBJECT MATTER AND DURATION OF PROCESSING

The subject matter and duration of the Processing of the Customer Personal Data are set out in the Order.

2 NATURE AND PURPOSE OF PROCESSING

The nature and purpose of the Processing of the Customer Personal Data are set out in the Order.

3 CATEGORIES OF DATA SUBJECT

The Customer Personal Data may include Personal Data relating to Customer's current, former, and prospective staff, applicants, shareholders, officers and directors and contacts at current, former, and prospective suppliers and customers of Customer, and their respective next of kin and dependents.

4 TYPES OF CUSTOMER PERSONAL DATA TO BE PROCESSED

The types of Customer Personal Data to be processed may include:

- name, address, title, preferred salutation, telephone number, email address, social media username or alias and other contact information;
- occupation, employer, employment status, job titles, employee number and other occupation related data;
- [for Orders involving 'open source intelligence' – delete if not applicable] date of birth, place of birth, gender, marital status, financial dependants, languages spoken, lifestyle, hobbies and interests, and other background data and relationship management information;
- instant message or live chat logs;
- meeting, telephone or attendance notes, emails, letters or other data relating to communications, calls and meetings;
- on-going monitoring data in connection with compliance, fraud prevention and security, including CCTV footage, system and building login and access records, keystroke, download and print records, voice recordings (including of telephone calls), and data caught by IT security programmes and filters;
- network username, IP address, browser generated information, device information, geo-location markers and other digital identifiers used for authentication, tracking, profiling or location purposes; and
- other metadata relating to the use of BAE Systems products and services.

The Parties do not anticipate that the Processing will include any Special Categories of Personal Data but the Processing may include the Processing of certain Special Categories of Personal Data where necessary and in accordance with applicable data protection laws.

5 OBLIGATIONS AND RIGHTS OF CUSTOMER:

The obligations and rights of Customer in respect of the Processing of the Customer Personal Data are set out in the Order.

6 TECHNICAL AND ORGANISATIONAL MEASURES

[As set out in the Agreement] / [As described in BAE Systems Security Policy, as may be updated from time to time without materially decreasing the security of the Services] / [Insert details of any agreed customer-specific security policies]