

PROJECT OVERVIEW AND STATEMENT OF REQUIREMENTS

1. INTRODUCTION

1.1 This Request for Tender (**RFT**) is part of the Competitive Evaluation Process (**CEP**) for the SEA 5000 Phase 1 Project (**Project**).

1.2 The objectives of the Project (**Project Objectives**) are to:

- a. deliver nine Anti-Submarine Warfare Frigates (**Ships**) based on a Military-Off-The-Shelf design with Minimum Change;
- b. contribute to a Continuous Naval Shipbuilding industry in Australia;
- c. maximise Australian Industry Capability;
- d. commence construction in Adelaide in 2020; and
- e. establish commercial arrangements that are affordable to the Commonwealth of Australia (**Commonwealth**) taking into account the price and payment arrangements, price certainty and the allocation of risk,

in a manner that achieves overall value for money for the Commonwealth.

1.3 This RFT seeks to establish a long term relationship with a Tenderer so as to assist the Commonwealth to achieve the Project Objectives in the most efficient, effective and innovative manner and encouraging collaborative behaviours. This RFT represents an opportunity for a Tenderer to take a leading role in the naval shipbuilding industry in Australia and to create and be part of a continuing legacy for the industry.

1.4 This document provides a high-level summary of:

- a. the structure of this RFT;
- b. the Project Objectives;
- c. the key assumptions that Tenderers should make in responding to this RFT;
- d. the contracting structure and pricing models; and
- e. the Statement of Requirements which outlines the Commonwealth's core requirements for the Project.

1.5 This document is not intended to be, and should not be relied upon as, a complete summary of this RFT. The Tenderer is responsible for examining the whole of this RFT and obtaining relevant information in respect of any risks having an effect on its tender.

2. RFT OVERVIEW

2.1 RFT Structure

2.1.1 This RFT has been prepared using a highly tailored ASDEFCON (Strategic Materiel) template which is part of the Australian Standard for Defence Contracting (ASDEFCON) suite of tendering and contracting templates.

2.1.2 This RFT consists of the following Parts:

PART 1	PART 2	PART 3
Project Overview And Statement of Requirements	Conditions of Tender Tender Data Requirements List (TDRL)	Draft Head Contract: <ul style="list-style-type: none"> • draft Conditions of Contract; and • draft attachments to the Conditions of Contract

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2.2 RFT Process

2.2.1 Tenderers should refer to the Conditions of Tender for details of:

- a. the information to be included in their tenders;
- b. the timing and process for the submission of tenders;
- c. the evaluation process, under which the tender evaluation criteria will be utilised to determine the Tenderer that will best support the achievement of the Project Objectives on a value for money basis; and
- d. any other activities that may be conducted as part of the RFT process. This may involve contract development activities (e.g. including the development of Statement(s) of Work for the Head Contract) and contract negotiations with one or more Tenderers.

2.2.2 The Tenderer should also refer to Annex A to the TDRL which sets out a Tender Checklist listing the Tender deliverables required by the RFT and provides the Tenderer with page count guidance for some deliverables.

2.2.3 The Conditions of Tender also set out the relationship between documentation provided under the Participant Services Contract and the documentation to be provided as part of any response to this RFT.

2.3 RFT Approach

2.3.1 This document outlines the Commonwealth's approach to the achievement of the Project Objectives, including the Commonwealth's contracting structure, pricing models and a high level Statement of Requirements.

2.3.2 This RFT seeks to draw on the skills, experience and expertise of Tenderers to develop an optimum solution to support the achievement of the Project Objectives. In particular the Tenderer is invited to respond to questions about how it would support the achievement of the Project Objectives and detail their technical approach to undertaking the work described in the Statement of Requirements. These questions are in the Annexes to the TDRL.

2.3.3 The Commonwealth will not be providing a Statement of Work of the type that would normally form Attachment A to the Conditions of Contract. If the Tenderer is selected as a preferred Tenderer following tender evaluation, the Commonwealth and the Tenderer will develop the Statement(s) of Work to be included in the Head Contract at contract execution. Subsequent Statements of Work will be included over time as Scope is added to the Head Contract (see clause 6.5 for further detail).

3. PROJECT OBJECTIVES

3.1 Delivery of Nine Anti-Submarine Warfare Frigates

3.1.1 The Commonwealth is seeking the delivery of nine Ships that:

- a. are based on a Military-Off-The-Shelf design with Minimum Change to reflect the Commonwealth's requirements and that is capable of evolving over time to respond to the Commonwealth's changing capability requirements and to manage materiel obsolescence;
- b. meet the requirements of the contracted Mission System Specification and the Commonwealth's capability requirements;
- c. are designed and built in accordance with a design development process, shipbuilding strategy, production program and other project management arrangements that represent an acceptable risk having regard to the other Project Objectives; and
- d. are supported by a mature Integrated Logistics Support program that will ensure that the Commonwealth's capability outcomes can be achieved.

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3.1.2 The Commonwealth is seeking tenders that are based on the Tenderer's Reference Ship Design as modified in accordance with the Participant Services Contract (see clause 2.2.2 of the Participant Services Contract) and are otherwise consistent with the Project Objective relating to Minimum Change.

3.1.3 The Commonwealth is cognisant of the risk of workforce and other resource conflicts between a series of Commonwealth projects at the Adelaide shipyard, including Air Warfare Destroyer and Offshore Patrol Vessels. The Commonwealth is seeking to minimise the impact of this Project on the completion of other projects.

3.2 Contribute to Continuous Naval Shipbuilding in Australia

3.2.1 The Commonwealth's intention is that the Project will contribute to the development and sustainment of a Continuous Naval Shipbuilding industry in Australia for the purpose of long term continuous builds of surface warships in Australia. The Tenderer should consider, for the purposes of the RFT, the following Continuous Naval Shipbuilding aims:

- a. **Continuous build.** The Commonwealth will maintain demand for naval shipbuilding in Australia, initially until approximately 2035 with the construction of Offshore Patrol Vessels and the nine Ships. In the absence of an export market for Australian ships, further programs will need to be initiated and supported by the Commonwealth after 2035. The sustainment and major upgrades of Australia's fleet must also be considered alongside the build activity.
- b. **Build and sustain shipbuilding capability.** The Commonwealth seeks a tendered solution that will contribute to developing and sustaining shipbuilding capability in Australia, including:
 - (i) the people, infrastructure, processes and tools to enable design, construction, integration, installation, testing and delivery in Australia;
 - (ii) the ability for the Commonwealth and Commonwealth contractors to use the Tenderer's shipbuilding strategy, processes and tools developed during the Project in other projects; and
 - (iii) the ability for the Tenderer's shipbuilding strategy, processes and tools to work together with Commonwealth supplied infrastructure and tools.
- c. **Workforce.** The Commonwealth seeks a tendered solution that will sustainably utilise Australian industry including workforce, service providers, and supply chain.
- d. **Build Performance.** The Commonwealth seeks a tendered solution that will achieve continuous improvement over time to increase productivity of building naval ships in Australia, including:
 - (i) achieving and measuring learning curve improvements and develop in-build productivity throughout the duration of the build with the aim of reducing the cost premium of shipbuilding in Australia (RAND Corporation, *Australia's Naval Shipbuilding Enterprise: Preparing for the 21st Century*, 2015) within the constraints of the shipbuilding drumbeat as described in clause 4.3a) below; and
 - (ii) contributing skills and experience to ensure the shipyard is modernised on an ongoing basis to reflect the latest developments in shipbuilding processes and systems.
- e. **Ownership of critical infrastructure.** The Commonwealth will retain ownership of critical infrastructure in Adelaide, and encourage future investment in facilities and research and development to ensure that Australian shipyards and supply chains can support Australia's naval shipbuilding industry.

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3.3 Maximising Australian Industry Capability

- 3.3.1 The Commonwealth is seeking to maximise Australian industry capability to support and complement the Continuous Naval Shipbuilding industry. The Head Contract provides an opportunity to lead the growth and development of an Australian industrial base, including the shipbuilding workforce and supply chain. The Commonwealth's intention is to maximise Australian Industry Capability over the expected duration of the Head Contract in an innovative and economically optimised manner, without unduly compromising affordability, and still ensuring consistency with the Project Objective relating to Minimum Change.

3.4 Commencement of Construction in Adelaide in 2020

- 3.4.1 The Commonwealth requires the Project to achieve the Commonwealth's schedule requirements, including Commencement of Prototyping Activities in Adelaide in 2020.
- 3.4.2 The Commonwealth is seeking to prove ship production processes and workforce readiness through the Commencement of Prototyping Activities in Adelaide in 2020. This production system prototyping is expected to provide increased certainty that the shipyard facilities, production systems and processes, workforce and supply chain are fully capable prior to the Commencement of Ship Construction within 24 months of Commencement of Prototyping Activities. The prototyping activities also provide an opportunity for the parties to refine project and contract management activities, such as scheduling and cost estimation and reconciliation.

3.5 Affordability

- 3.5.1 The Commonwealth requires the Project to:
- establish commercial arrangements that remain within the budgetary constraints for the Project, taking into account the pricing and payment arrangements, price certainty, and the constraints on the Commonwealth to vary its financial expenditure;
 - enter into a contract on contract terms acceptable to the Commonwealth; and
 - represent an acceptable level of commercial, legal and financial risk for the Commonwealth, including taking into account the proposed allocation of risk and liability.

4. KEY ASSUMPTIONS

- 4.1 As at the date of issue of this RFT, there are a number of matters relating to the Project that have not been finally determined or remain subject to change. Accordingly, the Commonwealth has set out below a number of assumptions that Tenderers should rely upon for the purpose of preparing their tenders.
- 4.2 Tenderers should note that these assumptions are subject to change and do not necessarily represent the Commonwealth's final view or position on these matters. The Commonwealth may seek clarification or revised tenders from a Tenderer if the underlying basis of any of the following assumptions changes.
- 4.3 Tenderers may identify an assumption that they consider is not (or is unlikely to be) correct. Tenders may also include suggested changes to the assumptions if they consider including such changes would better achieve the Project Objectives. The Annexes to the TDRL also specifically seek information or views from the Tenderers in relation to the matters the subject of these assumptions. However, Tenderers should in any event submit a tender based on these assumptions.

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a) Drumbeat	<p>The Ships are to be built at a "drumbeat" or rate of two years (i.e. 24 months between the start of construction of each ship). This drumbeat is based on RAND's estimates of the rate that should sustain a healthy and cost-effective shipbuilding industrial base (RAND Corporation, <i>Australia's Naval Shipbuilding Enterprise: Preparing for the 21st Century</i>, 2015).</p>
b) Shipyard	<p>The successful Tenderer will be provided access to a shipyard and associated infrastructure as reflected the Facilities Assumptions Document at Appendix A to Annex G to the TDRL. The Commonwealth will provide Tenderers with any updates to the Facilities Assumptions Document during this procurement process following the Closing Time, on an ongoing basis.</p> <p>The shipyard and associated infrastructure will be Government Furnished Facilities for the purposes of the Head Contract and the Commonwealth will provide access in accordance with the draft Head Contract.</p> <p>The successful Tenderer will have responsibility for the operation of the shipyard. This includes scheduling the use of facilities and infrastructure by it and the contractors engaged on other Commonwealth shipbuilding projects using the shipyard and associated infrastructure. The successful Tenderer will be required to manage the operation of the shipyard in accordance with the Commonwealth's directions, including as to priorities and scheduling.</p> <p>The successful Tenderer will be a party to a Principals Council (see clause 2.7 of the draft Conditions of Contract) that will have responsibility for resolving any conflicts regarding use and operation of the shipyard.</p>
c) Ship batches	<p>Due to the duration of the Project, the design and configuration of the Ships may change over time, as required by the Commonwealth, including in relation to function and performance requirements.</p> <p>The Ships will be built in a number of batches, with each batch consisting of Ships with the same functional baseline. Tenderers should assume there will be three batches, with three Ships in each batch.</p>

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d) Responsibility for shipbuilding workforce	<p>The successful Tenderer will not be directed to utilise any particular shipbuilding workforce or engage any particular provider of shipbuilding services. In particular, the Commonwealth is not mandating that the successful Tenderer use the workforce of ASC Shipbuilding Pty Ltd currently working on the AWD Program.</p> <p>The Commonwealth has selected the Tenderers on the basis of their Reference Ship Designs and their ability to undertake both the design and build of the Ships. The Commonwealth's intention is that the successful Tenderer will (itself or through its Related Bodies Corporate) directly manage and supervise the workforce undertaking shipbuilding work. The responsibility for build management and supervision should not be subcontracted in its entirety to a third party entity.</p>
e) Combat Management System	<p>The Commonwealth will select a Combat Management System, which will be either:</p> <ul style="list-style-type: none"> • a Combat Management System based on the Saab 9LV system currently used in the ANZAC Class Frigates, modified to incorporate an Aegis fire control system; or • a US Aegis Combat Management System based on the version currently being used in the Air Warfare Destroyers. <p>The Commonwealth's selection of a Combat Management System will occur after submission of tenders. Tenderers should assume that the selected Combat Management System will be as provided in the data pack during the Concept Design phase of the Participant Services Contract, and represents the most complex physical integration into the platform.</p> <p>Although Tenderers should assume the Combat Management System will be provided by the Commonwealth as Mandated Government Furnished Material (GFM) in accordance with the Head Contract, as mentioned below, the successful Tenderer will be responsible for delivering an integrated Combat System with the platform.</p>
f) Procurement Schedule	<p>The Commonwealth is currently planning to identify a successful Tenderer in April 2018. Tenderers should assume the Effective Date of the Head Contract will be mid 2018.</p>

5. COMMERCIAL OVERVIEW

5.1 Contracting Structure

5.1.1 **Head Contract.** The Commonwealth is seeking to enter into a Head Contract with a single prime contractor responsible for the design, construction, integration, installation, testing and delivery of the Ships and associated Supplies as reflected in the draft Head Contract at Part 3 of this RFT. The successful Tenderer will be responsible for:

- the detailed design of the Ships, the Support System and associated Supplies;
- the planning, establishment and operation of the ship production arrangements (other than the GFF);
- the procurement of all required materials (other than GFM);

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- d. the construction, integration, installation, testing and delivery of the Ships and associated Supplies, including the integration of the Combat System; and
- e. the performance of the Ships (including the Combat System) and associated Supplies, (other than performance issues caused by any Commonwealth Mandated GFM or Commonwealth Default),

in accordance with the contracted specifications, all applicable laws and good industry practice in the naval shipbuilding industry.

5.1.2 **Scope of Work.** The Head Contract will allow for and manage the inclusion of the required Statements of Work as set out in clause 6.5.

5.1.3 **Subcontractors:** As prime contractor, the successful Tenderer will be fully responsible for its workforce and Subcontractors (including any Combat System Integrator). Given the experience and capability of the Tenderers, the successful Tenderer (or its Related Bodies Corporate) should directly undertake the core design work relating to the Ships and the management and supervision of build activities. The Commonwealth's expectation is that this work should not be subcontracted in its entirety by the successful Tenderer. The Commonwealth may mandate particular major suppliers to be engaged as Mandated Subcontractors. The Commonwealth may also require that it be involved in negotiations between the successful Tenderer and certain major suppliers.

5.1.4 **Commonwealth's role:** The Commonwealth will work collaboratively with the successful Tenderer in relation to the performance of the work under the Head Contract. The Commonwealth (and its contractors) will also:

- a. maintain a project office dedicated to the Project;
- b. be involved in the strategic governance arrangements under the Head Contract;
- c. be involved in the design development process (Tenderers should propose the level of involvement in their responses to Annex F to the TDRL);
- d. review and approve documentation;
- e. provide GFM and access to the shipyard infrastructure; and
- f. have other rights and remedies, including to issue Commonwealth Directions, step-in, stop payment, reduce scope or terminate the Head Contract in default situations.

5.2 Financial Overview

5.2.1 **Pricing Models.** The Head Contract will utilise a range of pricing mechanisms, with the pricing models to be used for the differing Scopes under the Head Contract summarised in the table below and detailed in Annex D to the TDRL. The Commonwealth has provided Pricing Rules and Allowable Costs applicable to the Head Contract in Annex D to the TDRL.

Pricing Model	Scope of work to which model is likely to be applied	Rationale
Cost-Plus Fixed Fee Model	Master Design and Productionisation, including prototyping activities	Commonwealth aim COST MANAGEMENT Considerations The high level of uncertainty in respect to combat system integration and productionisation
Target Cost Incentive Model	Build Scopes	Commonwealth aim COST CONTAINMENT AND COST IMPROVEMENT Considerations The medium level of uncertainty balanced by the Contractor's knowledge and experience

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Pricing Model	Scope of work to which model is likely to be applied	Rationale
Fixed Price Model	Alternative Model for Build Scopes with high degree of cost certainty (for example the final batch with only minor changes from the previous batch)	Commonwealth aim COST ASSURANCE Considerations The high certainty in determining costs due to known repeatable work packages and performance assuming few design changes

5.2.2 **Tenderer's Pricing Response.** The Commonwealth requests each Tenderer submit the following in accordance with Annex D to the TDRL:

- a. pricing for the initial Scope to be included in the Head Contract at execution; and
- b. budgetary estimates for the remainder of the Tenderer's proposed Scope under the Head Contract. The budgetary estimates will be included in the Head Contract at execution and this will form the basis for determining the pricing arrangements (including any Target Cost Estimate) for each Build Scope as it is added to the Head Contract.

5.2.3 **Open Book.** The Contractor must provide full pricing transparency and open book accounting in relation to its pricing under any pricing model.

5.2.4 **Cost-Plus Fixed Fee.** Under this model, the Commonwealth will reimburse the Contractor (monthly in arrears) for all Allowable Costs incurred in undertaking the relevant Scope in accordance with the agreed budgetary estimate. The successful Tenderer will be entitled to a Fixed Fee established at Head Contract execution and calculated in accordance with the relevant Pricing Rules. The Fixed Fee will be paid to the successful Tenderer against agreed Milestones and be moderated in accordance with performance against the Milestone schedule.

5.2.5 **Target Cost Incentive Model.** This model is similar to the Cost-Plus Fixed Fee approach, but includes an incentive arrangement that will take into account performance against cost. This model comprises the following elements as described in further detail in Annex D to the TDRL:

- a. the Commonwealth will reimburse the Contractor for defined Allowable Costs incurred in undertaking the relevant Scope, paid against Earned Value Management Work Package completion.
- b. there will be a Target Cost Estimate for each Ship (at least in the first batch of three Ships) representing an estimate of the Allowable Costs required to undertake the Scope for the Ship, plus an allowance for risk (Management Reserve).
- c. the Contractor will be entitled to a Fee (representing profit) that is commensurate with the level of risk involved in undertaking the relevant activity.
- d. the Contractor's entitlement to the Fee will be moderated by its cost performance (against the agreed Target Cost Estimate) and its schedule performance.

5.2.6 The Tenderer's pricing response, including budgetary information such as Target Cost Estimates, the Pricing Rules and the Allowable Costs will form the basis of Attachment B to the Conditions of Contract.

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- 5.2.7 **Tendered Life Cycle Cost Model.** The Commonwealth requests a Tendered Life Cycle Cost Model from the Tenderer in the Cost Breakdown Structure provided at Schedule 2 of Annex D to the TDRL, including a basis of estimates for the costs, all necessary supporting calculations, and a Costed Risk Assessment. The Commonwealth intends to evaluate the Tendered Life Cycle Cost Model to understand the whole of life cost of the tendered solution, and its affordability to the Commonwealth. The Tendered Life Cycle Cost Model will form the basis of the initial life cycle cost model deliverable at clause 6.4.1.

6. STATEMENT OF REQUIREMENTS

6.1 Purpose

- 6.1.1 This Statement of Requirements is a description of the core outputs the Commonwealth seeks under the Head Contract.

- 6.1.2 The Commonwealth anticipates that this Statement of Requirements (and the successful Tenderer's response to this Statement of Requirements) will be reflected in the Scope included in the Head Contract. An initial Scope (represented by one or more Statements of Work) will be negotiated and form part of the executed Head Contract, with future Scopes to be added to the Head Contract over time.

- 6.1.3 Tenderers should:

- a. prepare their tenders taking into account this Statement of Requirements;
- b. provide a detailed description of the processes and activities that they would propose to enable this Statement of Requirements to be achieved; and
- c. ensure that the Contract Work Breakdown Structure and Contract Master Schedule provided in response to Annex E to the TDRL include all activities the Tenderer will perform under the Head Contract to meet this Statement of Requirements.

This will enable the Commonwealth and the successful Tenderer to develop the initial (and subsequent) Scope and associated Statements of Work to be incorporated in the Head Contract.

- 6.1.4 The Statement of Requirements does not represent a complete list of processes, activities or work that may be required by the Commonwealth under the Head Contract.

6.2 Mission System Requirements

- 6.2.1 The Commonwealth is proposing to enter into a Head Contract with a single prime contractor to design, construct, integrate, install, test and deliver nine Ships in accordance with the Mission System Specification and the Commonwealth's capability requirements.

- 6.2.2 The successful Tenderer will be responsible for delivering an integrated Combat System with the platform. Tenderers should detail how they intend to undertake this integration work, including:

- d. whether or not the Tenderer is planning to engage, or has already engaged with, a Combat Systems Integrator (and if so, to detail the experience and capability of the Combat Systems Integrator); and
- e. indicative pricing for Combat Management System integration at Annex D to the TDRL.

6.3 Support System Requirements

- 6.3.1 The successful Tenderer will be required to undertake an Integrated Logistics Support program to determine the appropriate support elements, and to deliver those identified products.

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- 6.3.2 The Integrated Logistics Support program should utilise pre-existing Logistics Support Analysis and products to the maximum extent possible, modified only where necessary to meet the Commonwealth's Operating and Support Intent or to ensure the Royal Australian Navy's materiel seaworthiness requirements can be met. The Commonwealth requests the Tenderer to outline the processes and standards it used for Integrated Logistics Support for the Reference Ship Design, to enable the Commonwealth to assess the suitability of the pre-existing logistics program for use by the Royal Australian Navy.
- 6.3.3 The Operating and Support Intent is not provided as part of the RFT. The Commonwealth may provide the Operating and Support Intent to one or more Tenderer(s) following tender evaluation, during Offer Definition and Improvement Activities or contract negotiations.
- 6.3.4 The Scope associated with the Support System may include the identification, installation, set to work and testing of some, or all, of the Supplies into land-based support facilities.
- 6.3.5 The Commonwealth has not finalised its strategy for the in-service support for the Ships. The Commonwealth's current intention is that in-service of the Ships is not considered part of the Statement of Requirements for the Head Contract.

6.4 Other Project Requirements

- 6.4.1 **Life Cycle Cost Program.** The successful Tenderer will be required to conduct a life cycle cost program, including developing and updating a life cycle cost model for actual costs and changes in Project scope (including design changes), to assist decision making during the Project. The life cycle cost model must be referable to the tendered life cycle cost model submitted by the Tenderer in accordance with Annex D to the TDRL.
- 6.4.2 **Schedule and Work Breakdown Structure.** The Head Contract will include a Contract Master Schedule and Contract Work Breakdown Structure for the Statement(s) of Work included in the Head Contract. The contracted Contract Master Schedule and Contract Work Breakdown Structure will support a number of mechanisms under the Contract, including the Earned Value Management System.
- 6.4.3 **Risk and Issue Management.** The successful Tenderer will be required to monitor, identify, assess, prioritise, treat, and report Head Contract risks and issues for the duration of the Head Contract. The successful Tenderer will be required to develop and maintain risks and issues register or registers, and any risks with a material impact on cost or schedule will be used to assist in establishing a management reserve component of any Target Cost Estimates.
- 6.4.4 **Data Management System.** The successful Tenderer will be required to develop and maintain a Data Management System accessible by the Commonwealth, to assist in the delivery of Head Contract deliverables (e.g. plans) and to support the Commonwealth's approval process for those deliverables. This Data Management System requirement is in addition to the Tenderer's systems, processes and tools used in shipbuilding.
- 6.4.5 **Performance Management Framework.** The successful Tenderer will be required to measure its performance against a series of Enterprise based Key Performance Indicators (linked to incentive payments) and Other Performance Measures linked to periodic contract reporting.
- 6.4.6 **Health, Safety and Environment.** The successful Tenderer will be required to comply with the Commonwealth's requirements for the management of Problematic Substances and Problematic Sources, and management of the environment. The successful Tenderer will be required to ensure work performed under the Head Contract complies with applicable legislation and Commonwealth policy, including the Defence Work Health and Safety Manual (particularly Volume 2, Part 1, Chapter 6 'Defence Contractor Safety at Work' and Chapter 2 'Work Health and Safety Risk Management'). These obligations will be required to be imposed on Subcontractors.

6.5 Proposed Scope

- 6.5.1 The Commonwealth has divided the Project into a number of discrete scopes of work (each a **Scope**):

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- a. the Master Scope, which include the management activities;
 - b. the Design and Productionisation Scope (which includes prototyping activities);
 - c. an initial Build Scope for the first batch of Ships; and
 - d. subsequent Build Scope for future batches of Ships.
- 6.5.2 The Project is divided into Scopes due to the requirement for high fidelity information to be presented for government approval of each Scope. This necessitates that the Head Contract will be executed with an initial Scope supported by one or more associated Statements of Work, and over time, further Scope will be added to the Head Contract, following government approval.
- 6.5.3 The Commonwealth will be entitled to elect not to proceed to a future Scope. In this case, the successful Tenderer will be entitled to an agreed Break Fee representing, among other things, the non-recurring costs that it has amortised over the life of the Project and which it can no longer recover.
- 6.5.4 The Commonwealth proposes the following division of work, with the Master Scope and Design and Productionisation Scope forming part of the initial Head Contract:
- a. **Master Scope:** The Master Scope will consist of activities continuing for the expected duration of the Head Contract. These include the Project requirements at clause 6.4 as well as the engineering framework under which all engineering activities will be conducted, the successful Tenderer's Shipbuilding Strategy, and the management of GFM including scheduling of critical milestones and incorporation into the design and build.
 - b. **Design and Productionisation Scope:** The Design and Productionisation Scope will include activities starting prior to the Commencement of Ship Construction, such as:
 - (i) design and productionisation for the prototyping activities and the first Ship;
 - (ii) production artefacts and processes, workforce planning and mobilisation, materials planning and procurement, and verification of these for the prototyping activities and the first Ship;
 - (iii) the prototyping activities; and
 - (iv) logistics support analysis to define the Support System up to the equivalent of a Support System detailed design review.

The Design and Productionisation Scope will also include a requirement for the parties to negotiate the Build Scope and associated terms for the first batch of Ships.
 - c. **Build Scope:** The Build Scope will include all other activities required to deliver the Statement of Requirements across the three Ship batches. The Build Scope for Ship batches will be progressively included in the Head Contract, with the Commonwealth intending that the associated Statement of Work may not change across batches other than the Mission System Specification.
- 6.5.5 The Commonwealth seeks to understand the Tenderer's response to the division of the Statement of Requirements into Scopes, and which Scopes should be included in the executed Head Contract, in Annex A to the Attachment A to Conditions of Tender.

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CASG/SHIP/RFT0445/17

SEA 5000 PHASE 1

PART 1 – CONDITIONS OF TENDER

TENDER DETAILS SCHEDULE

RFT Number:	CASG/SHIP/RFT0445/17	
RFT Name:	SEA 5000 Phase 1 Future Frigate Project – Head Contract	
Division 2 of CPRs:	The additional rules detailed in Division 2 of the Commonwealth Procurement Rules (CPRs) DO NOT apply to this procurement.	
Contact Officer: (clause 2.5)	Name:	Catherine Martin
	Address:	R2-3-A060 PO Box 7904 Canberra BC ACT 2600 Australia
	Email:	SEA5000.RFT@defence.gov.au
Industry briefing: (clause 2.8)	<p>An industry briefing will be conducted in April 2017 at the Australian High Commission at Australia House, Strand, London at the time and date specified in the RFT cover letter.</p> <p>Representatives will be limited to 15 personnel per Tenderer. Nominations to attend the briefing are to be forwarded in writing to the Contact Officer by 5.00pm AEST on 6 April 2017.</p> <p>If a Tenderer proposes any personnel not employed by the Tenderer (eg personnel of a proposed Consortium member, proposed Subcontractor or Related Body Corporate) to attend the briefing, the Tenderer is to obtain the Commonwealth's prior approval and a deed of confidentiality in accordance with clause 2.13.2 of these Conditions of Tender.</p>	
Closing Time: (clause 2.9)	11.00pm local time in the Australian Capital Territory (ACT) on 24 July 2017 .	
Tender Validity Period: (clause 2.10)	18 months after the Closing Time.	
Minimum Content and Format Requirements: (clause 3.3)	<p>Tenders (including all attachments, annexes and supporting documentation) are to be written in English. All documentation is to be provided in Microsoft Word, Excel or PDF, unless otherwise specified.</p> <p>All measurements in tenders are to be expressed in Australian legal units of measurement unless otherwise specified.</p> <p>Tenders are to include a PDF copy of the Tenderer's Deed of Undertaking in the form of Annex H to Attachment A to these Conditions of Tender, duly signed by the Tenderer.</p>	

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1 GENERAL CONDITIONS

1.1 Background

- 1.1.1 This Request for Tender (**RFT**) is issued as part of the SEA 5000 Phase 1 Future Frigates project (**Project**) for the acquisition of nine Future Frigates to replace the ANZAC Class Frigates (**Ships**).
- 1.1.2 The Project is a significant part of the Australian Government's continuous naval shipbuilding program for Australia, including the commitments for the construction of the Ships in Adelaide. The Commonwealth of Australia (**Commonwealth**) is seeking tenders based on the Tenderers' Reference Ship Designs that deliver the Ships in a manner that assists the Commonwealth to achieve the objectives of the Project and this RFT (**Project Objectives**).

1.2 Purposes

- 1.2.1 The purposes of this RFT are to:
- outline the Project Objectives as set out in the Project Overview and Statement of Requirements;
 - specify the terms and procedures relating to the RFT process;
 - provide information to Tenderers regarding the Commonwealth's contracting structure and commercial terms and conditions;
 - provide the evaluation criteria that will be used in the evaluation of the tenders; and
 - obtain tenders with sufficient information to enable the Australian Government to make decisions in relation to the future of the Project.

1.3 Interpretation

- 1.3.1 This RFT comprises:
- Part 1 – the Project Overview and Statement of Requirements;
 - Part 2 – these Conditions of Tender (**COT**), including:
 - the Tender Details Schedule;
 - the Tender Data Requirements List (**TDRL**) at Attachment A to the COT and annexes; and
 - Part 3 – draft Head Contract, including the draft Conditions of Contract (**COC**) and attachments.
- 1.3.2 This RFT is an invitation to treat and to the extent permitted by law, no binding contract (including process contract) or other understanding (including any form of contractual, quasi-contractual or restitutionary rights, or rights based upon similar legal or equitable grounds) will exist between the Commonwealth and a Tenderer unless and until a contract is signed by the Commonwealth and the successful Tenderer.
- 1.3.3 Clause 1.3.2 does not apply to:
- the Tenderer's Deed of Undertaking executed by a Tenderer;
 - a confidentiality deed executed by a Tenderer; or
 - any other deed or contractual arrangement entered into by a Tenderer, as required by the Commonwealth from time to time.
- 1.3.4 The Commonwealth will not be responsible for any costs or expenses incurred by any Tenderer in preparation or lodgement of a tender or taking part in the RFT process.
- 1.3.5 In this RFT, unless the contrary intention appears, words, abbreviations and acronyms have the same meaning given to them in the Tender Details Schedule or in the Glossary at Attachment M to the draft Head Contract.
- 1.3.6 If there is any inconsistency between any part of this RFT, a descending order of precedence is to be accorded to:
- the COT (including the Tender Details Schedule);

- b. the Project Overview and Statement of Requirements;
 - c. Attachment A to the COT and annexes to that Attachment; and
 - d. the draft Head Contract in accordance with clause 1.5 of the draft COC,
- so that the provision in the higher ranked document, to the extent of the inconsistency, prevails.

1.4 Amendment of RFT

Note to Tenderers: *When an amendment to the RFT is issued by the Commonwealth it will be through AusTender. Refer to clause 2.9 for further information on AusTender.*

- 1.4.1 The Commonwealth may amend this RFT upon giving Tenderers timely written notice of an amendment. If the Commonwealth amends this RFT under this clause 1.4.1 after tenders have been submitted, it may seek amended tenders.
- 1.4.2 Tenderers will have no claim against the Commonwealth or any Commonwealth Personnel for any failure to inform a Tenderer of an amendment to the RFT, or any failure to seek amended tenders, or any other matter arising in connection with an amendment to the RFT.

1.5 Termination, Suspension or Deferral of RFT

- 1.5.1 Without limiting its other rights under this RFT, at law or otherwise, the Commonwealth may suspend, defer or terminate the RFT process at any time. The Commonwealth will notify Tenderers to this effect.

1.6 Other Commonwealth Rights

- 1.6.1 Without limiting its other rights in this RFT, at law or otherwise, the Commonwealth may, at any stage of the RFT process, exclude a Tenderer from further participation in the RFT process:
 - a. if the Tenderer is, or was, the Contractor or an Approved Subcontractor under a contract that is, or becomes at any stage during the RFT process, a Project of Concern. For the purposes of this clause 1.6.1a, 'Tenderer' also encompasses any Related Body Corporate, proposed Subcontractor or their Related Body Corporate, or special purpose vehicle (in which any of these entities have been involved), and for the purposes of the COT, 'Project of Concern' means a project or sustainment activity identified by the Minister for Defence as a Project of Concern;
 - b. if an Insolvency Event occurs in relation to the Tenderer or any of its Related Bodies Corporate;
 - c. if the tender is critically deficient or clearly non-competitive; or
 - d. if a representation or warranty given by the Tenderer in its tender is false or misleading.
- 1.6.2 Any time or date in this RFT is for the convenience of the Commonwealth. The establishment of a time or date in this RFT does not create an obligation on the part of the Commonwealth to take any action or exercise any right under the RFT or otherwise.
- 1.6.3 During the RFT process the Commonwealth may provide different information to each Tenderer and adopt different types of engagement with each Tenderer. By providing different information to one or more Tenderers or adopting different engagements with one or more Tenderers, the Commonwealth is not obliged to provide the same information to other Tenderers or to adopt the same form of engagement with other Tenderers.

1.7 Australian Government Requirements

Note to Tenderers: *Electronic copies of relevant Defence documents are available on the internet. Any other documents required can be provided by the Contact Officer. An electronic version of the Defence Procurement Policy Manual (DPPM) can be accessed via the 'Procurement in Defence' webpage on the 'Doing Business with Defence' internet site at: <http://www.defence.gov.au/casg/DoingBusiness/ProcurementDefence/>.*

- 1.7.1 The Commonwealth will not enter into a contract (including a Head Contract) with a Tenderer which has a judicial decision against it (including overseas jurisdictions but excluding

decisions under appeal or instances where the period for appeal or payment/settlement has not expired) relating to unpaid employee entitlements where the entitlements remain unpaid.

1.7.2 Tenderers should familiarise themselves with the following Commonwealth policies:

- a. Conflicts of interest; Gifts, hospitality and sponsorship; Notification of post separation employment; Management and reporting of unacceptable behaviour; Incident reporting and management; and ethical relationship policies as detailed in the DPPM, DI PERS 25-6, DI PERS 25-7, DI PERS 25-4, DI PERS 35-3, Interim Defence Instruction ADMIN 45-2 and *Defence and the Private Sector – An Ethical Relationship*;
- b. Work Health and Safety; Hazardous Substances; Defence Environmental; Ozone Depleting Substances and Synthetic Greenhouse Gases; Public Interest Disclosure; and Workplace Gender Equality policies as detailed in the DPPM;
- c. Company ScoreCard policy as detailed in the DPPM;
- d. Defence industry policy as detailed within the *Defence Industry Policy Statement 2016*, in particular the Australian Industry Capability (AIC) policy. Implementing AIC in procurement activities is detailed in the DPPM;
- e. Indigenous Procurement Policy as detailed in the DPPM; and
- f. Defence Stocktaking and Assets Assurance Checking policy as detailed in DEFLOGMAN Part 2 Volume 5.

1.8 Workplace Gender Equality

Note to Tenderers: *The Workplace Gender Equality Act 2012 (Cth) (WGE Act) requires private sector employers of 100 or more employees (or employers of 80 or more employees where the employer used to be covered by the WGE Act) and higher education institutions to prepare, submit to the Workplace Gender Equality Agency and otherwise make available (in accordance with the WGE Act) public reports in relation to gender equality indicators, and to comply with minimum standards determined by the Workplace Gender Equality Agency within relevant time periods specified in the WGE Act. The Australian Government has adopted the Workplace Gender Equality Procurement Principles which prevents the Commonwealth from entering into contracts with suppliers who are non-compliant under the WGE Act.*

In performing any resultant Head Contract, the successful Tenderer will be required to comply with its obligations under the WGE Act. Information about the coverage of the Workplace Gender Equality Procurement Principles is available from the Workplace Gender Equality Agency at: <https://www.wgea.gov.au/about-wgea/workplace-gender-equality-procurement-principles>.

- 1.8.1 In accordance with the Workplace Gender Equality Procurement Principles, the Commonwealth will not enter into any resultant Head Contract with a Tenderer who is non-compliant under the *Workplace Gender Equality Act 2012 (Cth)*.

1.9 Use of Former Defence Personnel or Defence Service Providers in Response Preparation and Process

- 1.9.1 A Tenderer must not, without prior written approval from the Commonwealth, permit any Defence Personnel or Defence Service Provider to contribute to, or participate in, any process or activity relating to the preparation of the Tenderer's tender or the RFT process, if:
- a. the person was involved at any time in the planning of the procurement to which this RFT relates, the preparation of this RFT, or the management of the RFT process; or
 - b. the person was at any time during the 12 months immediately preceding the date of issue of this RFT involved in a Defence procurement process or activity relevant or related to this RFT.
- 1.9.2 If the Tenderer fails to comply with this clause 1.9, the Tenderer may be excluded from further participation in the RFT process.

1.10 Conflict of Interest

- 1.10.1 A Tenderer must not, and must ensure that its officers, employees, agents and advisers do not, place themselves in a position that may or does give rise to an actual, potential or

perceived conflict of interest between the interests of the Commonwealth and the Tenderer's interests during this RFT process.

- 1.10.2 If during the RFT process a conflict of interest arises, or appears likely to arise, the Tenderer must notify the Commonwealth immediately in writing and take such steps as the Commonwealth may require to resolve or otherwise deal with the conflict. If the Tenderer fails to notify the Commonwealth or is unable or unwilling to resolve or deal with the conflict as required, the Tenderer may be excluded from further participation in the RFT process.

2 TENDER PREPARATION AND LODGEMENT

2.1 Tenderers to Inform Themselves

- 2.1.1 The Commonwealth makes no representations or warranties that the information in this RFT or any information communicated or provided to Tenderers during the RFT process is, or will be, accurate, current or complete.
- 2.1.2 Tenderers are responsible for:
- examining this RFT, any documents referenced in or attached to this RFT and any other information made available by the Commonwealth to Tenderers in connection with the RFT process;
 - obtaining and examining all further information which is obtainable by the making of reasonable inquiries relevant to the risks, contingencies, and other circumstances having an effect on their tenders; and
 - satisfying themselves that their tender (including tendered prices) is accurate, complete and not misleading.
- 2.1.3 Tenderers are to prepare and lodge their tenders based on the acknowledgments and agreements in the Tenderer's Deed of Undertaking.

Note to Tenderers: Requests for advice on the control status of Australian goods and/or services should be forwarded to the Defence Export Control Office (DECO) via email at deco@defence.gov.au. Further information on Australian export controls may be found at <http://www.defence.gov.au/deco>.

- 2.1.4 Tenderers are solely responsible for informing themselves of the export control status of the tendered Supplies and for ensuring their compliance with Australian and foreign government controls related to the export of defence and dual-use goods, including if the export is from an Australian contractor to an overseas Subcontractor or Related Body Corporate for the purposes of providing the Supplies to the Commonwealth.

2.2 Tender Preparation

- 2.2.1 Tenderers are to complete and provide the information requested in the Annexes to Attachment A to the COT and are to do so in the manner requested in the annexes.
- 2.2.2 Tenderers should ensure that their tenders include the deliverables set out in Annex A to Attachment A to the COT.
- 2.2.3 Tenderers are to deliver the following information to the Commonwealth by the specified date (prior to the Closing Time):

Deliverable	Description	Due Date
Classified tenders	<p>The Tenderer is to detail whether or not its tender response, or any part of its tender response, is classified as SECRET or above in accordance with the Defence Security Manual (DSM) www.defence.gov.au/DSVS/defence-security-manual.asp</p> <p>If so, the Tenderer is to provide the Commonwealth with a plan detailing how the Tenderer intends to transmit its tender documents, with reference to clause 2.6.</p>	10 June 2017

2.3 Suggested Page Count

- 2.3.1 Tenderers should refer to Annex A to Attachment A to the COT for suggested page counts for the Tenderer's responses to each Annex to Attachment A, including any supporting information or information incorporated by reference (eg. PSC information or documentation incorporated by reference).
- 2.3.2 While these are not mandatory page limits, Tenderers are encouraged to provide the requested information in a clear and succinct manner taking into account the suggested page counts.

2.4 Participant Services Contract Documentation

- 2.4.1 Tenders submitted by Tenderers may include the following:
- information or documentation previously provided to the Commonwealth under the Participants Services Contract (**PSC**) in a resubmitted form; and
 - information or documentation provided to the Commonwealth under the PSC by way of reference. References should include all identifying names, versions and delivery dates.
- 2.4.2 Tenders may also include new or different information or documentation from that which was provided to the Commonwealth under the PSC. However, if the Mission System Specification provided in response to Annex F to Attachment A to the COT the TDRL differs from the Modified Mission System Specification provided under the PSC, the Tenderer is to identify the differences and provide an explanation for the change in its response to Annex F to Attachment A to the COT.
- 2.4.3 Without limiting clause 3.2, the Commonwealth may, when evaluating tenders, consider the information or documentation provided by the Tenderers in connection with the PSC.

2.5 Contact Officer for RFT Inquiries

- 2.5.1 Tenderers are to direct any questions regarding this RFT in writing to the Contact Officer specified in the Tender Details Schedule.
- 2.5.2 Tenderers may submit questions to the Contact Officer up until fifteen Working Days prior to the Closing Time specified in the Tender Details Schedule.
- 2.5.3 Any question submitted by Tenderers is submitted on the basis that the Commonwealth may circulate a Tenderer's questions and Commonwealth answers to all other Tenderers without disclosing the source of the questions, revealing Confidential Information or the substance of the proposed tender.

2.6 Preparation and Transmission of Classified Tenders

Note to Tenderers: For information on preparation and transmission of classified tenders and for access to the DSM refer to www.defence.gov.au/DSVS/defence-security-manual.asp.

- 2.6.1 Classified information in tenders is to be avoided where possible. If this cannot be achieved, tenders containing classified information are to be prepared and transmitted as follows:
- for Australian tenders, in accordance with Part 2:33 of the DSM; and
 - for overseas tenders, in accordance with the applicable industry security information system regulations issued by the appropriate government security authority in their country. If transmission involves transmission by diplomatic bag, the overseas Tenderer is to use the diplomatic bag of its own government.
- 2.6.2 Tenderers are to classify information in their tenders in accordance with the Security Classification and Categorisation Guide at Attachment J to the draft Head Contract.
- 2.6.3 Tenderers are to be aware that tender documents up to an including For Official Use Only may be lodged through the AusTender website as long as the requirements in clauses 2.6.1 and 2.9 have been satisfied.
- 2.6.4 If only part of a tender contains classified information that cannot be transmitted through AusTender, the Commonwealth prefers that part to be segregated from the remainder of the tender for separate transmission. However, both parts of the tender are subject to the Closing Time specified in the Tender Details Schedule. Care should therefore be taken to

ensure that sufficient time is allowed for tenders to be received by the Closing Time when secure means of transmission are used.

2.7 Defence Security Clearance Requirements

- 2.7.1 On request by the Commonwealth, the Tenderer is to comply with the Commonwealth security clearance and accreditation process as detailed in Parts 2:4, 2:20 and 2:60 of the DSM, including obtaining the level of security clearance and accreditation required by the Commonwealth.

2.8 Industry Briefing

- 2.8.1 An industry briefing will be conducted in accordance with the details specified in the Tender Details Schedule.
- 2.8.2 Industry briefings are conducted for the purpose of providing background information only. Tenderers should note the effect of clauses 1.4.1 and 2.1.3. Tenderers should not rely on a statement made at an industry briefing as amending or adding to this RFT, unless that amendment or addition is confirmed by the Commonwealth in writing.

2.9 Lodgement of Tenders

Note to Tenderers: The Closing Time will also be displayed in the relevant AusTender webpage together with a countdown clock that displays in real time the amount of time left until Closing Time (for more information please see AusTender Terms of Use). For the purposes of determining whether a tender response has been lodged before the Closing Time, the countdown clock will be conclusive.

- 2.9.1 AusTender is the Australian Government's procurement information system. Access to and use of AusTender is subject to terms and conditions. In participating in this RFT, Tenderers are to comply with those terms and conditions and any applicable instructions, processes, procedures and recommendations as advised on AusTender at: <https://www.tenders.gov.au/?event=public.termsOfUse>.
- 2.9.2 All queries and requests for AusTender technical or operational support are to be directed to: AusTender Help Desk,
Telephone: 1300 651 698
International: +61 2 6215 1558
Email: tenders@finance.gov.au
The AusTender Helpdesk is available between 9am and 5pm Australian Capital Territory (ACT) local time, Monday to Friday (excluding ACT and national public holidays).
- 2.9.3 Tenders are to be lodged electronically via AusTender (<https://www.tenders.gov.au/>) before the Closing Time specified in the Tender Details Schedule in accordance with the tender lodgement procedures set out in this RFT and on AusTender.
- 2.9.4 Any part of a Tender that contains classified information, as described in clause 2.6, is to be lodged in accordance with that clause.
- 2.9.5 The Commonwealth may provide Tenderers with an instruction regarding submission of classified tenders, or classified parts of tenders, following consideration of Tenderers' responses under clause 2.2.3.
- 2.9.6 The Tenderer acknowledges that:
- a. lodgement of its Tender on time and in accordance with these COT is entirely its responsibility;
 - b. the Commonwealth will not be liable for any loss, damage, costs or expenses incurred by the Tenderer or any other person if, for any reason, a tender or any other material or communication relevant to this RFT:
 - (i) is not received on time;
 - (ii) is corrupted or altered or is otherwise not received as sent;
 - (iii) cannot be read or decrypted; or

(iv) has its security or integrity compromised.

- 2.9.7 The Tenderer must take reasonable steps to ensure that its tender files are free of viruses, worms or other disabling features which may affect the Commonwealth's computing environment.
- 2.9.8 Tenders are to be lodged in the format specified in the Tender Details Schedule. All file names should:
- sufficiently identify the Tenderer including by their name; and
 - reflect the parts of the tender they represent, where the tender comprises multiple files.
- 2.9.9 Tender files should not exceed a combined file size of 500 megabytes per upload.
- 2.9.10 Tenders lodged after the Closing Time may be excluded from consideration in accordance with the policy set out in the DPPM.

2.10 Tender Validity Period

- 2.10.1 The Commonwealth requires that tenders submitted in response to this RFT remain available to the Commonwealth, without change unless required or consented to by the Commonwealth, during the Tender Validity Period specified in the Tender Details Schedule.
- 2.10.2 The Commonwealth may request an extension of the Tender Validity Period.

2.11 Alterations, Erasures and Illegibility

- 2.11.1 Any alterations or erasures made to a tender by a Tenderer are to be initialled by that Tenderer. Tenders containing alterations or erasures that are not initialled, or pricing or other information that is not stated clearly and legibly may be excluded from consideration.

2.12 Unintentional Errors of Form

- 2.12.1 If the Commonwealth considers that there are unintentional errors of form in a tender, the Commonwealth may request the Tenderer to correct or clarify the error but will not permit any material alteration or addition to the tender.

2.13 Confidentiality

- 2.13.1 The Commonwealth may require a Tenderer to execute a Deed of Confidentiality in the form at Annex B to Attachment I of the draft COC (or such other form required by the Commonwealth) before being provided with some or all of the information included in the RFT. Whether or not such a deed is required, and without limiting a Tenderer's obligations under the deed, Tenderers are to treat the RFT and any information provided to Tenderers by or on behalf of the Commonwealth in connection with the RFT process as confidential and not disclose or use that information except as strictly required for the purpose of developing a tender and in accordance with the RFT.
- 2.13.2 Subject to the requirements of this clause 2.13.2, the Tenderer may disclose information included in the RFT to a proposed Consortium member, proposed Subcontractor, previous supplier or a Related Body Corporate of the Tenderer for the purposes of preparing its tender. Before disclosing any information to a proposed recipient, the Tenderer must notify the Commonwealth and obtain approval from the Commonwealth to make the disclosure. If the Commonwealth approves the disclosure, the Tenderer must then obtain from the recipient an executed deed of confidentiality in a form acceptable to the Commonwealth prior to disclosing the information. The Tenderer must submit a copy of each executed Deed of Confidentiality to the Commonwealth in its tender response.
- 2.13.3 In accordance with paragraph 7.21 of the CPRs, the Commonwealth will treat tenders as confidential before and after the award of any resultant Head Contract.
- 2.13.4 Despite clause 2.13.2, the Commonwealth may disclose information:
- if required by law or statutory or portfolio duties, or required for public accountability reasons, including following a request by parliament or a parliamentary committee;
 - for the purpose of defending any claim or proceeding in relation to the RFT process or any resultant Head Contract ;

- c. that is in, or enters, the public domain otherwise than due to a breach of confidence; or
- d. as contemplated under clause 2.15.

2.14 Probity Assurance

Note to Tenderers: Tenderers should note that the Tenderer's Deed of Undertaking sets out a number of acknowledgements and undertakings to be given by Tenderers, including in relation to probity, conflicts of interest and bribery.

- 2.14.1 The Commonwealth may exclude a tender from further consideration if:
- a. in the opinion of the Commonwealth, the Tenderer fails to comply with clause 4 of the Tenderer's Deed of Undertaking; or
 - b. the Tenderer, any of its Related Bodies Corporate or any officer of any of them has been convicted of bribery of Commonwealth, State, Territory or foreign government officials at any time during the last seven years.

2.15 Use of Tender Documents

- 2.15.1 All tender documents submitted in response to this RFT become the property of the Commonwealth on their submission and the Commonwealth may use, retain and copy the information contained in those documents for the purposes of:
- a. the evaluation and selection of any tender;
 - b. the preparation and negotiation of any resultant Head Contract with respect to the RFT;
 - c. verifying the currency, consistency and adequacy of information provided under any other RFT process conducted by the Commonwealth;
 - d. undertaking Commonwealth approvals processes; or
 - e. reviewing the conduct of the RFT process, including as part of an audit activity.
- 2.15.2 The Commonwealth may disclose tender documents to a third party for the purposes of assisting the Commonwealth in the conduct of the RFT process and for the purposes outlined in clause 2.15.1. The Commonwealth may obtain appropriate confidentiality undertakings from the third party prior to disclosure.
- 2.15.3 Nothing in this clause 2.15 changes or affects the ownership of Intellectual Property in the information contained in the tender documents.

2.16 Part Tenders

- 2.16.1 The Commonwealth will not consider a tender for part of the Supplies.

2.17 Joint Tenders

- 2.17.1 The Commonwealth prefers to enter into a contract with a single legal entity that will be the party responsible for the performance of any resultant Head Contract (or alternative contract).
- 2.17.2 If a Tenderer submits a tender on behalf of a Consortium of which it is a member, the Tenderer is to provide the information set out in Annex C to Attachment A to the COT.
- 2.17.3 A reference to Tenderer in this RFT is a reference to each member of the Consortium.

2.18 Substitution of Tenderer

- 2.18.1 If during the period following the submission of the tender and prior to execution of any resultant Head Contract (or alternative contract) with the successful Tenderer, there occurs:
- a. an Insolvency Event in respect of a Tenderer; or
 - b. any other event that has the effect of substantially altering the composition or control of the Tenderer, a Consortium or the business of the Tenderer,
- the Commonwealth may allow, on such terms as the Commonwealth considers appropriate, the substitution of that Tenderer or a Consortium member with another legal entity upon

receipt of a written request from or on behalf of the Tenderer and, if substituting for the Tenderer, the other legal entity.

- 2.18.2 If no request for substitution is made, or the Commonwealth chooses not to allow the substitution under clause 2.18.1, the Commonwealth may decide not to consider the tender any further or, in considering it, may take into account the impact of the event on the information provided in the tender.
- 2.18.3 If the Commonwealth allows the substitution under clause 2.18.1, the Commonwealth will evaluate the tender in its original form prior to the event, except that the impact of the event on the information provided in the tender may be taken into account.

3 EVALUATION OF TENDERS

3.1 Tender Presentations

- 3.1.1 The Commonwealth may, after the Closing Time specified in the Tender Details Schedule and having provided Tenderers with reasonable notice require any or all Tenderers to provide a presentation on their respective tenders at a time and location to be advised by the Commonwealth.

3.2 Evaluation and Process

- 3.2.1 The Project is critical to Australia's continuous naval surface shipbuilding policy, defence, strategic and national security interests. Accordingly, Tenderers should be aware that in making its decision on the selection of the successful Tenderer, the Australian Government will take into account the outcomes of the RFT process applying the tender evaluation criteria at clause 3.9 to the tenders as described in clause 3.2.2 and in addition may take into account other matters relating to Australia's continuous naval surface ship building requirements and other strategic and national interest matters that it considers relevant.
- 3.2.2 Tenders will be evaluated utilising the tender evaluation criteria at clause 3.9 to determine the tender that will best support the achievement of the Project Objectives on a value for money basis.
- 3.2.3 Without limiting or affecting the Commonwealth's other rights under or in connection with this RFT, the Commonwealth may at any time during the RFT process:
- a. consider additional information obtained by the Commonwealth (whether that information is obtained through the RFT process or by any other means) relevant to the Tenderer's tender, including:
 - (i) information provided by the Tenderer under the Participant Services Contract (as updated or modified by the Tenderer's tender);
 - (ii) information obtained as part of any activities contemplated in this RFT;
 - (iii) any analysis undertaken by or on behalf of the Commonwealth (including by any Commonwealth agency or a foreign government) in relation to Tenderers' Reference Ship Design (whether such analysis is based on information obtained through the RFT process or by any other means); and
 - (iv) any report or finding from the Royal Australian Navy engagement with any other Navy;
 - b. use material tendered in response to one evaluation criterion in the evaluation of other criteria;
 - c. seek clarification or additional information from, and enter into discussions with, any or all of the Tenderers in relation to their tender;
 - d. develop a shortlist one or more Tenderers;
 - e. conduct Offer Definition and Improvement Activities with one or more Tenderers; or
 - f. visit Tenderers' or proposed Subcontractors' facilities.
- 3.2.4 In assessing tenders, the Commonwealth may take into account any supporting documentation provided under clause 3.2.3a.

- 3.2.5 In the event of any inconsistency between any information in a tender and any other information provided by the Tenderer to the Commonwealth, the information in the tender will take precedence.

3.3 Minimum Content and Format Requirements

- 3.3.1 The Commonwealth may exclude a tender from further consideration if the Commonwealth considers that the tender does not comply with any of the Minimum Content and Format Requirements specified in the Tender Details Schedule.

3.4 Offer Definition and Improvement Activities

- 3.4.1 The Commonwealth may, as part of, and at any time during, the RFT process, conduct Offer Definition and Improvement Activities with one or more Tenderers in accordance with Annex I to Attachment A to the COT.
- 3.4.2 As part of the ODIA process, the Commonwealth may make changes to the draft Head Contract and require Tenderers to amend their tenders to respond to the changes.
- 3.4.3 If the Commonwealth elects to conduct Offer Definition and Improvement Activities, the Commonwealth may issue a process document for those activities to any Tenderers invited to participate that provides further details of the activities and any specific terms and conditions governing the activities.
- 3.4.4 The Commonwealth may refuse to conduct, or to further conduct, Offer Definition and Improvement Activities with a Tenderer if the Tenderer fails to comply with the requirements of Annex I to Attachment A to the COT or a process document issued to the Tenderer under clause 3.4.2.
- 3.4.5 Offer Definition and Improvement Activities may include the conduct by the Commonwealth with one or more Tenderers of any one or more of the following activities:
- a. development of Statements of Work and other documentation forming part of the Head Contract;
 - b. refinement of draft documentation to be used in connection with any resulting Head Contract;
 - c. further design development activities for the purposes of the Head Contract;
 - d. clarification and offer definition of tenders and the Commonwealth's requirements;
 - e. submission of additional information;
 - f. discussions and workshops with Tenderers;
 - g. provision of feedback to Tenderers;
 - h. site visits, product demonstration and testing and user trials;
 - i. assessment of capabilities;
 - j. requests for revised or updated tenders;
 - k. submission of revised or updated tenders upon completion of the Offer Definition and Improvement Activities; and
 - l. such other activities as the Commonwealth determines.
- 3.4.6 Information provided by a Tenderer, and any clarification, improvement or refinement of tendered offers agreed during any of the above activities with any preferred Tenderer(s), may be considered by the Commonwealth in evaluating tenders and may form part of any resultant Head Contract with the Commonwealth.
- 3.4.7 Without limiting clause 1.3.4, the Commonwealth will not be responsible for any costs or expenses incurred by any Tenderer in participating in any of the activities contemplated by this clause 3.4.

3.5 Negotiation

- 3.5.1 The Commonwealth may engage one or more Tenderers in negotiations which may involve Tenderers being asked to:

- a. clarify, improve or consolidate any of the technical, commercial, legal, financial and operational aspects of their tenders; or
- b. enter into an agreement with the Commonwealth relating to the terms of the detailed engagement with that Tenderer.

3.6 Preferred Tenderer Status

- 3.6.1 The Commonwealth may select a Tenderer as preferred Tenderer, but such selection:
- a. does not affect or limit the Commonwealth's rights or the Tenderer's obligations under the RFT; and
 - b. is not a representation that a contract will be entered into between the Commonwealth and that Tenderer,
- and the Commonwealth may recommence or commence negotiations or other activities under the RFT with any other Tenderer whether or not a Tenderer has been selected as preferred Tenderer.

3.7 Cost Investigation of Tenders

Note to Tenderers: The Commonwealth may refer to the Allowable Costs Rules and Pricing Rules or the CASG Cost Principles in considering whether the costs that the Tenderer seeks to recover under the Head Contract are reasonable. The CASG Cost Principles can be accessed via the 'Contracting in CASG' webpage on the 'Doing Business with Defence' internet site at <http://www.defence.gov.au/casg/DoingBusiness/ProcurementDefence/ContractinginCASG/DefenceCostPrinciples/>.

- 3.7.1 For the purposes of evaluating a tender, Commonwealth Personnel may conduct a cost investigation of the tendered prices, rates, margins, indices and cost information provided by the Tenderer. On request by the Commonwealth, the Tenderer is to facilitate any such cost investigation.

3.8 Debriefing of Tenderers

- 3.8.1 Tenderers will be notified whether they have been successful or unsuccessful and may request an oral or written tender debriefing. Tenderers requiring a debriefing should contact the Contact Officer specified in the Tender Details Schedule.
- 3.8.2 Tenderers will be debriefed against the evaluation criteria contained in clause 3.9.

3.9 Tender Evaluation Criteria

- 3.9.1 Subject to clause 3.2, the criteria to be applied for the purposes of evaluation are those set out in this clause. The criteria are not weighted or listed in any order of importance:
- a. the extent to which the tendered proposal contributes to the establishment of a Continuous Naval Shipbuilding industry, including the Tenderer's proposal to contribute to developing and sustaining shipbuilding capability in Australia, and the associated level of risk;
 - b. the extent to which the tendered proposal maximises Australian Industry Capability during the term of the Head Contract, and facilitates utilisation of Australian Industry Capability during sustainment, and the associated level of risk;
 - c. the extent to which the tendered Mission System will meet the Commonwealth's capability requirements, including the performance of the tendered Mission System, the extent of change from the Reference Ship Design, the design maturity of the Reference Ship Design, and the design margins of the Mission System Specification, and the associated levels of risk;
 - d. the ability of the Tenderer to achieve Commencement of Prototyping Activities in Adelaide by 2020 and Commencement of Ship Construction in Adelaide within 24 months of Commencement of Prototyping Activities, and the associated level of risk;
 - e. the ability of the Tenderer to design, construct, install, integrate, test and deliver nine Ships based on the Reference Ship Design with Minimum Change, and the associated level of risk;

- f. the integrity and maturity of the Tenderer's Integrated Logistics Support (**ILS**) program proposal, and the Tenderer's demonstrated capability to conduct an ILS program of a similar type, scope and technical complexity to that intended by the Head Contract, and the associated level of risk;
- g. the integrity and maturity of the Tenderer's project management proposal, including the Tenderer's proposed project management methodology and systems, and the Tenderer's demonstrated capability to project manage a project of similar type, scope and technical complexity to that required by the Head Contract, and the associated level of risk;
- h. the extent to which the Tenderer complies with the draft Head Contract and the suitability of the tendered corporate structure to support delivery under the Head Contract, and associated level of risk;
- i. the extent to which the Tenderer's proposed pricing and payment arrangements, tendered prices and price certainty, and tendered life cycle cost model are assessed as providing value to the Commonwealth, and associated level of risk; and
- j. the extent to which the Tenderer is assessed as having the capacity, capability and financial and corporate viability to undertake the Project, including current workload, past performance and associated level of risk.

ATTACHMENT A

TENDER DATA REQUIREMENTS LIST

Tender Data Requirement Number	Tender Response Volume
	Volume 1: Summary
A-1	Tender Checklist
A-2	Tenderer's Details
A-3	Executive Summary
A-4	Statement of Non-Compliance
	Volume 2: Continuous Naval Shipbuilding (CNS) and Australian Industry Capability Proposal
B-1	Tenderer Commitments
B-2	Maximising Opportunities for Australian Industry Involvement
B-3	Contribution to Continuous Naval Shipbuilding
B-4	CNS & AIC Management, Monitoring and Reporting
B-5	Risk Assessment
	Volume 3: Commercial Framework
C-1	Contracting Structure
C-2	Governance
C-3	Subcontractors
C-4	Liability, Risk and Insurance
C-5	Design and Build Responsibility and Warranties
C-6	Intellectual Property, TD and Software Rights
C-7	Confidential Information
C-8	Performance Management Framework
C-9	Corporate and Financial Details
Schedule C1	Purpose Clarification
	Volume 4: Financial
D-1	Pricing Models
D-2	Cost – Plus Fixed Fee
D-3	Target Cost Incentive Model (TCIM)
D-4	Fixed Price Model
D-5	Other Pricing Model Payments
D-6	Response Requirements
D-7	Common Schedule 1 and 2 Information
D-8	Entering Information into Schedule 1
D-9	Entering Information into Schedule 2
Schedule D1	Pricing Instruction
Schedule D2	Tendered Life Cycle Cost Model

Schedule D3	Pricing Rules
Schedule D4	Allowable Costs Rules
	Volume 5: Project Management
E-1	Project Integration
E-2	Resource Management
E-3	Scope Management
E-4	Schedule Management
E-5	Quality
E-6	Other Project Management Response Requirements
	Volume 6: Mission System Design
F-1	Mission System Design
	Volume 7: Shipbuilding Program
G-1	Shipbuilding Strategy
G-2	Engineering Organisation, Processes and Speciality Programs
G-3	Integrated Logistics Support
G-4	Seaworthiness Program
G-5	Risk Assessment
	Volume 8: Tenderer's Deed of Undertaking
H-1	Operation of This Deed Poll
H-2	Acknowledgements
H-3	Tender and Head Contract
H-4	Warranties and Representations
H-5	Survival
H-6	Applicable Law
H-7	Immunity
H-8	Termination and Amendment
H-9	Contact Details
	Volume 9: Offer Definition & Improvement Activities
I-1	General Conditions
I-2	Tenderer Workshops
I-3	Site Visits, Product Demonstration and Testing and User Trials
I-4	Contract Development Activities

ANNEX A TO ATTACHMENT A

OVERVIEW

1. TENDER CHECKLIST

- 1.1 The following checklist is included to assist Tenderers in completing their tenders. It is not intended to be an exhaustive description of the requirements of this RFT.

Table TDR A-1-1: Tender Checklist

Item	Tender Deliverable	TDR Reference	Suggested Page Count	Check
1.	Tenderer's Details	TDR A Clause 2.1	Tenderer is to complete table provided	<input type="checkbox"/>
2.	Executive Summary	TDR A Clause 3	30	<input type="checkbox"/>
3.	Statement of Non-Compliance including (if any) Tenderer's proposed amended Head Contract, amended Project Overview and Statement of Requirements, and amended Pricing Rules	TDR A Clause 4 TDR C Clauses 1, 3, 6, 7, 8	Tenderer is to complete table provided and marked up copies (if any)	<input type="checkbox"/>
4.	Tenderer's Continuous Naval Shipbuilding and Australian Industry Capability Proposal	TDR B	90	<input type="checkbox"/>
5.	Tenderer's response on Commercial Framework (in addition to specific deliverables)	TDR C	50	<input type="checkbox"/>
6.	Tenderer's liability risk assessment	TDR C Clause 4	15	<input type="checkbox"/>
7.	Specific Financial Responses	TDR D Clauses 8.3, 8.4 and 8.7	No suggested page count	<input type="checkbox"/>
8.	Tenderer's Pricing Response	TDR D Schedule 1	Tenderer to complete spreadsheets	<input type="checkbox"/>
9.	Costed Risk Register	TDR D Schedule 1 Clause 1.5 (within Appendix G) TDR B Clause 5.1.2 TDR E Clause 5.2.3 TDR F Clause 1.2.7 TDR G Clause 5.1.2	Tenderer to complete spreadsheet	<input type="checkbox"/>
10.	Tenderer's Life Cycle Cost Model	TDR D Schedule 2	Tenderer to complete spreadsheets	<input type="checkbox"/>
11.	Tenderer's response on Project Management (in addition to specific deliverables)	TDR E	80	<input type="checkbox"/>
12.	Contract Work Breakdown Structure	TDR E Clause 4.1	No suggested page count	<input type="checkbox"/>
13.	Draft Contract Master Schedule	TDR E Clause 4.2 TDR G Clause 4.1.3(i)	No suggested page count	<input type="checkbox"/>
14.	Design and Productionisation Schedule (subordinate to the Draft Contract Master Schedule)	TDR E Clause 4.2.13(a)	No suggested page count	<input type="checkbox"/>

Item	Tender Deliverable	TDR Reference	Suggested Page Count	Check
15.	Detailed Production Schedule (subordinate to the Draft Contract Master Schedule)	TDR E Clause 4.2.13(b)	No suggested page count	<input type="checkbox"/>
16.	Detailed Integrated Logistics Support Schedule (subordinate to the Draft Contract Master Schedule)	TDR E Clause 4.2.13(c)	No suggested page count	<input type="checkbox"/>
17.	Earned Value Management System	TDR E Clause 4.3	20	<input type="checkbox"/>
18.	Risk Register	TDR B Clause 5.1.1 TDR E Clause 5.2.2.2 TDR F Clause 1.2.6 TDR G Clause 5.1.1	No suggested page count	<input type="checkbox"/>
19.	Mission System Specification in Commonwealth format and including functional requirements	TDR F Clause 1.2	No suggested page count	<input type="checkbox"/>
20.	Mission System Capability Description	TDR F Clause 1.3.1	80	<input type="checkbox"/>
21.	Master Equipment List	TDR F Clause 1.4	No suggested page count	<input type="checkbox"/>
22.	General Arrangement Drawings	TDR F Clause 1.5	No suggested page count	<input type="checkbox"/>
23.	Design Changes and Impact Assessments	TDR F Clause 1.6 TDR B Clause 2.2.2.3 TDR E Clause 4.2.14 TDR G Clause 2.7.1(i) and 3.1.2(d)	No suggested page count	<input type="checkbox"/>
24.	Ship Margin Assessment	TDR F Clause 1.7	No suggested page count	<input type="checkbox"/>
25.	Tenderer's response on Shipbuilding Strategy	TDR G Clause 1	300	<input type="checkbox"/>
26.	Tenderer's response on Engineering Organisation, Processes and Speciality Programs	TDR G Clause 2	150	<input type="checkbox"/>
27.	Tenderer's response on Integrated Logistics Support	TDR G Clause 3	50	<input type="checkbox"/>
28.	Tenderer's response on Seaworthiness Program	TDR G Clause 4	50	<input type="checkbox"/>
29.	Tenderer's response on Risk Assessment in relation to the tenderer's response to Annex G to Attachment A to the Conditions of Tender	TDR G Clause 5	No suggested page count	<input type="checkbox"/>
30.	Tenderer's Deed of Undertaking	TDR H	Tenderer to complete the Deed of Undertaking	<input type="checkbox"/>

2. TENDERER'S DETAILS

2.1 The Tenderer is to provide the following information:

Full legal name of the Tenderer:	
Date and place of incorporation or formation:	
Country of origin incorporation/registration number (if applicable)	
Trading or business name:	
Australian Business Number (ABN):	
Australian Company Number (ACN)/Australian Registered Body Number (ARBN) (if applicable):	
Registered office and primary place of business:	
Australian representative (if applicable):	

3. EXECUTIVE SUMMARY

- 3.1 The Tenderer is to provide an executive summary of its tender. The purpose of the executive summary is to enable an overall understanding of the tender and its approach to achieving the Project Objectives.
- 3.2 The executive summary should include a high-level summary of the tender in the context of the Evaluation Criteria set out in the Conditions of Tender.
- 3.3 The executive summary should also include a high-level summary of the ten most significant capability, cost and schedule risks in relation to the tender.
- 3.4 The executive summary should include a high-level summary of any alternative approach that the Tenderer has included in its response that would propose to replace or modify:
- the Statement of Requirements in the Project Overview and Statement of Requirements;
 - the Commonwealth's contracting structure (set out in Annex C to Attachment A); and
 - the Commonwealth's financial arrangements (set out in Annex D to Attachment A).

4. STATEMENT OF NON-COMPLIANCE

- 4.1 If the Tenderer does not fully comply with any provisions of the draft Head Contract (including the draft Conditions of Contract (CoC) and attachments), the Project Overview and Statement of Requirements or the financial models and rules in Annex D to Attachment A, the Tenderer is to state its non-compliances in a Statement of Non-Compliance in the format at Table TDR A-4-2. Tenderers are to include details of:
- the extent, justification and impact of the non-compliance;
 - details of the proposed drafting amendments; and
 - the location in the tender where further details and comments (if any) can be found.
- 4.2 A Tenderer will be deemed to be fully compliant with any clause not identified in the Statement of Non-Compliance.

Table TDR A-4-2: Statement of Non-Compliance Format

	Clause No.	Non-Compliance	Comments	Location in Tender
Project Overview and Statement of Requirements				
Draft CoC				
Attachments to the draft CoC				
Annex D to Attachment A				

- 4.3 The Tenderer is to include an amended form of the draft Head Contract (including the draft Conditions of Contract and attachments), Project Overview and Statement of Requirements and Pricing Rules, with all proposed amendments shown in mark-up.
- 4.4 The Tenderer is to detail its proposal to divide the Statement of Requirements into Scopes, in accordance with clause 6.5 of the Project Overview and Statement of Requirements in Part 1 of the Conditions of Tender.

ANNEX B TO ATTACHMENT A

CONTINUOUS NAVAL SHIPBUILDING (CNS) AND AUSTRALIAN INDUSTRY CAPABILITY PROPOSAL

Note to Tenderers: The Tenderer should outline its overall proposal for contributing to the development and sustainment of a CNS industry in Australia and maximising Australian Industry Capability throughout the duration of the Head Contract in accordance with this Annex, including:

- the systems, processes and tools that can be used on other shipbuilding projects in the long term;
- increasing involvement of Australian Industry in the areas of workforce and supply chain (allowing for development of industry capability through efforts such as knowledge transfer); and
- its plan to implement innovative processes, technology or approaches to enhance Australian industry capabilities.

The Tenderer's proposal provided in response to this Annex will form the basis for the following strategies and plans that will form part of the Head Contract. These documents may be developed with one or more Tenderers during the Offer Definition and Improvement Activity or contract negotiations. The Commonwealth is developing a Performance Measure for achievement of contracted AIC Plans and this will be discussed with Tenderers during the Offer Definition and Improvement Activity. The relevant strategies and plans are:

- an Australian Industry Capability (AIC) Strategy that will describe the overarching strategies and commitments that will be implemented by the successful Tenderer throughout the duration of the Head Contract;
- subordinate AIC Plans for each of Scope included in the Head Contract. The AIC Plan for each Scope will detail specific steps to be undertaken and requirements to be met as part of that Scope. This will include the relevant market engagement and testing, supplier selection and subcontracting, industry capability development, supply chain development and innovation undertaken or to be undertaken and the resulting Australian industry commitment for the relevant Scope. For the Tenderer's information, the Commonwealth's draft requirements for AIC Plans are at Appendix A;
- a Shipbuilding Workforce Development Plan that will describe the detailed strategies, actions, plans and commitments that will be implemented by the successful Tenderer for the purpose of establishing and maintaining the capability of the Australian shipbuilding workforce, including in relation to shipbuilding management, scheduling and planning, production, design and engineering and test and activation; and
- a Supply Chain Development Plan that will describe the detailed strategies, actions, plans and commitments that will be implemented by the successful Tenderer for the purpose of establishing and maintaining a suitable supply chain in Australia to support the Project and the Continuous Naval Shipbuilding strategy.

1. TENDERER COMMITMENTS

1.1 General

- 1.1.1** The Tenderer is to acknowledge and commit to working with Defence to meet the Commonwealth's intent to develop an enduring and competitive Australian Continuous Naval Shipbuilding and sustainment industrial base built on the following principles:
- the implementation of strategies and plans to provide competitive Australian companies opportunity to compete for, and win, work throughout the Australian supply chain including the placing of obligations on major service and supply partners;
 - to the extent possible, the transitioning of the knowledge and skills of the existing Original Equipment Manufacturers (**OEMs**) and supply chain to Australian supply chains;
 - the integration of competitive Australian companies into the Tenderer's global supply chains;
 - ensuring access to the necessary Intellectual Property, Technical Data or licensing arrangements required to support Continuous Naval Shipbuilding activities;
 - identifying, collaborating with and supporting fields of research and innovation and potential investment to support Continuous Naval Shipbuilding; and
 - encouraging the development of the Australian shipbuilding workforce.
- 1.1.2** The Tenderer is to acknowledge that the obligation for increasing AIC over time in the AIC Strategy and AIC Plans forming part of the Head Contract will be contractually binding.
- 1.1.3** The Tenderer is to acknowledge that the commitments, activities and approaches outlined in its response to this Annex B (together with its responses to Annexes C, D and G to Attachment A to the Conditions of Tender) will form the basis of the Continuous Naval Shipbuilding Strategy, AIC Strategy, Shipbuilding Workforce Development Plan, Supply Chain Development Plan and AIC Plans to form part of the Head Contract.
- 1.1.4** The Tenderer is to consider the use of Australian Industry **where it does not compromise capability or otherwise impact on the achievement of the Project Objectives**. In addition, the Tenderer is to ensure the consideration of Australian Industry does not affect the Tenderer's compliance with the Commonwealth's requirements for Minimum Change.

2. MAXIMISING OPPORTUNITIES FOR AUSTRALIAN INDUSTRY INVOLVEMENT

2.1 Executive Summary

Note to Tenderers: the 2016 Defence Industry Policy Statement can be found at <http://www.defence.gov.au/WhitePaper/Docs/2016-Defence-Industry-Policy-Statement.pdf>

- 2.1.1** The Tenderer is to summarise its strategy and plans to meet the objectives of the 2016 Defence Industry Policy Statement in connection with the maximisation of Australian Industry involvement.
- 2.1.2** The Tenderer is to include a statement of intent relating to its approach to maximising opportunities for competitive Australian companies, developing, transferring, or enhancing the skills, knowledge, systems, technology transfer and where appropriate infrastructure of the potential and proposed Australian industrial supply chain participants.
- 2.1.3** The Tenderer is to summarise its approach to supporting the Commonwealth's Indigenous Procurement Policy in considering and involving recognised Indigenous owned enterprises within the supply chain and the employment of Indigenous Australians as part of delivering the work under the Contract.
- 2.1.4** The Tenderer is to provide a summary of the proposed governance arrangements, principles and partnering approach to establish and maintain the Australian supply chain to achieve high quality delivery relationships.

2.2 Market Testing

2.2.1 Tender Proposal Development

- 2.2.1.1 The Tenderer is to provide a description of the approach, actions and processes that will be, or have been, undertaken to provide opportunities for competitive Australian Industry to be considered for participation under the Contract, including:

Note to Tenderers: Detail the industry engagement processes planned to be undertaken or have occurred including use or engagement with industry associations, supplier advocates, professional networks, the Centre for Defence Industry Capability, AusIndustry, Supply Nation or forms of advertising and/or promotion used to publicise opportunities across the breadth of the contractual obligations.

- a. an explanation of the Tenderer's market testing strategy;

Note to Tenderers: For the purposes of this Annex, "Indigenous Enterprise" means an organisation that is 50 per cent or more Indigenous owned that is operating a recognised and registered business. Supply Nation maintains a list of enterprises that meet this requirement(www.supplynation.org.au).

- b. how the Tenderer can contribute to the Commonwealth policies of Indigenous procurement, including:
- (i) participation of Indigenous Enterprises over the Contract term; and
 - (ii) any initiatives used for the employment of Indigenous Australians in the delivery of the contractual obligations;

Note to Tenderers: Priority Industry Capabilities (PICs) are applicable to this procurement. PICs identify elements of broader industry capabilities that confer an essential strategic advantage by being resident in Australia, which, if not available, would undermine the Defence self-reliance and Australian Defence Force operational capability. More information, including descriptions of the PICs identified in clause 2.2.1.1c can be found at <http://www.defence.gov.au/SPI/Industry/PIC.asp>.

Defence will be transitioning to a new Sovereign Industrial Capabilities assessment framework in mid 2017 but until that time, Priority Industry Capability policies still apply to Defence major capital tenders. Within the requirements of Minimum Change the Tenderers should address:

- c. how the Tenderer would seek to contribute to the development of Australian Industry in the following PICs:
- (i) acoustic technologies and systems;
 - (ii) electronic warfare;
 - (iii) high-end system and system of systems integration;
 - (iv) high-frequency and phased array radars; and
 - (v) through-life and real-time support of mission critical and safety critical software;
- d. how source selection decisions (including details of criteria) will be made, or have been made, in the selection of Australian Industry in the supply chain; and
- e. work to be transitioned to Australia, from overseas and include the nature of the work, the skills that will be developed and the schedule for delivery and how the necessary Intellectual Property and Technical Data will be made available to support the transition. This section shall include details as to why work proposed to be performed overseas cannot be performed or transitioned to Australian Industry throughout the term of the relevant Scope.

2.2.2 Australian Industry - Contract Commitment

- 2.2.2.1 The Tenderer is to provide a high level summary of actions and approaches it will take with respect to;

- a. how it will build the industrial capability required for future production design and shipbuilding in Australia through training, knowledge transfer, and increased experience and competence of Australian Industry;
- b. a proposed growth path to increase the current levels of capability and capacity within Australian Industry in areas such as skills, know-how and technology, and how growth will occur throughout the Head Contract, including:
 - (i) in the prototyping activities;
 - (ii) to produce the first three Ships; and
 - (iii) in subsequent Ships.
- c. the development of targets to measure Australian contract expenditure, with the values of Local Industry Activities and Local Overheads separately identified, throughout the Head Contract Scopes:

Note to Tenderers: This note is the purposes of clause 2.2.2.2. The Air Warfare Destroyer Program has achieved Australian contract expenditure in the order of 50% across the whole Program. While the Commonwealth acknowledges there are significant differences between the Air Warfare Destroyer Program and this Project, the Commonwealth expects that this Project will achieve the same or higher level of Australian contract expenditure.

2.2.2.2 The Tenderer is to detail if it anticipates achieving the same or better level of Australian contract expenditure by the second Batch of Ships.

2.2.2.3 The Tenderer is to provide an impact assessment of the level of AIC used in prototyping activities and the production of the Ships, as requested in clause 1.6.2(h) of Annex F to Attachment A to the Conditions of Tender.

2.2.3 Australian Industry and Supply Chain Development

2.2.3.1 The development of the Australian shipbuilding Industry is recognised in the Defence Industry Policy Statement 2016 as critical to the Government's continuous naval shipbuilding program and in the objectives of the Project. These capabilities will potentially be used to benefit the broader Defence Australian industry base and to ensure the resulting capabilities are not reliant upon the Tenderer that introduced the industry capability to develop and maintain Australian capability.

2.2.3.2 The Tenderer is to detail its strategy, plans and commitments for how it will contribute to the development of the Australian shipbuilding industry, including the activities and initiatives of the Tenderer, and throughout the supply chain, to establish, transition, transform or enhance the skills, knowledge, systems, technology and infrastructure used or exploited to deliver goods and services. The Tenderer is to include in this section its assessment on how it will develop Australian Industry.

2.2.3.3 The Tenderer is to provide a summary of:

- a. the strategy and approach to develop, use and manage the Australian supply chain; and
- b. the planned efforts or initiatives by the Tenderer to establish, transfer, improve or create skills, knowledge, technology or infrastructure within Australian Industry including the associated Intellectual Property and Technical Data that will be made available to support those efforts or initiatives.

Note to Tenderers: The Tenderer is to provide their response against a breakdown of systems e.g. communication systems, weapons systems.

2.2.4 The Tenderer should include in its summary its initial assessment and proposals to:

- a. assess the current, and potential, capability of the Australian shipbuilding supply chain and potential sources of supply;
- b. identify the high value areas of the future Australian supply chain that would support an enduring and organic CNS industry at the conclusion of the Project;
- c. identify opportunities for competitive and innovative Australian companies to compete for, and win, work throughout the Australian supply chain;

- d. create synergies between the supply chain to build the Ships and for support of the Ships; and
- e. provide opportunities for the development of the Australian shipbuilding industry, including:
 - (i) skills development;
 - (ii) investment in Australian Industry; and
 - (iii) opportunities for Australian Industry as part of global supply chains and domestic commercial opportunities.

2.2.5 Innovation and Research and Development

Note to Tenderers: Information provided to address clause 2.2.5 should be provided in the context of the contractual obligations, the 2016 Defence Industry Policy Statement and Defence Integrated Investment Program. For the avoidance of doubt this should not include the Tenderers organisation's Global Innovation and/or Research and Development plans and strategies where the Tenderer is unable to link to or demonstrate the benefits to Australian Industry specifically.

2.2.5.1 The Tenderer is to describe its strategy for involving Australian Industry in innovation, research and development in support of the Head Contract.

2.2.5.2 The Tenderer is to summarise the ideas, collaboration principles, technology, systems or innovation that may be pursued in support of the Head Contract, including:

- a. a brief overview of the ideas, technologies or innovations;
- b. how Australian industry, Defence Science and Technology Group (**DSTG**), academia or other government agencies may support and collaborate to provide tangible contributions;
- c. the Tenderer's plans for any technology transfer to occur under the Head Contract and any resultant benefits to Australian industry;
- d. how the Tenderer intends to commercialise outcomes or benefits that flow from the research and development;
- e. a high level description of whether the technology or innovation could be used to support initiatives external to Defence (i.e. innovations which may provide greater benefit to the Commonwealth or other industries sectors); and
- f. any Government grants (at any tier of Government) or funding in support of innovation, research and development activities, which may directly or indirectly benefit the Tenderer's performance under the Head Contract, including under the Next Generation Technologies Fund and the Defence Innovation Hub.

2.2.6 Global Supply Chain and Commercial Opportunities

2.2.6.1 Provide details of how Australian industry would be provided with opportunities to enter export markets or facilitate domestic sales of products or services in the Head Contract.

3. CONTRIBUTION TO CONTINUOUS NAVAL SHIPBUILDING INDUSTRY

3.1 Executive Summary

3.1.1 The Tenderer is to provide a summary of how it will contribute to the establishment of a CNS industry in Australia, including developing and sustaining shipbuilding capability in Australia.

3.2 Shipbuilding Strategy

3.2.1 The Tenderer is to describe why its shipbuilding strategy and associated processes, systems and tools will be suitable for use within the CNS industry in Adelaide after the conclusion of the Project. The Tenderer is to describe its ability to work with Commonwealth supplied infrastructure and any tools.

3.2.2 The Tenderer is to describe how its proposals for the design and build schedule of the Ships will best ensure the sustainable utilisation of Australian Industry in establishing a

CNS industry (i.e. reducing fluctuation of the use of Australian Industry).

3.2.3 The drumbeat for the production of the Ships will be 24 months (i.e. 24 months between the start of construction of each Ship). The Ships will be produced in three Batches of three Ships each. The Tenderer is to describe its proposed continuous improvement approach to reduce the cost premium of building naval ships in Australia whilst maintaining the Commonwealth's build schedule.

3.2.4 The Commonwealth is seeking to leverage the Tenderer's shipbuilding strategies, processes and tools for use on other shipbuilding projects, including projects contracted to third parties during and after the Project finishes. The Tenderer is to describe the anticipated benefits from the experience and expertise it provides, how it will enable this to occur (such as assistance in a transition process), Intellectual Property and Technical Data rights, and provision of ongoing support if required. The Tenderer is to also describe any restrictions on the use of its shipbuilding strategies, processes and tools, with reference to clause 6 of Annex C to Attachment A to the Conditions of Tender.

3.3 Australian Shipbuilding Workforce

3.3.1 The Tenderer is to outline how the Tenderer intends to build and maintain a workforce in Australia to support the CNS industry and the Project.

3.3.2 The Tenderer should set out the detailed strategies, actions, plans and commitments that it will implement for the purpose of establishing and maintaining an Australian workforce to support the CNS industry. This shall include shipbuilding management, scheduling and planning, production, design and engineering and test and activation.

3.3.3 The Tenderer is to outline a proposal for the initial and progressive transfer of shipbuilding knowledge to the Australian workforce.

3.4 Supply Chain Strategy

3.4.1 The Tenderer is to provide a plan with actions and commitments that it will implement for the purpose of establishing and maintaining a suitable supply chain in Australia in support of the Project and the CNS industry.

3.4.2 The Tenderer is to outline a proposal for the establishment of a Technical Support Network in Australia.

4. CNS & AIC MANAGEMENT, MONITORING AND REPORTING

4.1 Management

4.1.1 The Tenderer is to identify:

- a. the proposal for CNS, AIC management including monitoring and reporting;
- b. the process to capture data, monitor and report on the achievement of the AIC Plan under the Contract, including:
 - (i) baseline obligations;
 - (ii) changes, including any new opportunities; and
 - (iii) AIC content throughout the Head Contract.

4.2 Past Experience

4.2.1 The Tenderer is to provide details of its involvement in current and previous industry programs in Australia or another country or achievements in developing Australian or another country's industry capabilities. These details may include information relating to proposed Subcontractors, and may include:

- a. nurturing Small to Medium Enterprises;
- b. fostering development and export facilitation of goods and services;
- c. performing significant research and development in Australia or another country;
- d. any previous experience developing the shipbuilding industry in Australia or other countries;

- e. establishment of significant local facilities and plant; and
- f. previous AIC Plan (or similar plan for another country).

5. RISK ASSESSMENT

Note to Tenderers: This clause outlines the risk assessment requirements with relation to CNS and Australian Industry Capability as detailed in Annex B to Attachment A to the Conditions of Tender.

- 5.1.1** The Tenderer is to provide a risk assessment in accordance with clause 5.2 in Annex E to Attachment A to the Conditions of Tender that identifies risk and associated treatments related to the Tenderer's response to Annex B to the TDRL. Key risks and indicative treatment strategies to be address shall include, but are not limited to establishing, maintaining and retaining a suitable workforce capacity and capability including the transfer of skills, technology and knowledge to Australian Industry.
- 5.1.2** If there is any material impact on cost or schedule, the Tenderer is to include a risk assessment in the Costed Risk Register at Annex D to Attachment A to the Conditions of Tender.

Appendix:

- A. Draft DID-PM-AIC-AICP Data Item Description Australian Industry Capability Plan

ATTACHMENT A**DATA ITEM DESCRIPTION**

- 1. DID NUMBER: DID-PM-AIC-AICP**
- 2. TITLE: AUSTRALIAN INDUSTRY CAPABILITY PLAN**
- 3. DESCRIPTION AND INTENDED USE**
 - 3.1** The Australian Industry Capability (AIC) Plan details the Contractor's plans, procedures, commitments and responsibilities for the management of AIC for the duration of the Contract.
 - 3.2** The Contractor uses the AIC Plan to manage, coordinate and monitor the delivery of the AIC program.
 - 3.3** The Commonwealth uses the AIC Plan to:
 - a. evaluate the AIC program; and
 - b. identify the Commonwealth's involvement in the AIC program.
- 4. INTER-RELATIONSHIPS**
 - 4.1** The AIC Plan inter-relates with the following data items, where these are required under the Contract:
 - c. Contract Master Schedule (CMS);
 - d. Contract Status Report (CSR);
 - e. Technical Data and Software Rights Schedule (TDSRS);
 - f. Work Breakdown Structure (WBS); and
 - g. Technical Data List (TDL).
- 5. APPLICABLE DOCUMENTS**
 - 5.1** The following documents form part of this DID to the extent specified herein:

Nil.
- 6. PREPARATION INSTRUCTIONS**
 - 6.1 Generic Format and Content**

 - 6.1.1** The data item shall comply with the general format, content and preparation instructions contained in the Contract Data Requirements List (CDRL) clause entitled "General Requirements for Data Items".
 - 6.1.2** The AIC Plan will be traceable from the earlier AIC Plan versions and shall remain consistent with pricing details in Attachment B.
 - 6.2 Specific Content**

 - 6.2.1** The AIC Plan shall include the information in Table 1, with each section clearly and separately identified.

Table 1: AIC Plan Content

Section	Section Title
A	<p data-bbox="328 387 488 416"><u>Introduction</u></p> <p data-bbox="328 472 1445 591">Note: This section is restricted to 5 pages or less and should provide an introduction and summary of the strategic intent underpinning the draft AIC Plan. It will be specific to this AIC draft plan and not a rearticulation of the overarching proposal Executive Summary/Introduction.</p> <p data-bbox="328 611 1445 701">The successful Tenderer will be expected to work with Defence to update the entire draft AIC Plan to ensure it reflects the negotiated and agreed AIC Plan outcomes. This work will be undertaken prior to execution and reflected in the signed Contract.</p> <p data-bbox="328 725 1445 815">The introduction shall summarise the Tenderer's strategy and plans to meet the objectives of the 2016 Defence Industry Policy Statement as integral to delivering upon the project Statement of Work (SoW).</p> <p data-bbox="328 882 1445 1001">It must include a statement of intent relating to the approach to maximising opportunities for competitive Australian companies, developing, transferring, or enhancing the skills, knowledge, systems, technology transfer and where appropriate infrastructure of the potential and proposed Australian industrial supply chain participants.</p> <p data-bbox="328 1068 1445 1187">The introduction should summarise the Tenderer's approach to supporting Defence and the Commonwealth of Australia's Indigenous Procurement Policy in considering and involving recognised Indigenous Enterprises within the supply chain and the employment of Indigenous Australians as part of delivering the Statement of Work.</p> <p data-bbox="328 1252 1445 1370">Furthermore, the introduction shall provide a summary of the governance arrangements, principles and partnering approach employed in establishing and maintaining the Australian supply chain with an emphasis on high quality mutually beneficial commercial and delivery relationships for the term of the contract.</p>

B**Maximising Opportunities for Australian Industry Participation**

This section shall provide details of:

Market Testing:**i. Tender Proposal Development**

This section should provide detailed descriptions of the approach, actions and processes undertaken to provide opportunities for competitive Australian industry to be considered for participation under the Contract, including:

Note: Detail the industry engagement processes including use or engagement with industry associations, supplier advocates, professional networks, the Centre for Defence Industry Capability, AusIndustry, Supply Nation or forms of advertising and/or promotion used to publicise opportunities across the breadth of the Statement of Work.

- a. how, why and the processes by which Australian industry were chosen for market testing;

Note: For the purposes of this DID, "Indigenous Business Enterprise" means an organisation that is 50 per cent or more Indigenous owned that is operating a recognised and registered business. Supply Nation maintains a list of enterprises that meet the definition of "Indigenous Business Enterprises" (www.supplynation.org.au).

- b. what initiatives have been employed to reflect the Commonwealth policies of Indigenous procurement, including:

- (i) maximising participation of Indigenous Business Enterprises over the Contract term; and;
- (ii) the initiatives used for the employment of Indigenous Australians in the delivery of the Statement of Work;

Note: Reference (c) should be removed if no Priority Industry Capabilities are applicable to the procurement. Defence will be transitioning to a new Sovereign Industrial Capabilities assessment framework in mid-2017 but until that time, Priority Industry Capability policies still apply to Defence major capital tenders.

- c. how Australian industry were selected to perform the Priority Industry Capability requirements (if applicable);
- d. how source selection decisions (including details of the criteria used) were made in the selection of the Australian industrial supply chain as part of this offer. This section shall include detail as to why work proposed to be performed overseas cannot be performed or transitioned to Australian industry throughout the contract term; and
- e. details of work to be transitioned to Australia, from overseas and include the nature of the work, the skills that will be developed and the schedule for delivery.

ii. Contract Market Testing

In considering opportunities for Australian industry throughout the contract term, provide details of any alternative approaches to contract market testing principles, processes, actions, and success and benefits criteria that may differ from the contractor's proposed approach to (i) Tender Proposal Development.

iii. Local Industrial Activity - Contract Commitment

Note: The below information will provide a summary of the AIC Contract commitments. The place to provide all the Australian industry supply chain detail and commitment is in the AIC Schedule (Appendix 1) and the associated LIA Description Sheet (Appendix 2).

Appendix 1 and Appendix 2 must be completed for all Australian Industrial Capabilities/Local Industry Activities proposed in the delivery of Attachment A to the Contract. Guidance on completion of Appendix 1 and 2 is provided in the AIC Better Practice Guide. Please review Appendix 1 for definitions of inclusions as part of the AIC Plan.

Reference (iv) above should be removed if no Priority Industry Capabilities are applicable to the procurement.

The definition for what constitutes Local Industry Activity (and Australian Industry Capability plan inclusions) can be found in the 'Note to Tenderers – Appendix 1 – AIC Schedule.

For the Australian subcontractors selected to participate in the Contractor's supply chain, Defence will require details on the following to be included in Appendix 1 and Appendix 2:

- a. identify each subcontractor including company name and headquarter location;
- b. description of the work packages to be performed by each Australian subcontractor, including where the work will be performed;
- c. the value of the Local Industry Activity (LIA) work committed to the Australian company;
- d. a workforce profile for each company participating in the Australian supply chain, including the increase or decrease in capacity and the areas impacted (i.e. full time employees, apprenticeships, engineering, office staff, fabricators, coders, manufacturing positions etc);
- e. details of the Priority Industry Capability Industry Requirement (PIC IR) work packages to be undertaken;

Note: The explanation must be very detailed and include the cost effectiveness, benefits to the Commonwealth and a risk assessment that includes the impact on schedule. The justification must also contain an approach, including cost benefit analysis, of how the Contractor could/will transition/transfer the work, knowledge or capability to Australia during the initial contract term.

- f. if the Tenderer believes there are valid reasons why Industry Requirements are unable to be conducted in Australia at the commencement of the project/sustainment Contract, justification is to be provided; and

- g. the benefits to all parties from the inclusion of the Australian companies as part of the Contractor's supply chain.

iv. Australian Industry Development

Australian industry development is critical to the objectives of the 2016 Defence Industry Policy Statement and the Contract Statement of Work. This section shall detail the Contractor's strategy, plans and commitments to Australian Industry Development.

Australian Industry Development is the activities and initiatives of the Contractor, and throughout the supply chain, to establish, transition, transform or enhance the skills, knowledge, systems, technology and infrastructure used or exploited to deliver goods and services. This section goes beyond the Local Industry Activities described above; to further detail the overall impact on the Australian industrial base beyond the period of the Contract.

These capabilities will potentially be used to benefit the broader Defence Australian industry base and to ensure the resulting capabilities are not reliant upon the Contractor that introduced the industry capability to develop and maintain Australian capability. This section shall detail the:

- a. strategy and approach to manage and develop the Australian supply chain;
- b. efforts or initiatives by the Contractor, or the Contractor's partners to establish, transfer, improve or create skills, knowledge, technology or infrastructure within Australian industry (include details such as commitment, costs and timings); and
- c. efforts of the Contractor to drive initiatives and benefits that seek to pursue priorities identified within the Defence skilling programs; including skills development—either currently targeted or gaps identified pre and post contract signature

v. Innovation and Research and Development

- d. Describe the Australian strategy for involving the Australian industrial base in innovation, research and development in support of the Contract.
- e. Detail the ideas, collaboration principles, technology, systems or innovation that will be pursued in support of the Contract including:
 - 1. a brief overview of the ideas, technologies or innovations;
 - 2. how Australian industry, Defence Science and Technology Group (DSTG), academia or other government agencies will support and collaborate to provide tangible contributions;
 - 3. whether any technology transfer will occur under the Contract and any resultant benefits to Australian industry;
 - 4. how the Contractor intends to commercialise outcomes or benefits that flow from the research and development ;

5. whether the technology or innovation could be used to support other Defence initiatives/programs, including the Defence Innovation Hub or the Next Generation Technology Fund; and
6. whether the technology or innovation could be used to support initiatives external to Defence (i.e. innovations which may provide greater benefit to the Commonwealth or other industries sectors).

Note: Information provided to address the section above should be provided in the context of the objectives of the Contract Statement of Work (SoW), the 2016 Defence Industry Policy Statement and Integrated Investment Program. For the avoidance of doubt this should not include your organisations Global Innovation and/or R&D plans and strategies where you are unable to link to or demonstrate the benefits to the Australian industrial base specifically.

- f. Provide details of any Government grants (at any tier of Government) or funding in support of innovation, research and development activities, which may directly or indirectly benefit the Contract.

vi. Global Supply Chain and Commercial Opportunities

Provide details of the following:

- a. any new Australian companies that have or will be entering the tenderers global supply chain as a result of the Contract; and
- b. how Australian industry has or will be provided with opportunities to enter export markets or facilitate domestic sales of products or services in the Contract.

C	<p>AIC Management, Monitoring and Reporting</p> <p>This section shall identify:</p> <ul style="list-style-type: none">a. the authorised AIC manager for the Contractor, including name, title and contact details;b. the AIC manager's responsibilities, include details of the approach to managing the Australian industry supply chain under the Contract;c. the process to capture data, monitor and report on the achievement of the AIC Plan under the Contract, including:<ul style="list-style-type: none">i) baseline obligations;ii) changes, including any new opportunities in:<ul style="list-style-type: none">(1) Australian Industry development expectations, including to supply chain;(2) innovation, research and development expectations; and(3) global supply chain and commercial opportunity capture expectations.iii) AIC content within the reporting period and cumulatively, by dollar value; and AIC Subcontracts by number and dollar value.d. the process to capture data, monitor and report on the achievement of the AIC Plan under the Contract;e. how claims for achievement of the AIC Plan under/in Contract will be substantiated; andf. the assurance process for the timeframes and tools utilised to ensure the full contractual AIC Plan obligations are being met; including identifying and remediating degraded performance of AIC obligations under the Contract. Provide confirmation that regular assurance activities have occurred and that the details and outcomes will be recorded in relevant Contract progress reporting.
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APPENDIX 1

LOCAL INDUSTRY ACTIVITY SCHEDULE

Local Industry Activities (LIA)							
LIA Item Number ¹	Full LIA Title ²	Australian Company Name ³	Industry Requirement ⁴	Price Schedule Reference ⁵	Local Industry Activity Value (AUD) ⁶	Location (including Postcode) ⁷	SME Y/N ⁸ IBE Y/N ⁹
					\$0.00		

Note: Each line item in the **Local Industry Activities** (LIA) schedule (above) should be traceable to a Line Item in the Price Schedule. If necessary, break the AIC Schedule Line Items into sub-line items to better describe the Local Industry Activities. All prices are to be expressed in base date dollars and be **GST Exclusive and Duty Free**. All nominated Australian companies listed in the **Local Industry Activities** schedule are to be registered with an Australian Business Number.

- Unique identification number for the LIA. This is assigned by the Contractor.
- Title of the LIA undertaken. A separate LIA is required for each work package and company.
- Australian company undertaking the LIA ("**various**" is **not an acceptable response**).
- Where Priority Industry Capabilities (PICs) have been identified, the Industry Requirement is to be cross referenced between the identified PICs and the more defined Industry Requirement work package that will underpin the Priority Industry Capability.
- Refers to the reference number within the Price Schedule.
- Refers to the Local Industry Activity definitions as described below.
- Australian location and postcode where the majority of work is performed.
- Refers to a company identified as a Small to Medium Enterprise (SME).
- Refers to a company identified as an Indigenous Business Enterprise (IBE).

Local Overheads Schedule		
Local Overheads Description ¹	Local Overheads Value ² (AUD)	Local Overheads Comments ³
	\$0.00	

Note: The Tenderer can choose to provide either a single Local Overhead value or individual Local Overhead details and comments. Local Overhead will, as a minimum provide a value of expenditure in accordance with the Local Overheads Definition as described below.

- Summary description Local Overheads.
- Local Overheads Value in AUD in base date dollars. This value will include the taxes/fees (GST) not accounted for as part of the Local Industry Activity schedule.

APPENDIX 1

3. Tenderer's contextual comments should they be deemed necessary.

APPENDIX 1

Australian Contract Expenditure Totals Schedule		
Australian Contract Expenditure Category	Values (AUD)	Comments, Contextual Information and/or Conditions
Local Industry Activities		
Local Overheads	\$0.00	

Note to Tenderers: The values presented in the Australian Contract Expenditure should be the totals from the previous two tables.

Definitions

Australian Contract Expenditure is the term given to encompass all direct Australian contract expenditure by the Contractor (or the total direct economic impact arising from the contract). It is comprised of two elements that are intended to clearly distinguish between the expenditure on actual work performed within the Australian supply chain by Australian industry and will be known as Local Industry Activities, and the second is the Australian expenditure in support of the contract and will be known as ‘Local Overheads’. Definitions are provided below for both and when combined provide a total value for Australian Contract Expenditure.

Local Industry Activities (LIA) are defined as the value of Australian industrial base work performed in Australia in support of the Defence acquisition and/or sustainment activities. It is the (GST exclusive) dollar value of work committed in contract, where the actual work clearly creates, enhances or maintains Defence capability and that will be performed by Australian industry. This value is captured as a contractual commitment in the AIC Plan Schedule as a Local Industry Activity and is also included in the Public AIC Plan.

Local Overheads is defined as Australian expenditure on taxes, custom duties, insurances, bank fees, Commercial/Military off the Shelf hardware, software and supplies, infrastructure, corporate overheads, goods and services. For the avoidance of doubt, any expenditure that does not fall within the Local Industry Activity definition is Local Overheads. This excludes the imported content element of the Price (and Delivery) Schedule.

Australian Industry is defined in the Glossary and includes Australian entities that are registered for an Australian Business Number (ABN) and includes New Zealand businesses consistent with our obligations under the Closer Economic Relationship agreement. For the avoidance of doubt, this includes Australian based subsidiaries of overseas companies/primes/original equipment manufacturers who are registered in Australia with an ABN and where the work is performed in Australia with Australian based employees of the subsidiary. Expenditure by the subsidiary that is aligned to this definition should appear in either the Local Industry Activities or the Local Overheads, whichever category it applies to.

Indigenous Procurement Policy (IPP) is a Whole of Government procurement connected policy, introduced in July 2015. The main elements within this policy are 1) targets for purchasing from Indigenous Business Enterprises (IBEs) and 2) minimum Indigenous employment and participation requirements for certain Commonwealth contracts.

Indigenous Business Enterprise (IBE) means an organisation that is 50 percent or more Indigenous owned and operating as a company. Supply Nation is the IBE membership body which validates and promotes Indigenous businesses.

Small to Medium Enterprises (SME) is defined within the Commonwealth Procurement Rules as an Australian or New Zealand company with fewer than 200 full-time equivalent employees.

Priority Industry Capabilities (PICs) are the broader industry capabilities which allow the ADF to gain essential strategic advantages; and which, if not made available within Australia, could undermine Defence self reliance and operational capability.

APPENDIX 2

LOCAL INDUSTRY ACTIVITY (LIA) DESCRIPTION SHEET

The LIA Description Sheet provides a detailed explanation of the summary information contained in the AIC Schedule (Appendix 1).

LIA Serial Number		LIA Title
A	Industry Requirement(s)	Identify all Industry Requirements addressed by this LIA.
B	Industry Description	
C	Benefit(s)	<p>Note: Where information requested in this section has been answered with the response to section B of the AIC Plan above provide cross referencing. Otherwise complete the details for a. to f. below.</p> <p>Describe the benefits of the LIA to the Australian company undertaking the LIA (identified in Appendix 1 for this LIA) in terms of the following:</p> <ul style="list-style-type: none"> a. the significance of the work that the LIA will contribute to the Contract; b. the skills and knowledge that will be transferred, improved or created in the Australian company, including how these skills and knowledge will be developed, shared, maintained and retained by the company beyond the life of the LIA contracted activity; c. the number and details of the SMEs and/or IBEs engaged within the supply chain; d. the new technologies or innovations that will be introduced or will result from the LIA; e. the contribution to the Australian company's future competitiveness; and f. training to be provided including mentoring, up-skilling and trade training sponsorship. <p>Describe the benefits of the LIA to the Contractor in terms of broadened global supply chains that the Contractor will now access from the Australian company that it did not previously access.</p> <p>Describe the options (if any) that the Contractor had to perform the scope of work covered by the LIA outside of Australia.</p>
D	Details of Contractor - Subcontractor Relationship	Provide details of the relationship with the party/subcontractor selected to deliver the LIA (eg. number of projects/contracts, length of commercial partnering, number of new subcontracting arrangements, status of MoUs, teaming agreements, status of Technical Assistance Agreements (TAAs) and Non-Disclosure Agreements (NDAs)).
E	Small to Medium Enterprises	<p>Provide details of each SME engaged within the supply chain; noting their size, annual financial turnover, whether the business is regional or capital city based, and staff numbers.</p> <p>Confirm that invoice payment terms to the SME are 30 days or less, as commercially reasonable.</p>
F	Intellectual Property and Technical Data Arrangements	Identify Technical Data and the associated Intellectual Property rights required to be provided to Australian industry for the delivery of the LIA.

APPENDIX 2

G	Approvals	Provide details of all actions, processes, accreditations and approvals required (ie. International Traffic in Arms Regulations, import controls, security and facility clearances etc.), or to be performed (including timing), and by whom, that will enable Australian industry to deliver this LIA.
H	Risks	Identify all risks known to potentially impact upon the delivery of this LIA. Provide a cross-reference to the individually identified risk recorded in the Risk Register. The Risk Register must reference the LIA serial number, title and description.

APPENDIX 3

PUBLIC AIC PLAN

Public AIC Plan

Note to Tenderers: The Public AIC Plan is designed to facilitate transparency and promote opportunities for Australian companies to compete on merit throughout the contract term by publishing these opportunities through the Commonwealth's internet website.

This Public AIC Plan section is not required at tender submission stage. This information is provided to indicate the information expected as part of finalising the plan with the successful tenderer. This must be completed, submitted and agreed by the Commonwealth prior to contract signature.

Following Contract signature, the Public AIC Plan will be published on a Commonwealth internet website, and be maintained in accordance with the Contract Data Requirements List (CDRL), to ensure it reflects the industry arrangements.

The Public AIC Plan shall be written on a company letterhead, signed by a duly authorised officer of the Contractor, and be presented in a format that can be published on a Commonwealth internet website. The Public AIC Plan shall comply with the Commonwealth's adoption and implementation of Web Content Accessibility Guidelines.

The final AIC Plan shall include a copy of the proposed Public AIC Plan which includes all of the below information and requirements, following the same headings and structures.

Company Details:

Company Name
Location
Website Address

Executive Summary:

Provide a high-level overview of the Contract, including details relating to the work packages to be performed by Australian industry. In particular, the Executive Summary should include:

- the scope of the Contract with the Commonwealth, including the major equipment systems and services to be provided;
- contract duration and price;
- work packages that relate to an Industry Requirement;
- the scope of work subcontracted to Australian industry including:
 - (i) Total Contract Value;
 - (ii) Total Australian Contract Expenditure;
 - (iii) Total Local Industry Activity Value;
 - (iv) subcontractor details (company name and location) and the work they have been contracted to perform; and
 - (v) location of the work to be performed; and
 - (vi) details if an Indigenous Business Enterprise or a Small Medium Enterprise is within the supply chain.
- training and initiatives offered to Australian industry under the Contract (i.e. training courses,

APPENDIX 3

PUBLIC AIC PLAN

sponsorship at trade shows and exhibitions, export facilitation etc).

Scope of Future Work Opportunities:

Briefly describe the future opportunities that exist for Australian industry to bid for additional work directly or indirectly relating to the Contract Statement of Work including:

- the major equipment systems or services that will be sought;
- the location(s) where it is desirable for this work to be performed; and
- opportunities for Australian industry to be involved in new innovations and/or research and development opportunities.

Future Opportunities Industry Engagement:

Briefly describe the process to be followed to engage Australian industry in future work opportunities, including:

- how these will be advertised (i.e. through the use of supplier advocates, professional networks, business access arrangements or similar);
- how Australian industry will be evaluated for supplier/Subcontractor selection; and
- indicative timeframes for engagement of subcontractors

For future work opportunities, provide sufficient details that will enable Australian industry to contact the appropriate representative from within the company in order to register their interest.

Signature block of company approver.

ANNEX C TO ATTACHMENT A**COMMERCIAL FRAMEWORK****1. CONTRACTING STRUCTURE**

- 1.1 The draft Head Contract at Part 3 sets out the Commonwealth's requirements for the establishment of a long term commercial relationship for the Project.
- 1.2 If the Tenderer proposes any changes to the draft Head Contract, or proposes an alternative contracting structure, the Tenderer is to describe:
- a. the specific changes that it would require to the draft Head Contract in the Statement of Non-Compliance at Annex A to Attachment A to Conditions of Tender and in an amended form of the draft Head Contract;
 - b. how its proposal would address all aspects of the Project covered by the Head Contract, including all design, construction, integration, installation, testing and delivery of the Ships and associated Supplies;
 - c. any additional benefits and any increased risks for the Commonwealth arising from its proposal;
 - d. each contract proposed under its proposal;
 - e. the overall governance and decision-making arrangements under its proposal; and
 - f. examples of projects of a similar nature, scale and complexity to the Project where its proposed changes or structure has been successfully implemented for the benefit of the customer and principal.
- 1.3 If the Tenderer proposes an alternative contracting structure, the Tenderer should provide the information requested under this Annex C (including in relation to liability, intellectual property, pricing and risk) in relation to both its proposed structure and the Commonwealth's contracting structure as reflected in the draft Head Contract.

2. GOVERNANCE

- 2.1 The draft Head Contract provides for a governance structure to support the proper management of the Project, the efficient resolution of issues and disputes and the establishment of a long term collaborative working relationship between the Commonwealth and the successful Tenderer.
- 2.2 The Project will be conducted in conjunction with other major Commonwealth shipbuilding programs in Adelaide, South Australia including the Future Submarine Program, the Offshore Patrol Vessel Project and the Air Warfare Destroyer Program.
- 2.3 The Commonwealth requires that these shipbuilding and submarine programs are coordinated and managed at an Enterprise-level. Accordingly, it is proposed that Enterprise-level governance arrangements will be established, including the Principals Council. The Principals Council will be comprised of senior Commonwealth representatives and senior officers of each of the shipbuilding/submarine contractors, including the successful Tenderer.
- 2.4 The Tenderer will be required to participate in these Enterprise-level governance arrangements for the purpose of coordinating the efforts of each shipbuilding/submarine contractor and resolving issues in respect of the management of the Shipyard by the successful Tenderer.
- 2.5 The Tenderer is to detail its approach to meeting the governance arrangements set out in the draft Head Contract and any Enterprise-level governance arrangements established as described above, including any proposed changes to those arrangements.

3. SUBCONTRACTORS

- 3.1 The draft Head Contract provides for Material Subcontractors and Approved Subcontractors. Tenderers should refer to the Head Contract and Attachment M to the Head Contract for further details on the definitions of these concepts. There are a number of provisions applicable to all Subcontractors and other provisions applicable to only Material Subcontractors or Approved Subcontractors.
- 3.2 The Tenderer is to identify:
- a. any of its proposed Subcontractors that are likely to be Material Subcontractors or Approved Subcontractors for the purposes of the Head Contract;
 - b. any work that it proposes to subcontract where the relevant subcontractor (once identified and engaged) is likely to be a Material Subcontractor or Approved Subcontractor for the purposes of the Head Contract
- 3.3 The Tenderer is to provide details for any such proposed Subcontractors or proposed subcontracted work, including:
- a. the identity of the Subcontractor (if identified);
 - b. the scope of work, roles and responsibilities of the Subcontractor;
 - c. the proposed commercial arrangements for the Subcontract, including price and payment model, allocation of risk and liability, warranty and defect rectification arrangements and performance management arrangements; and
 - d. whether the Subcontractor (once identified and engaged) is likely to be an Approved Subcontractor or a Material Subcontractor.
- 3.4 The tender should describe the procurement processes proposed to be undertaken to establish the required Subcontracts, including details of how these Subcontracts can be established in a value for money manner within the schedule constraints for the Project as outlined in this RFT.
- 3.5 Tenderers should be aware that the Commonwealth has selected the Tenderers on the basis of their Reference Ship Designs and their ability to undertake the design and build of the Ships. As such, the Commonwealth's expectation is that the core design work relating to the Ships and the management and supervision of build activities will be undertaken by the successful Tenderer (or its Related Bodies Corporate) and **not** subcontracted to a third party entity. In particular, while the successful Tenderer may decide to engage a Subcontractor to provide shipbuilding labour resources, the Commonwealth expects the successful Tenderer (or its Related Bodies Corporate) to personally and directly manage and supervise the workforce and, in particular, the shipbuilding activities.

4. LIABILITY, RISK AND INSURANCE

- 4.1 If a Tenderer proposes liability, risk or insurance arrangements rectification (including under clause 1 of this Annex) other than on basis set out in the draft Head Contract, the Tenderer is to describe:
- a. its approach and identify any changes that it would require to the draft Head Contract in the Statement of Non-Compliance and the amended form of the draft Head Contract;
 - b. any additional benefits and any increased risks for the Commonwealth arising from the approach. In particular, the Tenderer is to identify how its approach will result in a more efficient allocation of risk having regard to:
 - (i) the nature and likelihood of the relevant risk;
 - (ii) the arrangements required to be established to enable the Tenderer (or the Commonwealth) to manage the relevant risk; and
 - (iii) the availability and cost of insurance in relation to the relevant risk; and

- c. examples of projects of a similar nature, scale and complexity to the Project where the approach has been successfully implemented for the benefit of the customer and principal.
- 4.2 If the Tenderer proposes an exclusion or limitation of liability in relation to the Project different to an exclusion or to the limitation of liability in the draft Head Contract, the Tenderer must conduct a liability risk assessment and provide the following details:
 - a. the terms of the exclusion or limitation, including the amounts of any such limitations;
 - b. an explanation of why the Tenderer requires the exclusion or limitation of liability;
 - c. a reference to the risk in the Costed Risk Register in Annex D; and
 - d. the impact (if any) of these changes on the insurance requirements of the draft Head Contract.
- 4.3 The Tenderer is to provide a risk assessment that:
 - a. identifies risks arising in relation to the Project;
 - b. specifies how its tender will minimise or manage those risks in the most efficient and effective manner; and
 - c. includes its assessment of risk and associated treatments.

5. DESIGN AND BUILD RESPONSIBILITY AND WARRANTIES

- 5.1 The draft Head Contract sets out design and build warranties and obligations for the Project that reflect an appropriate and efficient allocation of risk in relation to the Ships and associated Supplies. The Commonwealth considers it appropriate that the Contractor stands behind the Ships and associated Supplies by ensuring that:
 - a. the Ships and associated Supplies are fit for the purposes provided for in the Contract;
 - b. the work under the Head Contract is in accordance with specified standards, applicable laws and good industry practice in the naval shipbuilding industry; and
 - c. any defects identified during specified defect rectification periods are corrected (without delay and without needing to identify fault on the part of the Contractor). This ensures that any defects are rectified in a timely way and the Commonwealth can make use of the Supplies as quickly as possible after defects are identified
- 5.2 If the Tenderer proposes an alternative approach to the responsibilities of the parties and the warranties and defect rectification obligations it proposes to provide, the Tenderer is to:
 - a. describe its approach and identify any changes that it would require to the draft Head Contract in the Statement of Non-Compliance and an amended form of the draft Head Contract;
 - b. any additional benefits and any increased risks for the Commonwealth arising from the approach. In particular, the Tenderer is to identify how its approach will result in a more efficient allocation of risk having regard to:
 - (i) the nature and likelihood of the relevant risk;
 - (ii) the arrangements required to be established to enable the Tenderer (or the Commonwealth) to manage the relevant risk; and
 - (iii) the availability and cost of insurance in relation to the relevant risk;
 - c. examples of projects of a similar nature, scale and complexity to the Project where the approach has been successfully implemented for the benefit of the customer and principal.
- 5.3 Tenderers are to provide details of any warranties that are available from relevant manufacturers or suppliers that will extend beyond the end of the relevant Defect Rectification Period. Tenderers should identify any warranties of this nature in their tenders, including the additional cost (if any) associated with such warranties.

6. INTELLECTUAL PROPERTY, TD AND SOFTWARE RIGHTS

Note to tenderers: Clause 6 of the Head Contract sets out the Intellectual Property (IP) regime to apply to the Project, including in relation to rights to be granted to the Commonwealth in relation to Technical Data (TD), Software and other material. The Head Contract regime is modified and informed by the Technical Data Software Rights (TDSR) Schedule forming Attachment G to the draft Head Contract. Tenderers are required to include a completed draft TDSR Schedule with their tender as described below.

6.1 The Commonwealth has proposed an Intellectual Property regime in the draft Head Contract that reflects its requirements in relation to the Ships and associated Supplies. The draft Head Contract requires (among other things) that the Commonwealth has rights to use TD and Software provided under the Head Contract (other than Commercial TD or Commercial Software) for the following “default” purposes:

- a. installing or configuring the Supplies;
- b. integrating the Supplies with other systems as contemplated under the Head Contract;
- c. remedying Defects in the Supplies;
- d. operating or maintaining the Supplies as contemplated under the Head Contract;
- e. undertaking training in relation to the Supplies as contemplated under the Head Contract;
- f. removing or uninstalling the Supplies;
- g. decommissioning or destroying the Supplies;
- h. achieving the Australian industry objectives in a strategy or plan made under the Head Contract; and
- i. responding to a request for the purpose of engaging a person for any of the above purposes.

The Commonwealth requires the right to use the TD and Software for these “default” purposes without any additional restrictions or limitations.

6.2 The Head Contract allows the Contractor to propose (in the draft TDSR Schedule) restrictions or limitations on the use of TD and Software for other “Defence-related purposes” (ie purposes not included in the “default purposes” listed in clause 6.1 above). These other Defence-related purposes may include:

- a. constructing, building, producing, reproducing or manufacturing Ships to enable the Continuous Naval Shipbuilding industry in Australia
- b. designing, developing or operating infrastructure related to the Supplies;
- c. packaging, handling, storage and transportation of Supplies;
- d. Logistic Support Analysis/ Continuous Improvement;
- e. development of future support concepts/contracts; and
- f. modifying the Supplies;

Further information on the potential scope of these other purposes is included in Schedule 1 to Annex C to Attachment A

6.3 Tenderers are to provide a draft TDSR Schedule in the form of Attachment G to the draft Conditions of Contract by completing all columns specifying the following:

- a. Annex A – all restrictions proposed including on the:
 - (i) delivery of TD to the Commonwealth under clause 6.9 of the draft Conditions of Contract; and
 - (ii) TD and Software rights to be granted under clauses 6.1 of the draft Conditions of Contract;
- b. Annex B – any Commercial Licence terms applicable to Commercial TD or Commercial Software to be provided under the Contract;

- c. Annex C – (if known) details of all TD or Software where the relevant IP would need to be assigned to the Commonwealth upon its creation under or in connection with the Contract, including for any IP created or arising from an amendment, supplement or update to GFM under the Contract;
 - d. Annex D – all restrictions and exceptions proposed to the sunrise rights to be granted under clause 6.11 of the draft Conditions of Contract; and
 - e. Annex E – the details of any Patents, Registrable Designs or Circuit Layouts incorporated, embodied or integrated in, or forming part of, the Supplies.
- 6.4 Tenderers are to provide detailed justification for all restrictions or other terms included in the draft TDSR Schedule, including an explanation of how any such restrictions will not detrimentally impact the achievement of the objective of the Mission System throughout its Life of Type.

7. CONFIDENTIAL INFORMATION

- 7.1 Tenderers are to provide at Attachment N of the draft Head Contract, a list of all Contract clauses and Contract outputs that they consider to be Confidential Information.
- 7.2 For each clause or output, Tenderers are to justify their identification of the information as Confidential Information, explaining how it meets all four criteria listed in Attachment N to the draft Head Contract.

8. PERFORMANCE MANAGEMENT FRAMEWORK

- 8.1 The performance management framework is set out in Attachment P to the draft Head Contract at Part 3 of this RFT and has been designed to assess the successful Tenderer's performance of the Head Contract as against the Project Objectives.
- 8.2 The Project will be undertaken in conjunction with other major Commonwealth shipbuilding programs in Adelaide, South Australia e.g. Future Submarines (SEA1000), Offshore Patrol Vessels (SEA1180) and the Air Warfare Destroyer Program.
- 8.3 Accordingly, the Commonwealth has proposed two Enterprise-level Key Performance Indicators (EKPIs) to measure the successful Tenderer's contribution to the achievement of the Project Objectives that address the Continuous Naval Shipbuilding and Australian Industry Capability requirements of the Project and the Commonwealth's coordination and management of the relevant major shipbuilding programs at the Enterprise-level.
- 8.4 Subject to satisfaction of the EKPIs, the successful Tenderer may be entitled to access an Incentive Payment regime.
- 8.5 The performance management framework also includes a number of Other Performance Measures (OPMs) will measure the successful Tenderer's behaviour in satisfying its obligations under the Contract that address the Project Objectives.
- 8.6 The Commonwealth requests that Tenderers address in their proposal their approach to the performance management framework and provide their views on the Performance Attributes to the proposed EKPIs and OPMs (collectively defined as Performance Measures). Tenderers may propose additional Performance Attributes for Performance Measures.
- 8.7 Tenderers should include in their response how their performance against the Performance Measures might be measured, including any appropriate information and data sets and relevant parametric measures that will enable the Tenderer to efficiently and objectively measure its performance against of each of the Performance Measures.
- 8.8 Tenderers may suggest other performance management arrangements that will support the achievement of the Project Objectives. In particular, the Commonwealth is interested in any innovative arrangements that will drive performance and the achievement of the Project Objectives.
- 8.9 If Tenderers include changes to the performance management framework, such changes should also be identified in the Statement of Non-Compliance and the amended form of the draft Head Contract.

9. CORPORATE AND FINANCIAL DETAILS

- 9.1 The Tenderer is to provide details of its contract management experience relevant to the draft Head Contract, including:
- a. experience in managing contracts with similar size, value and complexity (for example price and payment models) in the last 10 years; and
 - b. managing contract changes and contractual disputes.
- 9.2 The Tenderer is to identify whether it is acting as a member of, or on behalf of, a Consortium (including a joint venture or partnership). If so, the Tenderer is to provide the following information about the Consortium arrangements and Consortium Members:
- a. details of the Consortium Members (including their legal status and date and place of incorporation or formation);
 - b. the capacity in which the Tenderer will act for the Consortium (for example, as agent or partner);
 - c. the nature of the Consortium (joint venture, partnership etc);
 - d. confirmation that the Tenderer is fully able to bind all Consortium Members in relation to the Project;
 - e. a copy of the documents governing the Consortium, including any constitution or shareholders agreement for any entity formed for the purposes the Consortium;
 - f. contributions each Consortium Member is to make to the Consortium;
 - g. rights of each Consortium Member, including rights to exercise control or influence over management decisions for the Consortium, or control or influence over any Consortium Member;
 - h. rights to terminate the Consortium (including for force majeure); and
 - i. any other material rights and obligations of the Consortium Members.
- 9.3 Each Tenderer is to provide the following information in relation to itself (and if it is acting as a member of, or on behalf of, a Consortium, each Consortium Member):
- a. details of the corporate group of which it is a member (including details of shareholding and ultimate holding company), including a corporate structure diagram identifying all Related Bodies Corporate;
 - b. details of any foreign national or foreign bodies or organisations in a position to exercise control or influence over it or any ownership interest in it;
 - c. details of the financial arrangements proposed to support its obligations in relation to the Project, including the provision of appropriate securities and/or guarantees from entities with sufficient financial and other resources; and
 - d. any other information that is necessary to provide the Commonwealth with an accurate and complete understanding of the financial position and capacity of it (and its corporate group).

Schedule 1 – Purpose Clarification

ANNEX D TO ATTACHMENT A

FINANCIAL

Note to tenderers: Annex D Financial consists of two parts:

- *the first part (clauses 1 - 5) contains a description of the Commonwealth's preferred pricing models for the different Scopes under the Head Contract. Tenderers may propose a change to which of the Commonwealth's preferred pricing model should apply to a particular Scope; and*
- *the second part (clauses 6 to 9) explains the structure of the pricing arrangements and TLCCM response requirements as well as providing instructions on completing the pricing and TLCCM templates.*

The Commonwealth seeks to understand the:

- *extent to which the Tenderer complies with the Commonwealth's preferred pricing arrangements, including the pricing models, profit principles and the principle of open access to financial accounting data to be reflected in the draft Head Contract;*
- *Tenderer's pricing response and the assessed value to the Commonwealth of the Tenderer's pricing response, including whether the proposed arrangements are assessed as reflecting the risk profile of the Project;*
- *adequacy of the Tenderer's proposed systems for the management and recording of cost data, including the Tenderer's proposed Earned Value Management System;*
- *assessed probability that the life cycle cost is affordable for the Commonwealth; and*
- *financial and corporate viability of the tenderer and proposed security and financial support arrangements.*

In accordance with clauses 3.2.3 and 3.4 of the Conditions of Tender, if the Commonwealth seeks additional information through the RFT process, including through conducting Offer Definition and Improvement Activities with one or more Tenderers, the Commonwealth anticipates that it will seek:

- *formal compliance against any Combat System Integrator Subcontract obligations;*
- *accurate Budgetary Estimates for the design and productionisation of nominated Commonwealth modifications to the RSD including the physical integration of the Combat System;*
- *accurate Budgetary Estimates of the functional integration, testing and acceptance of the Combat System; and*
- *a reduced cost uncertainty and risk provision associated with the tendered Budgetary Estimate of the Build Scope, particularly in respect of the first Batch of three Ships.*

1. PRICING MODELS

1.1 General

1.1.1 The Head Contract will use a range of pricing models for the Scopes described in the Project Overview and Statement of Requirements (Part 1 to the Request for Tender). The pricing model applicable to a Scope reflects the Commonwealth's aims for that Scope and seek to manage the differing levels of uncertainty for each Scope.

1.1.2 The Commonwealth's preferred pricing models are:

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Pricing Model	Scope of work to which model is likely to be applied	Rationale
Cost-Plus Fixed Fee Model	Master Scope Design and Productionisation Scope, including Prototyping Activities	Commonwealth aim COST MANAGEMENT Considerations The high level of uncertainty in respect to combat system integration and productionisation
Target Cost Incentive Model	Build Scopes	Commonwealth aim COST CONTAINMENT AND COST IMPROVEMENT Considerations The medium level of uncertainty balanced by the Contractor's knowledge and experience
Fixed Price Model	Alternative model for Build Scopes with high degree of cost certainty (for example the final batch with only minor changes from the previous batch)	Commonwealth aim COST ASSURANCE Considerations The high certainty in determining costs due to known repeatable work packages and performance assuming few design changes

Table TDR D-1: Pricing Models

- 1.1.3 A detailed description of the pricing models is provided in clauses 2, 3 and 4.
- 1.1.4 The Tenderer is to provide the Tenderer's Pricing Response for each Scope based on the Commonwealth's preferred pricing model for that Scope.
- 1.1.5 The Tenderer may propose a different preferred pricing model be applied to a Scope provided that the Tenderer provides a justification for the selection of the model for the particular Scope.
- 2. COST-PLUS FIXED FEE**
- 2.1 Overview**
- 2.1.1 The Commonwealth's preference is for the activities involved in the Master Scope and the Design and Productionisation Scope be performed under a Cost-Plus Fixed Fee model.
- 2.1.2 Under a Cost-Plus Fixed Fee model, the Contractor will be paid:
- a. an amount reflecting "Allowable Costs" incurred in carrying out the agreed scope of the work; and
 - b. an agreed "Fixed Fee" representing profit for the Contractor and any Material Subcontractors, calculated based on a fixed percentage of the estimated Allowable Costs in accordance with item 4 of Schedule 3.
- 2.1.3 The Fixed Fee will be moderated based on the Contractor's performance against the Milestone schedule. If there is a delay in achieving Milestones, the Fixed Fee payable will reduce.
- 2.1.4 The estimated Allowable Costs for a Scope will be developed in accordance with the Allowable Cost Rules set out in Schedule 4 – Allowable Costs.

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2.2 Budgeting/Pricing

- 2.2.1 The Tenderer's Pricing Response is to include a Budgetary Estimate of the Allowable Costs to be incurred in performing the Master Scope and the Design and Productionisation Scope (including the production prototyping activities). The Budgetary Estimate is to include an amount in respect of "Management Reserve" (**MR**) in accordance with clause 2.3.
- 2.2.2 The Tenderer's Pricing Response is to include the Fixed Fee for each of the Master Scope and the Design and Productionisation Scope calculated with reference to the Tenderer's Budgetary Estimate provided in accordance with this clause 2.2 for those Scopes and the relevant Pricing Rules set out in Schedule 3 – Pricing Rules.

2.3 Management Reserve

- 2.3.1 The Budgetary Estimate for each Scope will, for the purpose of determining the Fixed Fee for that Scope, include an agreed estimate amount of MR reflecting uncertainty and low value high probability risks identified in the Contractor's, and any Material Subcontractors', estimating process and referenced in an agreed Risk Register.
- 2.3.2 Under the Cost-Plus Fixed Fee model, MR is only used as a budgetary provision to allow for potential Allowable Costs that may arise.

2.4 Payment

- 2.4.1 The Commonwealth will reimburse actual Allowable Costs incurred by the Contractor on the following basis:
- a. for the Master Scope – payment shall be in equal monthly instalments against the agreed amount;
 - b. for the Design and Productionisation Scope – payment shall be monthly in arrears for Allowable Costs incurred in undertaking a Work Package; and
 - c. for prototyping activities – payment shall be on a monthly basis but only for Allowable Costs relating to a Work Package that has been completed during that month.

Note: The Contractor will be generally permitted to determine Work Package scope/duration as necessary for sequencing purposes.

- 2.4.2 The Fixed Fee will be subject to moderation to reflect the Contractor's schedule performance against agreed Milestones. The Fixed Fee shall be proportionally attributed to each Milestone for the relevant Scope, and moderated, as follows;
- a. late achievement of a Milestone will reduce the associated Milestone Payment; and
 - b. Milestone Payments will reduce by (10%) for each week of delay after the Milestone Date.
- 2.4.3 The Commonwealth requires that the Milestones reflect key progress and vesting points (e.g. successful completion, including the closure of all major corrective actions of formal systems engineering review) within the design and productionisation activities and the performance of the production prototyping activities.

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3. TARGET COST INCENTIVE MODEL (TCIM)

3.1 Overview

3.1.1 The Commonwealth's preference is for the activities involved in the Build Scopes for all Ships to be performed under a Target Cost Incentive Model (**TCIM**).

3.1.2 Under a TCIM, there is a Target Cost Estimate (**TCE**) representing the estimated Allowable Costs that will be incurred by the Contractor and Material Subcontractors in undertaking the Build Scope.

3.1.3 The Contractor will be paid:

- a. the actual "Allowable Costs" incurred in carrying out the agreed Scope, including the costs of Defect repair (not including Latent Defects) within the Defect Rectification Period; and
- b. a Fee which is based on an agreed "Target Fee" and subject to adjustment as set out below. The Target Fee represents the profit of the Contractor and any Material Subcontractors and is determined based on a fixed percentage of the TCE in accordance with item 4 in Schedule 3 – Pricing Rules.

3.1.4 The Fee will be determined by reference to the Target Fee as:

- a. adjusted for any actual cost over/under run against the Target Cost Estimate (TCE) in accordance with the pain/gain share ratio identified in item 5 in Schedule 3 – Pricing Rules; and
- b. moderated for the Contractor's schedule performance, in accordance with item 7 of Schedule 3 – Pricing Rules.

3.2 Budgeting/Pricing

3.2.1 The Tenderer's pricing response should include sufficient budgetary cost information to establish a robust TCE in accordance with the Pricing Rules.

3.2.2 The TCE for a Ship or a Build Scope shall represent an estimate of all of the Allowable Costs to be incurred by the Contractor or any Material Subcontractors in the performance of the relevant Ship or Build Scope, plus an allowance for risk and uncertainty (Management Reserve) and a description of the level of confidence in the budget provided and an estimate of any commercial risk (not MR) attached thereto.

Note to Tenderers: The successful Tenderer's TCE for the first Build Scope will be included in the Head Contract at execution and will provide a baseline against which the actual TCE for a Build Scope will be developed once the Build Scope is incorporated into the Head Contract. The Contractor will be required to justify and explain any variances in the re-estimation of any Build Scope that is incorporated into the Head Contract.

The Commonwealth preference is for the first three Ships to each have a separate TCE, and for subsequent Ships to have a TCE for the batch forming the Build Scope.

3.3 Management Reserve

3.3.1 Each TCE will include an agreed estimate amount of "Management Reserve" reflecting uncertainty and low value high probability risks identified in the Contractor's and any Material Subcontractor's estimating process and referenced in an agreed Risk Register.

3.3.2 Under a TCE:

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- a. MR is controlled by the Contractor and is unallocated, being "drawn down" as required by the Contractor in accordance with business rules agreed by the Commonwealth as risks/uncertainty are realised;
- b. if a TCE relates to more than 1 Ship (i.e. relates to a Build Scope), the MR will be pre-allocated to each Performance Measurement Baseline (**PMB**) (per vessel), and the Commonwealth must agree to any re-phasing of MR between or across PMB's; and
- c. any unused MR will be shared between the Commonwealth and the Contractor as part of gainshare or in a Batch TCE if during the True-Up on acceptance of a vessel, there is an underspend, then the associated underspend may be applied to the following vessel as additional MR thereby deferring the pain/gain share determination until the final True-Up for the Batch.

3.4 Payment

3.4.1 The Commonwealth's preference is that the work associated with the Build Scope shall be budgeted and measured within an Earned Value Management System (**EVMS**) used by the Contractor and any Material Subcontractors.

3.4.2 The Commonwealth's preference is that:

- a. actual Allowable Costs relating to a Work Package will be reimbursed on completion of the Work Package;
- b. if due to the nature of the Work Package (i.e. level of effort (**LOE**) Work Packages), it is not feasible to reimburse Allowable Costs on completion, the Commonwealth will reimburse actual Allowable Costs monthly as incurred;
- c. the sum of all LOE Work Packages (i.e. project management) relating to a TCE will be limited, to 15% of the approved EVM Performance Measurement Baseline (**PMB**) for that TCE or no more than 15 per cent of the anticipated annual cost expenditure.

Note to Tenderers: Business rules governing the payment of Actual Costs, including limiting (minimising) the extent of LOE Work Packages, will be developed and agreed prior to execution of the Head Contract.

3.4.3 The Fee for a Build Scope shall be proportionally attributed to Milestones for that Build Scope and paid "on account" upon the achievement of those Milestones. The Fee is subject to moderation for schedule performance and the True-Up process set out below.

3.4.4 The Fee payable against a Milestone will be moderated as follows:

- a. late achievement of the Milestone will reduce the associated Milestone Payment; and
- b. Milestone Payments will reduce by (5%) for each week of delay after the Milestone Date.

3.4.5 The Commonwealth requires that Milestones reflect key progress certification, system integration demonstrations and Mission System verification and validation and vesting points within the Build Scope.

3.4.6 The final Fee for a TCE shall be determined following acceptance of the relevant Ship or Build Scope (and the expiry of the Defect Rectification Period) as part of a payment True-Up process, during which the final Fee shall be adjusted for pain/gainshare determined by cost performance against the TCE.

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- 3.4.7 If the TCE is provided against a batch of Ships, the Fee shall be progressively determined and released on account, subject to adjustment, which may include recovery of Fee paid on account where applicable, until completion of all Ships within the batch at which time the final Fee amount for the batch shall be determined.

4. FIXED PRICE MODEL

4.1 Overview

- 4.1.1 The Commonwealth's preference is that the Fixed Price model only be used for an upgrade/obsolescence Scope or a Build Scope where there is a high degree of certainty as to the scope of work and the associated cost and schedule. For example, the Fixed Price model could possibly be used for the last batch of three (3) vessels if where the build program has reached a high degree of certainty in respect to Mission System configuration, build schedule and cost.

- 4.1.2 Under a Fixed Price model, the Contractor is paid a fixed price for carrying out an agreed Scope:

- a. regardless of the actual cost the Contractor incurs; and
- b. proportionally, against Milestones or on completion of the Scope.

- 4.1.3 An agreed percentage of the fixed price will be placed at risk as the "At Risk Amount" and paid subject to schedule performance as set out below.

4.2 Budgeting/Pricing

- 4.2.1 If a Tenderer proposes a Fixed Price model for a Scope, the Tenderer shall develop its price, including any contingency amounts for risk and the Contractor's margin in accordance with the Pricing Rules and Allowable Cost rules.

- 4.2.2 The At Risk Amount shall be determined based on an agreed percentage of the fixed price, in accordance with item 4 of Schedule 3 Pricing Rules, in the same proportions as the Target Fee under a TCIM shall be a fixed percentage of the TCE.

4.3 Payment

- 4.3.1 The Commonwealth will pay the Contractor the fixed price (which is fixed subject only to indexation and agreed Adjustment Events) subject to the achievement of Milestones in accordance with the proportion detailed within the Milestone schedule.

- 4.3.2 The payment of a Milestone Payment will be subject to:

- a. achievement of relevant entry and exit criteria for the Milestone; and
- b. moderation of the At Risk Amount based on schedule performance in accordance with item 7 of Schedule 3 – Pricing Rules.

- 4.3.3 Any agreed Milestone schedule shall identify those Milestones that will be subject to Stop Payment.

- 4.3.4 The Commonwealth requires that Milestones reflect key progress and vesting points (eg successful completion, including the closure of all major corrective actions of formal systems engineering review) within the activities within the scope of the Fixed Price.

- 4.3.5 Under a Fixed Price model, if the Contractor submits a claim for a Milestone Payment, the claim shall be accompanied by:

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- a. if the Milestone relates to Acceptance of the Supplies, a Supplies Acceptance Certificate (**SAC**) signed by both parties for the Supplies listed in the Milestone Schedule in relation to that Milestone; or
 - b. if the Milestone relates to Final Acceptance of the Supplies, the Final Acceptance Certificate (**FAC**) signed by both parties; and
 - c. proof of the Acceptance of other Supplies since the previous Milestone; and
 - d. any other relevant documentation necessary to establish, to the satisfaction of the Commonwealth Representative, that the claim is in accordance with the Head Contract (including any relevant Scope Statement).
- 4.3.6 On receipt of a claim for a Milestone Payment the Commonwealth Representative shall within 20 working days approve or reject the claim;
- a. if the claim is approved the Commonwealth shall make payment within 30 days of the approval; or
 - b. if the claim is rejected, notify the Contractor of the need to resubmit and the reasons for rejection;
- 4.3.7 Upon receipt of a rejection notice the Contractor shall promptly take all necessary steps to make the claim for payment conform to the requirements of the Contract (including any relevant Statement of Work) and shall submit a revised claim.
- 4.3.8 A resubmitted claim for payment shall be subject to the same conditions as if it were the original claim.

5. OTHER PRICING MODEL PAYMENTS

5.1 Pass through costs

- 5.1.1 The following categories of cost will not be Allowable Costs and will instead be reimbursed on a pass-through basis (i.e. without any margin applied). These costs will not be included in the calculation of pain:gainshare under a TCIM, but will be subject to approvals, caps and substantiation:
- a. shipyard facilities and infrastructure,
 - b. insurance, financial securities, government fees and charges; and
 - c. travel and relocation costs.

5.2 Incentive Payments

- 5.2.1 The Commonwealth is considering the use of an Enterprise Performance Incentive (EPI) based payment arrangement for Enterprise level performance. The Contractor's entitlement to EPI based payments will be dependent upon Contractor's Enterprise level performance, as provided in Attachment P of the draft Head Contract, including as measured against Enterprise Key Performance Indicators (EKPI) (Australian Industry Capability and Continuous Naval Shipbuilding Outcomes).
- 5.2.2 Amounts of EPI will not be included in any Budgetary Estimates for any TCE or Cost-Plus Fixed Fee arrangements.

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6. RESPONSE REQUIREMENTS

6.1 Introduction

- 6.1.1 This clause outlines the Commonwealth's requirements and provides guidance in relation to the Tenderer's proposed pricing and life cycle cost model for the Head Contract.
- 6.1.2 This Annex is to be read together with the corresponding Microsoft Excel® format workbook Appendices included in the Schedules.
- 6.1.3 The Commonwealth requires that the Tenderer respond by:
- following the guidance provided in this Annex and the Request for Tender (RFT), to complete each of the spreadsheets in the Schedule 1 – Tenderer's Pricing Instruction;
 - following the guidance provided in this Annex D and the RFT, to complete each of the spreadsheets in the Schedule 2 - Tender Life Cycle Cost Model;
 - detailing any non-compliances with Annex D in the Statement of Non-Compliance in Annex A to Attachment A of the Conditions of Tender; and
 - providing the other information sought by the Commonwealth in the form and to the level of detail requested and following the instructions in this Annex (additional information).

6.2 Structure of Schedules to Annex D

- 6.2.1 The Schedules and Appendices to this Annex are listed below.

- a. Schedule 1 – Instruction for the Tenderer's pricing response:

Appendix A1	Key Inputs
Appendix A2	Summary Pricing
Appendix A3	Total Pricing
Appendices B1-B6	Price Schedule (Design & Productionisation)
Appendices C1-C7	Labour Prices
Appendix D	Specific Prices
Appendix E	Cash Flows
Appendix F	Payment Schedule
Appendix G	Risk Register (Design & Productionisation)
Appendix H	Price Variation
Appendix I	FOREX Schedule of Rates
Appendix J	Profit Mark-up %
Appendix K	Schedule 2 – Interface (Import)
Appendix L	Schedule 2 – Interface (Export)

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- b. Schedule 2 – Instruction for the Tender Life Cycle Cost Model (**TLCCM**):

Global Inputs and Outputs	
Appendix A	Master Data and Assumptions List (MDAL)
Appendix B	Cost Profile Summary

Build Costs	
Appendices C1-C6	Build Costs
Appendix D	Risk Register (Build)

Operating and Support Costs	
Appendices E1-E6	Maintenance Costs
Appendices F	Technical Refresh Costs
Appendices G1-G3	Contractor Services Costs
Appendix H	Fuel Costs
Appendices I-M	Various Other Costs
Appendices N1-N2	Schedule 1 - Interface

- c. Schedule 3 – Pricing Rules
- d. Schedule 4 – Allowable Costs Rules

6.2.2 The Tenderer's pricing response, the Pricing Rules and Allowable Costs Rules will form the basis of Attachment B to the Conditions of Contract.

6.2.3 The TLCCM will form the basis of the initial Life Cycle Cost Model deliverable referred to in the Project Overview and Statement of Requirements.

6.3 Tenderer Pricing Response

6.3.1 Tenderers are to explain and document how the Tenderer, including its Material Subcontractor(s), will cost the Tenderer's performance of the Statement of Requirements (Part 1 to RFT). If the Tenderer is non-compliant with any element in the Statement of Requirements, the Head Contract (and Attachments) or this Annex (as set out in its Statement of Non-Compliance), the Tenderer is to provide information on the cost impact of such non-compliance.

6.3.2 The documentation provided by the Tenderer in the Tenderer pricing response should include:

- an overview of the extent of the Tenderer, and any other parties (Material Subcontractor) participation;
- budgetary information associated with the scope of each parties' participation;
- the level of confidence associated with that Budgetary Estimate; and

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- d. documented limitations and constraints associated with the Budgetary Estimate.

6.4 Alternative Pricing Models

- 6.4.1 The Tenderer may elect a different pricing model to the Commonwealth preferred pricing models for the Scopes. If the Tenderer makes such an election, they must, as far as possible, maintain the integrity of the Schedule 1 - pricing response, including the provision of cost information to the same or lower levels of detail and transparency and indicate to the Commonwealth the anticipated benefits of adopting that pricing model.
- 6.4.2 The Tenderer should apply a pricing model substantially in accordance with the Pricing Rules applicable to that model. If the Tenderer applies a pricing model other than substantially in accordance with the Pricing Rules applicable to that model, the Tenderer should identify the non-compliance and variance and justify the selection of any variance from the Commonwealth's preferred pricing approach.
- 6.4.3 In particular the Tenderer should identify how its proposed approach interacts with the following schedules to this Annex:
- Schedule 1: the pricing response at Schedule 1 has been developed with flexibility for the Tenderer to propose a different contracting structure or a variation to the initial scope of the Head Contract. If the Tenderer's response is at variance with the Commonwealth preferred approach, the Tenderer is still required to provide a response substantially in the form provided at Schedule 1 Pricing Instruction and Workbook and are required to detail any specific departures from the guidance provided in Schedule 1. It is expected that a proposed use of a Fixed Price approach would only require minor tailoring of the Schedule1 Response Workbook in respect to Milestone payment schedules and At Risk Amounts;
 - Schedule 2: has been developed in consultation with each Tenderer and accordingly the Commonwealth expects minimal change to the structure, format and logic of the TLCCM template;
 - Schedule 3: the Pricing Rules have been developed in support of the Commonwealth's preferred commercial model and the Tenderer is required to indicate their acceptance or otherwise of the Pricing Rules. If the Tenderer proposes a variance to a Pricing Rule, the Tenderer should identify the variance and justify the selection of an alternate approach;
 - Schedule 4: the Allowable Cost are a required element of the Commonwealth's pricing models and the Tenderer is required to indicate their acceptance or otherwise of the Allowable Costs rules, noting that there is scope within the concept of Allowable Costs for minor tailoring to fit a specific organisational cost attribution framework. If a Tenderer proposes a Fixed Price model be applied to a particular Scope, the Tenderer must establish its price in accordance with the Allowable Costs rules.
- 6.4.4 If the Tenderer is non-compliant with the Commonwealth's proposed Head Contract structure, the Tenderer should detail how the party performing the relevant Scope will be paid or reimbursed in a manner consistent with the approach to managing Allowable Costs, overheads and profit as described in the Schedule 3 - Pricing Rules and in accordance with the proposed open book accounting principles comprised in the Commonwealth Access requirements of the Head Contract. The Commonwealth requires this level of transparency to support the Project Objectives.
- 6.4.5 If the Tenderer proposes a different contracting structure or a variation to the initial scope of the Head Contract, the Tenderer must provide an overview of any proposed changes to the price and payment arrangements set out in this Annex that would be necessary to support the different contracting structure or varied scope.

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6.5 Schedule 1: Instruction for the Tenderer's Pricing Response

6.5.1 The Schedule 1 – Pricing Instruction appendices are structured in a way that describes the Tenderer's proposed Head Contract budget for all Scopes to a level of certainty and detail proposed by the Tenderer as sufficient for the Commonwealth to understand the Tenderer's submitted Head Contract pricing proposal.

6.5.2 Appendices A1–A3 represent the Tenderer's pricing proposal for the Statement of Requirements.

Note: Where the Tenderer proposes an initial scope variation (ie the inclusion of a build element beyond the anticipated prototyping activity), the Tenderer's proposed scope must be fully provided and readily identified in its response to Appendices A1–A3.

6.5.3 Appendix B presents the detailed pricing and supporting bases of estimates that the Commonwealth requires for specific elements of pricing that are either:

- a. included in the initial Scope(s) included in the Head Contract price – in this case the Commonwealth is seeking additional detail and supporting basis of estimate information for specific component of the Head Contract price; or
- b. nominated by the Tenderer as a component of the initial Head Contract Scope(s) – in this case the Commonwealth is seeking information that relates to an element of a Scope and associated price that is proposed to be included at ED.

6.5.4 Appendix C presents the Tenderer labour rates and level of effort for use in calculating:

- a. the initial Design and Productionisation Scope (which includes labour associated with the delivery of design, development and preparation activities relevant to the Mission System, Support System and production system) and;
- b. the Master Scope (including; management services, production services and construction support services).

6.5.5 Appendix D presents specific elements of the Tendered pricing.

6.5.6 Appendix E presents the annual estimated cash flows of each entity, and may be tailored in accordance with the Tenderer's pricing response.

6.5.7 Appendix F details the Tenderer's proposed payment schedule. This may be tailored in accordance with the Tenderer's proposed pricing model. Where the Tenderer proposes an alternate pricing model to that provided, the Tenderer must detail the nature of the pricing model proposed (Cost-Plus fixed Fee/TCIM/Fixed Price) and indicate compliance with the applicable Payment Provisions provided in Schedule 3 – Pricing Rules. If a Fixed Price model is proposed, the Tenderer must indicate the number, value and entry and exit criteria for each Milestone.

6.5.8 Appendix G details the Tenderer's risk register in relation to the D&P Scope of the Head Contract.

6.5.9 Appendix H details the Tenderer's proposed price variation indices applicable to nominated currencies.

6.5.10 Appendix I details the Tenderer's nominated currencies.

6.5.11 Appendix J details the Tenderer's nominated profit mark-up percentages.

6.5.12 Appendix K details the Tenderer's input information from the Schedule 2 - TLCCM template.

6.5.13 Appendix L details Tenderer pricing information to be exported to Schedule 2 - TLCCM template.

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6.6 Schedule 2: Instruction for the Tender Life Cycle Cost Model

- 6.6.1 The Schedule 2 – TLCCM appendices are structured to in a way that describes the Tenderer's submitted life cycle cost estimate to a sufficient level of detail for the Commonwealth to understand the primary life cycle cost drivers and risks relevant to the Tenderer's estimates.
- 6.6.2 Appendix A defines several global variables used throughout the model. Global variables relate to ship service life, basis of provisioning, scheme of complement, rate of effort as well as key schedule parameters.
- 6.6.3 Appendix B presents the Tenderer's LCC estimates against an established Cost Breakdown Structure (CBS). Costs are presented against an annual phasing.
- 6.6.4 Appendices C1-C6 present the Tenderer's estimates of all costs, effort and schedule related to the build phase of the SEA 5000 Project life cycle.
- 6.6.5 Appendix D details the Tenderer's risk register in relation to the build phase.
- 6.6.6 Appendices E1-E6 present the Tenderer's estimates of all costs, effort and schedule related to ship maintenance including External (preventive and corrective) and Organic Maintenance activities including all labour hours and rates, spares packages costs and consumption quantities, and maintenance periodicity.
- 6.6.7 Appendix F presents the Tenderer's estimates of all labour and materials costs, quantities and schedule related to ship technical refresh activities, inclusive of upkeep and updating of major ship systems.
- 6.6.8 Appendices G1-G3 present the Tenderer's estimates of all costs related to an exemplar in service support services contract, comprising:
- a. an exemplar support services component including the Tenderer's and any proposed Material Subcontractor(s) costs in accordance with Schedule 4 – Allowable Costs; and
 - b. an exemplar overhead component including the Tenderer's and any proposed Material Subcontractor(s) costs in accordance with Schedule 4 – Allowable Costs.
- 6.6.9 Appendix H presents the Tenderer's estimates of Petroleum Oil and Lubricants (POL) consumption of the ship's propulsion and generation systems under various ship operating modes.
- 6.6.10 Appendices I-M present various estimates including for ships' crew, travel, training, consumables and for the ship disposal program.
- 6.6.11 Appendices N1-N2 present elements of cost either imported into Schedule 2 (in order to present a total cost of ownership view of LCC within Schedule 2) or exported to Schedule 1 (in order to Budgetary Estimates for the complete scope of the Project within Schedule 1).

7. COMMON SCHEDULE 1 AND 2 INFORMATION**7.1 Basis of Estimates (BOE)**

- 7.1.1 The Tenderer's Schedule 1 - Pricing Response and Schedule 2 - TLCCM are to be supported by:
- a. BOE for the pricing (for the Tenderer's pricing response) or costs (for the TLCCM) for all of the appendices included;
 - b. all necessary supporting calculations; and

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- c. associated fully justified and costed risk assessments, cost per risk element, at;
 - (i) Appendix G of Schedule 1; and
 - (ii) Appendix D of Schedule 2,

so that the Commonwealth has full information about the financial proposal.

7.1.2 A BOE may include:

- a. contracted supply chain prices;
- b. firm quotes from proposed Subcontractors (including any Consortium Members);
- c. bottom-up estimates;
- d. parametric/analogous estimates;
- e. identified benchmark estimates; or
- f. other estimates, as approved by the Commonwealth.

7.1.3 A BOE must:

- a. be in detail and in Microsoft Excel® format compatible with Microsoft Excel 2010®, with all formulas visible; and
- b. include, for the element of the pricing or cost to which the basis of estimate relates:
 - (i) a statement of the assumptions made for the purpose of the pricing or cost;
 - (ii) details of the components included in that element (including any allowances, including for contingency), and how the proposed pricing or cost was made up;
 - (iii) details of how the labour rates and labour related costs for relevant officers and employees of the Tenderer, Subcontractors (including any consortium members) were calculated, including the components of the rates and costs (such as overheads);
 - (iv) the base number of hours per year per officer or employee used by the Tenderer for costing purposes, how the Tenderer calculates paid/available/sellable hours (however described) and how the Tenderer applied any of these in deriving the tendered pricing.
- c. for all Subcontractors (including any consortium members), include the amount (in hours) of the labour component included in the price or cost;
- d. the bases of estimates are to be cross-referenced to the corresponding information included in the workbooks provided with the tender; and
- e. in addition to the risk assessments required by clause 7.1.1(c), the Tenderer must provide a global risk assessment, identifying the impact of the risks that affect its pricing, taking into account all relevant risk mitigation treatments (such as warranty, liability caps and insurances) and providing details (against each risk element) of how the Tenderer accounted for these risks in its pricing, such that the risk assessment must present the after treatment costs.

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7.2 Assumptions

7.2.1 Any assumption included by the Tenderer in developing its Tenderer's pricing response and TLCCM, including any amended scope of Response as provided in clause 6.4, the Tenderer is to provide a detailed statement describing the assumption, including:

- a. relevant dates;
- b. roles of third parties (including Material Subcontractors, consortium members and other Subcontractors);
- c. standards; and
- d. any specific role or support required from the Commonwealth or third parties to be contracted by the Commonwealth.

8. ENTERING INFORMATION INTO SCHEDULE 1

8.1 General

8.1.1 In completing the appendices, the Tenderer must enter information in the **blue** coloured cells only. Any additional information required is to be in a Microsoft Excel® format compatible with Microsoft Excel 2010®, with all formulas visible.

8.1.2 **Grey** coloured cells are output cells only and present information that is based on data from within the same worksheet.

8.1.3 **Pink** coloured cells are output cells only and present information that is based on data from one or multiple other worksheets.

8.1.4 Tenderers are to apply Schedule 4 (Allowable Costs) when preparing tendered prices.

8.2 Cost Breakdown Structure (CBS)

8.2.1 It is currently proposed that the Head Contract will allow for the progressive development and delivery of Build Scopes during the expected duration of the Head Contract. For the purpose of this Annex D, the Commonwealth assumes the executed Head Contract will include a Statement of Work divided, for financial purposes, into the following management, recurring and non-recurring activities;

- a. Master Scope - management services, production services and construction support services of initial Head Contract and ongoing management of the Project (management);
- b. Non recurring activities - including design and engineering of the Mission and Support Systems, productionisation and the development and delivery of a Tenderer proposed production prototype and the ongoing management of the Program (design and productionisation); and
- c. Recurring activities - the construction of nine (9) Ships batched as required by the Commonwealth, taking into account the Tenderer's recommendations and any limitations associated with Combat System selection.

8.2.2 Tenderers are to provide the Tenderer's estimate of resource costs to deliver the relevant Scope (Budgetary Estimate) against the Cost Breakdown Structure (CBS) set out in Schedule 1. Tenderers are to provide a Budgetary Estimate for the Master Scope and the Design and Productionisation Scope, including as may be amended by the Tenderer.

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Note to Tenderers: the Schedule 1 – Pricing Instruction CBS related to the Acquisition Phase is fully repeated in Schedule 2 - TLCCM as the acquisition component of the TLCCM, accordingly, if the Tenderer proposes to amend the Schedule 1 – Pricing Instruction CBS, it must make all efforts necessary to ensure any changes are fully referable to the Acquisition Component of Schedule 2 - TLCCM, which is not to be altered.

8.3 Schedule of Payments

Note to Tenderers: The Commonwealth's preference is for payment of Allowable Costs as incurred upon completion of a Work Package or an underlying task/operation, with a mobilisation payment where required. A mobilisation payment will be considered by the Commonwealth when the Tenderer can demonstrate that it is appropriate and represents value for money to the Commonwealth, such as for establishing a production line, advances for long lead items, advance payments to Subcontractors etc.

- 8.3.1 Tenderers are to provide a consolidated schedule of all payments proposed that specifies:
- a. the amount, purposes of and date of any proposed mobilisation payment, including in respect to the cost of any Security;
 - b. under a Cost-Plus Fixed Fee and TCIM pricing model,
 - (i) the Commonwealth will pay the actual Allowable Costs incurred, including in respect to the cost of any security for a mobilisation payment as incurred;
 - (ii) a mobilisation payment associated with a service or an item (material) will be discounted against the provision of the service or against final payment and on receipt of the service or item, whichever is the earlier;
 - (iii) Fee associated with any service or item for which the mobilisation payment was provided will accrue against the Milestone within which the service is completed or the item is installed; and
 - c. the amount and date of any proposed mobilisation payment or mobilisation Milestone Payments, including in accordance with clauses 2.4.2 and 3.4.3 of this Annex any proposed Fee Milestone Payments;
- 8.3.2 Tenderers are to detail how the proposed payment regime relates to the Tenderer's anticipated work progress and cash flow under any resultant Head Contract. Proposed payment schedules for each pricing mechanism are included in Schedule 1 to this Annex.
- 8.3.3 In providing a schedule of payments under this Annex, Tenderers should note the Commonwealth's proposed Pricing Rules at Schedule 3 to this Annex.

8.4 Indexation

Note to Tenderers: Each Pricing Model available under the Head Contract will be subject to indexation to reflect fluctuations in the cost of labour and materials in accordance with the proposed formulae and indices at Annex D. Workplace enterprise bargaining agreements are not considered to be awards for the purposes of the formula for fluctuation in the cost of labour.

- 8.4.1 All prices tendered are to be in Base Date dollars and subject to adjustment for fluctuations in the cost of labour and materials in accordance with Appendix H.
- 8.4.2 Tenderers are to provide the following details in relation to the proposed formulae:
- a. acceptability or otherwise of the formulae;
 - b. if unacceptable, any proposed alteration(s) or alternative(s); and

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- c. the Tenderer's preferred indices if different from those proposed by the Commonwealth. In proposing preferred indices, tenderers should take into consideration the notes provided following the formula.

8.5 GST Exclusive

- 8.5.1 Except as specifically provided, all amounts inserted in the workbooks must be on a GST exclusive basis. In Appendix B at column AP and Appendix D at column J, the Tenderer is to determine the amount of GST applicable for the Supplies. The Tenderer is to provide details of the GST applicability of the Supplies.

Note to Tenderers: The successful Tenderer will be responsible for ensuring that it is registered in accordance with the requirements of the GST Act (as amended). Tenderers who are non-residents of Australia and are not currently registered for GST, are advised to obtain independent advice on whether they will be required to be registered for GST purposes in accordance with the GST Act.

If a Tenderer intends to exercise the option of appointing a resident agent to act on its behalf for GST purposes in accordance with clause 8.7 of the draft Head Contract, Tenderers are requested to provide the details for their proposed agent at Annex D of Attachment A to Conditions of Tender.

If the successful Tenderer fails to quote an ABN in its dealings with the Commonwealth, the Commonwealth may be required to withhold a percentage of all payments under any resultant Head Contract in accordance with Australian taxation legislation.

8.6 Currency

- 8.6.1 Prices for tendered Supplies are to be stated on the basis that payments provided for under any resultant Head Contract are in Australian dollars, except for any portion of the Supplies to be imported from overseas which is to be stated in source currency.
- 8.6.2 Tenderers are not to include any contingency for Exchange Rate fluctuations in their tendered prices.

Note to tenderers: It is Defence policy that when the proportion of the total price that is payable in source currency is significant, the contract is to be written in source currency. The Commonwealth will only make payments in Australian currency when the foreign currency amounts are insignificant. A determination of whether the amounts are significant will be made by Defence following receipt of tenders. For the purposes of evaluation, any foreign currency element of a tendered price is to be calculated as an Australian dollar equivalent value in accordance with the currency exchange rates contained within Appendix I to Schedule 1 to Annex D to Attachment A to the Conditions of Tender. If the Tenderer wishes to nominate a currency not listed within Appendix I, the Tenderer is to source the relevant exchange from the Reserve Bank of Australia website (www.rba.gov.au) published as at Base Date.

8.7 Bank Guarantee

- 8.7.1 Tenderers are to provide the following details in relation to the proposed Bank Guarantee Deed and the Deed of Guarantee and Indemnity contained in Attachment I to the draft Head Contract:
- acceptability or otherwise of the security deeds and any proposed alterations or alternatives;
 - proposed promisor(s) for the bank guarantee(s);
 - proposed Guarantor for the Deed of Guarantee and Indemnity; and

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- d. where the Tenderer has a Master Guarantee and Indemnity with Defence, whether the Tenderer proposes that the Tenderer's Master Guarantee and Indemnity apply to any resultant Head Contract.

9. ENTERING INFORMATION INTO SCHEDULE 2

9.1 General

- 9.1.1 In completing the appendices, the Tenderer must enter information in the yellow coloured cells only.
- 9.1.2 Blue coloured cells are Commonwealth data fields, either pre-populated or empty to be completed by the Commonwealth.
- 9.1.3 Green coloured cells are automated cells containing formulae that uses data inputted in other cells.
- 9.1.4 Further specific instructions can be found in Schedule 2 – TLCCM within the relevant Appendix.

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ANNEX E TO ATTACHMENT A**PROJECT MANAGEMENT**

Note to Tenderers: The Commonwealth seeks to understand the Tenderer's:

- ***demonstrated capability to project manage a project of similar type, scope and technical complexity to that required by the Head Contract and how the Tenderer plans to apply its expertise to the Head Contract;***
- ***ability to form a strategic partnership with the Commonwealth and with Australian industry;***
- ***tendered work breakdown structure, schedule and staff skills profile; and***
- ***risk and issue assessment and the adequacy of the Tenderer's strategy for management of the risks and issues to both the Tenderer and the Commonwealth.***

1. PROJECT INTEGRATION**1.1 Project Management Methodology**

- 1.1.1 The Tenderer is to provide an outline of the project management methodology proposed for managing performance and activities, including that of its Subcontractors, required to support the achievement of the Project Objectives. This should include any standard(s) it is aligned to.
- 1.1.2 The Tenderer is to provide an outline of proposed management relationships between the Key Staff Positions (clause 2.2) within the Tenderer's organisation with regard to execution of the program.
- 1.1.3 The Tenderer is to detail its approach for managing interfaces and processes between the Tenderer's Australian operation and its international Related Bodies Corporate, including the timeline for the development of the Australian operation.

1.2 Relationship Management

- 1.2.1 The Tenderer is to outline its relationship principles which will be the basis for its conduct for the expected duration of the Contract.
- 1.2.2 The Tenderer is to outline its strategy for the development, maintenance and management of the relationships it needs to support the achievement of the Project Objectives, and the associated governance structures it proposes to pursue including any governance structures required by the draft Head Contract.
- 1.2.3 The Tenderer should indicate the maturity of those relationships at the time of submitting its tender.
- 1.2.4 The Tenderer is to detail any risks to the effectiveness of key relationships, including how those risks can be mitigated to minimise impacts upon the Project.
- 1.2.5 The Tenderer is to identify the key relationships required to undertake the draft Head Contract requirements.
- 1.2.6 The Tenderer is to provide details of how the Tenderer will engage, work and resolve disputes with the following:
- a. Commonwealth Project team;
 - b. a Combat System Integrator, if any;
 - c. Approved Subcontractors and Mandated Subcontractors; and
 - d. other supply chain.

1.3 Past Performance

- 1.3.1 The Tenderer is to provide up to 5 recent examples (i.e. within the last five years) using the proposed project management methodology in relation to other advanced engineering

or other projects of similar type, scope and technical complexity to the Project. The Tenderer should describe how its approach has changed due to this experience and how the Tenderer will apply this experience to the Project.

1.3.2 The Tenderer is to list their experience by the highest value contracts and should include the following details:

- a. contract title and number, including details of the reference site (if any) to which the contract relates;
- b. project name and number or procurement agency (if not Defence);
- c. responsibility as either prime contractor/subcontractor;
- d. description of product or service provided;
- e. contract (or subcontract) date;
- f. dollar value of contract (initial and latest agreed value) or provide an order of magnitude value if the dollar value is confidential;
- g. significant performance or management issues arising under the contract; and
- h. company division, the location and the nature of work.

1.3.3 The Tenderer is to provide examples of previous key relationships (referred to in clause 1.2) including details of sites, projects and contact officer details for each reference.

2. RESOURCE MANAGEMENT

2.1 Business Resource Planning

Note to Tenderers: The Commonwealth understands the Project will be one part of the successful Tenderer's business and requires assurance of the Tenderer's capacity to perform the Project and that the Project will not be adversely affected by any competing resource requirements.

2.1.1 The Tenderer is to provide details of its project management organisation for the execution of the Head Contract and a high level organisation for all other areas of its business involved in the execution of the Head Contract.

2.1.2 The Tenderer is to provide details of its existing projects and other projects which the Tenderer intends to tender for. This should include:

- a. the contract (or likely contract) value of the project;
- b. location or performance;
- c. contract duration; and
- d. committed (or likely to be committed) management effort as a percentage of the Tenderer's current (or proposed) management resources.

2.1.3 The Tenderer is to describe its strategies to ensure that the Tenderer is well positioned to meet all current and potential work and any competing work priorities will not adversely affect the performance of any resultant Head Contract.

2.1.4 The Tenderer is to provide examples demonstrating experience in utilising a resource management strategy within the last 10 years, the resultant workforce resource profiles, the outcome of the strategy and lessons learnt.

2.2 Key Staff Positions

Note to Tenderers: The Commonwealth requires assurance that the successful Tenderer can fill the Key Staff Positions with Key Persons in the required timescale.

2.2.1 The Tenderer is to identify Key Staff Positions for any resultant Head Contract. The Tenderer is to provide a position and person specification for each Key Staff Position:

- a. position components of the position/person specifications are to include:
 - (i) position title,

- (ii) reporting relationships (both programmatic and technical), and
 - (iii) delegated authority levels, duties and responsibilities; and
 - b. person components of the position/person specification are to include:
 - (i) qualifications,
 - (ii) training,
 - (iii) essential experience,
 - (iv) desirable experience, and
 - (v) other attributes required of the person filling the position.
- 2.2.2 The Tenderer is to nominate the Key Persons proposed to fill the Key Staff Positions identified where possible. The Tenderer is to provide a brief description of the proposed Key Persons, explaining how their qualifications and experience will meet the requirements of that Key Staff Position.
- 2.2.3 The Tenderer is to detail its strategies for ensuring it is able to fill the Key Staff Positions with appropriately qualified persons for the expected duration of the Project and any identified risks to such strategies being successfully implemented.

3. SCOPE MANAGEMENT

Note to Tenderers: The Commonwealth anticipates that additional Scope will be added to the Head Contract over time and requires Tenderers to provide assurance that the Tenderer will project manage all Scopes of the Head Contract successfully.

- 3.1 The Tenderer is to detail planning methodology, tools and standards that underpin the project control methodology and how this will evolve over time to manage additional Scopes.
- 3.2 The Tenderer is to provide details of when the proposed methodology and associated tools have been used to deliver and achieve business outcomes in similar circumstances within the past 10 years.

4. SCHEDULE MANAGEMENT

4.1 Contract Work Breakdown Structure (CWBS)

Note to Tenderers: The Commonwealth seeks to understand how the Tenderer plans to undertake the activities required to deliver the Scope expected to be included in the Head Contract (as identified in the Project Overview and Statement of Requirements) and to ensure that:

- a. Tenderers have sound technical, cost and schedule control mechanisms in place;***
- b. technical control is integrated with cost and schedule control via the CWBS; and***
- c. Subcontractors' work breakdown structures are consistent and integrated into the CWBS.***

The CWBS shall comprise a Work Breakdown Structure (WBS) index, a WBS graphic and a WBS dictionary.

- 4.1.1 The Tenderer is to develop and deliver a proposed CWBS and dictionary based on the Project Objectives and the Statement of Requirements that will form the basis of the resultant Head Contract and provide the Commonwealth with the required understanding of the Tenderer's planning.
- 4.1.2 The Tenderer should consider the following as core requirements for the CWBS dictionary (but may detail alternative requirements providing reasons):
- a. WBS Identification Number;
 - b. WBS Name;
 - c. WBS Description (explanation of the WBS element);

- d. entry and exit criteria, including acceptance requirements;
- e. performance measures;
- f. WBS Owner; and
- g. CWBS Dictionary.

4.2 Draft Contract Master Schedule (CMS)

Note to Tenderers: The Commonwealth seeks to:

- a. understand Tenderer's time-based sequence of activities, as defined in the CWBS;**
- b. assess the level of schedule risk associated with the Tenderer's proposal (including proposed Subcontractors or any proposed Consortium Members) in supporting the achievement of the Project Objectives and proposed drumbeat;**
- c. ensure that time estimates and dependencies are realistic and consistent with the tasks defined in the CWBS Dictionary; and**
- d. ensure that the proposed Subcontractors' and any proposed Consortium Members time-based sequence of activities are realistic and consistent with the Contract Master Schedule.**

Based on the successful Tenderer's CWBS, the contracted CMS shall describe the planned sequence of logically linked activities, milestones and decision points, using the critical path method. This enables performance measurement against the baseline of the Scope to be included in the Head Contract

It is the Commonwealth's intent that the planning teams of the Tenderers and Commonwealth work directly during Head Contract negotiations to ensure compliance to the Commonwealth's Contract Master Schedule requirements.

- 4.2.1 The Tenderer is to describe their current planning and scheduling methodology, including system (software), unconstrained critical path method implementation, and how the CMS is aligned to the CWBS.
- 4.2.2 The Tenderer is to describe their planned CMS development process, the estimated size of their planning and scheduling team and the roles they will be fulfilling, and any anticipated changes over time.
- 4.2.3 The Commonwealth currently uses Open Plan Professional (**OPP**) version 3.5 and for project reporting purposes require the CMS, at the minimum, to contain the following information and be able to be exported into Microsoft Excel and Adobe PDF files:
 - a. Activity Identification/WBS Identification;
 - b. Activity Name or Description;
 - c. Duration;
 - d. Planned/Actual Start Date;
 - e. Planned/Actual Finish Date;
 - f. Activity Predecessor(s);
 - g. Activity Successor(s);
 - h. Relationship Lag;
 - i. Activity Type;
 - j. Total Float;
 - k. Constraint Type;
 - l. Constraint Date; and
 - m. Gantt Chart.
- 4.2.4 The Tenderer is to describe how they will meet the requirements in clause 4.2.3 (but may detail alternative requirements providing reasons) and may also propose an alternative scheduling tool that may be used by the Commonwealth which still meets the

Commonwealth's requirement.

- 4.2.5 The Tenderer is to describe their monthly schedule status (progressing) process and how the Tenderer will supply the progressed CMS to the Commonwealth by the second working day of the month.
- 4.2.6 The CMS shall be developed in the scheduling software using a calendar aligned to Canberra, Australian Capital Territory in Australia. The Tenderer is to detail any issues, if applicable, relating to the requirement to align all work activities to this calendar.
- 4.2.7 The CMS is product based however will also require the capability to be broken into functional groupings such as project management, design, production, construction, integration, test and trials, delivery, Integrated Logistics Support etc, as well as into WBS elements. The Tenderer is to detail any issues in meeting this requirement.
- 4.2.8 The Tenderer is to describe their process to develop a resource profile by skill-set and effort required to achieve the work detailed in the CMS.
- 4.2.9 The Tenderer is to describe their approach to ensure that Approved Subcontractors schedule shall be developed to the same criteria and methodology.
- 4.2.10 **CMS RFT Submission**
- 4.2.11 The Tenderer is to supply a CMS based on current and planned (best guess) activities, in the following formats:
- a. an export from the Tenderer's scheduling tool into Microsoft Excel (compatible to Excel version 2003) showing at minimum the information supplied for the PDF file, less the Gantt chart; and
 - b. PDF file in A3 size (297mm x 420mm) in landscape orientation showing the following information detailed at clause 4.2.3.
- 4.2.12 The tendered CMS shall include aspects such as:
- a. a design and production schedule for the prototyping activity, including key milestones that shall be met for Commencement of Prototyping Activities in 2020;
 - b. a design and production schedule, for the first three (3) Ships, including the key Design and Productionisation Scope milestones;
 - c. important milestones such as:
 - (i) activities;
 - (ii) equipment procurement;
 - (iii) Government Furnished Material; and
 - (iv) vendor furnished informationdeliveries necessary for design and production to progress to schedule;
 - d. mobilisation of the workforce for the Head Contract;
 - e. initiation of workforce training and any competency milestones that shall need to be met;
 - f. production Long Lead Time Item (**LLTI**) procurement dates; and
 - g. key milestones associated with the shipyard upgrade, as outlined in the Facilities Assumptions Document (Appendix A to Annex G to Attachment A to Conditions of Tender), required to progress the proposed strategy, including facility commissioning timelines.
- 4.2.13 The Tenderer is to provide the following detailed schedules as subordinate schedules aligned to the CMS:
- a. **Design and Productionisation Schedule.** The Tenderer is to propose a detailed design schedule, including assumptions, critical path, key design events and resources.

- b. **Detailed Production Schedule.** The Tenderer is to propose a detailed production schedule, which reflects the use of the facilities outlined in the Facilities Assumption Document, which shall include at least the following:
 - (i) the full production cycle for at least the first Ship, showing the duration of each block in each stage of pre-consolidation production, followed by the remaining outfit and commissioning stages;
 - (ii) the critical path and key production events, such as the stages of propulsion system alignment, combat system integration and installation and key activation and set to work events; and
 - (iii) the required level and number of time phased resources required to conduct the programs as described in the schedules.
- c. **Detailed Integrated Logistics Support Schedule.** The Tenderer is to propose a detailed Integrated Logistic Schedule including assumptions, critical path, key events and resources. The tendered schedule shall include key aspects such as:
 - (i) Logistics Support Analysis;
 - (ii) training design and development;
 - (iii) technical data identification and development;
 - (iv) operator and maintainer manuals identification and development; and
 - (v) scheme of complement design and development.

4.2.14 The Tenderers are to provide an impact assessment to the CMS as requested in clause 1.6.2b of Annex F of Attachment A to the Conditions of Tender.

4.3 Earned Value Management System

- 4.3.1 The Tenderer is to describe the Enterprise Resource Planning (**ERP**) business and finance tools and techniques to be used for the Head Contract (e.g. SAP).
- 4.3.2 The Tenderer is to describe how this ERP system interfaces with an Earned Value Management System (**EVMS**) report generating tool (either as a component of the ERP or as a separate reporting package).
- 4.3.3 The Tenderer is to describe its experience with the use of EVMS tools in their business planning and Ship production.
- 4.3.4 The Tenderer is to describe its EVMS processes including the generation, approval and acceptance of work packages and tasks (operations).
- 4.3.5 The Tenderer is to describe how it will establish and maintain a Performance Measurement Baseline (**PMB**) for each Scope element, how it intends to manage changes and rephasing of the budget.
- 4.3.6 The Commonwealth anticipates using an EVMS in accordance with the following business rules:
 - a. the EVMS will be compatible with AS 4817, the Defence Supplement to AS 4817;
 - b. the development of EVM work packages and tasks (operations) to reflect business best practice minimising the number of 'Level of Effort' work packages relating to a Target Cost Estimate to either:
 - (i) no more than 15 per cent of the approved PMB; or
 - (ii) no more than 15 per cent of the anticipated annual expenditure;
 - c. for a work package under Build Scope - payment will be following the completion of a work package in accordance with the Tenderer's process for completing a work package; and
 - d. Management Reserve (**MR**) is to be held outside the relevant PMB to which it relates and the Tenderer is to develop rules and processes on the use of MR subject to Commonwealth review and agreement, to be established in Attachment B of the draft Head Contract.

- 4.3.7 The Tenderer is to state any non-compliances with this approach and propose alternative rules, with explanatory statements.

5. QUALITY

5.1 Quality Management System

- 5.1.1 The Tenderer is to describe any quality management system and certifications that it maintains or anticipates to be established for the purposes of performing the Head Contract (e.g. ISO9000 compliance).
- 5.1.2 The Tenderer is to provide evidence of certification of its quality management system.

5.2 Risk Management Approach

Note to Tenderers: Successful risk and issue management is essential to delivery against the Project Outcomes in accordance with any resultant Head Contract. Accordingly, the Commonwealth seeks to understand the level of maturity of the successful Tenderer's organisation in addressing risks and issues.

5.2.1 Overview

- 5.2.1.1 The Tenderer is to describe their proposed formal risk management framework and compliance to any international standard (e.g. AS/NZS ISO 31000:2009 Risk Management – Principles and Guidelines).
- 5.2.1.2 The Tenderer is to describe how their risk management framework is utilised to proactively treat the cause of risks in order to prevent risks from becoming issues. This is to include two unclassified examples within the last ten years.
- 5.2.1.3 The Tenderer is to provide an unclassified example of risk reporting outputs to demonstrate the communication of the outcomes of the risk assessment process and risk and treatment ownership.
- 5.2.1.4 The Tenderer is to describe how their risk management framework addresses risk management relating to Approved Subcontractors and any proposed Consortium Members. This is to include the allocation, transfer, sharing and communication of risk and two unclassified examples from within the last ten years.
- 5.2.1.5 The Tenderer is to provide details of any enterprise risk management IT system used that is proposed to be used in implementing their risk management framework.
- 5.2.1.6 The Tenderer is to detail their willingness and ability to provide to the Commonwealth real-time/live access to its risk register for transparency.

5.2.2 Risk Register

- 5.2.2.1 The Commonwealth seeks to understand the Tenderer's strategic and high level program risks, and proposed treatment for all these risks to successfully design and build the Ships.
- 5.2.2.2 The Tenderer is to deliver a Risk Register which will provide an outline of the Tenderer's identified major risk and proposal treatments or strategies for managing those risks.
- 5.2.2.3 The risk register shall be able to identify and group risks as relevant to the Project Objectives.
- 5.2.2.4 The tendered risk register is to be consistent with the risk register in Annex D to Attachment A to Conditions of Tender without any monetary values.

5.2.3 Risk Assessment

- 5.2.3.1 The Tenderer is to provide a risk assessment in accordance with clause 5.2 that identifies risk and associated treatments related to the Tenderer's response to Annex E of Attachment A to Conditions of Tender.
- 5.2.3.2 Where there is any material impact on cost or schedule, the Tenderer is to include the risk assessment in the Costed Risk Register at Annex D of Attachment A to Conditions of Tender.

6. OTHER PROJECT MANAGEMENT RESPONSE REQUIREMENTS

6.1 Work Health and Safety Management Statement

Note to Tenderers: This requirement addresses Work Health and Safety (WHS) in respect of work performed under any resultant Head Contract to which the WHS Legislation applies (eg, work performed in Australia), particularly for any work performed on Commonwealth Premises, such as installation activities. The Tenderer should address the Material Safety of the Supplies, and the implications for WHS in in-service support in Annex E to Attachment A to Conditions of Tender.

6.1.1 The Tenderer is to detail any anticipated issues in complying with the WHS management requirements detailed in the draft Head Contract.

6.1.2 The Tenderer is to provide examples of other work in foreign jurisdictions and compliance with equivalent legislative requirements.

6.2 Facility and Information Communications Technology Systems Security Accreditation

Note to Tenderers: Tenderers should refer to clause 12.14 of the draft Head Contract in the CoC for details regarding the security requirements of work to be performed, facility and Information Communications Technology (ICT) system accreditation and COMSEC material transmission requirements, as applicable, that are necessary for the performance of any resultant Contract.

For further information on COMSEC, classification, categorisation and accreditations, and for access to the DSM, tenderers should contact the Contact Officer.

6.2.1 The Tenderer is to detail any anticipated issues in complying with the facility and information communications technology systems security accreditation requirements detailed in the draft Head Contract.

6.3 Government Furnished Material

Note to Tenderers: The Commonwealth seeks to minimise the Government Furnished Material (GFM) provided under the Head Contract:

- unable to be obtained by the Tenderers; or
- where GFM is a proposed mitigation to an identified risk in the risk register.

6.3.1 The Tenderer is to detail any anticipated issues in complying with the Government Furnished Materials requirements detailed in the draft Head Contract.

6.3.2 The Tenderer is to propose the Government Furnished Material it requires to perform the Head Contract in the following format:

Table E-1: Proposed GFM

Proposed GFM	Description	Date of Delivery	Location of Delivery	Reason GFM is Proposed	Value of GFM (as per Annex D)

6.4 Government Furnished Facilities

Note to tenderers: The Commonwealth seeks to minimise the Government Furnished Facilities (GFF) provided under the Head Contract:

- unable to be obtained by the Tenderers; or
- where GFF is a proposed mitigation to an identified risk in the risk register.

The Shipyard will be provided as GFF (see clause 4.3 of the Project Overview and Statement of

Requirements).

- 6.4.1 The Tenderer is to detail any anticipated issues in complying with the Government Furnished Facilities requirements detailed in the draft Head Contract Conditions of Contract.
- 6.4.2 The Tenderer is to propose the Government Furnished Facilities it requires to perform the Head Contract in the following format:

Table E-2: Proposed GFF

Proposed GFF	Description	Date of Occupation	Location of GFF	Reason GFF is Proposed	Value of GFF (as per Annex D)

ANNEX G TO ATTACHMENT A**SHIPBUILDING PROGRAM**

Note to Tenderers: The Project Objectives include:

(a) the delivery of nine Anti-Submarine Warfare (ASW) Frigates based on a Military-Off-The-Shelf (MOTS) design with a minimum amount of change; and

(b) the Commencement of Construction in Adelaide in 2020.

This Annex G is divided into five Sections to focus on these Objectives:

- ***Clause 1 outlines requirements for Tenderers to detail the shipbuilding strategy for the purpose of the Commencement of Prototyping Activities, and the broader shipbuilding strategy to deliver nine Ships.***
- ***Clause 2 outlines requirements for Tenderers to detail the engineering organisation, processes and specialty programs for the Project.***
- ***Clause 3 outlines requirements for Tenderers to detail the Integrated Logistics Support (ILS) strategy for the Project to ensure that the required ILS products are acquired during the acquisition phase of the Project and delivered to the Support Organisation through the Transition process.***
- ***Clause 4 outlines requirements for Tenderers to detail the Seaworthiness Program for the Project, to maximise the operational effect, while minimising the hazards and risk to personnel, the public and the environment.***
- ***Clause 5 outlines the requirements for Tenderers to identify risk and treatments related to their response to Annex G.***

The Commonwealth seeks to understand the Tenderer's:

- ***overall plan to deliver the Ships;***
- ***proposed shipbuilding strategy and production program, including design, production, engineering, Verification and Validation and Seaworthiness processes and activities;***
- ***ability for the Commencement of Prototyping Activities;***
- ***proposal in respect of the extent to which the prototyping strategy will achieve the Commonwealth's desired outcomes;***
- ***ability for the Commencement of Ship Construction in Adelaide within 24 months of the Commencement of Prototyping Activities;***
- ***proposed ILS program and its suitability for use by the Commonwealth; and***
- ***demonstrated capability to conduct an ILS program of similar type, scope and technical complexity.***

ANNEX G TO ATTACHMENT A

1. SHIPBUILDING STRATEGY

Note to Tenderers: Clause 1 describes the minimum requirements for Tenderers to outline the strategy and associated programs of activities they propose in order for the Commencement of Prototyping Activities, so that the Commonwealth can assess their suitability for the Project.

Appendix A is the Facilities Assumptions Document, which is a high-level specification of Shipyard infrastructure proposed to be available to the Tenderer. Appendix A covers major facility generic specifications, including existing infrastructure and workshops and future upgrades. The Tenderer's responses shall be based on the assumption that the facilities, as detailed in Appendix A, will be available to the Tenderer at the optimal time, which is to be specified in their response.

The Tenderer is to assume the Shipyard will be provided as Government Furnished Facilities. The successful Tenderer will have responsibility for operation of the Shipyard. This will include management of the Shipyard, and scheduling access to Shipyard infrastructure for all Commonwealth projects requiring use of the Shipyard. The Principals Council will adjudicate over any disputes between the Tenderer and other projects regarding access to the Shipyard.

1.1 Overall - Shipbuilding Strategy

1.1.1 The Tenderer is to propose a shipbuilding strategy which includes, but is not limited to the following:

- a. the establishment of a shipbuilding capability at the Adelaide facility nominated in the Appendix A;
- b. a proposal of how it will manage the Adelaide Shipyard as the Shipyard Operator, including managing schedules, production and access to tools and processes;
- c. a detailed management strategy for both blue and white collar resources and proposed resource profiles for the Project, noting the Commonwealth's preference for management positions to be within the Tenderer's organisation in accordance with Annex F to Attachment A to Conditions of Tender;
- d. the engagement, training and mobilisation of a suitably skilled shipbuilding workforce;
- e. prototyping activities specifically designed to prove production processes and workforce readiness;
- f. the design, production and delivery of the Ships to meet the requirements of the Commonwealth;
- g. the Tenderer's proposed mobilisation activities, build sequence and their relationship to other Commonwealth shipbuilding activities, with the aim of retaining shipyard workforce and competency;
- h. the proposed resource utilisation for white collar and blue collar workforces, including Subcontractors;
- i. the approach to configuration management during the prototyping activities that is consistent with the response provided at clause 2.5.1b; and
- j. the development of the initial shipbuilding capability to contribute to a continuous naval shipbuilding industry with the capacity to deliver efficient and effective design and production of surface ships into the future.

1.1.2 The Tenderer is to outline a proposal for the transfer of technology, skills and knowledge in the shipbuilding strategy for:

- a. the transfer of shipbuilding knowledge and knowledgeable personnel to Australia, and the progressive knowledge transfer to the Australian workforce;
- b. the transfer of skills to the Australian blue and white collar workforce to undertake the scope of this Project, including the transition of more responsibility and competency to permanent resident Australian workers throughout the Project;

ANNEX G TO ATTACHMENT A

- c. the utilisation of expatriate personnel over the course of the Project, detailing the anticipated number of expatriate personnel, their role and skill sets, the indicative scheduling and duration of their planned tenure including when their roles can be successfully transitioned to permanent resident Australian workers; and
- d. shipbuilding technology transfer through the Project, describing in detail the elements of technology to be transferred, and indicating how and when the transfer of that technology is to be facilitated.

1.1.3 The Tenderer is to detail in the shipbuilding strategy how it will achieve the Commencement of Prototyping Activities, including:

- a. ensuring the Shipyard is capable of prototype block production;
- b. the production business units to be established;
- c. the engagement, development and competency management of the workforce (including a description of efficient investment in business resources required to meet the production delivery schedule, and how it will use these resources effectively);
- d. a prototyping strategy which meets the requirements of clause 1.5;
- e. planning and scheduling provisions;
- f. supply chain provisions;
- g. how extensively the Tenderer's current production execution capacity has been utilised in the proposal; and
- h. the Commonwealth and Tenderer activities that must be completed prior to Commencement of Prototyping Activities.

1.1.4 The Tenderer is to detail in the shipbuilding strategy how it will achieve the Commencement of Ship Construction, including:

- a. ensuring the Shipyard is capable of ship production;
- b. any additional production business units to be established;
- c. the engagement, development and competency management of the workforce (including a description of efficient investment in business resources required to meet the production delivery schedule, and how it will use these resources effectively);
- d. a production program which meets the requirements of clause 1.2;
- e. planning and scheduling provisions;
- f. supply chain provisions;
- g. how extensively the Tenderer's current production execution capacity has been utilised in the proposal; and
- h. the Commonwealth and Tenderer activities that must be completed prior to Commencement of Ship Construction.

1.2 Production Program

1.2.1 The Tenderer is to detail what makes its production capability suitable for achieving the Project Objectives.

1.2.2 The Tenderer is to describe the methodology, processes and plans that are proposed to manage the production program, including:

- a. proposals for management and delivery of:
 - (i) quality control,
 - (ii) dimensional control,
 - (iii) production data control, and

ANNEX G TO ATTACHMENT A

- (iv) work packages;
- b. proposals for human resource management (Tenderer's blue and white collar personnel) including how it will minimise the impact on the completion of other major Commonwealth shipbuilding programs;
- c. proposals for production planning;
- d. proposals for cost reduction and performance improvement;
- e. proposals for management of supervision to assure safety, technical integrity and security;
- f. proposals for problem identification, recording and resolution;
- g. proposals for alignment of workforce to overarching productivity targets;
- h. management of conflicting priorities such as transitioning technology to Australia and maintaining quality, schedule and efficiency; and
- i. management of launching arrangements and the engineering of major movement of blocks and ships.

1.3 Shipyard Capability Review

1.3.1 Using Appendix A, the Tenderer is to describe the proposed approach to the use of the Adelaide Shipyard facilities, equipment and tools, including:

- a. the production processes for the Project, including any that will require modification from those adopted for the Reference Ship Design (RSD);
- b. any infrastructure, equipment, tools and services not included in Appendix A that are required to deliver the proposed shipbuilding strategy;
- c. proposals for bridging the capability gap between Appendix A and those required to deliver the proposed shipbuilding strategy;
- d. constraints which may adversely affect production (considerations may include, but are not limited to, weight and size limitations affecting transportation, craning, erection facility, fit-out sheds, blasting and painting hall, consolidation dry berths, and launching weights); and
- e. the approach applied to the use of technology in production for increasing productivity.

1.4 Production Readiness Review

1.4.1 The Tenderer is to describe the scope and content of a Production Readiness Review (PRR) milestone, the requirements of which must be met prior to Commencement of Ship Construction. The Tenderer is to explain how the PRR will assist the Commonwealth to verify and validate:

- a. Shipyard facility readiness,
- b. production processes,
- c. tools and techniques,
- d. production system,
- e. technical data,
- f. design maturity sufficient for the Commencement of Ship Construction and level of design completeness,
- g. availability and competency of the workforce,
- h. effective build sequence, and
- i. supply chain.

ANNEX G TO ATTACHMENT A**1.5 Prototyping Strategy and Program**

Note to Tenderers: The Commonwealth is seeking to prove ship production processes and workforce readiness through Commencement of Prototyping Activities. These activities are intended to confirm that the Shipyard facilities, production systems and processes, workforce and supply chain are fully capable prior to Commencement of Ship Construction.

1.5.1 The Tenderer is to detail its prototyping strategy, including:

- a. how the Tenderer plans to optimise achievement of the Commonwealth's intent through the prototyping activities;
- b. the block or blocks, and any other components the Tenderer proposes to produce for the prototyping activities, providing justifications of the anticipated benefits of building these;
- c. the production processes, systems and workforce skills which will be exercised in the course of prototyping activities;
- d. the Tenderer's proposed mobilisation activities and build sequence and their relationship to other Defence shipbuilding activities, with the aim of retaining shipyard workforce and competency;
- e. the proposed resource utilisation for white collar and blue collar workforces, including Subcontractors;
- f. the approach to configuration management during the prototyping activities that is consistent with the response provided at clause 2.5.1; and
- g. the involvement of Australian industry and supply chain for the prototyping activities.

1.5.2 The Tenderer is to detail the program of prototyping activities including:

- a. proof of maturity of the design process, the delivery of the production artefacts in relation to the design, and the Shipyard's effectiveness in managing this process;
- b. alignment of the Tenderer's production practices in the new Shipyard and the capability of those to meet the Project schedule and objective of maintaining a continuous shipbuilding workforce;
- c. confirmation of the effectiveness of controls of size, weight and volume of production elements against design specification;
- d. retention and enhancement of workforce competencies at all levels of the production workforce, across the breadth of skills necessary to build a Ship; and
- e. identification of opportunities to fully utilise the Shipyard capabilities, including automation.

1.6 Build Experience**1.6.1** The Tenderer is to provide details of its shipbuilding experience relevant to the proposed Project, including:

- a. experience in building vessels of similar size and complexity in the last 10 years;
- b. how previous build programs of this class, or similar class of vessel will contribute to reducing the Project risk;
- c. the approach taken to design deficiencies and their rectification by personnel in production including data and statistics from a previous build, the roles and responsibilities within the process and examples of these deficiencies and how they were rectified from that build;
- d. the process applied to verify that facilities used for builds in non parent yards are suitable and have the potential to achieve the required schedule; and

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- e. experience in establishing a build program of a similar scale, complexity and duration in a foreign country in the last 10 years, including key risks; this includes, but is not limited to:
 - (i) utilising a resource management strategy and the resultant workforce resource profiles, the outcome of the strategy and lessons learned;
 - (ii) establishing and maintaining a workforce, a shipyard, supply chains and production processes in the construction of the build program (a specific example of a RSD production process catalogue shall be included);
 - (iii) the extent to which local employees were used, if skills were transferred to the local workforce, and if so, the extent of the skills transfer;
 - (iv) the extent of Technical Data and Intellectual Property transfer, and arrangements used for achieving this;
 - (v) security arrangements and cyber attack defences; and
 - (vi) any efficiencies and cost savings delivered to customers as a result of continuous improvements of its shipbuilding capability. Details are to be provided including the program, processes and achieved outcomes.

1.6.2 The Tenderer is to describe its experience in establishing a shipbuilding program of a similar scale, complexity and duration in a foreign country in the last 10 years, including key risks and outcomes:

- a. where a shipyard is owned and managed by a third party; and
- b. where the workforce is owned and managed by a third party.

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Note to Tenderers: Clause 2 outlines the minimum requirements for Tenderers to provide the necessary detail of its proposed engineering organisation and processes, covering both design and production engineering processes, specialist programs, systems and tools to enable the Commonwealth to assess its suitability for the Project.

2. ENGINEERING ORGANISATION, PROCESSES AND SPECIALITY PROGRAMS**2.1 Design Methodology**

2.1.1 The Tenderer is to describe how it will structure its organisation and the specific business units proposed for the provision of the design services required for the Project and provide examples of how new business units have been developed in the past.

2.1.2 The Tenderer is to detail whether or not the design organisation and capabilities proposed for the Project currently exist and are available, and if they require development, modification and/or expansion.

2.1.3 The Tenderer is to describe the process that will be used to ensure that the Commonwealth's design expectations, to the extent that they are captured in the MSS, will be met.

2.2 Design Processes

2.2.1 The Tenderer is to detail how it will ensure design integrity and traceability to recognised standards to ensure the platform is safe and supports the design intent.

2.2.2 The Tenderer is to detail the processes used to maintain alignment between the Mission System and Support System. Provide details of how this has been achieved on the RSD and previous designs.

2.2.3 The Tenderer is to detail how it proposes to integrate the Commonwealth into the design review processes, including the provision of access to a shared electronic environment which will facilitate efficient delivery and review of design documentation.

2.2.4 The Tenderer is to detail the processes that will be used during the design to achieve:

- a. integration of Government Furnished Materiel into the design (both physical and functional integration);
- b. the specified shock, vibration, signature hygiene, and military specific (such as weapons handling and ammunition storage) standards of the MSS; and
- c. the safeguarding of the design intent associated with the ship's signatures such that signature management is an integral part of the entire design to delivery activity, including measures such as build quality assurance.

2.2.5 The Tenderer is to detail it will manage issues such as design resourcing and incorporation of rework due to design defects identified during build.

2.3 Production Design

2.3.1 The Tenderer is to describe the methodology, processes and information systems proposed to control the production engineering and production activities. This includes, but is not limited to:

- a. production design artefact development;
- b. how these processes will be adapted from those used in the parent yard and the planned management approach to minimising risks that will arise from implementing these different processes;
- c. production design proposals for managing weight allocations, dimensional control, quality control and thermal distortion due to welding;
- d. management of shock, vibration and signature hygiene requirements during the design and production phases;
- e. planning and scheduling systems, detailing the systems to be used, including examples of the type of lower level plans and schedules provided to control work; and

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- f. supply chain interfaces with production and design processes.

2.4 Design and Production Software and Enabling Tools Management

Note to Tenderers: The Commonwealth intends to assess the Tenderer's understanding of the software management of the Project and its associated risks through the approach, plans and procedures documented in its proposal. Software development for the Mission System is not included in the scope of this Section.

If the Tenderer does not plan to develop design and production software but intends subcontracting software development, the response should include plans for the software acquisition and supply including the monitoring of software Subcontractors and the integration and control of software received from Subcontractors.

2.4.1 The Tenderer is to describe how its proposal for provision and utilisation of design and production systems and tools, including software, models and production management systems:

- a. represents current shipbuilding best practice;
- b. will be maintained at the level of shipbuilding best practice; and
- c. is ideal for the continuous best practice naval shipbuilding industry which will continue in Adelaide after the Project.

2.4.2 The Tenderer is to provide an outline of how it proposes to manage Information and Communication Technology (ICT) software proposed for use on the Project. The outline shall include, but is not limited to:

- a. details of the programs/software suites or systems used for areas such as detailed design, production design, manufacture resource planning, configuration management, data management, cost control, procurement, work scheduling, resource management, which should contain:
 - (i) their purpose;
 - (ii) maturity; and
 - (iii) predicted service life, either through support limitations or intended upgrades;
- b. the level of integration across all areas of business;
- c. how the software will be managed and supported, specifically for the Project requirements; and
- d. any issues foreseen in establishing these processes and software packages in the Australian environment.

Note to Tenderers: The Commonwealth intends to assess the Tenderer's engineering organisation and processes for the Project and its associated risks through the approach, plans and procedures documented in its proposal.

2.5 Engineering Organisation and Processes

2.5.1 The Tenderer is to provide an outline of the engineering organisation and processes, including roles and responsibilities, which will be used to manage the Project delivery. The outline shall include, but is not limited to:

- a. program engineering processes;
- b. configuration management processes including:
 - (i) change control, including the classifying, developing, approving, implementing and releasing of changes;
 - (ii) baseline management, including at least the Allocated Baseline (ABL), Development Baseline (DBL), and Product Baseline (PBL);
 - (iii) configuration status accounting;

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- (iv) an overview of proposed configuration audits;
 - (v) scheduling of updates to the master record index for all configuration items of the evolving design throughout the initial ship build; and
 - (vi) management of defects and deviations, including those found during the production process;
- c. a description of the business units proposed for the provision of engineering services, together with their organisational relationships (including an organisation chart);
 - d. the extent to which the proposed organisational engineering capabilities currently exist and explanations for any proposed development, modification and/or expansion; and
 - e. a description of the process(es) for resolution of engineering problems, including production deficiencies; the response shall include reassessment of design or supportability implications, if required.

2.5.2 The Tenderer is to provide an outline of the processes that will be used to integrate the Commonwealth and Subcontractors into the Tenderer's engineering processes. The outline shall include, but is not limited to:

- a. review and acceptance of contracted deliverable documents;
- b. initiation, review and approval of engineering and contract changes;
- c. management of outstanding defects/issues and close out of defects/issues;
- d. conduct of system reviews (e.g. integrated baseline reviews, system design reviews, production readiness reviews, configuration audits, test readiness reviews, system acceptance audits, etc); and
- e. providing continuous visibility to the Commonwealth of the project progress, status and progress measurement.

2.6 Verification and Validation Program

Note to Tenderers: If the Tenderer plans to Subcontract significant development activities, the response should include plans for the monitoring of Subcontractor Verification and Validation (V&V) activities and the Tenderer's acceptance criteria for products received from Subcontractors.

2.6.1 The Tenderer is to provide an outline proposal for how a Verification program would be implemented for the Project to enable the Commonwealth to achieve acceptance of contract deliverables. This includes, but is not limited to:

- a. the Verification methodology to be used for the Project;
- b. the preparation of Verification procedures, reports and other documentation for Commonwealth approval;
- c. the process for executing the Verification program, with Commonwealth witnesses, across the full range of engineering activities, including any software packages and processes used to assist;
- d. managing the accumulation of Objective Quality Evidence to support a Designer's Certificate within schedule constraints;
- e. the development and maintenance of a failure reporting, analysis and corrective action system (FRACAS), including regression Verification as required;
- f. demonstrating the successful integration of the Mission System and Support System;
- g. the production test and evaluation /test and trials program;
- h. detailing any proposals to deliver previous Verification results from the RSD, in order to potentially satisfy Commonwealth Verification requirements;

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- i. any involvement of the Commonwealth in the Verification of the build program;
- j. any involvement of a classification society in the Verification of the build program;
- k. detailing how the Verification program will scope for the first of class design and build and also any significant changes to the design of later vessels; and
- l. deviations from specifications in the delivered product.

2.6.2 The Tenderer is to provide an outline proposal for how a Validation program would be implemented to support the Commonwealth's activities in Validating the Mission System, Support System and Fundamental Inputs to Capability elements in an operational environment. This includes, but is not limited to:

- a. Operating Support to the Commonwealth;
- b. Maintenance Support to the Commonwealth;
- c. Engineering Support to the Commonwealth;
- d. Training Support to the Commonwealth;
- e. Supply Support to the Commonwealth; and
- f. defect identification, classification and rectification.

2.7 Specialty Engineering Programs

Note to Tenderers: The Commonwealth intends to assess the Tenderer's strategy for speciality engineering on the Project and its associated risks through the approach, plans and procedures documented in its proposal.

2.7.1 The Tenderer is to provide an outline of the organisation and skills proposed for the Project in Australia, and abroad as appropriate, to manage and perform specialist or highly skilled design and associated engineering tasks. The outline shall include, but is not limited to:

- a. signatures;
- b. noise and vibration;
- c. survivability and damage control;
- d. shock;
- e. stability;
- f. hydrodynamics;
- g. sea keeping;
- h. combat system integration design (see clause 2.8 for further details);
- i. the impact assessment to engineering as requested in clause 1.6.2(f) of Annex F to Attachment A to Conditions of Tender;
- j. topside integration;
- k. chemical, biological, radiological and nuclear (CBRN) protection; munitions/magazine safety/blast routes;
- l. TEMPEST/emission security
- m. cyber security during design (see clause 2.9 for further details);
- n. electromagnetic environment; and
- o. aviation.

2.7.2 The Tenderer is to provide an outline of the organisation and skills proposed for the Project in Australia, and abroad as appropriate, to manage and perform specialist or highly skilled production, management and associated engineering tasks. The outline shall include, but is not limited to:

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- a. combat system alignment and physical integration (see clause 2.8 for further details);
- b. cyber security during production and management (see clause 2.9 for further details);
- c. propulsion system alignment;
- d. block consolidation;
- e. weight control engineering;
- f. dimension control;
- g. commissioning;
- h. production planning; and
- i. quality assurance.

2.8 Combat Management System Integration Strategy

Note to Tenderers: The Commonwealth intends to specify the Combat Management System to provide the core command and control element of the Combat System of the Ships. The Commonwealth may also specify a range of sub systems and elements of the Combat System to be supplied as Government Furnished Material. The Commonwealth will advise when these decisions are finalised. Other elements of the Combat System will be selected by the Tenderer.

2.8.1 The Tenderer is to detail the approach they propose to take for design, build and delivery of the Mission System, to the functional and physical integration of all elements of the Combat Management System as well as their approach to physical integration of that integrated Combat Management System with the Platform System to form a complete Mission System. This shall include, but is not limited to:

- a. whether the Tenderer has decided to undertake Combat System integration itself or through subcontracting a Combat System Integrator, and the reasons for this decision;
- b. if the Tenderer proposes to subcontract the Combat System Integrator function, the evaluation criteria that the Tenderer has or will use to appoint a Combat System Integrator, including the criteria to assess whether the Combat System Integrator has the capability and experience to integrate the alternative Combat Systems that are being proposed for the Ship in clause 4.3e. of the Project Overview and Statement of Requirements;
- c. how the Tenderer would integrate a United States of America based Combat Management System, if required, (i.e. Aegis) into the Ship, including how the Tenderer would address the United States of America technology constraints or release processes related to their Combat Management System; and
- d. how the Tenderer proposes to build Australian Industry Capability in the integration of the Combat Management System through:
 - (i) training of, knowledge transfer to and increased experience and competence of the Australian workforce; and
 - (ii) the development and use of Australian supply chains.

2.9 Cyber Security Management

Note to Tenderers: The Commonwealth intends to assess the Tenderer's cyber security management and its associated risks through the approach, plans and procedures documented in its proposal.

2.9.1 The Tenderer is to provide an outline of how it proposes to manage security against the potential cyber threats that may present itself in the environment which includes, but is not limited to:

- a. the Shipyard, including production systems and tools;

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- b. Ships;
- c. the Tenderer's supply chain;
- d. software/firmware/hardware/data (e.g. navigation machinery, sensors, weapons, command and control systems);
- e. software development suite;
- f. enterprise resource planning systems;
- g. engineering control systems;
- h. internet systems (e.g. email, social network, websites); and
- i. Information Technology (IT) infrastructure (e.g. networks, data centres, virtual private network servers).

2.9.2 The outline shall address the Tenderer's management of:

- a. cyber incursions into their organisation to prevent information leak;
- b. cyber incursions affecting their systems, compilers etc to ensure malicious code is not embedded in Commonwealth systems;
- c. social engineering of Tenderer's staff to get unauthorised access to their systems;
- d. internal cyber incursions by Tenderer personnel from obtaining or injecting malicious code into Commonwealth systems; and
- e. cyber security of Tenderer Subcontractors and suppliers.

ANNEX G TO ATTACHMENT A**3. INTEGRATED LOGISTICS SUPPORT**

Note to Tenderers: The ILS program is to achieve the following outcomes:

- ***Mission System that has been designed for supportability;***
- ***Support System that has been designed to meet the Mission System support requirements, while seeking to minimise Life Cycle Cost to the Commonwealth; and***
- ***Implementation of the Support System such that it complies with the organisational, regulatory, certification and class requirements.***

The Commonwealth will assess the Tenderer's ILS development strategy for the Project and its associated risks through the approach and procedures documented in their response.

The Commonwealth recommends Tenderers review the Australian Maritime Logistics Doctrine, located at this website: <http://www.navy.gov.au/media-room/publications/australian-maritime-logistics-doctrine>, for the principles that underpin the design of logistics support systems.

3.1 ILS Program

3.1.1 The Tenderer is to provide an outline of the organisation, responsibilities and skills proposed for the Project's ILS program in Australia and abroad as appropriate.

3.1.2 The Tenderer is to provide an outline of the processes and activities that will be used to manage the Project's ILS program delivery. This may reflect the processes used for ILS support of the RSD, which may or may not require tailoring to suit the Project. The outline shall include, but is not limited to:

- a. key ILS program events, activities and assumptions;
- b. identification of inter-relationships and dependencies;
- c. Logistics Support Analysis including the degree to which any future Australian operating intent may influence the analysis;
- d. the impact assessment to logistics as requested in clause 1.6.2(g) of Annex F to Attachment A to Conditions of Tender;
- e. process for developing the scheme of complement;
- f. process and standards for developing operator and maintainer manuals;
- g. process and standards for developing technical data;
- h. identification of key influences on the support system requirements;
- i. obsolescence management;
- j. the degree to which the Tenderer proposes to re-use existing ILS analysis and products; and
- k. information on the RSD Computerised Maintenance Management System (CMMS), Corrosion Prevention and Condition Based Monitoring System (CBM).

3.1.3 The Tenderer is to detail any existing processes, activities and outputs which may be suitable for use by the Project.

3.1.4 The Tenderer is to provide a detailed schedule that identifies the proposed key deliverables in the Projects ILS program, as outlined in clause 4.2.13.(c) of Annex E to Attachment A to Conditions of Tender.

3.2 Training

Note to Tenderers: The Commonwealth will assess the Tenderer's training strategy for the Project and its associated risks through the approach, plans and procedures documented in their response.

3.2.1 The Tenderer is to describe the training program proposal for the Project. The response shall include, but is not limited to:

ANNEX G TO ATTACHMENT A

- a. an outline of how the training needs analysis would be conducted;
- b. an overview of the process for the identification and development of operator and maintainer training courses, including resources and standards;
- c. the degree to which the Tenderer proposes to re-use existing training courses (for example RSD) and resources, and the extent to which they may be tailored for the Project; and
- d. an overview of the process for the identification and development of collective training, including resources and standards.

3.3 Statement of Relevant Experience

Note to Tenderers: The Commonwealth intends to assess the Tenderer's recent relevant experience in conducting similar ILS programs of equivalent type, scope and technical complexity in order to assist with the assessment of risk associated with the Tenderer's proposal.

3.3.1 The Tenderer is to provide an outline of previous experience to deliver an ILS program of similar size and complexities. The outline shall include, but is not limited to, the design, development and delivery of the following Support System capabilities:

- a. Operating Support
- b. Maintenance Support;
- c. Engineering Support;
- d. Training Support; and
- e. Supply Support.

3.3.2 The Tenderer is to provide an outline of how previous experience is transferable in the execution of the Project's ILS program, including risks and opportunities.

ANNEX G TO ATTACHMENT A**4. SEAWORTHINESS PROGRAM**

Note to Tenderers: The purpose of seaworthiness is to maximise the operational effect, while minimising the hazards and risk to personnel, the public and the environment (the Seaworthiness Outcome).

Through all phases of the capability life cycle, a seaworthiness case will be used by the Navy to provide justified confidence that seaworthiness will be achieved. The seaworthiness case will comprise an operating and support case, a safety case and an environmental case.

System safety is a key component of the seaworthiness outcome. The requirements of the System Safety Program (SSP) will comply with ABR 6303 - Navy Safety Management System Manual, Appendix B.

Accordingly, the Commonwealth seeks assurance that the Tenderers have:

- ***experience in the management of SSP and environmental compliance programs for ships and support systems;***
- ***proposed a safety management methodology tailored for the Project that has sufficient rigour to input into the safety case requirements of the seaworthiness program; and***
- ***a hazard management methodology that will provide the integrity and traceability required.***

4.1.1 The Tenderer is to confirm and demonstrate they understand the seaworthiness requirements of the Commonwealth in the following areas:

- a. safety requirements derived from the Australian legislative framework (i.e. WHS Legislation) enacted through compliance with Appendix B, which describes the Navy safety policy and regulatory framework; and
- b. environmental compliance derived from environmental legislative and regulatory obligations.

4.1.2 The Tenderer is to demonstrate that they have relevant SSP experience across projects of similar technical complexity. Tenders are to include details of:

- a. Project role and responsibilities in relation to safety;
- b. SSP scope;
- c. applicable regulatory framework under which project(s) were conducted;
- d. applicable quality and/or safety management system;
- e. system safety standards used; and
- f. the safety methodology applied.

4.1.3 The Tenderer is to demonstrate they are capable of supporting the Project's Seaworthiness Outcome, by providing:

- a. a list of the significant program level risks anticipated from the proposed acquisition scope and approach that the Tenderer proposed activities will need to address. The Tenderer should also provide proposed prevention and mitigation strategies that will be employed. Risk details are to be presented in accordance with the risk register detailed at clause 5.2.2 in Annex E to Attachment A to Conditions of Tender;
- b. an overview of the proposed scope of activity that will support the development of the safety and environmental case(s) across the entire capability life cycle;
- c. a description of how the Tenderer's safety related activities will interface with other systems and functional areas of the Project;
- d. an overview of the general approach to providing safety and environmental assurance with respect to making modifications to the RSD;
- e. details of how Government Furnished Equipment/Government Furnished Information will be incorporated and managed within the Tenderer's safety related activities;

ANNEX G TO ATTACHMENT A

- f. details of the implications and the approach to satisfying all applicable legislative requirements for safety and environment including a proposed certification strategy and/or framework against which the legislative requirements have been considered. Using Appendix C – Compliance to Legislative Requirements, the Tenderer is to complete the template provided at Enclosure 1 to Appendix C.

Note to tenderers: Tenderers should review the template and associated guidance provided which is to be used as the basis for describing their own vessel compliance framework. The Tenderer's completed framework is expected to link rule set and standards applicable to their design and justify that it is an acceptable means of compliance with the legislation identified.

- g. the interface between the Tenderer's safety related activities and the Systems Engineering Program (SEP), including activities and interfaces between specialist engineering functions, e.g. human factors;
- h. the specific tasks and activities proposed to support the safety and environmental aspects of the Seaworthiness Outcome;
- i. a proposed schedule of Tenderer's safety and environmental related activities which shows alignment with the Contract Master Schedule at clause 4.2 in Annex E to Attachment A to Conditions of Tender;
- j. an outline of how existing and new safety and environmental artefacts (supporting evidence) would be integrated into safety and environmental arguments within safety and environmental cases;
- k. an overview of where the functional aspects of safety fit within the Tenderer's organisation, including details of dedicated safety resources, and key accountable safety staff skills, experience and qualifications;
- l. details of how the Tenderer will pass on and provide oversight of safety and environmental requirements with respect to its Subcontractors and suppliers;
- m. details of how safety and environmental data will be managed and accessed internally and by external stakeholders, including management of security implications;
- n. the approach to independent validation of the Tenderer's safety and environmental related activities;
- o. an overview of how the Tenderer's safety and environmental related activities will integrate with the V&V Program;
- p. the ability to support the development of the Project's seaworthiness case using goal structuring notation with the top level goals provided by the Commonwealth. An overview of the high level seaworthiness case goal structuring notation framework is provided at Appendix D; and

Note to Tenderers: Tenderers are advised the Commonwealth owns and is ultimately responsible for the development of the seaworthiness case. To be clear, Tenderers are not required to develop their own seaworthiness case, rather, it will provide key artefacts to support the development of the Project's seaworthiness case.

- q. the approach to software safety and assurance, including proposed standards.

4.1.4 The Tenderer is to describe their methodology for hazard identification and management including specific tasks, activities and proposed schedule.

4.1.5 The Tenderer is to describe what software and process they use for hazard tracking and analysis.

4.1.6 The Tenderer is to describe how they will establish a Safe System of Work for known hazards including how they will make a determination that the system is safe So Far As Reasonably Practicable. Using Appendix E – Risk Evaluation of Potential Catastrophic Events, the Tenderer shall describe the proposed Safe System of Work for the following five Potential Catastrophic Events in the provided template format:

ANNEX G TO ATTACHMENT A

- a. crash on deck;
- b. sea boat capsizes/flips (during launch/recovery while underway);
- c. ship engages own helicopter;
- d. blast/explosion (in a ship's magazine); and
- e. exposure to gaseous hazardous/toxic substances.

Note: Tenderers shall review the template and associated guidance, which is to be used as the basis for generating the framework for a Safe System of Work, applicable to their design and associated context of use. This should include operational aspects where possible with respect to, operational controls and mitigations, where known. The Commonwealth has used Bow Tie XP software in the development of the Bow Tie templates. This is not being mandated as the tool for development.

The Potential Catastrophic Events Bow Ties are to describe:

- a. hazard contributors,***
- b. hazard event sequence (accident causation model),***
- c. preventative hazard controls, and***
- d. accident controls to mitigate against the escalation of the hazard event.***

ANNEX G TO ATTACHMENT A**5. RISK ASSESSMENT**

- 5.1.1** The Tenderer is to provide a risk assessment in accordance with clause 5.2 of Annex E to Attachment A to Conditions of Tender that identifies risk and associated treatments related to the Tenderer's response to this Annex G to Attachment A to Conditions of Tender. Key risks and indicative treatment strategies are to address the five Project Objectives. The risk assessment is to include, but is not limited to, the following considerations:
- a. allocation of accountabilities for risks and responsibilities across stakeholder and related entities, including but not limited to the design, build, shipyard operation, and Commonwealth roles;
 - b. achieving design and production milestones;
 - c. Commencement of Prototyping Activities, including the risk of important production processes and workforce skills not being exercised in the prototyping activities;
 - d. ship production, including with a continuous drumbeat;
 - e. establishing, maintaining and retaining a suitable workforce capacity and capability including transfer of skills, technology and knowledge to an Australian workforce;
 - f. achieving an initial level which then increases over time, of Australian industry involvement (including supply chain and technical support network);
 - g. Government-owned shipyard;
 - h. Shipyard as described in Appendix A;
 - i. Subcontracting strategy; and
 - j. obsolescence and change.
- 5.1.2** If there is any material impact on cost or schedule the Tenderer is to include the risk assessment in the Costed Risk Register at Annex D to Attachment A to Conditions of Tender.

Appendices:

- A. FACILITIES ASSUMPTIONS DOCUMENT
- B. ABR 6303 – NAVY SAFETY MANAGEMENT SYSTEMS MANUAL
- C. COMPLIANCE TO LEGISLATIVE REQUIREMENTS
- D. INDICATIVE GOAL STRUCTURING NOTATION FRAMEWORK FOR SEAWORTHINESS CASE
- E. RISK EVALUATION OF POTENTIALLY CATASTROPHIC EVENTS

APPENDIX A TO ANNEX G TO ATTACHMENT A

FACILITIES ASSUMPTIONS DOCUMENT

Note to tenderers: This document is identical to the PDF version of this document which has been provided to tenderers. This document is being provided as a word document to allow tenderers to mark up their changes to the document.



Australian Government

Department of Defence

SEA 5000 PHASE 1

HEAD CONTRACT

CONTRACT NO: (INSERT NUMBER)

DETAILS SCHEDULE

PARTIES

COMMONWEALTH OF AUSTRALIA represented by the Department of Defence
ABN 68 706 814 312 (Commonwealth)

Commonwealth Representative:	(INSERT DETAILS)	
Notice Details:	Address:	(INSERT ADDRESS)
	Fax:	(INSERT FAX NUMBER)
	Email:	(INSERT EMAIL ADDRESS)

(INSERT FULL NAME OF CONTRACTOR) ABN (INSERT CONTRACTOR'S ABN) (Contractor)

Contractor Representative:	(INSERT DETAILS)	
Notice Details:	Address:	(INSERT ADDRESS)
	Fax:	(INSERT FAX NUMBER)
	Email:	(INSERT EMAIL ADDRESS)

INFORMATION TABLE

Item	Information		
Item 1 (clause 1.4)	Effective Date	(INSERT DATE)	
Item 2 (clause 4.9)	Base Date	1 June 2016	
Item 3 (clause 8.2)	Bank Guarantee for Performance	Performance Security Amount:	\$(INSERT AMOUNT)
		Performance Security Date:	[INSERT DATE AFTER THE EFFECTIVE DATE]
		Release Event:	[INSERT EVENT THAT WILL LEAD TO RELEASE OF PERFORMANCE SECURITY BY THE COMMONWEALTH]
Item 4 (clause 8.4)	Deed of Guarantee and Indemnity	<input type="checkbox"/> Yes / <input type="checkbox"/> No	

Item	Information
	Guarantor: (INSERT NAME)
Item 5 (clause 8.7)	GST Agent
	Name: (INSERT NAME) ABN: (INSERT ABN)
	Address: (INSERT ADDRESS)
	Fax: (INSERT FAX NUMBER)
	Email: (INSERT EMAIL ADDRESS)
Item 6 (clause 9.1.1)	Defect Notification Period: From the Effective Date until 12 months after expiry or earlier termination of the Contract.
Item 7 (clause 9.2.1)	<p>Defect Rectification Period:</p> <p>If the Defect is a Latent Defect, the period of five years after Acceptance of the Supplies (or if the Contract does not provide for Acceptance of the relevant Supplies, Final Acceptance).</p> <p>If the Defect is not a Latent Defect, the period of:</p> <ul style="list-style-type: none"> a. for Defects in Supplies installed in, on or as a part of a Ship - 12 months following Acceptance of the Ship; b. for other Supplies – 12 months following Acceptance of the Supplies; or c. if the Contract does not provide for Acceptance of the relevant Supplies – 12 months following Final Acceptance or such other period determined in accordance with clause 9.2.6.
Item 8 (clause 10.1)	Approved Contractor Insurance Program Status <input type="checkbox"/> Yes / <input type="checkbox"/> No
	Limits of indemnity for required insurances:
	Public liability: (clause 10.1.4a) [\$[INSERT AMOUNT] million
	Products liability: (clause 10.1.4b) [\$[INSERT AMOUNT] million
	Public and products liability tangible property sublimit: (clause 10.1.4e) [\$[INSERT AMOUNT] million
	Professional indemnity: (clause 10.1.5) [\$[INSERT AMOUNT] million
	Motor vehicle insurance: (clause 10.1.8b) [\$[INSERT AMOUNT] million
	Marine liability: (clause 10.1.10) [\$[INSERT AMOUNT] million
	Marine liability tangible property sublimit: (clause 10.1.10c) [\$[INSERT AMOUNT] million
	Ship builders: (clause 10.1.11b) [\$[INSERT AMOUNT] million

Item	Information		
Item 9 (clause 11.9.1)	Limitation Amount:	Loss of or damage to Defence property (other than Supplies): (clause 11.9.1a)	\$400 million
		Loss of use of Supplies after Acceptance: (clause 11.9.1b)	\$400 million
		Loss of or damage to Supplies (other than loss of use of Supplies), and Losses other than those referred to in clauses 11.9.1a to 11.9.1b: (clause 11.9.1c)	\$500 million
Item 10 (clause 12.10.2)	Approved Subcontractor Threshold	5 per cent of the Allowable Costs in the TCE for a Scope.	
Item 11 (clause 12.14)	Defence Security:	Security classification: (clause 12.14.3)	TOP SECRET
		DISP membership required: (clause 12.14.3a)	<input checked="" type="checkbox"/> Yes / <input type="checkbox"/> No
		Personnel security clearance: (clause 12.14.3c)	SECRET
		Facility / ICT accreditation: (clause 12.14.3d)	<input checked="" type="checkbox"/> Facility accreditation required <input checked="" type="checkbox"/> ICT system accreditation required Document storage up to and including SECRET . <input checked="" type="checkbox"/> Classified assets SECRET
		Security Classification and Categorisation Guide included: (clause 12.14.6)	<input checked="" type="checkbox"/> Yes / <input type="checkbox"/> No
		COMSEC material: (clause 12.14.8 and 12.14.9) <input checked="" type="checkbox"/> Yes / <input type="checkbox"/> No	<input checked="" type="checkbox"/> transmitted in Australia <input checked="" type="checkbox"/> transmitted overseas
Item 12 (clause 13.1)	Governing Law:	Australian Capital Territory	
Item 13 (clause 14.6.3)	Management Representatives (position):	Commonwealth:	(INSERT DETAILS)
		Contractor:	(INSERT DETAILS)
Item 14	Senior	Commonwealth:	(INSERT DETAILS)

(clause 14.6.6)	Representatives (position):		
		Contractor:	(INSERT DETAILS)

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1 PRELIMINARY

1.1 Definitions

- 1.1.1 In the Contract, unless the contrary intention appears, words, abbreviations and acronyms have the meanings given to them in the Details Schedule, or by the Glossary at Attachment M.

1.2 Interpretation

- 1.2.1 In the Contract, unless the contrary intention appears:
- a. headings are for the purpose of convenient reference only and do not form part of the Contract;
 - b. the singular includes the plural and vice-versa;
 - c. a reference to one gender includes the other;
 - d. a reference to a person includes a body politic, body corporate or a partnership;
 - e. if the last day of any period prescribed for the doing of an action falls on a day which is not a Working Day, the action shall be done no later than the end of the next Working Day;
 - f. a reference to an Act is a reference to an Act of the Commonwealth, State or Territory of Australia, as amended from time to time, and includes a reference to any subordinate legislation made under the Act;
 - g. a reference to a clause includes a reference to a subclause of that clause;
 - h. a reference to a "dollar", "\$", "\$A" or "AUD" means the Australian dollar;
 - i. a reference to a specification, publication, Commonwealth policy or other document is a reference to that specification, publication, Commonwealth policy or document, in effect on the Effective Date specified in the Details Schedule, or alternatively, a reference to another version of the document if agreed in writing between the parties;
 - j. the word "includes" in any form is not a word of limitation;
 - k. a reference to a party includes that party's administrators, successors, and permitted assigns, including any person to whom that party novates any part of the Contract; and
 - l. a provision stating that a party "may" agree or consent to something, approve or reject something, or take or decline to take an action, means that the party may exercise its discretion in deciding whether or not to do so, and may impose conditions on any such agreement, consent or approval;
 - m. a reference to the Contract includes each Attachment to the Contract and each Scope Statement (including any Annexes to the Scope Statement).

1.3 Contract Objectives

- 1.3.1 The objectives of the parties in entering into the Contract (Contract Objectives) are:
- a. to establish the arrangements to govern the strategic relationship between the Commonwealth and the Contractor for the duration of the Project;
 - b. to support the achievement of the Project Objectives, being to:
 - (i) deliver nine Anti-Submarine Warfare Frigates (Ships) based on a Military-Off-The-Shelf design with Minimum Change;
 - (ii) contribute to a Continuous Naval Shipbuilding industry in Australia;
 - (iii) maximise Australian Industry Capability;
 - (iv) commence construction in Adelaide in 2020; and
 - (v) remain within the Defence Integrated Investment Program;
 - c. to ensure that, for the payments provided for under the Contract, the Contractor delivers the Supplies on time, on budget, to the required safety, quality and capability, in accordance with the Contract;

- d. to develop, maintain and enhance appropriate skill sets and capabilities within both the Commonwealth and the Contractor;
 - e. to obtain value for money for the Commonwealth on an ongoing basis in relation to the delivery of capability;
 - f. to obtain for the Contractor as a commercial entity a reasonable return on its investment when it performs the Contract efficiently and successfully, and a return that appropriately reflects properly managed risks involved in the performance of the Contract;
 - g. for the Commonwealth to have sufficient and appropriate rights to use (including to sublicense) TD, Software and Contract Material throughout the Mission System's Life of Type, including for acquisition, support and disposal of the Mission System;
 - h. to facilitate the retention and enhancement of industry capabilities within Australia and New Zealand;
 - i. to ensure availability of necessary facilities (including any plant and systems) to develop and maintain (as appropriate) the capability;
 - j. to encourage the most efficient possible use of resources for the achievement of the capability;
 - k. to work within a framework that ensures the safety of persons, Materiel Safety, and complies with all laws and other regulatory requirements; and
 - l. to achieve these joint objectives through a culture of mutual respect and co-operation, and in an environment that fosters innovation, continuous improvement, cost efficiency, transparency and open, honest and timely communication.
- 1.3.2 Without in any way affecting or overriding the other terms of the Contract, each party agrees to perform its obligations and enforce its rights under the Contract having regard to, and with the aim of, achieving the Contract Objectives described in clause 1.3.1.

1.4 Effective Date

- 1.4.1 The Contract commences on the Effective Date specified in the Details Schedule.

1.5 Conditions Precedent

- 1.5.1 The obligations of the Commonwealth are subject to the conditions in Attachment K being satisfied or waived in accordance with this clause 1.5.
- 1.5.2 The non-fulfilment of a condition referred to in clause 1.5.1 may be waived only by the written consent of the Commonwealth.
- 1.5.3 The Contractor shall:
- a. use its reasonable endeavours to ensure that each condition referred to in clause 1.5.1 is satisfied within any time limit specified for that condition or, if no time limit is specified, before the date specified in clause 1.5.4;
 - b. promptly give the Commonwealth all information reasonably requested by the Commonwealth in connection with any application required to satisfy a condition;
 - c. keep the Commonwealth informed of any circumstances which may result in any of those conditions not being satisfied in accordance with its terms; and
 - d. promptly advise the Commonwealth in writing of the satisfaction of a condition and provide evidence of its satisfaction.
- 1.5.4 If the conditions referred to in clause 1.5.1 are not satisfied or waived within 3 months after the Effective Date (or such longer period as the Commonwealth may agree in writing), the Commonwealth may terminate the Contract by giving notice to the Contractor.
- 1.5.5 If the Contract is terminated in accordance with clause 1.5.4, then all rights and obligations under the Contract other than:
- a. any clause which is expressed to survive termination of the Contract, including any provision of the Contract referred to in clause 14.15 (Survivorship); and
 - b. rights that accrue before the date on which the notice is given,

terminate on the day of the notice.

1.6 Entire Agreement

- 1.6.1 To the extent permitted by law, the Contract represents the parties' entire agreement in relation to the subject matter of the Contract and supersedes all tendered offers and prior representations, communications, agreements, statements and understandings, whether oral or in writing.

1.7 Participant Services Contract

- 1.7.1 The Contractor agrees that its obligations (including warranties) in respect of the Supplies under this Contract are not affected or limited by any act or omission of the Commonwealth including any review, approval or opinion provided by the Commonwealth, under or in connection with the Participant Services Contract or any other contract entered into between the parties in relation to the Project prior to the Effective Date.

1.8 Precedence of Documents

- 1.8.1 If there is any inconsistency between parts of the Contract, a descending order of precedence shall be accorded to:
- a. the COC (including the Details Schedule) and the Glossary (other than the referenced documents in the Glossary);
 - b. in respect of a Scope, the Scope Statement applicable to that Scope;
 - c. the SOW and its annexes;
 - d. the attachments other than the SOW and the Glossary; and
 - e. any document incorporated by express reference or otherwise referenced as part of the Contract,
- so that the provision in the higher ranked document, to the extent of the inconsistency, shall prevail.

2 ROLES AND RESPONSIBILITIES

2.1 Representatives

- 2.1.1 The Commonwealth Representative is responsible for administering the Contract on behalf of the Commonwealth.
- 2.1.2 The Contractor shall comply with the reasonable directions of the Commonwealth Representative made within the scope of the administration of the Contract.
- 2.1.3 If given orally a direction shall be confirmed in writing by the Commonwealth Representative within 10 Working Days. Unless otherwise specified in the Contract, the Commonwealth Representative has no authority to waive any provision of, or release the Contractor from, its obligations under the Contract except in accordance with clause 12.1 or clause 8.4 of the SOW.
- 2.1.4 The Contractor Representative has the authority to represent the Contractor for the purposes of the Contract.
- 2.1.5 The Commonwealth Representative or the Contractor Representative:
- a. shall advise of a change in representative; and
 - b. may delegate their functions under the Contract, or authorise another person on their behalf to carry out their functions under the Contract,
- by giving a notice to the other party (including updated Notice Details specified in the Details Schedule, and the scope of the delegation or authorisation, as applicable).
- 2.1.6 Unless authorised by the Contract, any work performed or cost incurred by the Contractor in response to a communication from the Commonwealth Representative is at the Contractor's sole risk.
- 2.1.7 A direction of the Commonwealth under clause 2.1.2 is not a Commonwealth Direction for the purposes of clause 4.14.

2.2 Notices

- 2.2.1 Unless the contrary intention appears, any notice under the Contract shall be effective if it is in writing and sent from and delivered to the Commonwealth Representative or Contractor Representative, as the case may be, in accordance with the Notice Details specified in the Details Schedule.
- 2.2.2 A notice given in accordance with this clause 2.2 is deemed to be delivered:
- if hand delivered, when received at the address;
 - if sent by pre-paid post, in three Working Days when sent within Australia and in eight Working Days when sent by air mail from one country to another;
 - if sent by facsimile, when the sender's facsimile system generates a message confirming successful transmission of the total number of pages of the notice, unless within one Working Day after that transmission, the recipient informs the sender that it has not received the entire notice; or
 - if sent as an email, when the email enters the recipient's information system, unless the sender's information system receives a message within one Working Day that the email has not been delivered to the recipient,
- but if the receipt, transmission or entry into the information system is not on a Working Day or is after 5.00pm (recipient's local time) on a Working Day, the notice is taken to be received at 9.00am (recipient's local time) on the next Working Day.

2.3 Strategic Agreements

Note to tenderers: It is anticipated that there may be other agreements that the Contractor will need to enter into in relation to the Project or take into account in the performance of the Contract. This may include agreements with other shipbuilders undertaking work at the Shipyard, any Shipyard owner, State Government agencies or other strategic agreements with the Commonwealth. The nature and scope of these agreements will need to be discussed and agreed with any successful Tenderer.

- 2.3.1 The Contractor acknowledges that it may be required to enter one or more Strategic Agreements for the purposes of performing its obligations under the Contract.
- 2.3.2 The Contractor agrees that it will:
- comply with its obligations under a Strategic Agreement;
 - work cooperatively and collaboratively with each other party to a Strategic Agreement; and
 - subject to any Defence security and confidentiality requirements, share information and knowledge relevant to the design and production of the Ships and management of the Project.

2.4 Strategic Relationship

- 2.4.1 The parties agree to work to develop a strategic relationship between the parties in accordance with the provisions of this clause 2.4 and the Strategic Relationship Principles.
- 2.4.2 The parties agree to work together in a cooperative and collaborative manner to achieve the Contract Objectives, including by:
- establishing internal arrangements within its organisation (including as to the leadership, training and development of its personnel) to ensure that:
 - the cooperative and collaborative relationship contemplated under this Contract is embedded and operates in an efficient and effective manner to achieve the Contract Objectives; and
 - its personnel engaged in the management of the relationship between the parties understand and act in accordance with this clause 2.4;
 - developing a culture of open communication and transparency, including by informing each other in a timely way of events and circumstances that may have an impact on the delivery of the Supplies (including events and circumstances not the subject of work under the Contract), including in relation to schedule, cost, Defects, resourcing and operational matters;

- c. being represented by their relevant Officers on the Project Board;
 - d. subject to Defence security requirements, sharing documents, information, views, opinions and data, including as necessary to enable the Project Board to discharge its functions; and
 - e. discussing all issues in an open and honest manner with a view to resolving them as early as practicable and in a way that best leads to achievement of the Contract Objectives.
- 2.4.3 Without limiting clause 2.4.1, the parties agree to seek to act at all times in accordance with the Strategic Relationship Principles in Attachment R.
- 2.4.4 The Contractor shall ensure that each Subcontractor, in undertaking their work in relation to the Contract, cooperates and collaborates with each other Subcontractor, the Commonwealth and other Commonwealth Contractors.
- 2.4.5 Neither this clause nor the Strategic Relationship Principles shall:
- a. create a partnership, joint venture or fiduciary relationship between the parties;
 - b. relieve or be deemed to relieve a party from any obligation or liability unless expressly provided; or
 - c. create any requirement on a party to obtain the consent or approval of the other party to the exercise of any right unless (and only to the extent) expressly provided.

2.5 Cooperation with other parties

- 2.5.1 The Contractor acknowledges that:
- a. the performance of the Contractor's obligations under the Contract will rely upon the Contractor's use of the Shipyard and other shipbuilding facilities and resources in Australia;
 - b. the Shipyard and other shipbuilding facilities and resources in Australia will also be used by the Commonwealth, Commonwealth Contractors and other third parties to support the other shipbuilding activities of the Commonwealth (as notified to the Contractor); and
 - c. the likelihood that the Contractor's performance of its obligations under the Contract will have a significant adverse effect on the Commonwealth's other shipbuilding activities will be reduced through the coordination and cooperation of the Contractor with the Commonwealth, the Principals Council, relevant Commonwealth Contractors and third parties.
- 2.5.2 The Contractor shall use its best endeavours to:
- a. use the Shipyard and other shipbuilding facilities and resources in Australia under or in connection with the Contract in a way that does not have a significant adverse effect (including through unreasonable interference, deprivation, delay or conflict) on the other shipbuilding activities of the Commonwealth; and
 - b. coordinate and cooperate with the Commonwealth, the Principals Council, Commonwealth Contractors and other third parties so as to minimise any significant adverse effect on the other shipbuilding activities of the Commonwealth that cannot be reasonably avoided.
- 2.5.3 The Contractor shall ensure that the Commonwealth is kept informed of any circumstance that has or may cause a significant adverse effect on the other shipbuilding activities of the Commonwealth.

2.6 Project Board

- 2.6.1 The parties have established a Project Board with the following functions:
- a. to provide a forum for the members of the Project Board to inform themselves about the progress of the work under this Contract and to exchange views about matters relevant to the work under this Contract;
 - b. to monitor and review the performance of the Contractor and its Subcontractors;

- c. to establish procedures and processes under which the Contractor will provide information to the Project Board, and keep it informed, about the work under this Contract;
- d. to review, monitor and oversee the construction of the Ships and the other Supplies;
- e. to monitor and review compliance with the plans required by the Contract;
- f. to resolve and facilitate the resolution of Disputes;
- g. to consider and facilitate the resolution of Shipyard User complaints in respect of the operation and management of the Shipyard; and
- h. to undertake any other function conferred on the Project Board under this Contract, a Strategic Agreement or that the parties agree in writing is to be a function of the Project Board.

2.6.2 The members of the Project Board are:

- a. the Commonwealth Representative;
- b. the Contractor Representative; and
- c. an independent shipbuilding expert appointed by mutual agreement between the Commonwealth and the Contractor.

2.6.3 The Project Board does not have authority to amend this Contract, including the obligations of the Contractor to deliver the Supplies in accordance with this Contract.

2.6.4 As at the Effective Date, the procedures for the operation of the Project Board are set out in Attachment D. The Project Board may determine its own procedures not otherwise inconsistent with the Contract.

2.6.5 Each party shall bear its own costs in relation to its participation on the Project Board.

2.6.6 The administrative costs of the establishment, secretarial support and conduct of the Project Board and any costs associated with the engagement and participation of the independent shipbuilding expert in the Project Board are an Allowable Cost.

2.7 Principals Council

2.7.1 The parties acknowledge that there will be a Principals Council established under a Strategic Agreement to coordinate and oversee the Commonwealth's shipbuilding activities at the Shipyard.

2.7.2 The parties shall:

- a. make available the personnel who are to be members of the Principals Council to carry out their functions as such members;
- b. ensure that the personnel who are members of the Principals Council carry out their functions in a manner consistent with the obligations of the party under the Strategic Agreement and this Contract;
- c. subject to Defence security requirements, share documents, information, views, opinions and data with the Principals Council to assist them in carrying out their functions; and
- d. do what is necessary to give effect to a decision of the Principals Council, unless it is inconsistent with the provisions of a law, the Contract, or a Subcontract.

2.7.3 A decision of the Principals Council is not a Commonwealth Direction for the purposes of clause 4.14.1 unless the Commonwealth expressly provides that it is a Commonwealth Direction.

3 CONTRACT FRAMEWORK

3.1 Contracted Requirement

3.1.1 The Contractor shall, for the payments provided for in this Contract, provide the Supplies in accordance with this Contract and perform its other obligations under this Contract. The Supplies shall include:

- a. nine Mission Systems, including the Combat System; and

- b. the Support System, including the Technical Data, Spares, Training services and documentation and Support and Test Equipment.
- 3.1.2 Without limiting clause 3.1.1, the Contractor shall be responsible for the design, construction, installation, integration, testing and delivery of the Ships and other Supplies in accordance with this Contract.

3.2 Scopes of Work

Note to tenderers: This clause 3.2.1 may be amended to reflect the tendered division of the Statement of Requirements into Statements of Work.

- 3.2.1 The parties acknowledge and agree that:
- a. the provision of the Supplies and the work under this Contract will be undertaken under a number of Scopes;
 - b. the Supplies to be provided and work to be undertaken under each Scope will be set out in a Scope Statement and Statement of Work included in an Annex to Attachment A;
 - c. as at the Effective Date, the following Scopes form part of the Contract:
 - (i) the Master Scope as set out in Part A to Attachment A; and
 - (ii) the Design and Productionisation Scope as set out in Part B to Attachment A; and
 - d. additional Scopes (including each Build Scope) will be incorporated into the Contract in accordance the process set out in this clause 3.
- 3.2.2 The Contractor is not required to provide Supplies or perform work under this Contract, and the Commonwealth is not liable to make any payments in respect of such Supplies or work, unless and until the Supplies or work is included in a Scope and incorporated into the Contract in accordance the process set out in this clause 3.
- 3.2.3 The Commonwealth may require the provision of Supplies or the performance of work for the purposes of the Project as part of an additional Scope to be incorporated into the Contract.
- 3.2.4 Without limiting clause 3.2.3, the Commonwealth may require any one or more of the following additional Scopes to be incorporated into the Contract:
- a. a Build Scope, which will include the construction, installation, integration, testing and delivery of a batch of one or more Ships as Supplies under the Contract;
 - b. additional design services in relation to the Ships or the other Supplies; and
 - c. modifications or upgrades to one or more of the Ships.
- 3.2.5 The Contractor shall provide the Supplies and perform the work included in the Scopes referred to in clause 3.2.1c and any additional Scopes incorporated into this Contract in accordance with the applicable Scope Statement and Statement of Work and the other provisions of this Contract.
- 3.2.6 The provisions of this Contract apply to any Supplies provided or work performed under a Scope, subject only to any Special Conditions included in the Scope Statement applicable to the relevant Scope.

3.3 Scope Notice

- 3.3.1 If the Commonwealth requires the incorporation of a Scope into this Contract, the Commonwealth shall give the Contractor a notice in the form of Attachment Q (**Scope Notice**) setting out the following in respect of a proposed Scope:
- a. a description of the Supplies to be provided and the work to be performed;
 - b. a draft Scope Statement and its Annexes, including:
 - (i) the Statement of Work applicable to the work; and
 - (ii) the specifications applicable to the Supplies in accordance with clause 3.5;
 - c. any proposed changes to the Contract under clause 12.1 required by the Commonwealth to incorporate the Scope into the Contract;

- d. the Pricing Rules to be applied to the Scope in accordance with Attachment B;
 - e. any Commonwealth Mandated GFM required to be used or incorporated into the Supplies under the Scope;
 - f. any Mandated Subcontractors required to be engaged in relation to the Scope;
 - g. any additional Securities required of the Contractor;
 - h. the date by which the Contractor is to provide a response to the Scope Notice; and
 - i. any supporting information or documents the Commonwealth considers is required by the Contractor to respond to the Scope Notice.
- 3.3.2 The Commonwealth shall take all reasonable steps to consult with the Contractor in relation to a proposed Scope prior to the issue of a Scope Notice.
- 3.3.3 The Contractor shall assist the Commonwealth to develop any proposed Scope Notice, including by undertaking planning or scoping work that is necessary to inform the matters to be included in the Scope Notice.

3.4 Scope Statement

- 3.4.1 The Scope Statement for a Scope will include all provisions necessary to ensure the delivery of a Scope in accordance with the Contract or as otherwise agreed by the Parties.
- 3.4.2 The Scope Statement for a Scope may include one or more of the following Annexes:
- a. any Special Conditions of Contract applicable to the Scope;
 - b. the specifications (or a reference to the specifications) for the Scope in accordance with clause 3.5);
 - c. a Statement of Work for the Scope;
 - d. an AIC Plan;
 - e. an update to the Contract Work Breakdown Structure and Contract Master Schedule;
 - f. a Delivery Schedule;
 - g. a Finance Annex (calculated in accordance with the Pricing Rules to be applied);
 - h. a GFM Schedule;
 - i. an Approved Subcontractor list; and
 - j. any other Annex the Commonwealth considers or agrees is necessary for the Scope Statement.
- 3.4.3 A Scope Statement becomes a part of the Contract on the date the Commonwealth notifies the Contractor that the Commonwealth has Approved the Scope Statement.

3.5 Specifications

- 3.5.1 For each Build Scope to be incorporated into this Contract, or any other Scope for the provision of Supplies that include or form part of the Materiel System, the Commonwealth shall specify the specifications to apply to the Scope, which shall be:
- a. the Master Specifications;
 - b. the Master Specifications with changes made by the Contractor under another Scope forming part of the Contract; or
 - c. the Master Specifications with other changes required by the Commonwealth as set out in the Scope Notice.
- 3.5.2 For any other Scope, the Commonwealth may:
- a. propose draft specifications for the Supplies to be delivered under that Scope; or
 - b. require the Contractor to develop specifications to apply to the Supplies to be delivered under that Scope.

3.6 Contractor's Scope Response

- 3.6.1 The Contractor shall, on or before the date specified in the Scope Notice, provide the Contractor's Scope Response. The Scope Response shall include:

- a. any changes the Contractor proposes to the Scope Statement;
 - b. any changes to the Master Specifications under clause 3.5.1c, or any other specifications required under clause 3.5.1b;
 - c. the total cost for the Scope calculated using the required Pricing Rules;
 - d. a proposed GFM Schedule specifying the GFM or other Commonwealth resources required by the Contractor for the Scope;
 - e. a proposed Approved Subcontractors list setting out the Approved Subcontractors proposed by the Contractor in relation to the Scope; and
 - f. a proposed AIC Plan for the Scope;
 - g. the additional Securities; and
 - h. any other information the Contractor considers is relevant to the delivery of the Scope.
- 3.6.2 The Contractor shall not propose changes to the Scope Statement that are inconsistent with any other provision of this Contract.

3.7 Finalisation of Scope Statement

- 3.7.1 The parties shall, following the issue of the Scope Response, work together in good faith and in a cooperative and collaborative manner to agree the Scope Statement for the relevant Scope, including:
- a. the Finance Annex (including any fixed price, Target Fee or TCE calculated in accordance with the applicable Pricing Rules);
 - b. the specifications applicable to the Scope (**Scope Specifications**) in accordance with clause 3.5;
 - c. the Delivery Schedule for the Scope;
 - d. any transition, logistical or resourcing matters relating to the Scope;
 - e. any other changes to the Contract under clause 12.1 required to incorporate the Scope into the Contract; and
 - f. the date on which the Scope Statement is to take effect.
- 3.7.2 If the parties have agreed the final form of the Scope Statement, the Commonwealth shall Approve the Scope Statement and:
- a. the Scope Statement shall be deemed to be incorporated into the Contract as an Annex to Attachment A (as specified in the Scope Statement); and
 - b. the Contractor shall commence work in relation to the relevant Scope in accordance with the Scope Statement and the terms of this Contract.
- 3.7.3 If, despite clause 3.7.1, the Scope Statement for the relevant Scope is not agreed in accordance with this clause 3.7 within 60 Working Days after the issue of the Scope Notice (or such other period as agreed in writing by the Commonwealth), the Commonwealth may by notice do one or more of the following:
- a. revoke the Scope Notice;
 - b. treat the failure to agree as a Dispute for the purposes of clause 14.6; or
 - c. terminate the Contract on a walk-away basis in accordance with clause 14.11.

4 PRODUCTION OF THE SUPPLIES

4.1 Language and Measurement

- 4.1.1 All information delivered as part of the Supplies under the Contract shall be written in English. If such documentation is a translation into the English language, the translation shall be accurate and free from ambiguity.
- 4.1.2 Measurements of physical quantity shall be in Australian legal units as prescribed under the *National Measurement Act 1960* (Cth), or, if Supplies are imported, units of measurement as agreed in writing by the Commonwealth Representative.

4.2 Standards of Work and Conformity

4.2.1 The Contractor shall:

- a. carry out its work under the Contract (including designing, developing, manufacturing, constructing, installing, integrating and testing the Supplies and providing services (as applicable)):
 - (i) in accordance with the standards specified in the Contract and all applicable laws; and
 - (ii) otherwise in accordance with good industry practice in the naval shipbuilding industry;
- b. ensure that the Supplies conform to the requirements of the Contract; and
- c. ensure that the Supplies are compatible with and do not restrict the performance of, or adversely affect, other equipment specified or referred to in the Contract that will, or may, be used with the Supplies.

4.2.2 For the purpose of this clause, "good industry practice" means practices, methods and standards that would reasonably be expected from professional and experienced contractors in the naval shipbuilding industry undertaking the same type of work as the Contractor in the same or similar circumstances.

4.3 Fitness for Purpose

4.3.1 The Contractor shall ensure that the Supplies are fit for the purposes provided for in the Contract, except to the extent that the failure of the Supplies to be fit for purpose results from a Commonwealth Default.

4.4 Design Services

4.4.1 The Contractor shall be fully responsible for all aspects of the design of the Supplies.

4.4.2 Without limiting clause 4.4.1, the Contractor shall bear all risks relating to the Concept Design and the use of the Concept Design for the Supplies will not limit any of the Contractor's obligations under the Contract.

Note to tenderers: The Commonwealth intends that function and performance requirements for the Supplies will be included in the contract specifications forming part of the Head Contract.

4.4.3 The Contractor warrants that:

- (i) the design of the Supplies will meet the requirements of the Mission System Specification (including the Combat System Specification), the Support System Specification and the other requirements of the Contract;
- (ii) the design of the Supplies will be prepared, certified, verified, completed and used in accordance with the requirements of the Contract; and
- (iii) it and each of its Subcontractors involved in the design of the Supplies will exercise the standard of skill, care and diligence that would be expected of an expert professional designer.

4.5 Design Authority

4.5.1 The Contractor shall establish and maintain a Design Authority for the Supplies at the Shipyard.

4.5.2 The Design Authority shall be responsible for the following functions in relation to Supplies:

- a. authorising design, production, engineering and configuration change and control activities;
- b. resolution of design, production, engineering and configuration change and control issues; and
- c. effective coordination and input into all design and engineering work under or in connection with the Contract.

4.6 Build Services

- 4.6.1 The Contractor shall be fully responsible for all aspects of the construction, installation, integration, testing, delivery and Acceptance of the Supplies (other than any aspects of the Supplies that are the subject of an express obligation of the Commonwealth under this Contract).

Note to tenderers: The Commonwealth intends that function and performance requirements for the Supplies will be included in the contract specifications forming part of the Head Contract.

- 4.6.2 The Contractor shall ensure that the Supplies are constructed, installed, integrated and tested in accordance with the Design Documentation and the other requirements of the Contract.
- 4.6.3 The Contractor warrants that, on delivery to the Commonwealth for Acceptance the Supplies will conform to the requirements of:
- (i) the Mission System Specification (including the Combat System Specification);
 - (ii) the Support System Specification; and
 - (iii) all other relevant specifications, Authorisations, Approvals, applicable law and Australian Standards.
- 4.6.4 The Contractor shall ensure that all systems, subsystems, equipment and services supplied by or through the Contractor are integrated into the Design Documentation for the Supplies, and when installed in, or used for, the Supplies:
- a. will be fit for the purpose for which the system, subsystem, equipment and service was provided; and
 - b. will function and operate in a manner that conforms to the requirements set out in 4.6.2 and will not restrict the performance of, or adversely affect any other system, subsystem, equipment or service installed in, or used for, the Supplies.
- 4.6.5 The Contractor shall ensure that the Supplies are constructed, installed, integrated, tested and delivered for Acceptance in a manner that:
- a. is cost effective and efficient; and
 - b. includes the implementation of progressive cost reductions and efficiency improvements in the build process.

4.7 Shipyard Facilities

Note to tenderers: The Contractor will be required to operate and manage the Shipyard, subject to any decisions of the Principals Council. It is anticipated that further requirements in relation to infrastructure management and governance, funding of Shipyard facility developments, access and sharing arrangements may be addressed in the Contract or a Strategic Agreement.

- 4.7.1 The Contractor shall operate and manage the Shipyard in accordance with:
- a. any direction of the Principals Council;
 - b. any Strategic Agreement related to one or more of the following:
 - (i) the operation and management of the Shipyard; and
 - (ii) the maintenance, security and use of utilities of the Shipyard,
 and as notified to the Contractor by the Commonwealth for the purposes of this clause;
 - c. the Integrated Shipyard Schedule;
 - d. the Contract;
 - e. any Shipyard Facilities Licence; and
 - f. the other requirements of this clause 4.7.
- 4.7.2 The Contractor shall establish, maintain and update an Integrated Shipyard Schedule.
- 4.7.3 The Contractor shall use its best endeavours to ensure that:

- a. each Shipyard User is provided with access to, and the use of, the Shipyard to perform the Shipyard User's obligations under a contract with the Commonwealth in a timely and effective way, consistent with the Integrated Shipyard Schedule;
- b. each Shipyard User's use of the Shipyard does not unreasonably interfere, interrupt or disturb another Shipyard User, the Contractor, a Commonwealth Contractor or a third party using the Shipyard;
- c. each Shipyard User complies with each Strategic Agreement notified to the Contractor under clause 2.3;
- d. each Shipyard User does not cause loss or damage to the Shipyard;
- e. a Shipyard User does not make any alterations to the Shipyard without approval of the Commonwealth;
- f. each other requirements relating to the Shipyard in a Strategic Agreement to which the Contractor is a party are complied with; and
- g. the Shipyard is operated in accordance with:
 - (i) good industry practice; and
 - (ii) all other relevant specifications, Authorisations, Approvals, applicable law and Australian Standards.

4.7.4 The Commonwealth will give notice to the Contractor of any new Shipyard Users.

4.8 Authorisations

- 4.8.1 The Contractor shall, and shall ensure that its Subcontractors:
- a. obtain and maintain in full force all Authorisations (other than Export Approvals);
 - b. take all reasonable steps to obtain and maintain in full force all Export Approvals;
 - c. provide a copy of any Authorisations to the Commonwealth within five Working Days after request by the Commonwealth; and
 - d. ensure that all work under the Contract is performed and the Supplies are provided in accordance with all Authorisations.
- 4.8.2 The Contractor shall notify the Commonwealth Representative within five Working Days after receiving notification that an Authorisation is refused, revoked or qualified.
- 4.8.3 The Contractor shall notify the Commonwealth Representative within five Working Days after:
- a. the application for an Export Approval; or
 - b. the grant of, or a new requirement for, an Export Approval.
- 4.8.4 The Commonwealth shall, on request by the Contractor, give the Contractor all assistance reasonably required to facilitate the provision of an Export Approval, including the provision of a certificate by the Commonwealth as to the end use of the Supplies.
- 4.8.5 The Commonwealth shall take all reasonable steps to ensure that the provision and use of GFM under the Contract is permitted under all applicable Export Approvals.
- 4.8.6 The Contractor shall, on request by the Commonwealth, give the Commonwealth all assistance reasonably required to ensure that the provision and use of GFM under the Contract is permitted under all applicable Export Approvals.
- 4.8.7 If a party becomes aware of a breach of an Export Approval, it shall promptly notify the other party and co-operate with any investigation or disclosure to the relevant government authorities in relation to the breach.

4.9 Imported Supplies and Customs Entry

- 4.9.1 The Contractor shall arrange customs entry and the payment of any customs duty applicable to the Supplies.
- 4.9.2 The Commonwealth shall not be liable to reimburse the Contractor for any fine or penalty incurred by the Contractor under any Australian customs, excise or duty legislation applicable to the importation of the Supplies.

4.10 Key Persons

- 4.10.1 The Contractor shall ensure that each Key Staff Position is performed by a person with the appropriate skills or capabilities to competently perform the duties of that position, and that each vacancy is filled as soon as practicable by a replacement person with comparable skills or capabilities.
- 4.10.2 If the Contractor becomes aware that a Key Person will or may become unavailable to fill the relevant Key Staff Position for a period of four consecutive weeks or more, the Contractor shall:
- a. promptly notify the Commonwealth of the impending unavailability; and
 - b. as soon as practicable, nominate a replacement with comparable experience, skills and expertise.
- 4.10.3 The Commonwealth may give a notice, including reasons, directing the Contractor to remove a Key Person from a Key Staff Position occupied by the person, if in the Commonwealth Representative's reasonable opinion the Key Person is:
- a. unable to perform the work of the Key Staff Position for reasons of incapacity or incompetence; or
 - b. not appropriate to perform the work of the Key Staff Position, including for reasons relating to WHS, security, equity and diversity, workplace gender equality, probity or the relationship between the Commonwealth and the Contractor.
- 4.10.4 If the Commonwealth gives the Contractor a notice under clause 4.10.3, the Contractor shall (or shall ensure that the relevant Subcontractor shall):
- a. within the period specified in the notice, remove the Key Person from the relevant Key Staff Position; and
 - b. as soon as practicable, engage an appropriate replacement with relevant experience, skills and expertise.
- 4.10.5 The Contractor shall not be entitled to make an Adjustment Claim under clause 7.3 as a result of:
- a. any obligation of the Contractor to remove or replace a person under this clause 4.10 or any failure by the Contractor to provide a replacement person; or
 - b. the exercise by the Commonwealth of any right under this clause 4.10.
- 4.10.6 If the Contractor is required to replace any Key Person under this clause and a replacement person satisfactory to the Commonwealth does not fill the position within three months after the Commonwealth first receives or provides notice under clause 4.10.2 or clause 4.10.3, the Commonwealth may give the Contractor a Default Notice in accordance with clause 14.9.

4.11 GFM – Provision and Management

- 4.11.1 The Commonwealth shall deliver or provide access to, and the Contractor shall manage, GFM in accordance with the Contract.
- 4.11.2 The Commonwealth shall notify the Contractor of any known damage, defect or deficiency in the GFM.
- 4.11.3 The Contractor acknowledges and agrees that:
- a. the Commonwealth's obligations to provide GFM on the dates or at the times described in Attachment E is subject to the Contractor delivering the Supplies in accordance with clause 7.1.1; and
 - b. any delay of the Contractor in meeting its obligations under the Contract may result in the Commonwealth not being able to provide GFM at the time the Contractor requires delivery of or access to that GFM.
- 4.11.4 If at any time the Contractor requires a change to the timing of delivery or access to GFM, the Commonwealth shall use reasonable endeavours to accommodate such change.
- 4.11.5 To avoid doubt, clause 4.11.4 does not require the Commonwealth to remove GFM from operational requirements, amend any other contracts, incur any additional costs or provide the Contractor with GFM allocated to or available for other contracts.

- 4.11.6 The Contractor shall not be entitled to make an Adjustment Claim under clause 7.3, on the basis of any failure by the Commonwealth to deliver or provide access to GFM in accordance with any changed requirement under clause 4.11.4, except to the extent that the requirement for the change resulted from an event or circumstance in respect of which the Contractor was entitled to make an Adjustment Claim under clause 7.3.
- 4.11.7 The Contractor shall ensure that the GFM does not adversely impact on production, delivery or functionality of Supplies.
- 4.11.8 The parties acknowledge that the GFI is not furnished to the Contractor for the purpose of either directing or guiding the Contractor's task under the Contract. The Commonwealth does not warrant the suitability of such GFI for any particular use or application, nor does the Commonwealth warrant the accuracy or precision of the GFI.
- 4.11.9 Except as otherwise provided in this clause 4.11, the Contractor shall be responsible for the application or use of the GFI and any conclusions, assumptions or interpretations made by the Contractor on the basis of the GFI, or its application or use of them.
- 4.11.10 The Commonwealth shall ensure that each item of GFD and Commonwealth Mandated GFM is fit for the purpose provided for in Attachment E in respect of that item, except to the extent that the failure of the item to be fit for the relevant purpose results from:
- a. a Defect that was present in the item when it was provided to the Commonwealth by or through the Contractor or a Related Body Corporate of the Contractor (whether under the Contract or another contract); or
 - b. a Contractor Default.

4.12 Government Furnished Facilities

Note to tenderers: A separate Shipyard Facilities Licence may be granted by the Commonwealth to the Contractor to support the Contractor's role as manager of the Shipyard. The terms of a Shipyard Facilities Licence will be based on the terms in Attachment O, as amended to take into account any Strategic Agreements in relation to the operation, management, maintenance, security and use of the Shipyard.

- 4.12.1 The Commonwealth grants to the Contractor a non-exclusive licence to occupy and use the GFF on the terms set out in Attachment O.
- 4.12.2 Each party shall comply with its obligations under Attachment O and the SOW.

4.13 Commonwealth Property

- 4.13.1 The Contractor acknowledges that GFM and any other Commonwealth Property provided to or used by the Contractor or a Subcontractor for the purposes of the Contract, remains the property of the Commonwealth.
- 4.13.2 The Commonwealth retains the right to identify Commonwealth Property as its property and the Contractor shall preserve any means of identification.
- 4.13.3 The Contractor shall only use Commonwealth Property:
- a. for the purposes of the Contract;
 - b. to meet its obligations under a Strategic Agreement;
 - c. in a manner consistent with any applicable requirements for the Commonwealth Property, including as set out in the SOW; and
 - d. for the purposes for which the Commonwealth Property was designed, manufactured or constructed or as otherwise required by the Contract.
- 4.13.4 The Contractor shall not, without the prior written approval of the Commonwealth Representative, do any of the following:
- a. modify Commonwealth Property;
 - b. move Commonwealth Property from the location to which it was delivered (except to return the property to the Commonwealth); and
 - c. transfer possession or control of Commonwealth Property to any other person,
- except to the extent reasonably necessary to enable the Contractor to satisfy an express requirement of the Contract or a Strategic Agreement.

- 4.13.5 The Contractor shall not, without the prior written approval of the Commonwealth Representative, create or allow to be created any Security Interest over any Commonwealth Property.
- 4.13.6 The Contractor shall return all items of Commonwealth Property (including GFM) that are required to be returned to the Commonwealth in accordance with the SOW, Attachment O, a Shipyard Facilities Licence, a Strategic Agreement or as otherwise directed by the Commonwealth Representative.
- 4.13.7 The Contractor acknowledges that it may be provided with the ability to access Commonwealth-held information in connection with its performance of the Contract, including through access to Commonwealth information technology systems. The Contractor shall not access or use Commonwealth-held information except to the extent strictly required for the performance of the Contractor's obligations under the Contract.
- 4.13.8 Without limiting the Contractor's obligations with respect to Commonwealth Property as set out in the SOW, Attachment O, a Shipyard Facilities Licence or a Strategic Agreement, the Contractor shall notify the Commonwealth Representative within five Working Days after becoming aware of any material loss or damage to, or any material defect in, any Commonwealth Property provided to, or used by, the Contractor or a Subcontractor for the purposes of the Contract.

4.14 Commonwealth Directions

- 4.14.1 The Commonwealth may issue a direction to the Contractor about any matter relating to the Contract, a Subcontract or a Strategic Agreement.
- 4.14.2 Without limiting the matters that a Commonwealth Direction may deal with, it may:
- a. require the Contractor to take particular action to respond to the consequences of a Contractor Default;
 - b. require a change to the Contract or to other specifications or requirements used for the Supplies;
 - c. make provision in respect of matters of strategic or national interest, including Continuous Naval Shipbuilding;
 - d. make provision in relation to the exercise of rights or the performance of obligations in relation to the Contract or a Subcontract;
 - e. make provision for urgent protection of the Supplies, Commonwealth Property or the environment;
 - f. make provision in respect of the Commonwealth's policy, procurement or industry policy objectives, including by mandating the selection of particular systems, subcontractors or suppliers;
 - g. require the removal of particular Subcontractors;
 - h. require the Contractor to perform the work under the Contract in a particular manner, sequence or location;
 - i. require the Contractor to cooperate with a Commonwealth Contractor or a third party for a shipbuilding purpose;
 - j. require the engagement or use of additional resources, including if the Commonwealth considers that the Contractor's resources are inadequate to perform any relevant obligations under the Contract;
 - k. require the Contractor, including as a result of a decision of the Principals Council, to take particular action relevant to shipbuilding activities at the Shipyard, such as the design and productionisation of the Ships and the activities of the Shipyard Operator;
 - l. make provision in respect of Defence security; and
 - m. impose ad hoc reporting requirements.
- 4.14.3 The Commonwealth may at any time revoke a Commonwealth Direction or, by a further Commonwealth Direction, amend a Commonwealth Direction.
- 4.14.4 The enforcement of a requirement of the Contractor to comply with a provision of the Contract is not a Commonwealth Direction for the purposes of clause 4.14.1.

- 4.14.5 The Contractor shall give effect to a Commonwealth Direction so far as it is possible to do so without breaching a law or a Subcontract.
- 4.14.6 The Commonwealth's exercise of its right to give a Commonwealth Direction is not a matter capable of being a Dispute for the purposes of clause 14.6.

4.15 Consequences of a Commonwealth Direction

- 4.15.1 If the Commonwealth issues a Commonwealth Direction:
- a. the Contractor may be entitled to make an Adjustment Claim as provided for in the other provisions of the Contract;
 - b. the Contract shall be amended under clause 12.1 to give effect to the Commonwealth Direction.
- 4.15.2 The Contractor shall take all reasonable steps to mitigate any Loss resulting from compliance with a Commonwealth Direction.
- 4.15.3 A consequence of complying with a requirement of a Commonwealth Direction is a matter capable of being a Dispute for the purposes of clause 14.6.

4.16 Rights and obligations not affected

- 4.16.1 To the fullest extent permitted by law, the Contractor agrees that, and it will not claim that:
- a. the express provisions of the Contract have been amended (directly or indirectly);
 - b. rights or obligations additional to those expressly set out in the Contract have been created;
 - c. rights under the Contract have been waived; or
 - d. obligations under the Contract have been released;
- on the basis of:
- e. acts or omissions of the Commonwealth under or in connection with a Strategic Agreement;
 - f. the Commonwealth's participation in the deliberations or decisions of the Project Board or Principals Council; or
 - g. a requirement under the Contract for the Commonwealth to cooperate and collaborate with a party (including the Contractor),
- otherwise than as expressly provided for by the Contract.

4.17 Enterprise Resource Planning

- 4.17.1 The Contractor shall ensure that the ERP system used for the Contract is interoperable with the ERP systems used by other Shipyard Users and the Commonwealth.
- 4.17.2 The ERP system shall be capable of establishing and maintaining an Approved EVMS.
- 4.17.3 The Commonwealth shall be provided direct access to the Contractor's ERP and EVMS.
- 4.17.4 The Contractor shall ensure that the Contractor's ERP system is able to provide data and information in respect of the cost, design, production, configuration and testing of the Supplies in a form that can be included, without further modification or change by the Commonwealth, in the Commonwealth's ERP system and that such data and information is updated regularly or as required by the Commonwealth.

4.18 Earned Value Management System

- 4.18.1 The Contractor shall establish and maintain an Approved EVMS complying with the requirements as defined in AS 4817, the Defence Supplement to AS 4817 and the requirements of this Contract.
- 4.18.2 The Approved EVMS shall reflect the IMS and be capable of integrating the Performance Measurement Baseline associated with each subordinate schedule.
- 4.18.3 For each TCE used under the Contract in relation to a Scope:
- a. the Contractor shall develop and submit to the Commonwealth for Approval a PMB for the TCE and the relevant Scope;

- b. conduct an Integrated Baseline Review (IBR) in accordance with the IBR Handbook to enable the Commonwealth to assess the acceptability of the PMB, including that:
 - (i) the work required for the Scope is covered by the PMB; and
 - (ii) the cost and schedule profiles reflected in the PMB are realistic and achievable and are consistent with the IMS and subordinate schedules; and
 - c. the Contractor shall not, without Commonwealth Approval, make a change to, or reprogram, an Approved PMB if the change or reprogramming would affect the budget, scope or duration of the PMB.
- 4.18.4 The Contractor shall ensure that each Material Subcontractor shall maintain and use in the performance of the relevant Material Subcontract an EVMS compliant with AS 4817-2006 and the Defence Supplement to AS 4817, under the same terms as required of the Contractor under the Contract.
- 4.18.5 Without limiting clause 4.18.4, the Contractor shall be responsible for validating and monitoring the EVMS maintained and used by its Material Subcontractors.

4.19 Continuous Improvement and Efficiencies

- 4.19.1 The Contractor shall establish and maintain a program for the continuous improvement of the Contractor's expertise, capability and professional skill, including through accessing and procuring the expertise, capability and skills of the Contractor's Related Bodies Corporate and Subcontractors.

5 AUSTRALIAN INDUSTRY REQUIREMENTS

5.1 Australian Industry Capability

Note to tenderers: Maximising Australian Industry Capability is a Project Objective. The successful Tenderer's response to Annex B to Attachment A of the Conditions of Tender will inform the development of this clause 5.1 and the Australian Industry Capability Strategy to be included in Annex A to Attachment F to these Conditions of Contract. The AIC Strategy will be developed during Offer Definition and Improvement Activities.

The AIC Strategy will apply throughout the term of the Contract and will be supplemented by AIC Plans for each Scope incorporated in the Contract, including each Build Scope.

The successful Tenderer will also be required to comply with Defence's Australian Industry Capability policies through, among other things, the implementation of an agreed AIC Plan for each Scope. For relevant information on Australian Industry policies and requirements – please refer to <http://www.defence.gov.au/SPI/Industry/AIC.asp>

- 5.1.1 The Contractor shall provide:
- a. an Australian Industry Capability (AIC) Strategy as Annex A to Attachment F in accordance with the Master SOW; and
 - b. an AIC Plan as Annex B to Attachment F for each Scope incorporated into this Contract.
- 5.1.2 Without limiting or affecting the Contractor's obligations under clause 5.1.1, the Contractor shall:
- a. take all necessary steps to maximise the participation of Australian Industry in the performance of the Contract on and from the Effective Date;
 - b. continuously monitor and explore opportunities for the increased involvement of Australian Industry in the performance of the Contract throughout the term of the Contract; and
 - c. liaise with the Commonwealth in relation to Australian Industry involvement in the performance of the Contract throughout the term of the Contract, including in accordance with the AIC Strategy and each AIC Plan at Annex B to Attachment F or as included in a Scope Statement.
- 5.1.3 The Contractor shall comply with the requirements of
- a. the AIC requirements in each SOW and any associated Scope Statement;

- b. the AIC Strategy; and
- c. each AIC Plan.

5.1.4 The Contractor acknowledges that:

- a. compliance with the AIC Strategy or an AIC Plan shall not relieve the Contractor from its liabilities or obligations under the Contract or a Strategic Agreement;
- b. Acceptance of the Supplies shall not relieve the Contractor from meeting its obligations under the AIC Strategy or an AIC Plan or a Strategic Agreement; and
- c. the public section of the AIC Strategy and each AIC Plan will be made publicly available on a Commonwealth internet website.

5.1.5 The Contractor acknowledges and agrees that an Incentive Payment under Attachment B may be applied in respect of the satisfaction of the AIC requirements of the Contract, subject to the Contractor's performance against any applicable Performance Measure in Attachment P.

5.2 Continuous Naval Shipbuilding

Note to tenderers: A key objective of the Project is to contribute to the development and sustainment of a Continuous Naval Shipbuilding industry in Australia. The successful Tenderer's response to Annex B to Attachment A of the Conditions of Tender will inform the development of this clause 5.2 and a Continuous Naval Shipbuilding (CNS) Strategy to be included in Annex C to Attachment F to these Conditions of Contract. The CNS Strategy will be developed during Offer Definition and Improvement Activities.

5.2.1 The Contractor shall provide a Continuous Naval Shipbuilding (CNS) Strategy as Annex C to Attachment F in accordance with the Master SOW.

5.2.2 The Contractor shall comply with the requirements of the CNS Strategy.

5.2.3 Without limiting or affecting the Contractor's obligations under clause 5.2.2 or elsewhere in the Contract or a related Strategic Agreement, the Contractor shall take all reasonable steps to ensure that:

- a. the Contractor's shipbuilding strategies, processes, systems and tools will be suitable for use within the naval shipbuilding industry, including after Final Acceptance of the Supplies;
- b. the Contract Master Schedule will support and not prevent a sustainable utilisation of Australian Industry for the purposes of a Continuous Naval Shipbuilding capability; and
- c. the Contractors approach to continuous improvement over time, including as required in clause 4.19, will reduce the cost premium of building naval ships in Australia whilst maintaining the Contract Master Schedule and identifying other opportunities for Australian Industry as required under clause 5.1.

5.2.4 The Contractor acknowledges that:

- a. compliance with the CNS Strategy shall not relieve the Contractor from its liabilities or obligations under the Contract or a related Strategic Agreement; and
- b. Acceptance of the Supplies shall not relieve the Contractor from meeting its obligations under the CNS Strategy or a related Strategic Agreement.

5.2.5 The Contractor acknowledges and agrees that an Incentive Payment under Attachment B may be applied in respect of the satisfaction of the CNS requirements of the Contract, subject to the Contractor's performance against any applicable Performance Measure in Attachment P.

5.3 Shipbuilding Workforce Development Plan

Note to tenderers: The Shipbuilding Workforce Development Plan will be developed based on the successful Tenderer's response to Annex B to Attachment A to the Conditions of Tender. The Shipbuilding Workforce Development Plan will describe the detailed strategies, actions, plans and commitments that will be implemented by the successful Tenderer for the purpose of establishing and maintaining the capability of the Australian shipbuilding workforce,

including in relation to shipbuilding management, scheduling and planning, production, design and engineering and test and activation.

- 5.3.1 The Contractor shall comply with the Shipbuilding Workforce Development Plan at Annex D to Attachment F.
- 5.3.2 Without limiting the Contractor's obligations under the Shipbuilding Workforce Development Plan, the Contractor:
- a. commits to developing and maintaining the capability of the Australian shipbuilding workforce to support the conduct of the Project and the Continuous Naval Shipbuilding industry;
 - b. shall work with the Commonwealth to determine the minimum workforce levels (including the number of workers for labour category, skill set and competency level) in the Australian shipbuilding workforce to support the conduct of the Project and the Continuous Naval Shipbuilding industry;
 - c. shall implement strategies and plans to support the recruitment, training, development, qualification, certification and retention of a sufficient number of personnel within each labour category (including in design, engineering and production), in the Australian shipbuilding workforce to support the conduct of the Project and the Continuous Naval Shipbuilding industry;
 - d. shall use its best endeavours to maximise the utilisation of the Australian shipbuilding workforce at all times during the term of the Contract, including by doing any of the following in respect of underutilised elements of the shipbuilding workforce:
 - (i) utilising elements of the shipbuilding workforce on other projects in which the Contractor (or its Related Bodies Corporate) are involved;
 - (ii) pursuing export opportunities utilising elements of the shipbuilding workforce;
 - (iii) seconding elements of the shipbuilding workforce to other Commonwealth Contractors undertaking shipbuilding or related programs for the Commonwealth;
 - (iv) seconding elements of the shipbuilding workforce to the Commonwealth to undertake specified activities; and
 - (v) undertaking such other activities as are described in the Shipbuilding Workforce Development Plan or other plan required by this clause 5.

5.4 Supply Chain Development Plan

Note to tenderers: The Supply Chain Development Plan will be developed based on the successful Tenderer's response to Annex B to Attachment A to the Conditions of Tender. The Supply Chain Development Plan will describe the detailed strategies, actions, plans and commitments that will be implemented by the successful Tenderer for the purpose of ensuring a sustainable and efficient shipbuilding supply chain in Australia and achieving value for money in the Contractor's subcontracting activities. The Supply Chain Development Plan will describe the actions and plans to:

- ***maintain an efficient and appropriate level of competition in the shipbuilding supply chain in Australia;***
- ***encourage improvement in efficiencies based on through-life costs and quality;***
- ***monitor and report against the implementation the Supply Chain Development Plan; and***
- ***identify any supply chain issues and propose solutions.***

- 5.4.1 The Contractor shall comply with the Supply Chain Development Plan at Annex E to Attachment F.
- 5.4.2 Without limiting the Contractor's obligations under the Supply Chain Development Plan, the Contractor:
- a. commits to the development and sustainment of a sustainable and efficient shipbuilding supply chain in Australia to support the conduct of the Project and the Continuous Naval Shipbuilding industry;

- b. shall assess the current and potential capability of the Australian shipbuilding supply chain and take this into account in determining potential sources of supply and procurement options in connection with the Supplies;
- c. shall ensure that procurement, subcontracting and supply chain plans and strategies are developed taking into account the CNS Strategy, the AIC Strategy and the following objectives:
 - (i) to enhance the capability, resources, capacity and expertise of Australian shipbuilding supply chain and ensure that the Australian shipbuilding supply chain is sustainable in the medium to long term;
 - (ii) to ensure that there are strategic relationships between the parties and other participants in the Australian shipbuilding supply chain that are effective, strong and enduring;
 - (iii) to maintain and encourage competition within the Australian shipbuilding supply chain to support value for money outcomes;
 - (iv) to make available sufficient information for suppliers and provide sufficient time to enable suppliers to participate in procurement processes;
 - (v) to provide opportunities for suppliers to participate in the Project where possible and consistent with the Project Objectives;
 - (vi) to adopt a reasonable and commercially acceptable allocation of risk and performance management mechanisms in Subcontracts;
 - (vii) to adopt the highest professional standards in the administration of procurement processes and Subcontracts;
 - (viii) to comply with good industry practice in relation to the supply chain matters;
 - (ix) to ensure that allocation of work in relation to the Project, as between the Contractor and the Australian shipbuilding supply chain, gives effect to these objectives, is efficient and effective and provides value for money to the Commonwealth.

5.4.3 Without limiting clause 12.11, the Commonwealth may, following consultation with the Contractor, require the Contractor to:

- a. utilise an alternative source of supply or adopt an alternative procurement process to that proposed by the Contractor; or
- b. modify a procurement process proposed by the Contractor, including the identity of proposed tenderers, the scope of work to be subcontracted and the evaluation criteria, and the Contractor must comply with such a requirement.

5.4.4 If the Commonwealth has reasonable grounds to believe that:

- a. the selection of a potential Subcontractor may be biased towards a particular entity; or
 - b. a conflict of interest may exist in the award of a Subcontract,
- the Commonwealth may require the Contractor to take steps in relation to the procurement process to avoid or reduce the risk of bias or conflict of interest.

5.5 Non-Compliance with Australian Industry Requirements

5.5.1 Without limiting the Commonwealth's other rights under the Contract or at law, the Commonwealth may give the Contractor a Commonwealth Direction if the Contractor fails to comply with a requirement of this clause 5.

5.5.2 A Commonwealth Direction given for the purposes of clause 5.5.1 shall identify the non-compliance and may require the Contractor to do any one or more of the following:

- a. to immediately perform an activity or undertaking the subject of the non-compliance in the manner described in, and in accordance with any timeframes set out in, the Commonwealth Direction;
- b. to require the Contractor to develop, and to submit to the Commonwealth for its Approval, a detailed plan of steps that the Contractor shall take to address the identified non-compliance and the dates by which those steps will be completed, so

that the impacts of the problem are avoided or mitigated to the Commonwealth's satisfaction and so that the problem (or any similar or related problem) does not occur again;

- c. to require the Contractor to develop, and to submit to the Commonwealth for its Approval, an amendment to the relevant plan or strategy to substitute an activity or undertaking the subject of the non-compliance with an alternative activity or undertaking of comparable value and material affect in respect to achieving the relevant Australian Industry requirement.

5.5.3 The Contractor is not entitled to an Adjustment Claim under clause 7.3 in respect of any additional costs or delay arising from compliance with a Commonwealth Direction given for the purposes of clause 5.5.1.

6 TECHNICAL DATA, SOFTWARE AND CONTRACT MATERIAL

Note to tenderers: The Commonwealth requires rights to sublicense TD and Software to its Commonwealth Service Providers (CSPs). As further described in the Glossary, CSPs are engaged to perform Commonwealth functions and duties that may traditionally have been performed by officials of the Commonwealth (i.e. contract management, project management, verification, safety or professional services etc) and are considered "above the line" service providers representing the Commonwealth.

6.1 TD and Software Rights

6.1.1 This clause 6.1 applies to all TD and Software (other than the TD or Software referred to in clause 6.2.1, 6.3.1 or 6.4.2) delivered or required to be delivered to the Commonwealth or any other person under the Contract.

6.1.2 The Contractor grants to the Commonwealth (or shall ensure the Commonwealth is granted) Licences of all TD and Software to which this clause 6.1 applies on the following terms:

- a. the Commonwealth may Use the TD or Software for any Defence-related purpose;
- b. the Commonwealth may grant a Sublicence (but not including a right to grant a further Sublicence) to a Commonwealth Service Provider to Use the TD or Software for the purpose of enabling the Commonwealth Service Provider to perform its functions or duties; and
- c. the Commonwealth may grant a Sublicence to any other person to Use the TD or Software:
 - (i) for any of the following purposes:
 - 1) installing or configuring the Supplies;
 - 2) integrating the Supplies with other systems as contemplated under the Contract;
 - 3) remedying Defects in the Supplies;
 - 4) operating or maintaining the Supplies as contemplated under the Contract;
 - 5) undertaking training in relation to the Supplies as contemplated under the Contract;
 - 6) removing or uninstalling the Supplies;
 - 7) decommissioning or destroying the Supplies;
 - 8) achieving the Australian industry objectives in a strategy or plan made under clause 5; or
 - 9) responding to a Request for the purpose of engaging the person for any of the above purposes; and
 - (ii) subject to any restrictions in Annex A to the TDSR Schedule, for any other Defence-related purpose.

6.2 Commercial TD and Commercial Software

- 6.2.1 This clause 6.2 applies to all Commercial TD and Commercial Software delivered or required to be delivered under the Contract.
- 6.2.2 The Contractor shall ensure the Commonwealth is granted a licence of all Commercial TD and Commercial Software to which this clause 6.2 applies on the following terms:
- a. for Commercial TD and Commercial Software relating to a Key Commercial Item, the licence shall:
 - (i) include (at a minimum) a Licence to Use the Commercial TD and Commercial Software, except to the extent that Annex B to the TDSR Schedule provides otherwise; and
 - (ii) otherwise be on the best commercial terms available to the Contractor; and
 - b. for all other Commercial TD and Commercial Software, on the best commercial terms available to the Contractor.
- 6.2.3 The Contractor shall ensure that:
- a. the terms (including any restrictions) for each Commercial Licence are identified in Annex B to the TDSR Schedule; and
 - b. the Commonwealth is not required to make any payments under any Commercial Licence, including by way of a Royalty or any other fee, or grant any indemnities in favour of any person, except as specified in Annex B to the TDSR Schedule.
- 6.2.4 The Contractor acknowledges and agrees that:
- a. if any Commercial TD or Commercial Software is not listed in Annex B to the TDSR Schedule, the Commonwealth is entitled to assume that the Commercial TD or Commercial Software is Licensed on the terms of clause 6.1; and
 - b. the Commonwealth is entitled to rely on Annex B to the TDSR Schedule as a complete and accurate description of the terms (including any restrictions) applying to the Commercial TD or Commercial Software.

6.3 Commonwealth TD and Commonwealth Software

- 6.3.1 This clause 6.3 applies to all TD or Software specified in Annex C to the TDSR Schedule as Commonwealth TD or Commonwealth Software.
- 6.3.2 The Commonwealth grants to the Contractor, a non-exclusive, Royalty-free licence in respect of Intellectual Property in the TD or Software to which this clause 6.3 applies on the following terms (but subject to any restrictions specified in Annex C to the TDSR Schedule):
- a. the Contractor may Use the TD or Software for the purpose of enabling the Contractor to perform its obligations under the Contract; and
 - b. the Contractor may grant a sublicense to a Subcontractor to Use the TD or Software for the purpose of enabling the Subcontractor to perform its obligations under the Subcontract.
- 6.3.3 The licence granted under clause 6.3.1 (and any sublicense granted under clause 6.3.2b) shall expire on the termination or expiry of the Contract, whichever is the earlier.

6.4 GFM Licence

- 6.4.1 This clause 6.4 applies to all TD or Software that is provided as GFM or that is incorporated, embodied or integrated in, GFM.
- 6.4.2 The Commonwealth grants to the Contractor, a non-exclusive, Royalty-free licence in respect of Intellectual Property in the TD or Software to which this clause 6.4 applies for the purpose of enabling the Contractor to perform its obligations under the Contract, subject to any restrictions specified in Attachment E or as otherwise notified in writing by the Commonwealth.
- 6.4.3 Subject to the restrictions referred to in clause 6.4.2, the Contractor may grant a sublicense to a Subcontractor in respect of Intellectual Property licensed under that clause for the purpose of enabling the Subcontractor to perform its obligations under the Subcontract.

- 6.4.4 The licence granted under clause 6.4.2 (and any sublicense granted under clause 6.4.3) shall expire on the earlier of the termination or expiry of the Contract or Subcontract (as appropriate).

6.5 Rights in Contract Material

- 6.5.1 The Contractor grants to the Commonwealth (or shall ensure the Commonwealth is granted) a Licence (including a right to sublicense) in respect of all Contract Material to Use the Contract Material for any Defence-related purpose.

6.6 Ownership of Intellectual Property

- 6.6.1 Nothing in the Contract affects the ownership of Intellectual Property, except as expressly contemplated in this clause 6.6.
- 6.6.2 The parties shall ensure that all Intellectual Property in respect of an item of TD or Software created under or in connection with the performance of the Contract is assigned to the Contractor (or its nominee) immediately upon its creation, other than in respect of TD or Software specified in Annex C to the TDSR Schedule.
- 6.6.3 The Contractor shall ensure that all Intellectual Property in Commonwealth TD or Commonwealth Software is assigned to the Commonwealth (or its nominee) upon its delivery to the Commonwealth under the Contract or if any new Intellectual Property derived from GFM, Commonwealth TD or Commonwealth Software is created by the Contractor, upon its creation.

6.7 IP Deeds

- 6.7.1 The Contractor shall obtain and provide to the Commonwealth an IP Deed duly executed by:
- each Approved Subcontractor before any goods or services are provided by the Approved Subcontractor and no later than 20 Working Days after executing the relevant Subcontract; and
 - any other person that owns IP in the TD or Software referred to in clause 6.1.1 before the TD or Software (or any Supplies to which the TD or Software relates) is provided to the Commonwealth under the Contract,
- unless Annex A to the TDSR Schedule states that an IP Deed is not required for the relevant TD or Software.
- 6.7.2 The Contractor shall obtain and provide to the Commonwealth an IP Deed executed by each person that owns IP in the Commercial TD or Commercial Software referred to in clause 6.2.2a, before the TD or Software (or any Supplies to which the TD or Software relates) is provided to the Commonwealth under the Contract, unless Annex B to the TDSR Schedule states that an IP Deed is not required for the relevant TD or Software.

6.8 TD and Software required to be delivered

- 6.8.1 The Contractor shall deliver all TD and Software required to be delivered under the Contract to the recipients at the times and locations, and in the manner, specified in the Contract.
- 6.8.2 Without limiting the Contractor's obligation under clause 6.8.1, if the Commonwealth is not specified as a recipient of any item of TD listed in the Approved TDL or CDRL, the Commonwealth may by notice to the Contractor require the delivery of the item to the Commonwealth and, subject to any express restrictions in Annex A to the TDSR Schedule, the Contractor shall comply with such notice.
- 6.8.3 If the time, location, manner or recipient for delivery of any item of TD is not specified in the Contract, the Contractor shall deliver the relevant item (in its then current state of development) in accordance with a notice from the Commonwealth.
- 6.8.4 The Commonwealth shall act reasonably when issuing a notice under clause 6.8.2 or clause 6.8.3, including in relation to specifying a time for delivery of the item of TD.
- 6.8.5 If the Contract is terminated (except under clause 14.10), the Contractor shall, within the period set out in the notice of termination (which shall be a reasonable period), deliver to the Commonwealth all TD and Software required to be delivered under the Contract; each in its then current state of development.
- 6.8.6 An obligation under this clause 6.8 or any other provision of the Contract to deliver TD or Software includes an obligation to create, develop or acquire the TD or Software to enable

the TD or Software to be delivered to the Commonwealth at the times and in the manner required under the Contract.

- 6.8.7 The Contractor shall develop, deliver and update the TDL and the Software List in accordance with the SOW.
- 6.8.8 The TDL and the Software List do not operate to affect or limit the rights of the Commonwealth under this clause 6 or otherwise under the Contract.

6.9 Delivery of TD and Software

Note to tenderers: The Technical Data List, CDRL and the Software List will set out the delivery requirements (among other things) for TD and Software required to be delivered under the Contract.

- 6.9.1 If an item of TD is permitted by the Contract to be delivered in electronic form to the Commonwealth, the item is deemed to have been delivered:
- a. if the TD is to be uploaded to an information system of the Contractor – when each of the following requirements is met:
 - (i) the TD has been uploaded to the information system;
 - (ii) each of the nominated recipients of the TD has been electronically notified that the TD has been uploaded to the information system; and
 - (iii) the TD is accessible to each of the nominated recipients from the information system; or
 - b. if the TD is to be sent by an electronic communication or uploaded to an information system nominated by the Commonwealth – when each of the following requirements is met:
 - (i) the electronic communication or upload enters the information system, unless the Contractor receives notification within one Working Day that the electronic communication or upload has not been successful; and
 - (ii) each of the nominated recipients of the TD has been electronically notified that the TD has been sent or uploaded to the information system.
- 6.9.2 If, after the expiry or termination of the Contract, an item of TD delivered in accordance with clause 6.9.1a is no longer accessible to the Commonwealth, the Contractor shall re-deliver the TD to the Commonwealth in an electronic form (or some other form agreed in writing by the Commonwealth) that can be accessed and used by the Commonwealth after that time.

6.10 Release of TD and Software to third parties

- 6.10.1 If the Commonwealth grants a sublicense to any person (a sublicensee) in accordance with clauses 6.1 in respect of TD or Software, the Commonwealth shall ensure that:
- a. the sublicense includes the same restrictions as the Licences granted under clause 6.1; and
 - b. the sublicensee signs a deed poll substantially in the form of Annex B of Attachment I or is otherwise subject to an obligation not to disclose the TD or Software to any other person, except to the extent permitted in the sublicense.

6.11 Sunrise Rights

- 6.11.1 Subject to Annex D to the TDSR Schedule, the Contractor shall ensure that each Licence granted by the Contractor in accordance with clause 6.1 or granted by an Approved Subcontractor under an IP Deed, shall include a right exercisable from the date determined in accordance with clause 6.11.2 for the Commonwealth to grant a sublicense to any person to Use the TD or Software for any Defence-related purpose.
- 6.11.2 The Commonwealth may exercise the right referred to in clause 6.11.1 on the earlier of the following:
- a. the date the Contractor or Approved Subcontractor (as applicable) ceases or substantially ceases carrying on the business of supplying or supporting any Supplies to which the Licence relates; and

- b. the date that an Insolvency Event occurs in respect of the Contractor or the Approved Subcontractor (as applicable).

6.12 TDSR Schedule

- 6.12.1 The Contractor shall submit a CCP under clause 12.1 to amend the TDSR Schedule to ensure that the TDSR Schedule is and remains complete and accurate.

6.13 Markings

- 6.13.1 If markings are used by the Contractor or a Subcontractor in relation to TD, Software or Contract Material, the Contractor:
- a. shall ensure that those markings accurately reflect the rights and obligations of the Commonwealth, the Contractor or any other person; and
 - b. acknowledges that the markings are not determinative as to the rights and obligations of the parties.

6.14 Export Approvals

- 6.14.1 Notwithstanding this clause 6, the Contractor shall comply with any Export Approval in relation to the Supplies and the Commonwealth shall comply with a condition of an Export Approval identified in Annex A.
- 6.14.2 The Contractor shall identify, for an item listed in Annex A to the TDSR Schedule, any condition of an Export Approval that applies to the item.
- 6.14.3 The Commonwealth shall identify, for an item of GFM listed in Attachment E to the COC, any condition of an Export Approval that applies to the item.

6.15 Technical Data and Software Warranties

- 6.15.1 The Contractor:
- a. acknowledges that the Commonwealth is relying on the skill, experience and judgement of the Contractor in relation to the development of the TDL; and
 - b. warrants that the TDL is a complete and accurate list of all the TD that is necessary to enable the relevant requirements of the Support System Functional Baseline to be met and that the delivery of TD in accordance with the TDL will not prevent such requirements being met.
- 6.15.2 The Contractor warrants that any restrictions in Annexes A and B to the TDSR Schedule will not prevent the relevant requirements of the Support System Functional Baseline from being met, including after the expiry or termination of the Contract.
- 6.15.3 The Contractor warrants and shall ensure that:
- a. all Software provided to the Commonwealth under or in connection with the Contract is at the time of delivery to the Commonwealth free from Malware and otherwise meets the requirements of the Contract;
 - b. no Malware will be installed on the Supplies or any other Commonwealth system as a result of an act or omission of any of the Contractor Personnel; and
 - c. the Contractor has not installed on the Supplies or any Commonwealth system, any Free and Open Source Software other than as specified in Annex B to the TDSR Schedule.

6.16 Intellectual Property Warranties

- 6.16.1 The Contractor warrants and shall ensure that, in respect of any Intellectual Property assigned or licensed to the Commonwealth under or in connection with this Contract that:
- a. the relevant assignor or licensor (as applicable) has the right, title or authority to assign or license the rights granted in respect of Intellectual Property under clause 6 or by an Approved Subcontractor under an IP Deed;
 - b. the Commonwealth, Commonwealth Personnel or a sublicensee of the Commonwealth will not, in exercising the rights granted in respect of Intellectual Property under clause 6 or by an Approved Subcontractor under an IP Deed, infringe the Intellectual Property or any Moral Rights of any third party; and

- c. the Contractor shall promptly notify the Commonwealth if the Contractor becomes aware of any challenge, claim or proceeding referred to in clause 6.16.2 arising in respect of particular Intellectual Property after it is delivered to the Commonwealth.
- 6.16.2 The Contractor warrants and shall ensure that, in respect of any Intellectual Property assigned or licensed to the Commonwealth under or in connection with the Contract, and as at the time of delivery to the Commonwealth of the relevant TD, Software or Contract Material and after diligent inquiries:
 - a. the Contractor has no notice of any challenge to the validity or enforceability of any of the Intellectual Property and has no knowledge of any actual or threatened claim or proceeding in relation to any of the Intellectual Property;
 - b. neither the Contractor, nor any Approved Subcontractor, is engaged in litigation, arbitration or other proceedings in relation to any of the Intellectual Property; and
 - c. there are no proceedings threatened by or against it in relation to any of the Intellectual Property, and there is nothing that is likely to give rise to any such proceedings.
- 6.16.3 The warranty under clause 6.16.1 does not apply to the extent that the infringement arises from a failure by the Commonwealth, Commonwealth Personnel or a sublicensee of the Commonwealth to comply with a restriction specified in Annex A or B to the TDSR Schedule.

6.17 Patents, Registrable Designs and Circuit Layouts

- 6.17.1 The Contractor warrants and shall ensure that the licences granted or obtained under the Contract include the right to exercise any Patent, Registrable Design or Circuit Layout that is necessary to use the Supplies for the purposes described in or reasonably inferred from the terms of the Contract.
- 6.17.2 The Contractor warrants and shall ensure that a right referred to in clause 6.17.1 is specified in Annex F to the TDSR Schedule.

7 DELIVERY, ACCEPTANCE AND OWNERSHIP

7.1 Delivery

- 7.1.1 The Contractor shall deliver Supplies in accordance with the Contract and any Scope Statement relevant to the Supplies, the Project Delivery Schedule at Attachment C and clause 2.2 of the SOW. The Contractor shall achieve the Milestones by the relevant Milestone Dates.
- 7.1.2 Without limiting the Contractor's obligations in clause 7.1.1, the Contractor shall, for each Milestone, ensure that the Commonwealth is placed in a position where it can perform the Commonwealth's tasks required for achievement of that Milestone in sufficient time before the Milestone Date.

7.2 Delay

- 7.2.1 Without affecting the Contractor's obligations under clause 7.1.1, the Contractor shall take all reasonable steps to prevent and minimise delay and to mitigate both parties' Losses due to delay.
- 7.2.2 If the Contractor becomes aware that delivery of Supplies or the achievement of a Milestone will or may be delayed for any reason, the Contractor shall notify the Commonwealth Representative of the following matters, to the extent that the Contractor is aware of them:
 - a. the cause and nature of the delay;
 - b. the steps that the Contractor and its Subcontractors are taking and will take to minimise the delay;
 - c. the anticipated duration of the delay; and
 - d. whether the Contractor proposes to make an Adjustment Claim.
- 7.2.3 A notice under clause 7.2.2 shall be given as soon as practicable after the Contractor becomes aware of the delay or potential delay, but no later than 20 Working Days after the Contractor becomes so aware.

- 7.2.4 The Contractor shall notify the Commonwealth as soon as practicable after the Contractor becomes aware of a material change to information notified under clause 7.2.2.
- 7.2.5 The Contractor shall comply with any request by the Commonwealth Representative for information concerning a delay or potential delay in the delivery of Supplies or the achievement of a Milestone.

7.3 Adjustment Claims

- 7.3.1 If an Adjustment Event occurs, the Contractor may make an Adjustment Claim for an adjustment to one or more of the following:
- a. a date for delivery of Supplies or a Milestone Date; and
 - b. the TCE for a Scope.
- 7.3.2 The Contractor shall submit an Adjustment Claim to the Commonwealth within 10 Working Days of the date by which notice of the Adjustment Event is required to be provided to the Commonwealth under the Contract.
- 7.3.3 The Contractor is not entitled to submit an Adjustment Claim unless:
- a. the Contractor has notified the Commonwealth in relation to the Adjustment Event;
 - b. the work under the Contract cannot be performed in such a way as to:
 - (i) meet the date for delivery of Supplies or the Milestone Date as is reasonable; or
 - (ii) stay within the agreed budget or price for the work;
 - c. the Contractor has made and will make all reasonable endeavours to minimise delay and mitigate both parties' Losses arising from the relevant Adjustment Event;
 - d. the Contractor includes in the Adjustment Claim:
 - (i) documentation demonstrating the occurrence of the Adjustment Event;
 - (ii) a CCP to give effect to the Adjustment Claim; and
 - e. the Contractor otherwise submits a valid Adjustment Claim to the Commonwealth.
- 7.3.4 The Contractor shall not be entitled to an Adjustment Claim to the extent that the Adjustment Event resulted from one or more of the following:
- a. a Contractor Default; and
 - b. compliance with a direction under clause 13.4.10.

7.4 Adjustment Events

- 7.4.1 Each of the following is an Adjustment Event:
- a. a delay to a Key Milestone of more than 1 week (a **Delay Event**); and
 - b. an increase in Allowable Costs in a TCE or of more than AUD \$100,000 (a **Cost Event**);
- if the event is caused or will be caused by one or more of the following:
- c. compliance with a Commonwealth Direction (except a Commonwealth Direction issued to deal with a Contractor Default);
 - d. compliance with a direction of the Principals Council in respect to the Contractor's access to the Shipyard;
 - e. a Commonwealth Default;
 - f. a Default of a Mandated Subcontractor of the type referred to in clause 12.11.5;
 - g. an item of Commonwealth Mandated GFM not being fit for the purpose for which it was provided;
 - h. a change to standards or other requirements to which the Supplies must conform, where the Commonwealth requires the Contractor to comply with the change;
 - i. an Excepted Risk;
 - j. a Facilities Delay Event

- k. the inclusion of a Scope in the Contract in accordance with a Scope Statement; or
- l. a change of Law.

7.5 Consequence of an Adjustment Claim

- 7.5.1 The Commonwealth shall consider an Adjustment Claim properly submitted to it.
- 7.5.2 If the Commonwealth agrees that an Adjustment Event has occurred, the Contractor is entitled to an adjustment to one or more of the following:
 - a. a date for delivery of Supplies or a Milestone Date; and
 - b. the TCE for a Scope,
 as set out in the Adjustment Claim or as otherwise determined by the Commonwealth.
- 7.5.3 The Contractor shall not be entitled to an adjustment in respect of:
 - a. a Delay Event – for a period longer than the duration of the relevant delay; or
 - b. a Cost Event – for an amount greater than the amount of additional Allowable Costs incurred because of the event and as calculated in accordance with Attachment B.

7.6 Progress Certification

- 7.6.1 If the Contractor seeks Progress Certification of a Milestone, the Contractor shall complete and present a signed Progress Certificate certifying that the Milestone has been achieved in accordance with the Contract.
- 7.6.2 The Commonwealth Representative shall, within 10 Working Days after the presentation of the Progress Certificate in accordance with clause 7.6.1, notify the Contractor that:
 - a. the Contractor has achieved the Milestone, in which case the Commonwealth Representative shall sign and issue the Progress Certificate; or
 - b. the Contractor has failed to achieve the Milestone, in which case the Commonwealth Representative shall notify the Contractor of the reason for the failure.
- 7.6.3 If the Contractor has failed to achieve a Milestone because the Contractor has failed to deliver Supplies that were required for the Milestone (**'missing Milestone Supplies'**), the Commonwealth Representative may, instead of notifying the Contractor as described in clause 7.6.2b:
 - a. sign and issue the Progress Certificate but only in respect of the Supplies that were delivered; and
 - b. require the Contractor to submit a CCP to amend Attachment C or the relevant Scope Statement:
 - (i) to adjust the Milestones by postponing the delivery requirements for the missing Milestone Supplies; and
 - (ii) to adjust Milestone Payments to reflect the adjustment of the Milestones.
- 7.6.4 If the parties have not agreed the amendments to the Contract within 10 Working Days after submission of the CCP under clause 7.6.3b, or another period agreed in writing by the Commonwealth, the Commonwealth Representative shall notify the Contractor that it has failed to achieve the Milestone.
- 7.6.5 The issue of a Progress Certificate by the Commonwealth Representative does not constitute Acceptance, or bind the Commonwealth Representative to any later Acceptance, of any Supplies to which the Progress Certificate relates.
- 7.6.6 The Commonwealth Representative may issue a Progress Certificate despite the existence of Defects in the Supplies. The Commonwealth Representative shall set out the detail of the Defects on the Progress Certificate or on an attachment to the Progress Certificate. The Contractor shall rectify the Defects within 10 Working Days (or another period agreed in writing by the Commonwealth) after issue of the Progress Certificate.
- 7.6.7 If the Contractor fails to rectify a Defect in accordance with clause 7.6.6, the Commonwealth may:
 - a. without limiting the Contractor's other obligations, rectify the Defect itself or by a third party; and

- b. elect to recover from the Contractor under clause 14.14 the costs incurred by the Commonwealth in rectifying the Defect. No amount shall be owing to the Commonwealth under this clause 7.6.7 until the Commonwealth elects to recover the amount.
- 7.6.8 If the Commonwealth Representative notifies the Contractor under clause 7.6.2b or 7.6.4 that it has failed to achieve the Milestone, the Contractor shall, within 10 Working Days after receipt of the notice, provide full written details to the Commonwealth Representative of its proposed remedy.
- 7.6.9 The Commonwealth Representative shall by notice, within 10 Working Days after receipt of the Contractor's proposed remedy referred to in clause 7.6.8:
 - a. direct the Contractor to complete any course of action proposed by the Contractor within a specified period; or
 - b. reject the Contractor's proposal and direct the Contractor to submit an alternative proposal within 10 Working Days.
- 7.6.10 Each resubmitted:
 - a. application for Progress Certification; and
 - b. remediation proposal following rejection under clause 7.6.9b,
 shall be subject to the same process as the original.
- 7.6.11 A direction of the Commonwealth under clause 7.6.9 is not a Commonwealth Direction for the purposes of clause 4.14.

7.7 Acceptance

- 7.7.1 The Contractor shall, in accordance with Attachment C or a Scope Statement (including the delivery points and dates specified in either attachment), offer to the Commonwealth Representative Supplies for Acceptance that conform with the requirements of the Contract except for minor Defects (if any).
- 7.7.2 The Contractor shall, when offering Supplies for Acceptance:
 - a. complete and present a signed Supplies Acceptance Certificate prepared in accordance with the requirements of the SOW, certifying that the Supplies listed on the Supplies Acceptance Certificate conform with the requirements of the Contract, except for the minor Defects (if any) detailed on the Supplies Acceptance Certificate or on an attachment to the Supplies Acceptance Certificate; and
 - b. provide any other supporting evidence reasonably required by the Commonwealth Representative, including confirmation of successful completion of any V&V activities or Acceptance testing required by the Contract.
- 7.7.3 The Commonwealth Representative shall, within 15 Working Days (or such other period as is specified in the Contract) after an offer of Supplies for Acceptance:
 - a. Accept the Supplies by signing the Supplies Acceptance Certificate;
 - b. if there are minor Defects in the Supplies:
 - (i) Accept the Supplies by signing the Supplies Acceptance Certificate on the basis that the Contractor shall, within 10 Working Days after signature of the Supplies Acceptance Certificate by the Commonwealth Representative, or within such further period as the Commonwealth Representative may allow, rectify the Defects; or
 - (ii) notify the Contractor that the Commonwealth Representative proposes to Accept the Supplies on the basis that:
 - 1) an Application for a Deviation in accordance with clause 8.4 of the SOW to reflect the Defects is Approved; and
 - 2) if required by the Commonwealth, a CCP to amend the Contract to either (or both) reduce the Fee or Price for the Scope to reflect the Defects or to provide for additional Supplies or services relating to the Supplies; or

- c. reject the Supplies, in which case the Commonwealth Representative shall notify the Contractor of the reasons for the rejection.
- 7.7.4 If clause 7.7.3b(i) applies but the Contractor fails to rectify a Defect in accordance with that clause, the Commonwealth may:
 - a. without limiting the Contractor's warranties and other obligations, rectify the Defect itself or by a third party; and
 - b. elect to recover from the Contractor under clause 14.14 the costs incurred by the Commonwealth in rectifying the Defect. No amount shall be owing to the Commonwealth under this clause 7.7.4 until the Commonwealth elects to recover the amount.
- 7.7.5 If clause 7.7.3b(ii) or 7.7.3c applies, but the parties have not agreed the amendments to the Contract (or the Deviation is not Approved) within 10 Working Days after the Commonwealth's notification (or another period agreed in writing by the Commonwealth), the Commonwealth Representative shall reject the offer of the Supplies for Acceptance.
- 7.7.6 If the Commonwealth Representative rejects an offer of Supplies as not conforming to the requirements of the Contract, the Contractor shall, within 10 Working Days after receipt of the notification of rejection, provide full written details of its proposed remedy to the Commonwealth Representative.
- 7.7.7 The Commonwealth Representative shall, within 10 Working Days after receipt of the Contractor's proposed remedy as referred to in clause 7.7.6:
 - a. direct the Contractor to complete, within a specified period, any course of action proposed by the Contractor; or
 - b. reject the Contractor's proposal and direct the Contractor to submit an alternative proposal within 10 Working Days.
- 7.7.8 A further offer of Supplies for Acceptance shall be subject to the same process as the original.
- 7.7.9 If an alternative proposal is rejected under clause 7.7.7b, clause 7.7.12 shall apply.
- 7.7.10 The Contractor acknowledges and agrees that:
 - a. the specification of the requirements for the Supplies in the Contract is the result of resource-intensive Commonwealth definition, approval and procurement processes;
 - b. the Commonwealth has relied on the Contractor's representations about time (including as reflected in the Milestone Dates in the Contract);
 - c. the Commonwealth has determined that the Contract is value for money on the basis that full Acceptance of all Supplies is achieved by the applicable Milestone Dates; and
 - d. it is reasonable that the Commonwealth at all times during the period of the Contract has current knowledge of:
 - (i) progress under the Contract;
 - (ii) risks to achievement of Acceptance or other Milestones including potential minor Defects;
 - (iii) any other potential or actual non-compliance with the Contract;
 - (iv) risk management by the Contractor including of emerging risks; and
 - (v) any potential delay in meeting any timing obligation in the Contract, for any reason, and whether or not the delay risk was foreseeable or has been previously identified.
- 7.7.11 The Contractor shall:
 - a. proactively ensure that the Commonwealth is kept informed of matters relevant to the issues set out in clause 7.7.10, using the communication channels and reporting processes in the Contract; and
 - b. comply with any directions by the Commonwealth or the exercise of any other Commonwealth powers under or in relation to the Contract in dealing with such matters.

- 7.7.12 If an offer of Supplies for Acceptance is rejected, the Commonwealth Representative may by notice require the Contractor to retake possession of the Supplies within five Working Days after the date of the notice.
- 7.7.13 The Contractor shall bear the costs of replacing or rectifying rejected Supplies and of complying with the directions of the Commonwealth Representative.
- 7.7.14 Any action of the Contractor in correcting or replacing the Supplies and in complying with the directions of the Commonwealth Representative under this clause 7.7 shall not entitle the Contractor to make an Adjustment Claim under clause 7.3, or relieve the Contractor from performing its obligations under the Contract.
- 7.7.15 A direction of the Commonwealth under clause 7.7.11 is not a Commonwealth Direction for the purposes of clause 4.14.

7.8 Final Acceptance

- 7.8.1 The Contractor shall, when seeking Final Acceptance:
- a. complete and provide a signed Final Acceptance Certificate certifying that the Contractor has fulfilled its obligations under the Contract, except to the extent that the Contractor's obligations expressly, or by implication, survive the Final Acceptance Milestone, including the obligations in clause 14.15; and
 - b. provide any other supporting evidence reasonably required by the Commonwealth Representative, including confirmation of successful completion of any Final Acceptance testing required by the Contract.
- 7.8.2 The Commonwealth Representative shall, within 3 months after the Contractor provides the Final Acceptance Certificate and other evidence referred to in clause 7.8.1:
- a. endorse the Final Acceptance Certificate if:
 - (i) the Contractor has achieved all previous Milestones and Acceptance of all Supplies in accordance with clause 7.7; and
 - (ii) the Commonwealth Representative is satisfied that the Contractor has fulfilled all of its obligations under the Contract, except to the extent that the Contractor's obligations (including the obligations in clause 14.15) expressly or by implication survive the Final Acceptance Milestone; or
 - b. notify the Contractor that it has failed to achieve the requirements of Final Acceptance detailed in clause 7.8.2a, in which case the Commonwealth Representative shall notify the Contractor of the reasons for the failure.
- 7.8.3 If the Commonwealth Representative notifies the Contractor under clause 7.8.2b that it has failed to achieve Final Acceptance, the Contractor shall, within 10 Working Days after receipt of that notice, provide full written details to the Commonwealth Representative of its proposed remedy.
- 7.8.4 The Commonwealth Representative shall, within 10 Working Days after the Commonwealth receives the details of the proposed remedy as referred to in clause 7.8.3 either:
- a. direct the Contractor to complete, within a specified period, any course of action proposed by the Contractor; or
 - b. reject the Contractor's proposal and direct the Contractor to submit an alternative proposal within 10 Working Days.
- 7.8.5 A resubmitted application for Final Acceptance shall be subject to the same process as the original.
- 7.8.6 The Commonwealth Representative may require the Contractor to retake possession of Supplies within five Working Days when a notice of failure to achieve Final Acceptance is issued under clause 7.8.2b. Repossession of Supplies does not affect the obligation of the Contractor to provide conforming Supplies.
- 7.8.7 The Contractor shall bear the costs associated with achieving Final Acceptance and of complying with the directions of the Commonwealth Representative.
- 7.8.8 Any action of the Contractor in achieving Final Acceptance and in complying with the directions of the Commonwealth Representative under clause 7.8 does not relieve the Contractor from performing its obligations under the Contract.

- 7.8.9 A direction of the Commonwealth under clause 7.8.4 is not a Commonwealth Direction for the purposes of clause 4.14.

7.9 Acceptance and Final Acceptance Not to Affect Commonwealth's Other Rights

- 7.9.1 Neither delivery, Acceptance nor Final Acceptance of Supplies affects the Commonwealth's continuing rights, or the Contractor's continuing obligations, in relation to Supplies, including under clauses 9 and 11.

7.10 Ownership

- 7.10.1 Subject to clauses 5 and 14.13.3, ownership of Supplies shall pass to the Commonwealth at the following times:
- a. for Supplies that are identified as being included in a Milestone, upon payment of a claim for that Milestone in accordance with clause 7.2; or
 - b. for all other Supplies:
 - (i) if Supplies are to be Accepted in a Scope to which a Fixed Price applies, upon payment of a claim for the Milestone relating to the Acceptance of the Supplies or, if no Milestone applies, upon Acceptance of the Supplies; or
 - (ii) if Supplies are procured, completed or installed under a Work Package for a Scope to which a TCE applies, upon payment of the Allowable Costs for that Work Package;
 - (iii) if the Supplies are not subject to Acceptance, upon delivery to the Commonwealth under the Contract.
- 7.10.2 The Contractor warrants and shall ensure that, at the time ownership of any item of Supplies passes to the Commonwealth under clause 7.10.1:
- a. the Contractor has full power and authority to transfer full legal and beneficial ownership in those Supplies to the Commonwealth; and
 - b. the Commonwealth will obtain good title to those Supplies, free from any Security Interest.
- 7.10.3 When ownership of Supplies passes to the Commonwealth in accordance with clause 7.10.1a and those Supplies are subsequently rejected by the Commonwealth Representative in accordance with clause 7.7 or 7.8, the Commonwealth Representative may elect to re-pass ownership of those Supplies to the Contractor by giving the Contractor notice within 10 Working Days after issuing a notice of rejection under clause 7.7.3 or 7.8.4.

7.11 Performance Management

- 7.11.1 The Contractor shall provide the Supplies in accordance with the Contract, including:
- a. providing Supplies by the relevant dates (if applicable) and in the manner required;
 - b. achieving Acceptance of any Supplies by the relevant dates (if applicable) and in the manner required;
 - c. achieving the Milestones by the relevant Milestone Dates;
 - d. achieving, or exceeding, the Required Performance Level for each Performance Measure and for each Review Period; and
 - e. in relation to those Supplies to which no Performance Measure relates, achieving a level of performance that a competent contractor would achieve when providing supplies of the same type.
- 7.11.2 The Contractor's performance against the Performance Measures shall be measured and reported in accordance with Attachment P and the Master SOW.
- 7.11.3 The Contractor's entitlement to Incentive Payments under Attachment B is subject to its performance against the KPIs to which the Incentive Payment relates.
- 7.11.4 The Contractor is responsible for ensuring that the Commonwealth is placed in a position to, and with sufficient time to, perform the Commonwealth's tasks required for the:
- a. Approval of a Deliverable;
 - b. achievement of a Milestone;

- c. Acceptance of Supplies;
- d. Contractor to achieve or exceed the Required Performance Level in accordance with the requirements of the Contract.

8 FINANCIAL ARRANGEMENTS

8.1 Price and Price Basis

- 8.1.1 The Contract Price is set out in Attachment B and shall be payable in accordance with the Contract and any applicable Scope Statement.

8.2 Bank Guarantee for Performance

Note to tenderers: Any requirement for a Performance Security Amount will be determined by the Commonwealth. Securities are commonly obtained to secure mobilisation payments or advance payments made under the Contract, and to secure the Contractor's proper performance of the Contract in particular circumstances. The Performance Security Amount (if any) may be finalised during Offer Definition and Improvement Activities and contract negotiations (if any) conducted prior to Head Contract execution.

Tenderers should note that whether the Commonwealth requires both a bank guarantee in respect of the Contractor's performance and a Deed of Guarantee and Indemnity will be determined during Offer Definition and Improvement Activities and negotiations (if any) and based on the relevant Tenderer's risk profile associated with the provision of the Supplies. The Commonwealth expects it will only require both types of security where it is assessed as necessary in the circumstances.

Where the Commonwealth determines that it does not require a security, any amount nominated for a security will be deducted from the tendered price and will not be included in any resultant Contract.

- 8.2.1 The Contractor shall provide a bank guarantee equal to the Performance Security Amount specified in the Details Schedule to the Commonwealth no later than the Performance Security Date specified in the Details Schedule. The bank guarantee shall be unconditional and shall be from a bank or financial institution acceptable to the Commonwealth Representative, and in the form of the Bank Guarantee Deed set out at Annex F to Attachment I.
- 8.2.2 The Commonwealth shall release the bank guarantee provided under clause 8.2.1 within 10 Working Days after the Release Event specified in the Details Schedule occurs.
- 8.2.3 The Commonwealth's rights under the bank guarantee provided under clause 8.2.1 shall be exercisable by the Commonwealth for either or both of the following:
- a. to obtain compensation for Loss suffered in the event that the Contractor fails to perform the Contract, including upon termination of the Contract in accordance with clause 14.7; and
 - b. to recover any debts owing by the Contractor to the Commonwealth in relation to the Contract.

8.3 Exercise of Securities

- 8.3.1 If the Commonwealth exercises any or all of its rights under the security provided under clause 8.2, the Commonwealth shall not be liable for, and the Contractor shall release the Commonwealth from liability for, any resultant Loss suffered by the Contractor.
- 8.3.2 The rights of the Commonwealth to recover from the Contractor the balance, after draw down or exercise of the security provided under clause 8.2, of Loss suffered by the Commonwealth shall not be limited by the Commonwealth's exercise of that security.

8.4 Deed of Guarantee and Indemnity

- 8.4.1 The Contractor shall, on the Effective Date specified in the Details Schedule, provide the Commonwealth Representative with a Deed of Guarantee and Indemnity in the form of Annex G to Attachment I executed by the Guarantor specified in the Details Schedule.

8.5 Stop Payment

- 8.5.1 The Commonwealth may suspend some or all payments, including an Incentive Payment, under the Contract if a Stop Payment Milestone is not achieved by the relevant Milestone Date.
- 8.5.2 The Commonwealth shall cease the suspension of payments under clause 8.5.1 if the relevant Stop Payment Milestone has been achieved.
- 8.5.3 The exercise by the Commonwealth of its rights under this clause 8.5 shall not:
- entitle the Contractor to make an Adjustment Claim under clause 7.3;
 - relieve the Contractor from performing any of its obligations under the Contract; or
 - in the case of a suspended payment which is subsequently made, entitle the Contractor to claim interest.
- 8.5.4 The Commonwealth's rights under this clause 8.5 do not affect the Commonwealth's rights in respect of any Default of the Contractor, including:
- to give the Contractor a Default Notice under clause 14.9;
 - to recover compensation or damages; or
 - to terminate the Contract or a Scope Statement for Contractor Default.

8.6 Taxes and Duties

- 8.6.1 All Taxes imposed or levied in Australia or overseas in connection with the Contract shall be met by the Contractor and the Contractor agrees that, with the exception of the GST, they are included within the Contract Price.
- 8.6.2 Subject to clause 8.6.4 the Commonwealth shall, in addition to the Contract Price, pay the amount of GST imposed on any taxable supply made by the Contractor to the Commonwealth under the Contract.
- 8.6.3 For the purposes of clause 8.6.2 the additional amount is the amount of GST payable on that part of the Contract Price to which the taxable supply relates as if that part of the Contract Price is the value of the taxable supply for the purpose of the GST Act.
- 8.6.4 The Contractor shall submit each claim for payment in the form of a valid tax invoice. The tax invoice shall include the amount and method of calculation of any GST payable by the Contractor in relation to that claim for payment as a separate item.
- 8.6.5 If the Contractor incorrectly states the amount of GST payable, or paid, by the Commonwealth on an otherwise valid tax invoice, the Contractor shall issue to the Commonwealth a valid adjustment note in accordance with the GST Act.
- 8.6.6 If the Commonwealth makes, or is assessed by the ATO as having made, a taxable supply to the Contractor under or in connection with the Contract, the Commonwealth shall be entitled to recover from the Contractor upon presentation of a valid tax invoice, the amount of GST paid or payable by the Commonwealth to the ATO.
- 8.6.7 The Commonwealth may elect to recover from the Contractor under clause 14.14 any amount of GST to be paid by the Contractor under clause 8.6.6. No amount shall be owing to the Commonwealth under this clause 8.6.7 until the Commonwealth elects to recover the amount.

8.7 GST Agent

Note to tenderers: This clause will only be included if the Contractor appoints a resident agent. Tenderers should make their own inquiries regarding the suitability of proposing an agent to act for them for the purposes of Division 57 of the GST Act.

- 8.7.1 The Contractor has appointed the GST Agent specified in the Details Schedule as its resident agent for the purposes of Division 57 of the GST Act.
- 8.7.2 The Contractor, by appointing a resident agent, shall not be relieved of its liabilities or obligations under the Contract and shall at all times be responsible for ensuring that the resident agent complies with the requirements of this clause 8.7.
- 8.7.3 Without limiting clause 8.7.2, the Contractor shall ensure that its resident agent:

- a. provides all necessary documentation required by the Commonwealth for a claim for payment to be considered under clause 8.6; and
 - b. complies with Division 57 of the GST Act.
- 8.7.4 The Commonwealth shall make all payments otherwise due to the Contractor to the resident agent. The Contractor agrees that such payments to the resident agent shall discharge, to the extent of the payment, the Commonwealth's liability to the Contractor for those Supplies.
- 8.7.5 If the Contractor appoints an alternative resident agent, the Contractor shall notify the Commonwealth Representative within 10 Working Days after the change, and provide the information required in the Details Schedule.
- 8.7.6 The Contractor, if requested by the Commonwealth Representative, shall provide the Commonwealth Representative a copy of the resident agency agreement, which copy need not contain prices.

9 DEFECT NOTIFICATION AND RECTIFICATION

9.1 Notification of Defects

- 9.1.1 If during the Defect Notification Period specified in the Details Schedule the Contractor becomes aware of any Defect in the Supplies which adversely affects, or is likely to adversely affect:
 - a. the safety of Supplies or the safety of persons, the Contractor shall notify the Commonwealth Representative of the Defect within one Working Day; or
 - b. the operation or capability of the Supplies, the Contractor shall notify the Commonwealth Representative of the Defect within five Working Days.
- 9.1.2 The Contractor shall, within 30 days after a notification under clause 9.1.1, provide the Commonwealth with a report on the nature of the Defect, its cause and effects, and proposed rectification action.

9.2 Defect Rectification Obligations

- 9.2.1 If the Commonwealth Representative notifies the Contractor of a Defect in Supplies during the Defect Rectification Period (specified in the Details Schedule) applicable to the Supplies, the Contractor shall, within the period allocated for rectification of the Defect in accordance with the Commonwealth's Defect priority allocation system or 20 Working Days (whichever is the earlier), or a longer period agreed in writing by the Commonwealth, by repair, replacement or modification:
 - a. rectify the Defect; and
 - b. rectify any adverse effect of the Defect or the rectification on other Supplies, whether or not the Defect arises out of or as a consequence of a Contractor Default.
- 9.2.2 The Contractor shall be entitled to claim for an additional amount (calculated in accordance with Attachment B) for any rectification work performed under clause 9.2.1, but only to the extent that:
 - a. if the Defect arises in respect of Supplies paid for on Allowable Costs basis - the costs incurred in rectifying the Defect are Allowable Costs and are payable in respect of those Supplies under Attachment B;
 - b. if the Defect arises in respect of Supplies paid for on a Fixed Price basis – the Defect arose out of or as a consequence of any of the following:
 - (i) a Commonwealth Default;
 - (ii) the Commonwealth wilfully damaging the Supplies; and
 - (iii) damage to the Supplies caused by any of the following:

- 1) the Supplies not being stored, installed, configured, used, maintained or modified by the Commonwealth or a Commonwealth Contractor in accordance with any specifications, instructions or manuals delivered to the Commonwealth in respect of the relevant Supplies (provided that compliance with the specifications, instructions or manuals would not prevent the relevant Supplies from being fit for purpose in accordance with clause 4.3);
 - 2) an Excepted Risk occurring after the Supplies were delivered to the Commonwealth, except to the extent that the loss or damage could have been prevented or mitigated by reasonable care on the part of the Contractor or Contractor Personnel; and
 - 3) a breach of a general law duty or an applicable law by an Unrelated Party, except to the extent that the Contractor is liable for such damage under clause 11.7.2.
- 9.2.3 The Contractor's obligations under clause 9.2.1 do not require the Contractor to remedy a Defect in GFM incorporated into Supplies except to the extent that the Defect resulted from a Contractor Default.
- 9.2.4 Subject to clauses 9.2.2 and 9.2.8, the Contractor shall, except to the extent that the Commonwealth Representative otherwise agrees, bear all other costs of, and incidental to, rectifying Defects as required by the Contract, including the costs of any removal, disassembly, packing, freight (not exceeding the freight cost between the Contract delivery point and the Contractor's nominated repair facility and return), relevant testing, re-assembly and reinstallation.
- 9.2.5 Despite clause 6 and notwithstanding any limitation in Attachment G, if the Contractor fails to rectify a Defect within the period specified in clause 9.2.1, the Commonwealth may rectify the Defect itself or by a third party. If the Commonwealth retains a third party to rectify the Defect, the Contractor's warranties and obligations will be reduced to the extent of the warranty given by the third party in relation to the rectification work. The Commonwealth may elect to recover from the Contractor under clause 14.14 the amount of the Commonwealth's costs of rectifying the Defect. No amount shall be owing to the Commonwealth under this clause 9.2.5 until the Commonwealth elects to recover the amount.
- 9.2.6 If a Defect (other than a Latent Defect) in any Supplies is rectified in accordance with clause 9.2.1, the Defect Rectification Period for those Supplies shall expire on the later of:
- a. the end of the original Defect Rectification Period; or
 - b. the date that is half the original Defect Rectification Period after the rectified Supplies are returned to the Commonwealth.
- 9.2.7 If the Contractor has performed rectification work on Supplies as required by this clause 9.2 and the Commonwealth is not satisfied that the Defect has been rectified, the Contractor shall perform any additional tests that are required by the Commonwealth to determine whether the Defect has been rectified.
- 9.2.8 If tests conducted under clause 9.2.7 show that the Defect has been rectified, the cost of the tests shall be borne by the Commonwealth. If the tests show that the Defect has not been rectified:
- a. the Contractor shall rectify the Defect as soon as practicable; and
 - b. the costs of the rectification work and the tests shall be borne by the Contractor.
- 9.2.9 If, in relation to a Defect, the Commonwealth:
- a. agrees that the total costs to investigate and rectify the Defect would not exceed \$5,000; and
 - b. requests that the Commonwealth or its nominee should undertake the rectification work,
- the Contractor may pay the amount agreed by the Commonwealth in clause 9.2.9a in lieu of rectifying the Defect and the Defect, once rectified, will be taken to have been rectified under clause 9.2.1.

9.3 Manufacturer and Other Warranties

Note to tenderers: This clause may be included if there are warranties that are available from the relevant manufacturer or supplier that will extend beyond the end of the relevant Defect Rectification Period and these warranties represent value for money for the Commonwealth. Tenderers should identify any warranties of this nature in their tenders, including the additional cost (if any) associated with such warranties.

- 9.3.1 The Contractor shall ensure that the Commonwealth obtains the benefit of any manufacturer, supplier or other third party warranty applicable to the Supplies (including after the expiry of the Defect Rectification Period for the relevant Supplies), including by taking all reasonable action to enforce such a warranty, until the expiry of the warranty or clause 9.3.2 applies.
- 9.3.2 Following achievement of Final Acceptance or the termination or expiry of the Contract, the Contractor shall:
- a. assign the benefit of any remaining third party warranties for those Supplies to the Commonwealth; or
 - b. if the Contractor is not permitted to assign those third party warranties, otherwise ensure that the Commonwealth obtains the benefit of any remaining third party warranties for those Supplies, including by taking all reasonable action to enforce such a third party warranty until the expiry of the warranty.

9.4 Spare Parts and Support Equipment

- 9.4.1 The Contractor shall, for the period of 10 years after the expiry or termination of the Contract, maintain facilities or other arrangements for the supply to the Commonwealth or Commonwealth Contractors of sufficient quantities of spare parts and support equipment to enable the Supplies to be maintained.
- 9.4.2 If during the period set out in clause 9.4.1, the Contractor becomes aware that its ability to supply spare parts or support equipment may be adversely affected, it shall give the Commonwealth at least three months prior notice of that event. If there will be a final production run of spare parts or support equipment, the Contractor shall nominate in the notice the date by which the Commonwealth may place final orders.
- 9.4.3 The Contractor shall ensure that provisions corresponding to clauses 9.4.1 and 9.4.2 are included in all Approved Subcontracts under which spare parts or support equipment may be provided.
- 9.4.4 The Commonwealth is not bound to order any, or any particular quantity of, spare parts or support equipment from the Contractor.

10 INSURANCE**10.1 Insurance**

Note to tenderers: The operation of clause 10.1 will vary depending on whether the Contractor has Approved Contractor Insurance Program (ACIP) status and, where a Contractor has ACIP status, to the extent any of the policies required by clause 10.1 are within the Contractor's ACIP.

As per clause 10.1.23, for Contractors with ACIP status, the Contractor will be deemed compliant with relevant requirements of this clause where the policy is within the scope of the Contractor's ACIP. Information on the ACIP Initiative and the list of companies with current ACIP status is at

<http://www.defence.gov.au/casg/DoingBusiness/ProcurementDefence/ContractinginCASG/ContractorInsuranceProgramInitiative/>

The Commonwealth is considering the implementation of a Master Insurance Program (MIP) that will address some of the insurance requirements of the Contractor for the Project and will also accommodate the insurance requirements of contractors to other Commonwealth shipbuilding programs within the Enterprise in Adelaide. If the Project is identified for the purposes of the MIP, additional clauses will be included in the Contract providing for the Commonwealth, on behalf of the Contractor, to place relevant insurances otherwise required to be placed by the Contractor under the draft Contract.

10.1.1 The Contractor shall effect and maintain the insurances (which, for the purposes of this clause 10.1 will be satisfied where the Contractor causes such insurances to be effected and maintained or where the Contractor is insured under such insurances) for the times and in the manner specified in this clause 10.1, without requiring insurance to be effected to the extent that a particular risk:

- a. is insured against under other insurance effected in compliance with this clause 10.1; or
- b. has been expressly retained by the Commonwealth, except to the extent that such retention by the Commonwealth is dependent on the Contractor being liable only to the extent that it is insured for the liability.

For the avoidance of doubt, the terms of this clause 10.1 do not alter the allocation of risk or liability between the parties as provided for under any other clause of the Contract.

10.1.2 The Contractor shall use its reasonable endeavours to ensure that Subcontractors and their employees, officers and agents are insured as required by this clause 10.1, as is appropriate (including with respect to the amount of insurance, types of insurance and period of insurance) given the nature of services or work to be performed by them, as if they were the Contractor.

10.1.3 **(workers compensation)** The Contractor shall effect and maintain:

- a. workers compensation insurance or registrations as required by law, in respect of the Contractor's liability to its employees engaged in the performance of any obligation or the exercise of any right under the Contract. Where permitted under the relevant statutory workers compensation or accident compensation scheme, the insurance or registrations shall extend to cover the vicarious liability of the Commonwealth for the acts or omissions of the Contractor. However, the requirements of this clause 10.1.3a do not apply to the extent and for such time as the Contractor is a licensed self-insurer or exempt employer in the relevant jurisdiction; and
- b. in each jurisdiction where common law claims can be brought outside of the statutory workers compensation or accident compensation scheme referred to in clause 10.1.3a, employer's liability insurance with a limit of indemnity of not less than the amount customarily effected by prudent insured's for this risk in each relevant jurisdiction, covering any work-related injury, damage, expense, loss or liability suffered or incurred by any person engaged by the Contractor in the work under the Contract (or their dependants). Such insurance shall extend to cover the vicarious liability of the Commonwealth for the acts or omissions of the Contractor.

10.1.4 **(public and products liability)** The Contractor shall effect and maintain public and products liability insurance written on an occurrence basis with a limit of indemnity of not less than:

- a. the amount specified in the Details Schedule each and every occurrence for public liability claims; and
- b. the amount specified in the Details Schedule each occurrence and in the aggregate for all occurrences in any 12 month policy period for products liability claims,

which covers:

- c. the Contractor, its employees, officers and agents (including for liability to each other); and
- d. the Commonwealth and the Commonwealth Representative for their vicarious liability for the acts or omissions of the Contractor, its employees, officers and agents,

for their respective liabilities for any:

- e. loss of, damage to, or loss of use of, any tangible property (including GFF, GFE and any other Commonwealth Property in the care, custody or control of the Contractor or its Subcontractors for a sublimit of not less than the amount specified in the Details Schedule each occurrence and in the aggregate for all occurrences in any 12 month policy period, unless that property is insured against the risks of loss and damage under the insurance referred to in clause 10.1.6 (property)); and
- f. the bodily injury, disease, illness or death of any person,

caused by, arising out of, or in connection with the negligent performance of any obligation or the exercise of any right under the Contract or under any GFF Licence entered into for the purposes of this Contract by the Contractor or Contractor Personnel, including in respect of the manufacture, processing, alteration, repair, installation, supply, distribution or sale of any product. This insurance shall have a territorial limit that covers all places where the Contractor will perform the Contract.

10.1.5 **(professional indemnity)** The Contractor shall effect and maintain professional indemnity insurance with a limit of indemnity of not less than the amount specified in the Details Schedule per claim and in the aggregate for all claims in any 12 month policy period, and including a right of reinstatement, which covers the liability of the Contractor at general law arising from a negligent breach of duty owed in a professional capacity, by reason of any act or omission of the Contractor or Contractor Personnel. Such insurance shall:

- a. have a definition of professional services broad enough to include all professional services, activities and duties to be provided or performed by the Contractor and Contractor Personnel under the Contract;
- b. extend to cover claims related to software and IT risks;
- c. extend to cover claims for unintentional breaches of intellectual property rights;
- d. extend to cover claims for unintentional breaches of trade practices laws;
- e. have a retroactive date of no later than the earlier of the commencement of the work under the Contract or any preparatory work by the Contractor and Contractor Personnel; and
- f. have worldwide territorial and jurisdictional limits.

10.1.6 **(property)** The Contractor shall effect and maintain all risks property insurance covering:

- a. the tangible Supplies, unless and to the extent that the liability of the Contractor for the loss or damage of that property is insured under the insurance referred to in clause 10.1.4 (public and products liability);
- b. GFE, GFF and any other property of the Commonwealth in the care, custody or control of the Contractor or its Subcontractors unless and to the extent that the liability of the Contractor for the loss or damage of that property is insured under the insurance referred to in clause 10.1.4 (public and products liability); and
- c. all other property, plant and equipment in the care, custody or control of the Contractor or its agents, material to the Contractor's ability to perform its obligations under the Contract,

against the risks of loss, damage or destruction by all commercially insurable risks (including earthquake, fire, flood, lightning, storm and tempest, theft, malicious damage and resulting loss or damage arising from faulty material, workmanship or design), for the full replacement

or reinstatement value of such insured property and including cover for professional fees, extra costs of reinstatement, and removal of debris. The insurance shall insure the respective interests of the Contractor and the Commonwealth in the property insured. Where the GFF constitutes only a part of a building or facility, the requirement for insurance for GFF under this clause 10.1.6 only applies in respect of the Licensed Fittings (as defined in the GFF Licence).

10.1.7 **(transit)** The Contractor shall effect and maintain insurance covering any tangible property referred to in clause 10.1.6, against the risks of loss, damage or destruction caused by all commercially insurable risks for an amount not less than their full replacement value plus freight and insurance on an indemnity basis during transits of such property by land, sea or air and during loading or unloading and storage during transit, where such transits are at the risk of the Contractor. The insurance shall insure the respective interests of the Contractor and the Commonwealth in the property insured.

10.1.8 **(motor vehicle)** The Contractor shall effect and maintain:

- a. compulsory third party insurance as required by law in respect of all registered plant and motor vehicles used by the Contractor, its employees, officers and agents in connection with the work under the Contract; and
- b. motor vehicle liability insurance written on an occurrence basis with a limit of indemnity of not less than the amount specified in the Details Schedule each and every occurrence covering:
 - (i) third party property loss or damage arising out of the use by the Contractor, its employees, officers and agents of any registered or unregistered plant or vehicles; and
 - (ii) third party bodily injury, disease, illness or death arising out of the use by the Contractor, its employees, officers and agents of any unregistered plant or vehicles and, any registered vehicles not required to be insured under compulsory third party insurance in a foreign jurisdiction,
- c. in connection with the work under the Contract or on or around any GFF by the Contractor or Contractor Personnel.

10.1.9 **(marine hull)** The Contractor shall effect and maintain marine hull insurance for the full replacement value (or, where it is the practice for such property to be insured for its market or agreed value by prudent insureds in accordance with insurance market practice for this type of risk, then for such market or agreed value) of each vessel to be used in the performance of the work under the Contract against the risks of loss, damage or destruction by all commercially insurable risks (including war risks) whilst each vessel is at the risk of the Contractor and which insures the respective interests of the Contractor and the Commonwealth in the property insured.

10.1.10 **(marine liability)** The Contractor shall effect and maintain marine liability (or protection and indemnity) insurance written on an occurrence basis with a limit of indemnity of not less than the amount specified in the Details Schedule each and every occurrence which covers:

- a. the Contractor, its employees, officers and agents (including for liability to each other); and
- b. the Commonwealth and the Commonwealth Representative for their vicarious liability for the acts or omissions of the Contractor, its employees, officers and agents,

for their respective liabilities for any:

- c. loss of, damage to, or loss of use of, any tangible property (including GFE, GFF and any other property of the Commonwealth in the care, custody or control of the Contractor or its Subcontractors for a sublimit of not less than the amount specified in the Details Schedule each occurrence and in the aggregate for all occurrences in any 12 month policy period, unless that property is insured against the risks of loss and damage under the insurance referred to in clause 10.1.6 (property) or clause 10.1.9 (marine hull)); and
- d. bodily injury, disease, illness or death of any person,

- e. caused by, arising out of, or in connection with, the use, operation or ownership of any vessel by the Contractor or Contractor Personnel in the performance of the Contract, including cover for war risks.

10.1.11 (ship builders) The Contractor shall effect and maintain ship builders insurance written on an occurrence basis:

- a. which covers the hull under construction and any plant and equipment used in the construction of the hull (including GFF, GFE and any other property of the Commonwealth in the care, custody or control of the Contractor or its Subcontractors) against the risks of loss, damage or destruction by all commercially insurable risks for their full replacement or reinstatement value (or, where it is the practice for such property to be insured for its market or agreed value by prudent insureds in accordance with insurance market practice for this type of risk, then for such market or agreed value), which insures the respective interests of the Contractor and the Commonwealth in the property insured; and
- b. which covers:
 - (i) the Contractor, its employees, officers and agents (including for liability to each other); and
 - (ii) the Commonwealth and the Commonwealth Representative for their vicarious liability for the acts or omissions of the Contractor, its employees, officers and agents,
 for their respective liabilities for any:
 - (iii) loss of, damage to, or loss of use of, any tangible property; and
 - (iv) the bodily injury, disease, illness or death of any person,
 caused by, arising out of, or in connection with the negligent performance of ship building work under the Contract by the Contractor or Contractor Personnel, with a limit of indemnity of not less than the amount specified in the Details Schedule each and every occurrence. The insurance referred to in clause 10.1.11b shall include war risks cover. The insurance referred to in clause 10.1.11a and 10.1.11b shall include:
- c. Institute Clauses for Builders Risks (1/6/88) subject to the following amendments:
 - (i) clause 5.1 (perils) amended to include cover for the cost of renewing faulty welds;
 - (ii) clause 6 (earthquake and volcanic eruption exclusion) deleted;
 - (iii) clause 10 (deductible) amended in respect of claims for total loss or constructive total loss, the deductible should not apply to clause 17, 18, 19 or 20 if claim arising from same incident;
 - (iv) clauses 17.4.5 and 19.3.10 (pollution exclusion) deleted;
 - (v) clause 19.3.4 (cargo exclusion) deleted;
 - (vi) clauses 22 (strikes exclusion) and 23 (malicious acts exclusion) deleted;
- d. seepage and pollution buy back clause;
- e. leased equipment clause; and
- f. consequential loss following insured loss (but excluding delay due to lack of performance).

10.1.12 The insurances and registrations referred to in:

- a. the following clauses shall be effected before the Contractor commences work under the Contract, and thereafter be maintained until all work under the Contract is completed:
 - (i) clause 10.1.3 (workers compensation);
 - (ii) clause 10.1.6 (property);
 - (iii) clause 10.1.9 (marine hull);
 - (iv) clause 10.1.10 (marine liability); and

- (v) clause 10.1.11 (ship builders);
 - b. clause 10.1.4 (public and products liability) shall be effected before the Contractor commences work under the Contract, and thereafter be maintained until all work under the Contract is completed and, in respect of products liability for 10 years following completion of the work under the Contract;
 - c. clause 10.1.5 (professional indemnity) shall be effected before the Contractor commences work under the Contract, and thereafter be maintained until the earlier of:
 - (i) 10 years following completion of the work under the Contract; or
 - (ii) 10 years following an earlier termination of the Contract;
 - d. clause 10.1.7 (transit) shall be effected on or before the start of each conveyance and maintained until the end of each conveyance by delivery at the site; and
 - e. clauses 10.1.8 (motor vehicle) shall be effected on or before the date the plant or vehicle is used in connection with the work under the Contract or on or around the GFF (whichever is the earlier) and maintained until such plant or vehicle ceases to be so used.
- 10.1.13 To the extent that the Contractor's insurances and registrations required by clause 10.1 of this Contract are in fact written on a claims made basis (notwithstanding any requirements of this Contract for such insurances to be written on an occurrence basis) then the Contractor shall maintain those insurances and registrations until the earlier of:
- a. 10 years following completion of the work under the Contract; or
 - b. 10 years following an earlier termination of the Contract.
- 10.1.14 With the exception of statutory insurances, the insurances referred to in this clause 10.1 shall:
- a. be effected with an insurer with a financial security rating of "A-" or better by Standard & Poors (or the equivalent rating with another recognised rating agency), or an insurer approved by the Commonwealth, acting reasonably; and
 - b. provide that the insurer agrees:
 - (i) to provide at least 30 days written notice of cancellation to the policyholder;
 - (ii) that the policy operates (with the exception of limits of indemnity) as if there was a separate policy of insurance covering each party comprising the insured;
 - (iii) that a failure by any insured to observe and fulfil the terms of the policy or to comply with the pre-contractual duty of disclosure does not prejudice the insurance of any other insured;
 - (iv) that the state of mind and knowledge of one insured will not be imputed to any other insured for the purposes of determining the availability of cover under the policy;
 - (v) to waive all rights of salvage in respect of property of the Commonwealth which the Commonwealth notifies to the Contractor at or before the time of loss is of a sensitive nature from a national security perspective. Where the Commonwealth obtains proceeds from the salvage sale from any such property of the Commonwealth insured under the Contractor's insurance, the insurer may deduct the actual payment of such salvage sale proceeds obtained by the Commonwealth from the amount of claim payment. Where the Commonwealth does not sell but instead reuses such property, the insurer may deduct a reasonable amount from the amount of the claim payment to reflect the value the Commonwealth has obtained from the reuse of the property. However this clause 10.1.14b(v) only applies to the insurances referred to in the following clauses:
 - 1) clause 10.1.4 (public and products liability);
 - 2) clause 10.1.6 (property);
 - 3) clause 10.1.7 (transit);
 - 4) clause 10.1.9 (marine hull); and

- 5) clause 10.1.11 (ship builders);
 - (vi) that a notice of a claim by any insured will be accepted as notice by all insureds; and
 - (vii) that in respect of the liability insurances required by this clause 10.1, the policies will cover the Contractor for liabilities assumed by it under the provisions of clause 11.10.
- 10.1.15 The Contractor shall, on request, produce evidence satisfactory to the Commonwealth Representative of the currency and terms of the insurances referred to in this clause 10.1, including:
- a. certificates of currency issued by the insurer or by the Contractor's insurance broker which contains sufficient detail to enable the Commonwealth to ascertain whether the insurances are in compliance with this clause 10.1;
 - b. copies of all policies (except for statutory insurances and provided that, in relation to commercially sensitive policies only, for the purpose of complying with this clause 10.1.15b, such policies may be made available for inspection by the Commonwealth or the Commonwealth's advisers, at a place and time reasonably convenient to the Commonwealth or the Commonwealth's advisers); and
 - c. other evidence of the insurances which the Commonwealth reasonably requires.
- 10.1.16 If the Contractor fails to comply with clause 10.1.15, the Commonwealth may, but is not obliged to, effect and maintain the relevant insurances and may:
- a. elect to recover from the Contractor under clause 14.14 the cost of effecting and maintaining the insurance; or
 - b. deduct the premiums payable for the relevant insurances from amounts payable to the Contractor under the Contract.
- No amount shall be owing to the Commonwealth under this clause 10.1.16 until the Commonwealth elects to recover the amount.
- 10.1.17 In the event the Commonwealth elects to exercise its rights under clause 10.1.16, the Contractor shall provide the Commonwealth with all reasonable assistance to allow the Commonwealth to exercise those rights, including by executing documents and providing insurance proposal information to the Commonwealth's insurance broker and proposed insurers.
- 10.1.18 In respect of each insurance referred to in this clause 10.1, the Contractor shall:
- a. pay (or cause to be paid) all premiums and deductibles as and when they are due;
 - b. not do anything or fail to do anything or (insofar as it is reasonably within its power) permit anything to occur which prejudices any insurance;
 - c. if necessary, rectify anything which might prejudice any insurance;
 - d. reinstate an insurance policy if it lapses;
 - e. not cancel, materially adversely vary or allow an insurance policy to lapse without the prior written consent of the Commonwealth;
 - f. promptly notify the Commonwealth of any event (including the issue of a notice of intention to cancel by the insurer to the policyholder) which may result in an insurance policy lapsing or being cancelled;
 - g. promptly inform the Commonwealth if it becomes aware of any actual, threatened or likely claims (with the exception of claims or potential claims by the Commonwealth against the Contractor) which could materially reduce the available limits of indemnity or which may involve the Commonwealth, and shall reinstate or replace any depleted aggregate limit of indemnity resulting from claims that are unrelated to the work under the Contract, if requested to do so in writing by the Commonwealth;
 - h. give full, true and particular information to the insurer of all matters and things the non-disclosure of which might in any way prejudice or affect any policy or the payment of any claims under the insurance; and

- i. do everything reasonably required by the Commonwealth in order to allow the Commonwealth or any other person for whose benefit the policy is effected to claim and to collect or recover monies due under any insurance policy.
- 10.1.19 The Contractor shall not do anything which has been notified to the Contractor by the Commonwealth that may invalidate or prejudice any insurance policy held by the Commonwealth or any indemnity to which the Commonwealth may be entitled.
- 10.1.20 The Commonwealth may increase or decrease the limits of indemnity required for the insurances referred to in, or change the types of insurances required by, this clause 10.1 at each renewal date of the relevant insurance by providing three months prior notice to the Contractor. The Commonwealth shall only increase the limits of indemnity required for the insurances referred to in, or require additional insurances under, this clause 10.1 where it has obtained an opinion from a reputable insurance broker or otherwise appropriately qualified consultant that an increase is required in order to conform with current prudent insurance practice for a company with a risk profile comparable to the Contractor. The Contractor shall, within 30 days after receipt of a notice from the Commonwealth to increase or decrease the limits of indemnity required for the insurances referred to in, or change the types of insurances required by, this clause 10.1, submit a CCP to effect a change to the Contract.
- 10.1.21 If the Contractor becomes aware that a risk to be covered by an insurance policy referred to in this clause 10.1 has or is to become Uninsurable then:
 - a. the Contractor shall promptly notify the Commonwealth together with all details available to the Contractor as to the reason why the risk is Uninsurable, steps taken by the Contractor to obtain insurance for the risk, the date on which the risk became or will become Uninsurable, and details as to what the Contractor suggests is appropriate to mitigate, manage or control the risk while it remains Uninsurable;
 - b. the parties shall meet as soon as reasonably practicable, but (unless otherwise agreed in writing between the parties) no later than five Working Days after the notification in clause 10.1.21a to discuss all practical means by which the risk shall be managed (including, if the risk is material, the option of the Commonwealth providing an indemnity to the Contractor covering substantially the risks which have become Uninsurable or varying the Contract);
 - c. if the parties cannot agree as to how an Uninsurable risk is to be managed then, if the Uninsurable risk is material, either party (provided that the party is adversely affected by the Uninsurable risk), acting reasonably and in good faith, may terminate the Contract by notice with the exception that the Contractor shall not terminate the Contract if the Commonwealth offers an indemnity in substitution for insurance for the Uninsurable risk and that indemnity is no less broad than the insurance held by the Contractor for that risk immediately before the risk became Uninsurable. For the avoidance of doubt, termination pursuant to this clause is not to be treated under any circumstances as the exercise of a termination right under any other provision of this Contract, even if such a right may otherwise exist;
 - d. the Contractor shall, in respect of any risk that has become Uninsurable:
 - (i) monitor the insurance industry on a regular basis (and not less than twice a year) and attempt to obtain insurance for the risk which is Uninsurable;
 - (ii) provide the Commonwealth with details of attempts made by the Contractor to obtain insurance for the Uninsurable risk; and
 - (iii) as soon as it is able to do so, obtain insurance for the Uninsurable risk;
 - e. the Contractor acknowledges that the Commonwealth may undertake its own enquiries as to the availability of insurance for Uninsurable risks and as to the terms and conditions, including price, on which it is available. If the Commonwealth's own enquiries show that the insurance for Uninsurable risks is available on terms and conditions that are commercially reasonable in all of the circumstances, the Contractor shall obtain that insurance without unreasonable delay; and
 - f. the Contractor is relieved of its obligations under clause 10.1 to effect insurance for any risk that is Uninsurable for the period that the risk remains Uninsurable.

10.1.22 For the purposes of clause 10.1.21, "Uninsurable" means, in relation to a risk, either that:

- a. insurance required pursuant to this clause 10.1 is not available in the international insurance markets with insurers with a financial security rating of "A-" or better by Standard & Poors (or the equivalent rating with another reputable rating agency); or
- b. the insurance premium for insuring that risk is at such a level or the terms and conditions are such that the risk is not generally being insured against in the international insurance market with reputable insurers by prudent corporates with a risk profile comparable to the Contractor.

Note to tenderers: Clause 10.1.23 will only be included if the Contractor has an ACIP and may require amendment to only apply to those insurances to be covered by the ACIP.

10.1.23 The Contractor shall be:

- a. deemed compliant with the requirements of the following clauses:

- (i) clause 10.1.1;
- (ii) clause 10.1.3 (workers compensation);
- (iii) clause 10.1.4 (public and products liability);
- (iv) clause 10.1.5 (professional indemnity);
- (v) clause 10.1.6 (property);
- (vi) clause 10.1.7 (transit);
- (vii) clause 10.1.8 (motor vehicle);
- (viii) not used;
- (ix) not used;
- (x) not used;
- (xi) clause 10.1.9 (marine hull);
- (xii) clause 10.1.10 (marine liability);
- (xiii) clause 10.1.11 (ship builders);
- (xiv) not used; and
- (xv) clauses 10.1.12, 10.1.13 and 10.1.14; and

- b. relieved of its obligations under clauses 10.1.15 and 10.1.18,

in respect of a particular insurance listed in clause 10.1.23a for any period during which the Contractor's insurance program holds Approved Contractor Insurance Program (ACIP) status under CASG's centralised process for monitoring the compliance of contractors with contractual insurance requirements, subject to any limitations on or conditions of that approval (including whether the Contractor's ACIP status extends to that type of insurance). The Contractor shall advise the Commonwealth Representative within five Working Days if its ACIP status is withdrawn or suspended by the Commonwealth.

11 INDEMNITIES, DAMAGES, RISK AND LIABILITY

11.1 Contractor's Employees and Officers

- 11.1.1 The Contractor shall indemnify the Commonwealth and Commonwealth Officers in respect of any Loss in connection with the death, personal injury, disease or illness of any employee or officer of the Contractor in relation to the Contract.
- 11.1.2 The liability of the Contractor under clause 11.1.1 shall be reduced to the extent that the Contractor demonstrates that the Loss arose out of or as a consequence of a Commonwealth Default.
- 11.1.3 The Contractor shall release the Commonwealth and Commonwealth Officers in respect of any liability for Loss referred to in clause 11.1.1, except to the extent that the Contractor demonstrates that the Loss arose out of or as a consequence of a Commonwealth Default.

11.2 Intellectual Property and Confidentiality

- 11.2.1 The Contractor shall indemnify the Commonwealth and Commonwealth Officers in respect of any Loss in connection with a Claim by a third party in respect of:
- an infringement or alleged infringement of the third party's IP rights (including Moral Rights) arising out of or as a consequence of an activity permitted or purportedly permitted by or under a licence or assignment of IP rights under or referred to in the Contract (including in clause 6); and
 - a breach or alleged breach of any obligation of confidentiality owed to that third party arising out of or as a consequence of any act or omission of the Contractor or Contractor Personnel.
- 11.2.2 The liability of the Contractor under clause 11.2.1 shall be reduced to the extent that the Contractor demonstrates that the Loss arose out of or as a consequence of a Commonwealth Default or the Wilful Default of a Mandated Subcontractor, except to the extent that the loss or damage arising from the Wilful Default could have been prevented or mitigated by reasonable care on the part of the Contractor or Contractor Personnel.
- 11.2.3 In this clause 11.2:
- "infringement" of a right includes an act or omission that would, but for the operation of section 163 of the *Patents Act 1990*, section 100 of the *Designs Act 2003*, section 183 of the *Copyright Act 1968*, or section 25 of the *Circuit Layouts Act 1989*, constitute an infringement of the right.

11.3 Other Third Party Claims

- 11.3.1 The Contractor shall indemnify the Commonwealth and Commonwealth Officers in respect of any Loss in connection with a Claim by a third party arising out of or as a consequence of a Contractor Default, including a Claim in respect of:
- the death, personal injury, disease or illness of any person; or
 - loss of or damage to any property.
- 11.3.2 The liability of the Contractor under clause 11.3.1 shall be reduced to the extent that the Contractor demonstrates that the Loss arose out of or as a consequence of:
- a Commonwealth Default;
 - the Wilful Default of a Mandated Subcontractor, except to the extent that the loss or damage arising from the Wilful Default could have been prevented or mitigated by reasonable care on the part of the Contractor or Contractor Personnel;
 - an Excepted Risk; or
 - a breach of a general law duty or an applicable law by an Unrelated Party.

11.4 Proceedings Relating to Indemnities

- 11.4.1 If:
- a Claim is brought or threatened against the Commonwealth; and
 - the Claim is one that is or may be the subject of an indemnity given by the Contractor under the Contract,
- the Commonwealth shall give the Contractor notice of the Claim, which shall include particulars of the Claim so far as known to the Commonwealth Representative.
- 11.4.2 The Commonwealth shall, for any proceedings relating to a Claim of the type referred to in clause 11.4.1:
- keep the Contractor informed of all developments in relation to the proceedings;
 - conduct the proceedings in accordance with any reasonable directions of the Contractor, subject to the *Legal Services Directions 2005* and other relevant Commonwealth policies; and
 - not agree to a settlement in relation to the Claim without the prior consent of the Contractor, unless a failure to agree the settlement would be contrary to the *Legal Services Directions 2005* and other relevant Commonwealth policies.

- 11.4.3 The Commonwealth may, following a request from the Contractor, agree to apply for leave to withdraw from proceedings relating to a Claim. If the Commonwealth is granted leave to withdraw from the proceedings:
- the Commonwealth shall withdraw from the proceedings;
 - the Contractor shall comply with any conditions imposed by the court in relation to the grant of such leave; and
 - the Contractor shall, in its own name and at its own expense, conduct the proceedings.

11.5 Other Provisions Relating to Indemnities

- 11.5.1 The Commonwealth holds the benefit of each indemnity given in favour of a Commonwealth Officer (each a 'protected person') under clauses 11.1, 11.2 or 11.3 on trust for the protected person.
- 11.5.2 The Commonwealth may recover from the Contractor an amount under an indemnity given by the Contractor under the Contract before the Commonwealth makes a payment in respect of such amount.

11.6 Loss of or Damage to the Supplies

- 11.6.1 Risk in relation to any loss of, or damage to, the Supplies resides with the Contractor:
- until the Supplies are delivered to the Commonwealth in accordance with the Contract; and
 - at any time after delivery (but prior to Acceptance of the Supplies) where the Contractor retakes possession of the Supplies in accordance with the Contract.
- 11.6.2 The Contractor shall replace or reinstate any Supplies that are lost and repair any Supplies that are damaged while the risk resides with the Contractor under clause 11.6.1.
- 11.6.3 The Commonwealth shall take reasonable care to prevent loss of or damage to Supplies that have been delivered to it in accordance with the Contract but which have not yet been Accepted.

11.7 Loss of or Damage to Commonwealth Property

- 11.7.1 The Contractor shall (and shall ensure that all Contractor Personnel) take reasonable care, to prevent loss of, or damage to, Commonwealth Property in connection with:
- the work under the Contract; and
 - the use or occupation of any GFF.
- 11.7.2 The Contractor shall be liable for any Loss incurred by the Commonwealth in connection with any loss of, or damage to:
- any Commonwealth Property while it is:
 - on any Contractor Premises; or
 - being stored or transported by or on behalf of the Contractor, a Related Body Corporate of the Contractor, or a Subcontractor; or
 - any GFF (other than fair wear and tear) in respect of which the Contractor or the Subcontractor is responsible for controlling physical access,
- in connection with the Contract, whether or not the loss or damage arises out of or as a consequence of a Contractor Default.
- 11.7.3 The liability of the Contractor under clause 11.7.2 shall be reduced to the extent that the Contractor demonstrates that the loss or damage arose out of or as a consequence of:
- a Commonwealth Default;
 - the Wilful Default of a Mandated Subcontractor, except to the extent that the loss or damage arising from the Wilful Default could have been prevented or mitigated by reasonable care on the part of the Contractor or Contractor Personnel; or

- c. an Excepted Risk, except to the extent that the loss or damage could have been prevented or mitigated by reasonable care on the part of the Contractor or Contractor Personnel.
- 11.7.4 Without limiting clause 11.7.2, the Contractor shall be liable for any Loss incurred by the Commonwealth in connection with any loss of, or damage to, Commonwealth Property arising out of or as a consequence of a Contractor Default.
- 11.7.5 The liability of the Contractor under clause 11.7.4 shall be reduced to the extent that the Contractor demonstrates that the loss or damage arose out of or as a consequence of:
- a. a Commonwealth Default;
 - b. the Wilful Default of a Mandated Subcontractor, except to the extent that the loss or damage arising from the Wilful Default could have been prevented or mitigated by reasonable care on the part of the Contractor or Contractor Personnel;
 - c. an Excepted Risk, except to the extent that the loss or damage could have been prevented or mitigated by reasonable care on the part of the Contractor or Contractor Personnel; or
 - d. a breach of a general law duty or an applicable law by an Unrelated Party.
- 11.7.6 This clause 11.7 operates in addition to, and does not limit or affect, clause 11.6.

11.8 Exclusions of Certain Losses

- 11.8.1 The Contractor is not liable to:
- a. pay compensation or damages under or in relation to this Contract; and
 - b. make a payment under an indemnity in this Contract,
- for Loss resulting from:
- c. damage to reputation or exemplary or punitive damages incurred by the Commonwealth; or
 - d. diminished revenue, profits or business opportunity suffered by the Commonwealth.
- 11.8.2 The Commonwealth is not liable to pay compensation or damages under or in relation to this Contract for Loss resulting from damage to reputation or for exemplary or punitive damages incurred by the Contractor.
- 11.8.3 The Commonwealth has no liability to the Contractor for any Loss resulting from loss of revenue or profits or loss of business opportunity suffered or incurred by the Contractor in connection with any occupation or use of the GFF by the Contractor for a purpose that is not related to the performance of the Contract.

11.9 Liability Caps

Note to tenderers: The limitation of liability amounts for all of the Scope anticipated to be included in the Contract during its term were determined by the Commonwealth based on a liability risk assessment conducted in accordance with the Defence Liability Risk Management Process (LRMP) guide, which can be accessed at <http://www.defence.gov.au/casg/DoingBusiness/ProcurementDefence/ContractinginCASG/LiabilityRiskManagementProcess/Default.aspx>.

The determination of limitation of liability amounts as relevant to a particular Scope may be considered during Offer Definition and Improvement Activities and contract negotiations (if any).

- 11.9.1 The maximum amount that the Contractor is liable to pay as compensation or damages in connection with the Contract (including at general law, in negligence or in equity) in respect of Loss suffered by the Commonwealth for:
- a. loss of or damage to Defence Property (other than Supplies), is limited in aggregate to the relevant Limitation Amount specified in the Details Schedule;
 - b. loss of use of Supplies after Acceptance, is limited in aggregate to the relevant Limitation Amount specified in the Details Schedule; and
 - c. loss of or damage to Supplies (other than loss of use of Supplies), and Losses suffered by the Commonwealth other than those referred to in clauses 11.9.1a to

11.9.1b, is limited in aggregate to the relevant Limitation Amount specified in the Details Schedule.

11.9.2 Each of the liability caps referred to in clause 11.9.1 is mutually exclusive and is to be applied separately.

11.9.3 The liability caps in this clause 11.9 and exclusions of liability under clause 11.8 do not apply to a liability of the Contractor under or arising out of the Contract in relation to:

- a. **(third party claims)** a Claim by a third party in respect of:
 - (i) the death, personal injury, disease or illness of any person; or
 - (ii) loss of or damage to property of a third party;
- b. **(IP)** an infringement of an intellectual property right (including a Moral Right) of any person;
- c. **(confidentiality)** a breach of an obligation of confidence;
- d. **(death of or personal injury to Commonwealth Officers)** the death, personal injury, disease or illness of a Commonwealth Officer;
- e. **(non-Defence Commonwealth Property)** the loss of, or damage to, Commonwealth Property (other than Defence Property);
- f. **(Defence security)** a breach of the Contractor's obligations in relation to Defence security;
- g. **(privacy)** a breach of a written law with respect to privacy;
- h. **(criminal offences)** an act or omission of the Contractor or Contractor Personnel, where the person concerned has been convicted or found guilty of an offence comprised in the act or omission;
- i. **(Wilful Default)** a Wilful Default of the Contractor or Contractor Personnel;
- j. **(repudiation)** a repudiation of the Contract by the Contractor where the Contractor has intentionally abandoned the Contract; or
- k. **(restitution)** restitution of amounts paid under a mistake of fact or law in relation to the Contract.

11.9.4 Each paragraph of clause 11.9.3 is independent of, and its application is not affected by, any of the other paragraphs.

11.9.5 The amount of a liability cap in clause 11.9.1 shall be adjusted in accordance with the formula:

$$\text{amount} = \frac{\text{most recent CPI}}{\text{Base Date CPI}}$$

where:

'Base Date CPI' means the CPI most recently published before the Base Date;

'CPI' means the Consumer Price Index, All Groups, Weighted Average of Eight Capital Cities published by the ABS in Catalogue number 6401.0, Table 7, Series ID A2325846C or, if that Index is no longer published by the ABS, the index published by the ABS that most closely corresponds to that Index; and

'most recent CPI' means the CPI most recently published before the question whether a liability cap has been reached is determined.

11.10 Proportionate Liability Laws

11.10.1 The parties agree that, to the extent permitted by law, the provisions of the Contract:

- a. are express provisions for their rights, obligations and liabilities with respect to matters to which a Proportionate Liability Law applies; and
- b. exclude, modify and restrict the provisions of a Proportionate Liability Law to the extent of their inconsistency with the Proportionate Liability Law.

12 CONTRACT MANAGEMENT**12.1 Change to the Contract**

- 12.1.1 Except as expressly permitted in clause 3.4 or elsewhere in the Contract, the Contract shall be changed only in accordance with this clause 12.1. The parties shall not be liable to each other for any additional work undertaken or expenditure incurred unless the change has been Approved under clause 12.1.5a and taken effect in accordance with clause 12.1.5.
- 12.1.2 Either party may propose a change to the Contract. CCPs shall:
- be in the format set out at Annex E to Attachment I; and
 - if the proposal involves a change to the SOW and except where otherwise directed by the Commonwealth Representative, be accompanied by an ECP in the form of DID-ENG-ECP.
- 12.1.3 If the Commonwealth Representative proposes a change to the Contract it shall:
- notify the Contractor and the Contractor shall submit a CCP to the Commonwealth Representative within a period of 30 days after receipt of such notice or such other period as agreed in writing; or
 - provide a CCP to the Contractor and the Contractor shall, within 30 days after receipt, notify the Commonwealth Representative of any changes it requires to the CCP.
- 12.1.4 Prior to the Contractor preparing a CCP, the Commonwealth may require the Contractor to provide a NTE quote for the preparation of a CCP. If the Commonwealth exercises its discretion under this clause, the amount payable under clause 12.1.7 shall not exceed the NTE quote provided.
- 12.1.5 Unless otherwise agreed in writing, the Commonwealth Representative shall:
- within such period as specified in clause 2.4 of the Master SOW; or
 - if no such period is specified, within 30 days after receipt,
- either Approve the CCP or reject the CCP giving reasons for such rejection. A CCP that has been Approved takes effect when executed by both parties unless otherwise set out in the CCP.
- 12.1.6 The cost of preparing the following CCPs shall be borne by the Contractor, including where the CCP is required by the Commonwealth for:
- a CCP under clauses 4.11.4, or 12.10.3;
 - a CCP under clause **[INSERT]** of the Master SOW; and
 - any other CCP which is proposed or required to address any non-performance of the Contractor under the Contract.
- 12.1.7 Subject to clauses 12.1.4 and 12.1.6, for a CCP required by the Commonwealth the Commonwealth shall meet the reasonable cost of preparation of the CCP whether or not the CCP is agreed by the Contractor.
- 12.1.8 The Commonwealth Representative may issue an amendment to the Contract to incorporate CCPs that have taken effect. The amendment does not affect the legal status of the CCP as determined under clause 12.1.5.
- 12.1.9 A cost incurred by the Contractor under clauses 12.1.4 and 12.1.6 is an Allowable Cost.

12.2 Conflicts of Interest and Other Disclosures by the Contractor

- 12.2.1 The Contractor warrants that, to the best of its knowledge after making diligent inquiries, as at the Effective Date specified in the Details Schedule no conflict of interest exists or is likely to arise in connection with the performance of its obligations under the Contract by the Contractor, an Approved Subcontractor or the employees and officers of either of them.
- 12.2.2 The Contractor shall promptly notify and fully disclose to the Commonwealth, any event or occurrence actual or threatened during the performance of the Contract which may materially affect the Contractor's ability to perform any of its obligations under the Contract.
- 12.2.3 Without limiting clause 12.2.2, the Contractor shall promptly notify the Commonwealth if a conflict of interest referred to in clause 12.2.1 arises or appears likely to arise.

- 12.2.4 Within five Working Days after giving notice under clauses 12.2.2 or 12.2.3, the Contractor shall notify the Commonwealth of the steps the Contractor will take to resolve the issue. If the Commonwealth considers those steps are inadequate, it may direct the Contractor to resolve the issue in a manner proposed by the Commonwealth.
- 12.2.5 If the Contractor fails to notify the Commonwealth in accordance with clauses 12.2.2, 12.2.3 or 12.2.4 or fails to resolve the issue in the required manner, the Commonwealth may give the Contractor a notice of termination for default under clause 14.8.1e.
- 12.2.6 The Contractor shall include rights of the Commonwealth equivalent to those contained in this clause 12.2 in all Approved Subcontracts.

12.3 Waiver

- 12.3.1 Failure by either party to enforce a condition of the Contract shall not be construed as in any way affecting the enforceability of that condition or the Contract as a whole.
- 12.3.2 The exercise of the Commonwealth's rights under the Contract does not affect any other rights of the Commonwealth under the Contract or otherwise, and does not constitute:
- an election to exercise those rights instead of other rights; or
 - a representation that the Commonwealth will not exercise other rights.

12.4 Confidential Information

- 12.4.1 Each party shall ensure that Confidential Information provided by the other party under or in connection with the Contract is not disclosed, except to the extent that the disclosure is:
- required or authorised by law;
 - required to be made due to statutory or portfolio duties, or for public accountability reasons, including following a request by Parliament, a parliamentary committee or a Minister;
 - to a professional adviser, insurer, financier or auditor of a party, to the extent required to enable them to perform their roles;
 - to a Related Body Corporate for group management purposes;
 - necessary for the conduct of any legal proceedings arising in connection with the Contract;
 - to Commonwealth Personnel or Contractor Personnel; or
 - to a Commonwealth Service Provider,
- unless the other party has provided its prior written consent to the disclosure.
- 12.4.2 The Contractor acknowledges and agrees that, in relation to Confidential Information in any TD, Software or Contract Material:
- nothing in clause 12.4.1 shall affect or limit the Commonwealth's rights granted under clause 6 or by an Approved Subcontractor under an IP Deed; and
 - subject to clause 12.4.3, the Commonwealth may disclose any Confidential Information in the TD, Software or Contract Material to any person in connection with the exercise of the Commonwealth's rights granted under clause 6 or by an Approved Subcontractor under an IP Deed.
- 12.4.3 Each party shall, before disclosing Confidential Information of the other party to any other person (**Recipient**) (except as permitted under clauses 12.4.1 or 12.4.2), obtain a deed substantially in the form of Annex B of Attachment I duly executed by the Recipient.
- 12.4.4 The Contractor shall not, in marking information supplied to the Commonwealth, misuse the term "Confidential Information" or equivalent terms.
- 12.4.5 The Contractor agrees to deliver to the Commonwealth, as required by the Commonwealth, all documents in its possession, power or control which contain or relate to any information that is Confidential Information of the Commonwealth on the earlier of:
- demand by the Commonwealth; and
 - the time the documents and other material are no longer required for the purposes of the Contract.

- 12.4.6 If the Commonwealth makes a demand under clause 12.4.5, and the Contractor has placed or is aware that documents containing the Confidential Information are beyond its possession or control, the Contractor shall provide full particulars of the whereabouts of the documents containing the Confidential Information, and the identity of the person in whose custody or control they lie.
- 12.4.7 The Contractor, when directed by the Commonwealth in writing, agrees to destroy any document in its possession, power or control which contain or relate to any Confidential Information.
- 12.4.8 Return or destruction of the documents referred to in this clause 12.4 does not release the Contractor from its obligations under the Contract.

12.5 Assignment and Novation

- 12.5.1 Neither party may, without the written consent of the other, assign its rights under the Contract or novate its rights or obligations under the Contract.
- 12.5.2 If the Contractor proposes to enter into any arrangement which will require the novation of the Contract, it shall notify and seek the consent of the Commonwealth Representative within a reasonable period prior to the proposed novation.
- 12.5.3 The Commonwealth may refuse to consent to an arrangement proposed by the Contractor under clause 12.5.2.

12.6 Negation of Employment and Agency

- 12.6.1 The Contractor shall not represent itself, and shall ensure that Contractor Personnel do not represent themselves, as being employees, partners or agents of the Commonwealth.
- 12.6.2 None of the Contractor or Contractor Personnel shall, by virtue of the Contract, be, or for any purpose be taken to be, an employee, partner or agent of the Commonwealth.

12.7 No fiduciary duties

- 12.7.1 The parties acknowledge and agree that nothing in the Contract creates or implies a partnership, a joint venture or a fiduciary relationship between the Commonwealth and the Contractor.

12.8 Commonwealth Access

- 12.8.1 During the performance of the Contract, the Contractor shall, subject to the Commonwealth giving five Working Days' prior notice to the Contractor, provide the Commonwealth Representative, and any person authorised by the Commonwealth Representative, with access to its premises, records and accounts for any purpose related to the Contract. However, in the event of an emergency, an accident or incident investigation, a threat to WHS or the Environment, the Commonwealth may require, and the Contractor shall provide, immediate access to the premises, records or accounts for any purpose related to such emergency, investigation or threat. The Commonwealth may copy any records or accounts for such purposes.
- 12.8.2 The Contractor shall ensure that Approved Subcontracts require Approved Subcontractors to give the Commonwealth Representative and any person authorised by the Commonwealth Representative, access to Approved Subcontractors' premises, and to records and accounts:
- a. for an Approved Subcontractor - in connection with the performance of work under the Subcontract; and
 - b. for an Approved Subcontractor that is a Material Subcontractor – any purpose related to the Subcontract,
- including the right to copy. However, in the event of an emergency, an accident or incident investigation, a threat to WHS or the Environment, the Commonwealth may require, and the Contractor shall ensure that the Approved Subcontractor provides, immediate access to the premises, records or accounts for any purpose related to such emergency, investigation or threat. The Contractor shall ensure that the Commonwealth may copy any records or accounts for such purposes.
- 12.8.3 Without limiting clauses 12.8.1, 12.8.2 and 12.8.4, the Contractor acknowledges and agrees that:

- a. the Auditor-General has the power under the *Auditor Act 1997* (Cth) to conduct audits (including performance audits) of the Contractor and Subcontractors in relation to the Contract;
 - b. the Auditor-General may give a copy of, or an extract from, a report on an audit in relation to the Contract to any person (including a Minister) who, in the Auditor-General's opinion, has a special interest in the report or the content of the extract; and
 - c. the Commonwealth Representative may authorise the Auditor-General, or member of the staff of the Australian National Audit Office, to access premises, records and accounts under clause 12.8.1 and 12.8.2.
- 12.8.4 Without limiting the generality of clauses 12.8.1 and 12.8.2, the purposes for which the Commonwealth Representative or any person authorised by the Commonwealth Representative may require access include:
- a. inspecting Commonwealth Property, attending, conducting or checking stocktakes of Commonwealth Property, including viewing and assessing the Contractor's inventory control and stocktaking systems, and removing Commonwealth Property that is no longer required for the performance of the Contract;
 - b. performing Audit and Surveillance activities in relation to Quality in accordance with clause 8 of the SOW;
 - c. validating the Contractor's progress in meeting the AIC Plan;
 - d. investigating the systems, processes and procedures used by the Contractor for the work under the Contract;
 - e. investigating:
 - (i) the reasonableness, basis of calculation or cost elements of proposed prices or costs in any Contractor Scope Response or CCP;
 - (ii) investigating the reasonableness, basis of calculation or cost elements of proposed prices or costs for any Subcontract or proposed Subcontract;
 - (iii) if an amount claimed under the Contract is a type of a cost that is an Allowable Cost;
 - (iv) if an Allowable Cost claimed under the Contract includes an amount that is not, or not to be included in, an Allowable Cost;
 - (v) the basis upon which the Contractor or an Approved Subcontractor has calculated an amount claimed by the Contractor under the Contract, including as an Allowable Cost;
 - (vi) an Adjustment Claim under clause 7.3;
 - (vii) a payment made to a Subcontractor or other supplier;
 - (viii) Defect rectification costs claimed under clause 9.2.2;
 - (ix) any other claims made by the Contractor under the Contract; and
 - (x) the validity of data, calculations, analyses, assumptions and other information in relation to the matters at clauses 12.8.4e to 12.8.4e(ix); and
 - f. inspecting the financial and record keeping systems of the Contractor on an open book accounting basis to determine the capacity of the Contractor to meet the financial and recordkeeping requirements of the Contract or for another purpose in this clause 12.8.4;
 - g. determining whether and to what extent steps should be taken to register or otherwise protect Commonwealth TD or Software;
 - h. validating the Contractor's progress in meeting its obligations in respect of Technical Data;
 - i. auditing raw data, Software, and Source Code for the purpose of validating the Contractor's performance under the Contract;
 - j. performing reviews of the EVMS; and

- k. without being under any obligation to do so, monitoring the Contractor's compliance with any applicable laws or Approved plans in connection with the protection of WHS or the Environment, including the development and implementation of any systems, policies or procedures related to WHS and environmental compliance as required under the Contract.

12.8.5 The Contractor shall permit the Commonwealth to, and shall facilitate the Commonwealth being able to, exercise its rights in this clause 12.8 to access Related Bodies' Corporate records (including subsidiary and parent company records) relating to transfer pricing, cross-subsidisation with Related Bodies Corporate and the allocation of overheads between the Contractor and the Related Bodies Corporate in connection with any investigation, audit or review referred to in clause 12.8.4.

12.8.6 The Commonwealth shall comply with, and shall require any delegate or person authorised by the Commonwealth Representative to comply with, any reasonable Contractor or Approved Subcontractor safety and security requirements or codes of behaviour for the premises.

12.9 Contractor Access

12.9.1 The Commonwealth shall, during the period of the Contract, provide access to any Commonwealth Premises for persons Approved under clause 12.9 as necessary for the Contractor's performance of the Contract.

12.9.2 Unless otherwise agreed in writing, the Contractor shall seek written permission from the Commonwealth Representative, at least five Working Days prior to entry being required, for each person the Contractor wishes to have access to Commonwealth Premises.

12.9.3 The Commonwealth Representative may grant or refuse to grant a person access to the Commonwealth Premises. If access to any person specified by the Contractor is refused, the Contractor may request access for another person if necessary for the performance of the Contract.

12.9.4 The Commonwealth Representative may by notice to the Contractor withdraw access rights to Commonwealth Premises at any time for any period.

12.9.5 The Contractor shall comply with, and require persons afforded access under this clause 12.9 to comply with, any relevant Commonwealth safety and security requirements, regulations, standing orders, or codes of behaviour for the Commonwealth Premises.

12.9.6 The Commonwealth Representative may notify the Contractor of, and the Contractor shall comply with, any special security or access provisions that apply to a particular Commonwealth Premises relevant to the Contract.

12.9.7 This clause 12.9 does not apply in relation to the GFF.

12.10 Subcontracts

12.10.1 The Contractor shall not Subcontract the whole of the work under the Contract.

12.10.2 The Contractor shall not Subcontract work under the Contract to a Subcontractor if:

- a. the total value of all work with the Subcontractor is expected to exceed the Approved Subcontractor Threshold specified in the Details Schedule or a Scope Statement; or
- b. the Subcontractor will supply major systems or subsystems, including any of the combat system, weapons systems and propulsion systems;
- c. the work involves:
 - (i) design and development activities;
 - (ii) modification of systems or equipment, such as Deviations;
 - (iii) systems installation or integration;
 - (iv) tasks to meet Industry Requirements; or
 - (v) other activities as specified by the Commonwealth from time to time,

unless that Subcontractor is an Approved Subcontractor.

12.10.3 The Contractor may request the inclusion of additional Approved Subcontractors in Attachment H by submitting a CCP in accordance with clause 12.1. The CCP shall include

full particulars of the work to be Subcontracted, the name and address of each proposed Subcontractor and any other information about the Subcontractor required by the Commonwealth Representative.

- 12.10.4 The Commonwealth Representative shall Approve or reject the CCP in accordance with clause 12.1.5. The Commonwealth Representative's Approval shall not be unreasonably withheld but may be given subject to conditions.
- 12.10.5 None of the following reduce or limit the Contractor's obligations or liabilities under or in relation to the Contract:
- a. the Contractor's subcontracting any part of the work under the Contract;
 - b. the Commonwealth's Approval of a Subcontractor or a Subcontract; or
 - c. an act or omission of Contractor Personnel,
- and the Contractor shall be responsible for all Subcontractors.
- 12.10.6 If a Subcontract is terminated, repudiated or rescinded, whether in relation to its terms or as a result of any legislation relating to bankruptcy, liquidation or official management, the Contractor shall promptly notify the Commonwealth Representative and shall complete the work under the Contract either itself or by engaging another Subcontractor.
- 12.10.7 The Contractor acknowledges and shall inform its Subcontractors that the Commonwealth may be required to publicly disclose Subcontractors' participation in the performance of the Contract. If requested by the Commonwealth Representative, the Contractor shall provide the Commonwealth Representative with names of Subcontractors and copies of Subcontracts (which need not contain prices) for this purpose.
- 12.10.8 An Approved Subcontract shall contain provisions the same as or equivalent to the provisions required by the Contract to be included in an Approved Subcontract.
- 12.10.9 The Contractor shall engage an Approved Subcontractor in accordance with the requirements in clause 5 and any Approved Procurement Plan.
- 12.10.10 The Contractor shall not enter into a Subcontract with a Subcontractor named by the Workplace Gender Equality Agency as an employer currently not complying with the *Workplace Gender Equality Act 2012*.

12.11 Mandated Subcontractors

- 12.11.1 The Commonwealth may require the Contractor to engage a specified person as a Mandated Subcontractor to carry out specified work or provide specified goods or services (**Mandated Supplies**) for the purposes of the Contract.
- 12.11.2 The Contractor shall comply with a requirement of the Commonwealth under clause 12.11.1.
- 12.11.3 The Commonwealth must not require the engagement of a Mandated Subcontractor unless:
- a. it has given notice to the Contractor of its intention to require the engagement (either in a Scope Notice or under another notice issued by the Commonwealth); and
 - b. it has allowed the Contractor at least 10 Working Days from receipt of the notice to object to the proposed engagement.
- 12.11.4 The Contractor may object to the engagement of a Mandated Subcontractor if the Contractor considers (on reasonable grounds) that the proposed Mandated Subcontractor is not capable of providing the Mandated Supplies or will provide the Mandated Supplies in a manner that will prevent the Contractor from complying with its obligations under this Contract. The Contractor must set out information supporting the basis for the objection.
- 12.11.5 If the Contractor makes an objection (on reasonable grounds) but, after considering the objection, the Commonwealth requiring the Contractor to engage the proposed Mandated Subcontractor:
- a. the Allowable Costs incurred by the Contractor solely in rectifying Defects that are caused by the Mandated Subcontractor are to be excluded from the Fee calculations in Attachment B;
 - b. a Default by the Mandated Subcontractor shall be an Adjustment Event for the purposes of clause 7.4.1f; and

- c. any liability of the Contractor under this Contract shall be reduced to the extent caused by the Mandated Subcontractor or its Personnel,

except to the extent caused by a Default of the Contractor or the Contractor Personnel (other than Mandated Subcontractors of the type referred to in this clause 12.11.5).

12.12 Material Subcontractors

- 12.12.1 The Commonwealth may specify in a notice to the Contractor that any one or more of the following:

- a. a proposed Subcontractor that would be required to be an Approved Subcontractor; and
- b. a Subcontractor that is an Approved Subcontractor,

is to be taken to be a Material Subcontractor.

12.13 Commonwealth Approval of Material and Mandated Subcontracts

- 12.13.1 The Contractor shall ensure that:

- a. for each Material Subcontract and Mandated Subcontract – the Commonwealth is given a reasonable opportunity to consider the proposed terms of the Subcontract or an amendment to the Subcontract;
- b. for each Material Subcontract and Mandated Subcontract – the Subcontract is not entered into or amended or terminated without the Commonwealth's Approval, which shall not be unreasonably withheld but may be given subject to conditions, including as to a requirement to include or remove a particular obligation or right in the Subcontract; and
- c. for each Material Subcontract – the requirements for a Material Subcontractor in the Contract, including Attachment B or a Scope Statement are included in the Material Subcontract.

- 12.13.2 If the Contractor fails to comply with a requirement of clause 12.13.1 in respect of a Material Subcontract or a Mandated Subcontract, a cost incurred in respect of that Subcontract is not an Allowable Cost unless the Commonwealth otherwise agrees that it is an Allowable Cost.

- 12.13.3 The Contractor shall notify the Commonwealth promptly upon becoming aware of any one or more of the following:

- a. a dispute arising under a Material Subcontract or a Mandated Subcontract;
- b. a breach of a Material Subcontract or a Mandated Subcontract by any party; and
- c. a default or other event occurring that may give rise to a right of either party to a Material Subcontract or a Mandated Subcontract to terminate.

- 12.13.4 The Contractor's obligations under this Contract are not affected by the termination, repudiation or rescission of a Material Subcontract or a Mandated Subcontract. If a Material Subcontract or a Mandated Subcontract is terminated, repudiated or rescinded, the Contractor shall promptly notify the Commonwealth and shall complete the work under the Contract by engaging a replacement Material Subcontractor or Mandated Subcontractor.

12.14 Defence Security

- 12.14.1 If the Contractor or Contractor Personnel require access to any Commonwealth Premises under the control or responsibility of Defence, the Contractor shall:

- a. comply with any security requirements (including those contained in the DSM - www.defence.gov.au/DSVS/defence-security-manual.asp.) notified to the Contractor by the Commonwealth Representative from time to time; and
- b. ensure that Contractor Personnel are aware of and comply with the Commonwealth's security requirements.

- 12.14.2 The Contractor shall:

- a. ensure that Contractor Personnel undertake any security checks, clearances or accreditations as required by the Commonwealth;

- b. promptly notify the Commonwealth of any changes to circumstances which may affect the Contractor's capacity to provide the Supplies in accordance with the Commonwealth's security requirements; and
- c. provide a written undertaking in respect of security or access to the Commonwealth Premises in the form required by the Commonwealth.

Note to tenderers: For information on security classification, and required facility accreditations refer to Part 2:4, Part 2:7 and Part 2:30 of the DSM. For information on the Defence Industry Security Program refer to Part 2:42 of the DSM. For access to the DSM refer to www.defence.gov.au/DSVS/defence-security-manual.asp.

12.14.3 The security classification of the Supplies will be up to and including the level specified in the Details Schedule. The Contractor shall:

- a. if required in the Details Schedule, obtain and maintain membership of DISP in accordance with Part 2:42 of the DSM;
- b. if not required to be a member of the DISP, comply with the classification and protection of official information requirements of Part 2:30 of the DSM;
- c. ensure that all required personnel (if any) possess a personnel security clearance specified in the Details Schedule, and comply with the requirements and procedures of Part 2:20 of the DSM; and
- d. possess the facility accreditation (if any) and ICT system accreditation (if any) specified in the Details Schedule and comply with the requirements and procedures of Part 2:4 of the DSM.

Note to tenderers: If the tenderer proposes to perform work at an overseas location and that work involved information and/or equipment that is subject to a security classification, and that proposal is agreed in any resultant Contract, the following clauses will be included.

12.14.4 Where work under the Contract is performed overseas, the Contractor shall comply with:

- a. the requirements of clauses 12.14.3c and 12.14.3d for the classification level (if any) specified in the Details Schedule or equivalent classification; and
- b. comply with the relevant overseas government industry security policy.

12.14.5 For the purposes of clause 12.14.4, accreditations shall be issued by the relevant overseas government security authority, and shall be verified by the DSVS (through a bilateral security instrument or otherwise).

12.14.6 The Contractor shall classify all information in its possession relating to the performance of the Contract according to the Security Classification and Categorisation Guide at Attachment J and shall ensure that such information is safeguarded and protected according to its level of security classification.

12.14.7 With respect to security classified information, the Contractor shall:

- a. ensure that no security classified information furnished or generated under the Contract shall be released to a third party, including a representative of another country, without prior written approval of the originator through the Commonwealth Representative;
- b. promptly report to the Commonwealth Representative any security incident, as defined by the DSM, including instances in which it is known or suspected that security classified information furnished or generated under the Contract has been lost or disclosed to unauthorised parties, including a representative of another country; and
- c. ensure that all security classified information transmitted between the parties or a party and a Subcontractor, in Australia, whether generated in Australia or overseas, shall be subject to the terms of Part 2:33 of the DSM.

12.14.8 Where COMSEC material is transmitted in Australia, the Contractor shall ensure that:

- a. without limiting clause 12.14.7c, all COMSEC material transmitted between the parties or a party and a Subcontractor in Australia shall be subject to the special security provisions of Part 2:53 of the DSM; and
- b. all security classified information transmitted between the parties or a party and a Subcontractor located overseas whether generated in Australia or by another country

shall be subject to the laws of the overseas country regarding the custody and protection of security classified information and to any bilateral security instrument between Australia and the overseas country.

12.14.9 Where COMSEC material is transmitted in overseas, the Contractor shall ensure that

- a. all COMSEC material transmitted between the parties or a party and Subcontractor located overseas shall be subject to approval in the first instance by the Director ASD, in respect of Australian COMSEC material, and by the respective COMSEC authorities in other countries in respect of COMSEC material originating from those countries; and
- b. once approved for release, the material shall be subject to the laws of the overseas country regarding the custody and protection of COMSEC material as determined by the Director ASD and to any bilateral security instrument between Australia and the overseas country.

12.14.10 If there has been a breach by the Contractor or Contractor Personnel of this clause 12.14, the Commonwealth Representative may give the Contractor a notice of termination for default under clause 14.8.1e.

12.14.11 The Contractor shall ensure the requirements of clause 12.14 are included in all Subcontracts where the Subcontractor requires access to any Commonwealth Premises, or to any security classified information, in order to perform the obligations of the Subcontract.

12.15 Post Defence Separation Employment

12.15.1 Except with the prior written Approval of the Commonwealth Representative, the Contractor shall not permit (and shall ensure that each Approved Subcontractor does not permit) any Defence Personnel or Defence Service Provider who, at any time during the preceding 12 month period was engaged or involved in:

- a. the preparation or management of the Contract;
- b. the assessment or selection of the Contractor; or
- c. the planning or performance of the procurement or any activity relevant or related to the Contract,

to perform, contribute to or advise on the performance of the Contract (or Approved Subcontract).

12.15.2 To avoid doubt, the 12 month period referred to in clause 12.15.1 applies from the date which is 12 months before the date on which the Contractor proposes that the person start performing or contributing to the performance of the Contract (or Approved Subcontract).

12.15.3 The Commonwealth Representative shall not unreasonably withhold Approval of a person under clause 12.15.1 and, in making a decision, shall consider:

- a. the character and duration of the engagement, services or work that was performed by the person during the relevant 12 month period;
- b. any information provided by the Contractor about the character and duration of the services proposed to be performed by the person under the Contract (or Approved Subcontract);
- c. the potential for real or perceived conflicts of interest or probity concerns to arise if the person performs or contributes to the performance of the Contract (or Approved Subcontract) in the manner proposed under 12.15.3b, and the arrangements which the Contractor (or Approved Subcontractor) proposes to put in place to manage or reduce those conflicts of interest or probity concerns;
- d. any information provided by the Contractor concerning any significant effect that withholding Approval will have on the person's employment or remuneration opportunities or the performance of the Contract; and
- e. the policy requirements set out in DI(G) PERS 25-4, as applicable.

12.15.4 The Contractor shall include rights of the Commonwealth equivalent to those contained in clause 12.15 in all Approved Subcontracts.

12.16 Change of Control of the Contractor or the Guarantor

- 12.16.1 Subject to clause 12.16.2, the Contractor shall seek the Commonwealth Representative's prior written consent to any proposed Change of Control by providing notice to the Commonwealth at least 15 Working Days before the proposed Change of Control is to occur.
- 12.16.2 If a Change of Control occurs as a result of a transfer of shares or other interests listed on a recognised stock exchange and the consent of the Commonwealth Representative could not have been obtained in accordance with clause 12.16.1, the Contractor shall seek that consent by providing notice to the Commonwealth within 5 Working Days after the Change of Control.
- 12.16.3 In any notice given to the Commonwealth seeking consent to a Change of Control, the Contractor shall include the following details:
- the ownership and management arrangements of the Contractor or the Guarantor that were in place immediately before the change or, if the change has yet to occur, that were in place at the time the Contractor became aware of the prospective change;
 - the ownership and management arrangements of the Contractor or the Guarantor that have been or will be put in place as a consequence of the change or, if the change has yet to occur, that the Contractor reasonably expects to be put in place if the change occurs;
 - the impact (if any) that the change has had on the Contractor's or the Guarantor's ability to meet its obligations under the Contract or, if the change has yet to occur, that the Contractor reasonably expects the change to have on that ability; and
 - the steps the Contractor has taken or proposes to take to minimise the impact of the change or prospective change.
- 12.16.4 If there is a Change of Control and the Commonwealth Representative does not consent to the Change of Control, then the Commonwealth may:
- give the Contractor a notice of termination under clause 14.8.1e; or
 - agree not to give the Contractor a notice of termination under clause 14.8.1e, subject to the Contractor providing further information, giving specified undertakings, or executing further agreements (including a CCP), as may be required by the Commonwealth.
- 12.16.5 Nothing in this clause 12.16 requires the Contractor or the Guarantor to act in a manner inconsistent with its obligations under the *Corporations Act 2001* (Cth) or equivalent laws and regulations in a foreign jurisdiction.

12.17 Contactor's representations and warranties – General

- 12.17.1 The Contractor represents and warrants that:
- (status)** it and each of its Related Bodies Corporate is a body corporate duly established and validly existing under the law of the jurisdiction of its formation or incorporation;
 - (power)** it has full legal capacity and power to:
 - own its property and to carry on its business;
 - enter into the Contract and carry out the transactions that it contemplates;
 - (corporate authority)** it has taken all corporate action that is necessary or desirable to authorise its entry into the Contract and to carry out the transactions contemplated;
 - (Authorisations)** it holds each Authorisation and consent that is necessary or desirable to:
 - enable it to properly execute the Contract and to carry out the transactions that it contemplates;
 - ensure that the Contract is legal, valid, binding and admissible in evidence; or
 - enable it to properly carry on its business as it is now being conducted,
 and it is complying with any conditions to which any of these Authorisations or consents is subject;

- e. **(documents effective)** the Contract constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms (except to the extent limited by equitable principles);
- f. **(no contravention)** neither its execution of the Contract nor the carrying out by it of the work and transactions that the Contract contemplates, does or will:
 - (i) contravene any law to which it or any of its property is subject or any order, judgment or determination of any Government Agency that is binding on it or any of its property;
 - (ii) contravene any Authorisation;
 - (iii) contravene any agreement, undertaking or instrument binding on it or any of its property;
 - (iv) contravene its constitution or the powers or duties of its directors; or
 - (v) require it to make any payment or delivery in respect of any Financial Indebtedness before it would otherwise be obliged to do so;
- g. **(no litigation)** excepted as disclosed in writing to the Commonwealth, there is no litigation, arbitration, mediation, conciliation or administrative proceedings taking place, pending, or to the knowledge of any of its officers after due enquiry, threatened which, if adversely decided, could have a Material Adverse Effect on it or any of its Related Bodies Corporate;
- h. **(commercial benefit)** the execution by it of the Contract, and the carrying out by it of the transactions that it contemplates, is for its corporate benefit and in its commercial interests;
- i. **(solvency)** there are no reasonable grounds to suspect that it will not be able to pay its debts as and when they become due and payable;
- j. **(insolvency)** no Insolvency Event has occurred in relation to the Contractor;
- k. it has, or has sufficient access to, the resources (including financial resources) needed to perform its obligations in relation to the Contract;
- l. **(financial reports):**
 - (i) the Accounts and any other financial statements and reports that it has given or will give to the Commonwealth have been prepared in accordance with the laws of the jurisdiction of the relevant body's formation or incorporation and (unless inconsistent with those laws) generally accepted accounting principles consistently applied;
 - (ii) the Accounts and any other financial statements and reports that it has given or will give to the Commonwealth are or will be a true and fair view of the financial condition of the bodies to which they relate as at the date to which they are made up and of the results of operations of it and its subsidiaries for the period that they cover; and
 - (iii) there has been no change since the date of the most recent Accounts and any other financial statements and reports that it has given to the Commonwealth that could have a Material Adverse Effect on it;
- m. **(other information):**
 - (i) the other information and reports (if any) that it has given to the Commonwealth in connection with the Contract (including in or in connection with its response to the RFT) are true and accurate in all material respects and not misleading in any material respect (including by omission); and
 - (ii) any forecasts, projections and opinions in them are fair and reasonable (and were made or formed on the basis of recent historical information and reasonable assumptions after due enquiry and consideration by appropriate officers of the Contractor),

as at the Effective Date or, if given later, when given;

- n. **(disclosure of relevant information)** it has disclosed to the Commonwealth all the information that is reasonably likely to be material to an assessment by the Commonwealth of the risks that it assumes by entering into the Contract;
- o. **(no filings or Taxes)** all filings and registrations which are required to be effected, and all Taxes which are required to be paid, to ensure that the Contract is legal, valid, binding and admissible in evidence and has the priority that it contemplates have been effected and paid or will be effected and paid within the time prescribed by law;
- p. **(no default)** it has notified the Commonwealth of any event of default or potential event of default that has occurred and is continuing, and it is not in breach of any other agreement in a manner that could have a Material Adverse Effect on it or any of its Related Bodies Corporate;
- q. **(related party)** it has not contravened and it will not contravene section 208 of the Corporations Act by entering into the Contract or by carrying out any work or transaction contemplated by it;
- r. **(Security Interest)** none of its property, and no property of any of its subsidiaries, is subject to a Security Interest other than a Permitted Security Interest;
- s. **(no Controller)** no Controller is currently appointed in relation to any of its property, or any property of any of its Related Bodies Corporate;
- t. **(Environmental Law):**
 - (i) the Contractor has complied with all Environmental Laws applicable to it, its operations or to its property, or any operations or property under its control or management; and
 - (ii) to the best of the Contractor's knowledge, every other occupier of the Contractor's property has complied with all Environmental Laws in the use and occupation of that property; and
- u. **(no trust)** it is not entering into the Contract as trustee of any trust or settlement; and
- v. **(bribery of foreign public officials):**
 - (i) the Contractor has not provided, offered or promised a benefit to another person that is not legitimately due to that person with the intention of influencing a foreign public official in the exercise of his or her duties in order to obtain or retain business or a business advantage not legitimately due to its recipient.
 - (ii) in this paragraph, expressions defined in section 70.1 of the Criminal Code (contained in a schedule to the *Criminal Code Act 1995* (Cth)) (**Code**) have the meanings given to those expressions in that division; and
 - (iii) the warranty in paragraph (i) does not apply to:
 - 1) conduct that is lawful in the foreign public official's country (as set out in section 70.3 of the Code); or
 - 2) facilitation payments (as set out in section 70.4 of the Code) that are notified to the other party.

12.18 Repetition of representations and warranties

- 12.18.1 The representations and warranties in clause 12.17 are taken to be repeated on each date from the date of the Contract until its expiry or termination or any date after expiry or termination on which all amounts outstanding under the Contract have been paid in full, on the basis of the facts and circumstances as at that date.

12.19 Reliance on representations and warranties

- 12.19.1 The Contractor acknowledges that the Commonwealth has executed the Contract in reliance on the representations and warranties that are made or repeated in clause 12.17.

12.20 No representations by the Commonwealth

- 12.20.1 The Contractor acknowledges that:
- a. it has not relied and will not rely on any financial or other advice, representation, statement or promise provided or made by or on behalf of the Commonwealth in

deciding to enter into the Contract or to exercise any right or perform any obligation under it, unless it is expressly provided or made to it by or on behalf of the Commonwealth under the Contract; and

- b. to the extent (if any) that the Commonwealth has expressly provided any such advice, representation, statement or promise, the Commonwealth is not liable to update it or for any error or change in the factual circumstances on which it was based.

12.21 Immunity from suit

- 12.21.1 The Contractor irrevocably waives any immunity from set off, suits, proceedings and execution to which it or any of its property may now or in the future be entitled under any applicable law.

13 POLICY AND LAW

13.1 Applicable Law

- 13.1.1 The laws of the State or Territory specified in the Details Schedule shall apply to the Contract. The courts of that State or Territory shall have non-exclusive jurisdiction to decide any matter arising out of the Contract.
- 13.1.2 The *United Nations Convention on Contracts for the International Sale of Goods* shall not apply to the Contract.

13.2 Compliance With Laws

- 13.2.1 The Contractor shall, in the performance of the Contract, comply with and ensure that Contractor Personnel comply with, the laws from time to time in force in the State, Territory, or other jurisdictions (including overseas) in which any part of the Contract is to be carried out.
- 13.2.2 The Contractor shall provide to the Commonwealth Representative within 10 Working Days after a request by the Commonwealth written confirmation that, to the best of the Contractor's knowledge and based on reasonable enquiries undertaken by the Contractor, the Contractor and Contractor Personnel are compliant with all laws (including foreign anti-corruption legislation) regarding the offering of unlawful inducements whether in Australia or otherwise in connection with the performance of the Contract and the Subcontracts.

13.3 Policy Requirements

- 13.3.1 Subject to clause 13.3.2, the Contractor shall comply with, and shall ensure that Contractor Personnel comply with, the following Commonwealth policies of general application relevant or applicable to the Contract:
 - a. Conflicts of interest; Gifts, hospitality and sponsorship; Notification of post separation employment; Management and reporting of unacceptable behaviour; and Incident reporting and management policies as detailed in the DPPM, DI(G) PERS 25-6, DI(G) PERS 25-7, DI(G) PERS 25-4, DI(G) PERS 35-3 and Interim Defence Instruction ADMIN 45-2;
 - b. Public Interest Disclosure policy as detailed in the DPPM;
 - c. Defence Environmental, Hazardous Substances, Ozone Depleting Substances, Synthetic Greenhouse Gases, Work Health and Safety, and Workplace Gender Equality policies as detailed in the DPPM;
 - d. Company Scorecard policy as detailed in the DPPM;
 - e. Defence Stocktaking and Assets Assurance Checking policy as detailed in DEFLOGMAN Part 2 Volume 5.
- 13.3.2 Notwithstanding clause 1.8, if a SOW is inconsistent with a policy referred to in clause 13.3.1, the Contractor shall comply with the SOW to the extent of the inconsistency and provided that compliance with the SOW does not result in a breach of any laws.

Note to tenderers: It is Commonwealth policy to stimulate Indigenous entrepreneurship and business development, providing Indigenous Australians with more opportunities to participate in the economy.

- 13.3.3 The Contractor shall use its reasonable endeavours to increase its:

- a. purchasing from Indigenous enterprises; and
- b. employment of Indigenous Australians,

in the performance of the Contract. For the purposes of this clause, "Indigenous enterprise" means an organisation that is 50 per cent or more Indigenous owned that is operating a business. Supply Nation maintains a list of enterprises that meet the definition of "Indigenous enterprises" (www.supplynation.org.au).

13.3.4 The Contractor shall comply with its obligations under the *Workplace Gender Equality Act 2012* (Cth) (WGE Act).

13.3.5 If the Contractor becomes non-compliant with the WGE Act during the period of the Contract, the Contractor shall notify the Commonwealth Representative.

13.4 Work Health and Safety

13.4.1 The Commonwealth and the Contractor:

- a. shall, where applicable, comply with, and the Contractor shall ensure that all Subcontractors comply with, the obligation under the WHS Legislation to, so far as is reasonably practicable, consult, co-operate and co-ordinate activities with the Commonwealth, the Contractor or the Subcontractors (as the case may be) and any other person who, concurrently with the Commonwealth, the Contractor or the Subcontractor (as the case may be), has a WHS duty under the WHS Legislation in relation to the same matter; and
- b. acknowledge that they have a duty under the applicable WHS Legislation to ensure, so far as is reasonably practicable, the health and safety of:
 - (i) Commonwealth Personnel;
 - (ii) Contractor Personnel; and
 - (iii) other persons,

in connection with the Supplies or work performed under the Contract.

13.4.2 Without limiting the application of the WHS Legislation, the Contractor acknowledges that to the extent that any Commonwealth Personnel:

- a. are located on Contractor Premises in relation to the Contract; and
- b. whose activities in carrying out work in relation to the Contract are influenced or directed by the Contractor,

such Commonwealth Personnel will be taken to be workers for the purposes of the WHS Legislation.

13.4.3 The Contractor represents and warrants that:

- a. it has given careful, prudent and comprehensive consideration to the WHS implications of the work to be performed by it under the Contract; and
- b. the proposed method of performance of that work complies with, and includes a system for identifying and managing WHS risks which complies with all applicable legislation relating to WHS including the WHS Legislation.

13.4.4 The Contractor shall:

- a. provide the Supplies in such a way that the Commonwealth and Commonwealth Personnel are able to undertake any roles or obligations in connection with the Supplies (such as in relation to testing or auditing); and
- b. ensure that the Commonwealth and Commonwealth Personnel are able to make full use of the Supplies for the purposes referred to in clause 4.3.1, and to maintain, support and develop the Supplies,

without the Commonwealth or Commonwealth Personnel contravening any legislation relating to WHS including the WHS Legislation, any applicable standards relating to WHS or any policy relating to WHS identified in the Contract.

13.4.5 Without limiting the application of the WHS Legislation (and subject to any relevant foreign government restrictions), the Contractor shall, in connection with or related to the Supplies or the work performed under the Contract, provide, and shall:

- a. ensure that an Approved Subcontractor provides;
- b. and use its reasonable endeavours to ensure that any other Subcontractor engaged in any Prescribed Activities provides in respect of those Prescribed Activities,

to the Commonwealth Representative:

- c. within 10 Working Days (or another period agreed in writing by the Commonwealth) of a request by the Commonwealth Representative any information or copies of documentation requested by the Commonwealth Representative and held by the Contractor or Subcontractor (as the case may be) to enable the Commonwealth to comply with its obligations under the WHS Legislation;

- d. in respect of:

- (i) the Contractor or an Approved Subcontractor, within 10 Working Days after receipt or submission of the notice, written communication or written undertaking by the Contractor or Approved Subcontractor (as the case may be); or
- (ii) any other Subcontractor engaged in any Prescribed Activities, within 10 Working Days of a request by the Commonwealth,

copies of:

- (iii) all formal notices and written communications issued by a regulator or agent of the regulator under or in compliance with the applicable WHS Legislation to the Contractor or Subcontractor (as the case may be) relating to WHS matters;
- (iv) all formal notices issued by a health and safety representative of the Contractor or Subcontractor (as the case may be), under or in compliance with the applicable WHS Legislation; and
- (v) all formal notices, written communications and written undertakings given by the Contractor or Subcontractor (as the case may be) to the regulator or agent of the regulator under or in compliance with the applicable WHS Legislation; and
- e. within 10 Working Days of a request by the Commonwealth Representative, written assurances specifying that to the best of the Contractor's or the Subcontractor's (as the case may be) knowledge that the Contractor and the Contractor Personnel are compliant with:
 - (i) the applicable WHS Legislation; and
 - (ii) any relevant or applicable approved codes of practice under the *Work Health and Safety Act 2011* (Cth) except where the Contractor complies with the WHS Legislation in a manner that is different from the relevant code of practice but provides a standard of WHS that is equivalent to or higher than the standard required in the code of practice,

and that the Contractor or Subcontractor (as the case may be) has made reasonable enquiries before providing the written assurances.

13.4.6 Subject to clause 12.14 and any relevant foreign government restrictions, the Commonwealth shall provide to the Contractor in a timely manner any information or copies of documentation reasonably requested by the Contractor and held by the Commonwealth to enable the Contractor to comply with its obligations under the applicable WHS Legislation in relation to the Contract.

13.4.7 The Contractor shall ensure that if the WHS Legislation requires that:

- a. a person (including a Subcontractor):
 - (i) be authorised or licensed (in accordance with the WHS Legislation) to carry out any works at the workplace, that person is so authorised or licensed and complies with any conditions of such Authorisation; and/or
 - (ii) has prescribed qualifications or experience, or if not, is to be supervised by a person who has prescribed qualifications or experience (as defined in the WHS

Legislation), that person has the required qualifications or experience or is so supervised; or

- b. a workplace, plant or substance (or design), or work (or class of work) be authorised or licensed, that workplace, plant or substance (or design), or work (or class of work) is so authorised or licensed.
- 13.4.8 If the Contractor becomes aware of any intention on the part of a regulatory authority to cancel, revoke, suspend or amend an Authorisation relating to WHS, it shall immediately notify the Commonwealth giving full particulars (so far as they are known to it).
- 13.4.9 Without limiting clause 12.8, the Contractor shall give and ensure that an Approved Subcontractor gives the Commonwealth Representative and any person authorised by the Commonwealth Representative access to:
 - a. premises to conduct site inspections for the purpose of monitoring the Contractor's or the Approved Subcontractor's (as the case may be) compliance with any applicable laws, Authorisation or Approved plans in connection with WHS in relation to the Contract; and
 - b. all internal and third party audit results in relation to WHS in relation to the Supplies or work performed under the Contract.
- 13.4.10 To the extent not inconsistent with the express requirements of the Contract, the Commonwealth Representative may direct the Contractor to take specified measures that the Commonwealth Representative considers reasonably necessary to comply with applicable legislation relating to WHS including the WHS Legislation in relation to the Supplies or the work performed under the Contract. The Contractor shall comply with the direction unless the Contractor demonstrates to the reasonable satisfaction of the Commonwealth Representative that it is already complying with the WHS Legislation in relation to the matter to which the direction relates or the direction goes beyond what is reasonably necessary to achieve compliance with the WHS Legislation.
- 13.4.11 The Contractor shall comply with clause 9 of each SOW.
- 13.4.12 The Contractor shall not provide Supplies containing ACM and shall not take ACM onto Commonwealth Premises in connection with providing the Supplies.
- 13.4.13 The Contractor shall ensure, so far as is reasonably practicable, that the Supplies are without risk to the health and safety of persons who:
 - a. use the Supplies for a purpose for which they were designed or manufactured;
 - b. handle or store the Supplies;
 - c. carry out any reasonably foreseeable activity in relation to the assembly or use of the Supplies for a purpose for which they were designed or manufactured, or the proper storage, decommissioning, dismantling, demolition or disposal of the Supplies; or
 - d. may be exposed to the Supplies or whose health or safety may be affected by a use or activity referred to in this clause 13.4.13a to 13.4.13c.
- 13.4.14 The Contractor shall carry out, or arrange the carrying out of, any calculations, analysis, testing or examination that may be necessary to comply with clause 13.4.13.
- 13.4.15 The Contractor shall give adequate information to the Commonwealth concerning:
 - a. each purpose for which the Supplies were designed or manufactured;
 - b. the results of any calculations, analysis, testing or examination referred to in clause 13.4.14, including any hazardous properties identified by testing; and
 - c. any conditions necessary to ensure that the Supplies are without risks to health and safety when used for a purpose for which they were designed or manufactured or when carrying out any activity referred to in clauses 13.4.13a to 13.4.13c.
- 13.4.16 The Contractor shall, on request, so far as is reasonably practicable, give current relevant information on the matters referred to in clause 13.4.15 to the Commonwealth.
- 13.4.17 Subject to clause 13.4.17b and without limiting the Contractor's obligations under the Contract:

- a. the Contractor shall ensure that all Approved Subcontracts contain equivalent provisions to those set out in this clause 13.4 (other than clause 13.4.18); and
- b. where in relation to an Approved Subcontract:
 - (i) the WHS Legislation does not apply in respect of any work performed under that Approved Subcontract; and
 - (ii) the Commonwealth does not have any duties or obligations under the WHS Legislation in respect of the workers engaged or caused to be engaged by the relevant Approved Subcontractor,

the Contractor shall only be required to ensure that an Approved Subcontract contains equivalent provisions to those set out in clauses 13.4.3, 13.4.4, and 13.4.12 to 13.4.16 in respect of that Approved Subcontract.

13.4.18 To the extent that work to be performed by the Contractor under the Contract is construction work for the purposes of the:

- a. WHS Legislation, in accordance with regulation 293 of the *Work Health and Safety Regulations 2011* (Cth) (in respect of the Commonwealth and the harmonised WHS Legislation of each of the States or Territories in which the construction work is carried out), the Contractor is engaged as the principal contractor for the construction work the subject of the Contract and is authorised to have management or control of the workplace and discharge the duties imposed on a principal contractor for the purpose of the WHS Legislation;
- b. *Occupational Health and Safety Regulations 2007* (Vic), in accordance with regulation 5.1.14 of the *Occupational Health and Safety Regulations 2007* (Vic), the Contractor is appointed as the principal contractor for the construction work the subject of the Contract and is authorised to have management or control of the workplace and discharge the duties imposed on a principal contractor for the purpose of the *Occupational Health and Safety Regulations 2007* (Vic); and
- c. *Occupational Health and Safety Regulations 1996* (WA), in accordance with regulation 1.3 of the *Occupational Health and Safety Regulations 1996* (WA), the Contractor is the main contractor for the construction work the subject of the Contract and is taken to have control of the site and the workplace and is required to discharge the duties imposed on a main contractor for the purpose of the *Occupational Health and Safety Regulations 1996* (WA).

13.4.19 A direction of the Commonwealth under clause 13.4.10 is not a Commonwealth Direction for the purposes of clause 4.14.

13.5 Environmental Obligations

13.5.1 The Contractor shall perform its obligations under the Contract in such a way that:

- a. the Commonwealth is not placed in breach of; and
 - b. the Commonwealth is able to support and to make full use of the Supplies for the purposes for which they are intended without being in breach of,
- any applicable environmental legislation including the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).

13.6 Severability

13.6.1 If any part of the Contract is or becomes illegal, invalid or unenforceable, the legality, validity or enforceability of the remainder of the Contract shall not be affected and shall be read as if that part had been severed.

13.7 Privacy

13.7.1 The Contractor shall:

- a. if it obtains Personal Information in the course of performing the Contract, use or disclose that Personal Information only for the purposes of the Contract subject to any applicable exceptions in the *Privacy Act 1988* (Cth);
- b. comply with its obligations under the *Privacy Act 1988* (Cth); and

- c. as a contracted service provider, not do any act or engage in any practice which, if done or engaged in by the Commonwealth, would be a breach of the Australian Privacy Principles.
- 13.7.2 The Contractor shall notify the Commonwealth as soon as reasonably practicable if:
- a. it becomes aware of a breach or possible breach of any of the obligations contained, or referred to, in this clause 13.7, whether by the Contractor, Contractor Personnel or any other person to whom the Personal Information has been disclosed for the purposes of the Contract; or
 - b. in relation to Personal Information obtained in the course of performing the Contract:
 - (i) it becomes aware that a disclosure of such Personal Information may be required by law; or
 - (ii) it is approached by the Privacy Commissioner.
- 13.7.3 The Contractor shall ensure that Contractor Personnel who deal with Personal Information for the purposes of the Contract are aware of, and comply with, this clause 13.7.
- 13.7.4 The Contractor shall ensure that any Subcontract entered into for the purposes of fulfilling its obligations under the Contract, contains provisions to ensure that the Subcontractor complies with clauses 13.7.1, 13.7.2a and 13.7.4.

14 REMEDIES, DISPUTES AND TERMINATION

14.1 Remedies

- 14.1.1 Without limiting the Commonwealth's other rights under the Contract or at law, if the Contractor does not comply with its obligations under the Contract, the Commonwealth may be entitled to exercise one or more of the following:
- a. issue a Commonwealth Direction under clauses 4.14;
 - b. suspend a payment under clause 8.5;
 - c. Step In under clause 14.2; and
 - d. terminate the Contract or a Scope Statement under clause 14.8.1e.
- 14.1.2 Without limiting the Commonwealth's other rights under the Contract or at law, if Commonwealth determines that a TCE will be, or has been, exceeded by an amount that is greater than the Fee or Target Fee relating to that TCE, the Commonwealth will be entitled to exercise one or more of the following:
- a. issue a Commonwealth Direction under clause 4.14;
 - b. withhold an Incentive Payment under Attachment B;
 - c. Step In under clause 14.2;
 - d. undertake a Build Review under clause 14.5; and
 - e. terminate a Scope Statement under clause 14.8.1e.
- 14.1.3 Despite any other clause of the Contract, the exercise by the Commonwealth of a right pursuant to clause 14.1.2 is not an Adjustment Event.
- 14.1.4 The Commonwealth may exercise a right described under this clause 14.1 without limiting, and in addition to, the Commonwealth's exercise of any other right described under this clause 14.1 or otherwise under the Contract.

14.2 Step In Rights

- 14.2.1 In addition to any other right the Commonwealth has under the Contract or otherwise at law, the Commonwealth may by notice given to the Contractor (a **Step In Notice**), exercise its Step In Rights with effect on and from the Step in Date, if any one or more of the following apply:
- a. a Contractor Default occurs and:
 - (i) the Commonwealth has given a Default Notice; and
 - (ii) the Contractor has failed to comply with the Default Notice;

- b. the Commonwealth determines that it is necessary or desirable to do so:
 - (i) in Australia's national interest (including in relation to the defence or national security of Australia);
 - (ii) to deal with a Defence Emergency or to otherwise discharge a legislative, public or constitutional duty; or
 - (iii) to deal with an event or circumstance that, in the Commonwealth's opinion has or is likely to have a significant adverse effect on the work under the Contract, including because of its effect or likely effect on:
 - a. the health or safety of persons;
 - b. the Environment;
 - c. private or public property;
 - d. the Supplies;
 - e. the safe and secure operation of the Shipyard;

whether or not the event or circumstance was due to a Contractor Default; and
 - c. the Commonwealth determines that a TCE will be, or has been, exceeded by an amount that is greater than the Fee or Target Fee relating to that TCE.
- 14.2.2 The Commonwealth may also, by notice to the Contractor, cease to exercise its Step in Rights with effect from the date specified in the notice (the **Step out Date**).
- 14.2.3 With effect from the Step out Date the Commonwealth or its Nominee shall cease exercising the Step in Rights in accordance with the notice and the Contractor shall recommence performance of the suspended obligations immediately or at a later time agreed by the Commonwealth Representative.
- 14.2.4 The Commonwealth shall ensure that it (or its Nominee) returns to the Contractor or a Subcontractor:
- a. any materials, equipment, systems, tools or other things (to the extent not used or consumed); and
 - b. any land, premises or facilities,
- of the Contractor's or a Subcontractor's used in in connection with the exercise of Step in Rights.
- 14.2.5 If the Commonwealth gives a Step in Notice, the Commonwealth (or a person or persons nominated in the Step in Notice or in a later notice from the Commonwealth Representative to the Contractor (a **Nominee**)) is entitled to do any one or more of the following:
- a. take over or otherwise carry out all or a part of the Relevant Work;
 - b. exercise any of the rights, and perform any of the obligations, of the Contractor under:
 - (i) the Contract;
 - (ii) any Strategic Agreement or any Subcontract to which the Contractor is a party;

for the purpose of taking over or carrying out the Relevant Work;
 - c. direct Contractor Personnel in the conduct of the Relevant Work;
 - d. have access to, and to use and to permit other persons to use, all or a specified part of the materials, equipment, system, tools and other things that the Contractor or a Subcontractor uses, or has in its possession and available for use, in connection with the Relevant Work;
 - e. have access to, and to manage and control any land, facilities, plant, equipment or other items (including partially completed Supplies and goods intended to be incorporated into the Supplies) that the Contractor or a Subcontractor is using, or has in its possession and available for use, in connection with the Relevant Work, including under a Strategic Agreement or a Subcontract; and
 - f. require the Contractor to permit the inclusion of specialist shipbuilding management expertise appointed by the Strategic Board (the **Shipbuilding Manager**) for a specified period.

- 14.2.6 If the Commonwealth or a Nominee exercise a right, or performs an obligation of the Contractor in accordance with clause 14.2.5b, the Commonwealth shall (or cause its Nominee to) exercise that right or perform that obligation in accordance with the relevant contract or agreement.
- 14.2.7 The Commonwealth shall (and cause its Nominee to) take all practicable steps not to:
- a. breach the Contract, a Subcontract, a Strategic Agreement or any applicable law;
 - b. incur a liability, cost or expense that is not either an Allowable Cost or taken into account in a Price payable to the Contractor for the Relevant Work, unless the Commonwealth has agreed (in its discretion) to a CCP to the Contract to reimburse the Contractor for the liability, cost or expense; or
 - c. act in a manner that is inconsistent with a corporate policy or requirement of the Contractor that was applicable to the Contractor before the Step in Notice was given.
 - d. adversely affect, and to prevent any loss of or damage to any materials, equipment, system, tools, land, facilities, plant, equipment or other items or things used or accessed by the Commonwealth or its Nominee for the purposes of exercising the Commonwealth's Step in Rights.
- 14.2.8 A Shipbuilding Manager appointed under clause 14.2.5f will be entitled to:
- a. attend all management meetings in relation to the design, construction, installation, integration, testing, delivery and Acceptance of the Ships and associated Supplies;
 - b. receive, and be provided with, all documents, information, views, opinions and data of the Contractor or the Contractor Personnel in relation to the provision of the Supplies;
 - c. in conjunction with the Contractor:
 - (i) manage the design, construction, installation, integration, testing, delivery and Acceptance of the Ships, in accordance with the Contract (including a relevant Scope Statement), including by planning, organising and directing the performance of the Contractor's obligations under the Contract;
 - (ii) review and determine an organisational structure and resourcing level for the Contractor to promote the efficient and effective design, construction, installation, integration, testing, delivery and Acceptance of the Ships and associated Supplies;
 - d. report to the Strategic Board in respect of the Step In, including in respect to the capacity of the Contractor to continue to provide the Supplies and otherwise perform its obligations under the Contract following any Step Out.
- 14.2.9 An instruction, direction, notice or recommendation given by the Shipbuilding Manager in the exercise of the rights under clause 14.2.8 is not a Commonwealth Direction under clause 4.14.

14.3 Consequences of Step in Rights

- 14.3.1 If the Commonwealth gives a Step in Notice:
- a. the Contractor shall stop work in accordance with the Step in Notice;
 - b. the Contractor's obligation to undertake the Relevant Work is suspended;
 - c. the Contractor shall comply with any Commonwealth Direction given in support of the Step in Notice;
 - d. the Contractor shall, if required to do so by the Commonwealth, take all reasonable steps to maintain, so far as practicable, the capacity of the Contractor and Subcontractors to recommence work with minimum delay and cost;
 - e. the Contractor shall mitigate all Loss (including the costs of compliance with Commonwealth Directions) in connection with the exercise of the Step in Rights, including by (where relevant) suspending associated work under affected Subcontracts;
 - f. the Contractor shall provide all assistance, information and access to documents reasonably requested by the Commonwealth to enable the Commonwealth or its Nominee to exercise the rights granted under this clause;

- g. the Contractor shall ensure that, if the Commonwealth exercises Step in Rights, Contractor Personnel:
 - (i) comply with any direction given by the Commonwealth, its Nominee or a Shipbuilding Manager to the Contractor consistent with the Step in Notice; and
 - (ii) cooperate fully and in good faith with the Commonwealth, its Nominee or a Shipbuilding Manager for the purpose of giving full effect to exercise of the Step in Rights.
- 14.3.2 The Contractor shall ensure that each Subcontract includes sufficient provisions to ensure that the Commonwealth, its Nominee or a Shipbuilding Manager can fully exercise the Step in Rights in the Contract in relation to the Subcontract and the Subcontractor.
- 14.3.3 A direction of the Commonwealth under clause 14.3.1g(i) is not a Commonwealth Direction for the purposes of clause 4.14.

14.4 Liability and Costs

- 14.4.1 The Contractor acknowledges and agrees that if the Commonwealth exercises its Step in Rights:
 - a. the Commonwealth, its Nominee or a Shipbuilding Manager will not have any liability to the Contractor, and the Contractor will not be entitled to make any Claim arising out of or in connection with the exercise of Step in Rights;
 - b. the Commonwealth, its Nominee or a Shipbuilding Manager (in its discretion) may, but is not obliged to, remedy any Contractor Default; and
 - c. the Commonwealth may enforce any Security Interest provided by the Contractor to the extent that the Commonwealth, its Nominee or a Shipbuilding Manager is prevented from exercising its Step in Rights.
- 14.4.2 The Contractor may be entitled to amounts (except for Fee) in respect of the exercise of the Commonwealth's Step in Rights, as calculated and payable in accordance with Attachment B.
- 14.4.3 Despite clause 14.4.2, if the exercise of Step in Rights is due to a Wilful Default of the Contractor or a Subcontractor, the Contractor is not entitled to be paid any costs or expenses incurred during the Step in Period.
- 14.4.4 Other than as set out in this clause 14, the Contractor:
 - a. has no right to damages or other compensation from the Commonwealth for any Loss it suffers because of an exercise of Step in Rights; and
 - b. releases, to the maximum extent permitted by law, the Commonwealth from any claims in respect of such Loss.
- 14.4.5 The Commonwealth may exercise its Step in Rights at its discretion, without limiting its rights under any other provision of the Contract (including any right to suspend, terminate or reduce the scope of the Contract or a Scope Statement) and in addition to any other right or remedy it may have (including the enforcement of any Security Interest).

14.5 Build Review

- 14.5.1 In addition to any other right the Commonwealth has under the Contract or otherwise at law, the Commonwealth may by notice given to the Contractor (a **Build Review Notice**), require the Contractor to participate in a Build Review, if any one or more of the following apply:
 - a. the Commonwealth is entitled to reduce or terminate the Contract or a Scope Statement; and
 - b. the Commonwealth determines that a TCE will be, or has been, exceeded by an amount that is greater than the Fee or Target Fee relating to that TCE.
- 14.5.2 The Commonwealth may do any one or more of the following for the purposes of a Build Review:
 - a. exercise the Commonwealth's rights under clause 12.8 to conduct an Audit of any of the Contractor's project management, shipbuilding, Subcontractor management, costs, accounting practices and other activities or systems;

- b. require the Contractor to conduct an IBR or comprehensive cost review of a PMB or all PMB's in the Contractor's EVMS;
 - c. require the Contractor to assist the Commonwealth or a third party to conduct an IBR or comprehensive cost review of a PMB or all PMB's in the Contractor's EVMS;
 - d. require the Contractor to provide additional reporting to the Commonwealth in respect of a matter specified in the Build Review Notice (or an update to that notice) for a specified period; and
 - e. require the Contractor to cooperate with, and provide documents, information, views, opinions and data to, the Commonwealth or a third party for the purposes of the preparation and conduct of a Build Review.
- 14.5.3 Without limiting any other right the Commonwealth has under the Contract or otherwise at law, on completion of a Build Review, the Commonwealth may do any one or more of the following:
- a. require the Contractor to remove a Key Person under clause 4.10;
 - b. require the Contractor to replace an Approved Subcontractor under clause 12.10;
 - c. require the Contractor to replan or reprogram a PMB or all PMBs in the Contractor's EVMS;
 - d. require the Contractor to obtain Commonwealth Approval to do any one or more of the following:
 - (i) open specified Work Packages or types of Work Packages;
 - (ii) incur specified Allowable Costs or types of Allowable Costs, for a specified period; and
 - e. give notice to terminate a Scope Statement under clause 14.8.1e.
- 14.5.4 The Contractor must execute all documents and do all acts and things reasonably necessary to enable the Commonwealth to conduct a Build Review and exercise the rights under this clause 14.5.
- 14.5.5 A cost incurred by the Contractor in complying with the requirements of the Commonwealth under this clause 14.5 is not an Allowable Cost and the conduct of a Build Review is not a Cost Event.

14.6 Resolution of Disputes

- 14.6.1 A party shall not commence court proceedings relating to any Dispute except as permitted under this clause 14.1.
- 14.6.2 The parties shall negotiate in good faith and use all reasonable efforts to resolve Disputes as quickly as practicable.
- 14.6.3 If the parties are unable to resolve a Dispute, either party may give a notice (**Dispute Notice**) to the other party setting out the nature of the Dispute and the Dispute shall then be referred to the Management Representatives specified in the Details Schedule.
- 14.6.4 If the Dispute is not resolved by the Management Representatives within 20 Working Days of the Dispute Notice being issued, the Dispute shall be referred to the Project Board.
- 14.6.5 The Project Board must within 20 Working Days of the Dispute being referred to it decide:
- a. not to consider the Dispute; or
 - b. to consider the Dispute in accordance with a procedure for the resolution of Disputes agreed by the Board.
- 14.6.6 If the Dispute is not resolved within 20 Working Days of the Project Board making a decision under clause 14.6.5, either party may refer the Dispute to the Senior Representatives specified in the Details Schedule.
- 14.6.7 Subject to clause 14.6.8, if the Dispute is not resolved by the Senior Representatives within 20 Working Days of the Dispute being referred to the Senior Representatives and the parties have not been able to agree on an alternative dispute resolution process (including

mediation, arbitration or expert determination) for resolving the Dispute, either party may commence legal proceedings in respect of the Dispute.

- 14.6.8 If a Dispute relates to a design or shipbuilding matter the subject of the work under the Contract and has not been resolved within 20 Working Days of the Dispute being referred to the Senior Representatives, the Senior Representative must refer the Dispute to a technical expert for determination in accordance with Attachment L.
- 14.6.9 Subject to clause 14.6.8, if the Dispute is not resolved within 20 Working Days (or another period agreed in writing between the parties) of the Dispute being referred to the Senior Representatives, the parties shall resolve the Dispute by arbitration in accordance with the ACICA Arbitration Rules. The seat of arbitration shall be Sydney, Australia. The language of the arbitration shall be English.
- 14.6.10 The parties shall, despite any Dispute occurring, continue to perform their respective obligations under the Contract.
- 14.6.11 Nothing in this clause 14.6 prevents any party from seeking urgent interlocutory relief in relation to a Dispute.

14.7 Resolution of Shipyard Complaints

- 14.7.1 The Contractor may refer a Shipyard User complaint in respect of the operation and management of the Shipyard to the Project Board for resolution.
- 14.7.2 The Project Board must within 20 Working Days of the complaint being referred to it decide:
- a. not to consider the complaint; or
 - b. to consider the complaint in accordance with a procedure for the resolution of complaints required by a Strategic Agreement referred to in clause 2.3 or as otherwise agreed by the Board; or
 - c. refer the complaint to the Principals Council for consideration and resolution.

14.8 Termination Without Notice for Contractor Default

- 14.8.1 The Commonwealth may terminate the Contract or a Scope Statement by notice to the Contractor if any one or more of the following occurs:
- a. an Insolvency Event occurs in relation to the Contractor;
 - b. an Insolvency Event occurs in relation to the Guarantor and the Commonwealth does not receive a replacement Deed of Guarantee and Indemnity from another guarantor acceptable to the Commonwealth within 10 Working Days (or another period agreed in writing by the Commonwealth);
 - c. the Contractor has failed to remedy a Default specified in a Default Notice within the period specified in the Default Notice;
 - d. the Contractor commits a breach of the Contract that, in the Commonwealth's opinion, is not capable of being remedied;
 - e. an event occurs in respect of which the Contract provides that a notice of termination may be given under this clause 14.8.1e;
 - f. the Contractor assigns its rights under the Contract otherwise than in accordance with the requirements of the Contract; and
 - g. the Contractor would have, except for the operation of any limitation of liability under clause 11.9, been liable to the Commonwealth for Loss in aggregate for an amount greater than a relevant Limitation Amount.
- 14.8.2 To avoid doubt, the Commonwealth is not required to provide prior notice of an exercise of its rights under clause 14.8.1.

14.9 Default Notices

- 14.9.1 If the Commonwealth considers that the Contractor or Contractor Personnel have committed a Contractor Default, the Commonwealth may give the Contractor a notice (**Default Notice**) specifying the Default and requiring the Contractor to remedy the Default within a specified period.
- 14.9.2 If the Commonwealth gives the Contractor a Default Notice, the Contractor shall:

- a. remedy the Default within the period specified in the Default Notice;
- b. comply with any directions given to the Contractor by the Commonwealth in relation to the Default; and
- c. mitigate all loss, costs (including the costs of its compliance with any directions) and expenses in connection with the Default, including those arising from affected Subcontracts.

14.9.3 A direction of the Commonwealth under clause 14.9.2b is not a Commonwealth Direction for the purposes of clause 4.14 unless it is expressed to be a Commonwealth Direction.

14.10 Termination or Reduction for Convenience

14.10.1 In addition to any other rights it has in relation to the Contract, the Commonwealth may at any time terminate the Contract or reduce the scope of the Contract (including by terminating a Scope Statement) by notifying the Contractor.

14.10.2 None of the other provisions of the Contract limit the Commonwealth's ability to terminate or reduce the scope of the Contract under this clause 14.10.

14.10.3 If the Contract is terminated or reduced under this clause 14.10, the Commonwealth's liability in respect of the termination or reduction is limited to:

- a. payments under the payment provisions of the Contract in respect of work performed before the date the termination or reduction takes effect; and
- b. any reasonable costs incurred by the Contractor that are directly attributable to the termination or reduction,

and then only when the Contractor substantiates these amounts to the satisfaction of the Commonwealth Representative. In particular, the Contractor shall not be entitled to any Fee or other amount calculated by reference to any period after the date the termination or reduction takes effect.

14.10.4 The Contractor, in each Approved Subcontract, shall secure a right of termination and reduction and provisions for compensation functionally equivalent to this clause 14.10.

14.10.5 The Contractor acknowledges and agrees that if the Commonwealth is required to pay a Break Fee in accordance with clause 14.12, the Break Fee represents an appropriate compensation for the Contractor and no amount will be payable to the Contractor under this clause 14.10.

14.11 Termination on a Walk-away Basis

14.11.1 The Commonwealth may, by notice to the Contractor, terminate the Contract, or a Scope Statement, with effect from the date of the notice or a later date specified in the notice if the Commonwealth determines that any of the following has occurred or will occur:

- a. the parties are not able to agree a Scope Statement for a Scope in accordance with clause 3.7;
- b. the TCE for a Scope (or any part of a Scope) is exceeded by an amount that is greater than twice the Target Fee for that Scope (or any part of a Scope);
- c. Acceptance of a Ship is not achieved within 24 months after the Milestone Date for Acceptance of that Ship.

14.11.2 On a termination of this Contract under this clause 14.11:

- a. the Contractor's rights to payment of Allowable Costs and Fee accrued up to the date of termination are not affected;
- b. any accrued rights of a party in relation to the Default of the other party occurring prior to the termination are not affected; and
- c. subject to clause 14.11.2b, the Contractor is not entitled to any payments of costs or expenses incurred by it in connection with the termination.

14.12 Break Fee

14.12.1 The Commonwealth acknowledges and agrees that:

- a. the Commonwealth proposes to require the Contractor to design, build and deliver for Acceptance at least nine Ships as part of the Supplies under the Contract; and
- b. the Contractor will incur certain costs under the Contract for the purposes of ensuring it is capable of providing the Ships and other Supplies and the payment of those costs by the Commonwealth is proposed to be made on an ongoing basis over a term of the Contract that would be sufficient to enable the delivery of at least nine Ships for Acceptance; and
- c. if the Commonwealth elects to terminate or reduce the scope of the Contract for convenience under clause 14.10 such as to not require the Contractor to design, build and deliver for Acceptance at least nine Ships under the Contract, the Commonwealth will pay the Break Fee, as calculated in accordance with Attachment B.

14.12.2 The Contractor acknowledges and agrees that:

- a. the Break Fee is appropriate compensation for the costs incurred by it in ensuring it was capable of providing at least nine Ships as proposed to be designed, constructed and delivered for Acceptance by the Contractor under the Contract;
- b. the Break Fee is payment for any of the Supplies the Commonwealth proposes to keep that have not otherwise been Accepted at the time the Commonwealth is required to pay the Break Fee; and
- c. the Contractor will not be entitled to any Fee or other amount in respect of the termination or reduction of scope for convenience.

14.12.3 The Commonwealth is not required to pay the Break Fee if the Contract or a Scope Statement is reduced or terminated under clauses 14.8 or 14.11 or otherwise at law as a result of a Contractor Default.

14.13 General Termination Provisions

14.13.1 If the Contract is terminated under clause 14.8 or otherwise:

- a. the termination takes effect on:
 - (i) the date of the notice of termination; or
 - (ii) if the notice of termination specifies a later date, the later date;
- b. the Contractor shall:
 - (i) stop work in accordance with the notice of termination;
 - (ii) comply with any directions given to the Contractor by the Commonwealth; and
 - (iii) mitigate all loss, costs (including the costs of its compliance with any directions) and expenses in connection with the termination, including those arising from affected Subcontracts;
- c. the Contractor shall deliver to the Commonwealth, as required by the Commonwealth, all documents in its possession, power or control or in the possession, power or control of Contractor Personnel that contain or relate to any Confidential Information or which are security classified;
- d. subject to clause 14.15, the parties shall be relieved from future performance, without prejudice to any right of action that has accrued at the date of termination;
- e. subject to the liability caps and clause 14.10, the right to recover damages, including full contractual damages, shall not be affected;
- f. the Contractor shall, within 20 Working Days after receipt of the notice of termination, or other period agreed in writing by the parties, deliver the Technical Data (in its then current state of development) for Supplies produced prior to the date of termination; and
- g. the Contractor shall deliver to the Commonwealth all Commonwealth Property that the Contractor or Contractor Personnel have in their possession in connection with the Contract.

14.13.2 To avoid doubt, and despite anything else in the Contract, if the Contractor delays in meeting a Milestone, delivering Supplies or complying with any other obligation in accordance with

the Contract, each day of delay is a new breach of the Contract for which the Commonwealth may exercise its rights under clause 14.8 or at law, despite any conduct by the Commonwealth or any election not to terminate the Contract for a previous breach of the Contract.

14.13.3 Upon termination of the Contract:

- a. subject to clause 14.13.4, the Commonwealth shall retain ownership of any Supplies in respect of which title has passed to the Commonwealth under clause 7.10;
- b. all Supplies that have been Accepted by the Commonwealth shall be deemed to be owned by the Commonwealth (whether or not ownership has passed under clause 7.10); and
- c. the Contractor shall be entitled to payment of that part of the Contract Price attributable to the Supplies referred to in clause 14.13.3b, having regard to the amounts already paid or payable in respect of the Supplies and the condition of the Supplies at that time.

14.13.4 The Commonwealth may, in a termination notice under clause 14.8.1 or 14.10 require Supplies not owned by the Commonwealth in the possession of the Contractor or a Subcontractor (whether completed or not) to be delivered to the Commonwealth and:

- a. the Contractor shall deliver the Supplies (in their current state of development) in accordance with the notice;
- b. ownership in the Supplies shall pass to the Commonwealth upon delivery, free of any Security Interest; and
- c. the Contractor shall be entitled to payment of that part of the Contract Price attributable to the Supplies, having regard to the amounts already paid or payable in respect of the Supplies and the condition of the Supplies at that time.

14.13.5 The Commonwealth may, in a termination notice under clause 14.8.1, require the Contractor to retake possession of Supplies previously delivered to the Commonwealth under the Contract and:

- a. the Contractor shall retake possession of the Supplies in accordance with the notice;
- b. ownership in the Supplies shall pass to the Contractor upon delivery, free of any Security Interest; and
- c. the Commonwealth shall be entitled to repayment of that part of the Contract Price attributable to the Supplies, having regard to the amounts already paid or payable in respect of the Supplies.

14.13.6 The rights of the Commonwealth to terminate or reduce the scope of the Contract under clauses 14.8 and 14.10 are in addition to any other right or remedy the Commonwealth may have in relation to the Contract.

14.13.7 A direction of the Commonwealth under clause 14.13.1b(ii) is not a Commonwealth Direction for the purposes of clause 4.14.

14.14 Right of Commonwealth to Recover Money

14.14.1 Without limiting the Commonwealth's other rights or remedies under the Contract, if the Commonwealth elects, in accordance with the Contract, to recover an amount from the Contractor or the Contractor otherwise owes any debt to the Commonwealth in relation to the Contract, the Commonwealth may:

- a. deduct the amount from payment of any claim; or
- b. give the Contractor a notice of the existence of a debt recoverable which shall be paid by the Contractor within 20 Working Days of receipt of notice.

14.14.2 The Commonwealth may exercise any or all of its rights in respect of any security provided in accordance with clause 8.2 to recover any debt owing by the Contractor, except to the extent otherwise recovered by the Commonwealth under clause 14.14.1.

14.14.3 If the Commonwealth deducts the amount of a debt from any payment or security, it shall notify the Contractor that it has done so.

- 14.14.4 If any sum of money owed to the Commonwealth is not received by its due date for payment, the Contractor shall pay to the Commonwealth interest at the ATO sourced General Interest Charge rate current at the date the payment was due for each day the payment is late.
- 14.14.5 The Commonwealth may recover from the Contractor an amount of Fee paid on account in respect of a TCE in effect under this Contract, if the Commonwealth, in accordance with Attachment B and at any time, calculates that the Contractor will not be entitled to be paid the amount of Fee at the True Up for the relevant TCE.

14.15 Survivorship

- 14.15.1 Any provision of the Contract which expressly or by implication from its nature is intended to survive the termination or expiration of the Contract and any rights arising on termination or expiration shall survive, including Confidential Information, Intellectual Property, Right of the Commonwealth to Recover Money, Defence Security, Privacy, Spare Parts and Support Equipment and any warranties, guarantees, licences, indemnities, liability caps or financial and performance securities given under the Contract.

SIGNED AS AN AGREEMENT

SIGNED for and on behalf of

THE COMMONWEALTH OF AUSTRALIA:

(signature)

(print name and position)

(date)

In the presence of:

(signature)

(print name)

(date)

SIGNED for and on behalf of

THE CONTRACTOR:

(INSERT APPROPRIATE CONTRACTOR'S EXECUTION CLAUSE)

ATTACHMENT F

AUSTRALIAN INDUSTRY REQUIREMENTS

Note to tenderers: Attachment F will consist of an amalgamation of this draft attachment, the successful tenderer's response and will be developed in Offer Definition and Improvement Activities and contract negotiations (if any).

- 1.1 Attachment F consists of the following Annexes:
- A. Australian Industry Capability (AIC) Strategy
 - B. AIC Plan for each Scope
 - C. Continuous Naval Shipbuilding Strategy
 - D. Shipbuilding Workforce Development Plan
 - E. Supply Chain Development Plan

ANNEX A TO ATTACHMENT F

1 AUSTRALIAN INDUSTRY CAPABILITY (AIC) STRATEGY**1.1 AIC Strategy**

Note to tenderers: The Tenderer's AIC Strategy, based on the tenderer's response to Annex B to Attachment A of the COT and as developed during Offer Definition and Improvement Activities and contract negotiations (if any), will be included as part of this Annex.

1.1.1 The Contractor shall comply with the AIC Strategy included in this Annex A.

ANNEX B TO ATTACHMENT F

2 AUSTRALIAN INDUSTRY CAPABILITY (AIC) PLAN(S)

Note to tenderers: The Tenderer's AIC Plan(s), based on the tenderer's response to Annex B to Attachment A of the COT and as developed during Offer Definition and Improvement Activities and contract negotiations (if any), will be included as part of this Annex.

2.1.1 The Contractor shall comply with the AIC Plan(s) included in this Annex B.

ANNEX C TO ATTACHMENT F

3 CONTINUOUS NAVAL SHIPBUILDING (CNS) STRATEGY**3.1 CNS Strategy**

Note to tenderers: The Tenderer's CNS Strategy, based on the tenderer's response to Annex B to Attachment A of the COT and as developed during Offer Definition and Improvement Activities and contract negotiations (if any), will be included as part of this Annex.

3.1.1 The Contractor shall comply with the CNS Strategy included in this Annex C.

ANNEX D TO ATTACHMENT F

4 SHIPBUILDING WORKFORCE DEVELOPMENT PLAN

Note to tenderers: The Shipbuilding Workforce Development Plan shall be based on the successful Tenderer's response to Annex B to Attachment A to the Conditions of Tender and the requirements of clause 5.3 of the COC, as developed during Offer Definition and Improvement Activities and contract negotiations (if any)

- 4.1.1 The Contractor shall comply with the Shipbuilding Workforce Development Plan included in this Annex D.

ANNEX E TO ATTACHMENT F

5 SUPPLY CHAIN DEVELOPMENT PLAN

Note to tenderers: The Supply Chain Development Plan shall be based on the successful Tenderer's response to Annex B to Attachment A to the COT and the requirements of clause 5.4 of the COC, as developed during Offer Definition and Improvement Activities and contract negotiations (if any)

- 5.1.1 The Contractor shall comply with the Supply Chain Development Plan included in this Annex E.

ATTACHMENT M

GLOSSARY

1. **NOTE TO TENDERERS: THIS GLOSSARY INCLUDES ACRONYMS, ABBREVIATIONS, DEFINITIONS AND REFERENCED DOCUMENTS AS INCLUDED IN THE RFT AT RFT RELEASE. THE GLOSSARY WILL BE UPDATED TO ADDRESS ANY CHANGES TO THE CONTRACT DOCUMENTATION ARISING DURING OFFER DEFINITION AND IMPROVEMENT ACTIVITIES AND CONTRACT NEGOTIATIONS, PRIOR TO THE EFFECTIVE DATE. ACRONYMS, ABBREVIATIONS AND DEFINITIONS WHICH ARE DENOTED WITH A “T” ARE TERMS THAT ARE ONLY USED ON THE PROJECT OVERVIEW AND STATEMENT OF REQUIREMENTS AND COT AND ATTACHMENTS TO THE COT. ACRONYMS AND ABBREVIATIONS**

Abbreviation	Description		Abbreviation	Description	
ABL	Allocated Baseline	T	CSI	Combat System Integrator	T
ABN	Australian Business Number		CWBS	Contract Work Breakdown Structure	
ABR	Australian Book of Reference		D&P	Design and Productionisation	T
ABS	Australian Bureau of Statistics		DBL	Development Baseline	T
ACIP	Approved Contractor Insurance Program		DEF(AUST)	Australian Defence Standard	
ACM	Asbestos Containing Material		DG	diesel generator	T
ACN	Australian Company Number		DI(G)	Defence Instruction (General)	
ADF	Australian Defence Force		DID	Data Item Description	
AIC	Australian Industry Capability		DISP	Defence Industry Security Program	
ALDT	Administration and Logistics Delay Time	T	DPPM	Defence Procurement Policy Manual	
ANZ	Australia and New Zealand		DSM	Defence Security Manual	
ARBN	Australian Registered Body Number		DSTG	Defence Science and Technology Group	T
ASD	Australian Signals Directorate		DSVS	Defence Security and Vetting Service	
ASW	Anti-Submarine Warfare		DSwMS	Defence Seaworthiness Management System	T
AWD	Air Warfare Destroyer		ECP	Engineering Change Proposal	
ATO	Australian Taxation Office		ED	Effective Date	
BOE	Basis of Estimate	T	EKPI	Enterprise Key Performance Indicator	
CASG	Capability Acquisition and Sustainment Group		ELSRD	Emergency Life Saving Recovery Devices	T
CBRN	chemical biological radiological nuclear	T	EO	Explosive Ordnance	T
CCP	Contract Change Proposal		ERP	Enterprise Resource Planning	
CDRL	Contract Data Requirements List		EVMS	Earned Value Management System	
CEP	Competitive Evaluation Process	T	FAC	Final Acceptance Certificate	T
CI	Configuration Item		FACP	Facilities Plan	
CMS	Contract Master Schedule		FIC	Fundamental Inputs to Capability	T
CNS	Continuous Naval Shipbuilding		FIS	Financial Investigation Services	T
CO	Carbon Monoxide	T	FOUO	For Official Use Only	
COC	Conditions of Contract		FRACAS	Failure reporting, failure analysis and corrective action system	T
COMSEC	Communications Security		G&A	General and Administrative	T
COT	Conditions of Tender	T	GAAP	Generally Accepted Accounting Principles	T
CPI	Consumer Price Index		GFD	Government Furnished Data	
CPRs	Commonwealth Procurement Rules	T			
CS	Combat System				

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Abbreviation	Description
GFE	Government Furnished Equipment
GFF	Government Furnished Facilities
GFI	Government Furnished Information
GFM	Government Furnished Material
GFS	Government Furnished Services T
GST	Australian Goods and Services Tax
H2S	Hydrogen Sulphide T
HVAC	Heating, ventilation and air-conditioning T
IBR	Integrated Baseline Review
ICT	Information Communications Technology
IIP	Integrated Investment Program
ILS	Integrated Logistic Support
IMS	Integrated Master Schedule
IP	Intellectual Property
IPMS	Integrated Platform Management System
ISSC	In service support contract T
IT	Information Technology
KPI	Key Performance Indicator
LAA	<i>Lands Acquisition Act 1989</i> (Cth)
LCC	Life Cycle Cost T
LIA	Local Industry Activities
LLTI	Long Lead Time Item T
LLTIR	Long Lead Time Item Review
LOE	level of effort T
LOT	Life-Of-Type
MDAL	Master Data and Assumptions List T
ME	main engine T
MEDIVAC	Medical Evacuation T
MEL	Master Equipment List
MMSS	Modified Mission System Specification
MOTS	Military-Off-The-Shelf
MR	Management Reserve
MRSD	Modified Reference Ship Design T
MSS	Mission System Specification
NRE	Non Recurring Engineering T
NTE	Not to Exceed
ODC	other direct costs T
ODIA	Offer Definition and Improvement Activities T
OEM	Original Equipment Manufacturer T
OPMs	Other Performance Measures
OPP	Open Plan Professional T
OQE	objective quality evidence T

Abbreviation	Description
PACKPL	Packaging Provisioning List
PAX	Number of passengers T
PBL	Product Baseline T
PCBU	Person conducting a business or undertaking T
PCE	Potentially Catastrophic Event T
PMB	Performance Measurement Baseline
POL	Petroleum oil and lubricants T
PP	Production Prototyping Performance Period T
PRR	Production Readiness Review T
PSC	Participant Services Contract T
PT&E	Production Test and Evaluation T
R&D	Research and Development
RAN	Royal Australian Navy
RBA	Reserve Bank of Australia T
RFT	Request for Tender
RI	Repairable Item
RSD	Reference Ship Design
RSPL	Recommended Spares Provisioning List
RTM	Requirements Traceability Matrix
S&TE	Support and Test Equipment
S&TEPL	Support and Test Equipment Provisioning List
SAC	Supplies Acceptance Certificate
SCCG	Security Classification and Categorisation Guide
SEP	Systems Engineering Program T
SFARP	So Far As Reasonably Practicable T
SHOL	Ship Helicopter Operating Limit T
SoC	Scheme of Complement T
SOLAS	Safety of Life At Sea T
SOW	Statement of Work
SSOW	Safe System of Work T
SSP	System Safety Program T
SWBS	Ship Work Breakdown Structure T
T&T	Test and Trials T
TARR	Task Analysis Requirements Review
TAT	turn-around-time T
TBD	To Be Determined
TCE	Target Cost Estimate
TCIM	Target Cost Incentive Model
TD	Technical Data
TDL	Technical Data List
TDRL	Tender Data Requirements List T

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Abbreviation	Description	
TDSR	TD & Software Rights	
TEML	Training Equipment and Materials List	
TEMPEST	Telecommunications Electronics Material Protected from Emanating Spurious Transmissions	
TLCCM	Tendered Life Cycle Cost Model	T
TSC	Technical Subject Code	T
UIN	Unique Identifier Number	T

Abbreviation	Description	
UUC	Usage & Upkeep cycle	T
V&V	Verification and Validation	
WBS	Work Breakdown Structure	
WEPS	Weighted Enterprise Performance Score	
WHS/WH&S	Work Health and Safety	
WTO	Work Task Order	T

2. DEFINITIONS

2.1 A definition is UNCLASSIFIED unless otherwise specified.

Term	Definition	
Acceptance	means signature by the Commonwealth Representative of a SAC in accordance with clause 7.7 of the COC; and "Accept" has a corresponding meaning.	
Accounts	means financial reports (consisting of the financial statement, notes, directors' declaration and any other information) that: a. have been prepared to satisfy Part 2M of the Corporations Act; or b. for a foreign person— have been prepared to satisfy applicable law; each prepared in accordance with applicable law and accounting standards, together with any auditor's report required thereon.	
Achieved Performance	for a Performance Measure for a Review Period, means a number representing the Contractor's performance against the Performance Measure in the Review Period, as determined in accordance with Attachment P.	
ACICA Arbitration Rules	means the rules used by the Australian Centre for International Commercial Arbitration (and any successor body) to administer arbitration cases, as in force from time to time.	
Acquisition Phase	means the combination of all work performed under the Head Contract, including under a Design & Productionisation Scope (including production prototyping) and any subsequent Build Scope(s).	T
Adjusted Performance Score	for a Performance Measure for a Review Period, means the percentage score determined, in accordance with Attachment P, as the Contractor's Adjusted Performance Score, representing the relative value of the Achieved Performance to the Commonwealth.	
Adjustment Claim	means a claim made for an adjustment under clause 7.3 of the COC.	
Adjustment Event	has the meaning given by clause 7.4 of the Conditions of Contract.	
Administration and Logistics Delay Time	means the period during which Maintenance is delayed for reasons of an administrative or logistics nature, including waiting for a spare to become available, waiting for an item of S&TE in order to perform Maintenance, waiting for transportation, waiting to use a facility required for Maintenance, and waiting for Maintenance Personnel to become available.	T
AIC Plan	means the plan set out in Annex B to Attachment F or in an Annex of a Scope Statement	

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AIC Strategy	means the strategy set out in Annex A to Attachment F.	
Allocated Baseline	means the documents that describe the functional, interoperability and interface characteristics allocated from higher level specifications to the Configuration Items that have been developed for the Ships. It includes additional design constraints and the Verification required to demonstrate the achievement of the functional, interoperability and interface characteristics.	T
Allowable Cost	means a cost of a type included as an Allowable Cost in Attachment B and any other cost determined under the Contract to be an Allowable Cost. Note to tenderers: for the purposes of the RFT, this means a cost permitted by the Allowable Cost Rules to be included in an invoice.	
Allowable Cost Rules	means the rules at Schedule 4 of Annex D to Attachment A to the Conditions of Tender.	T
Approval	a. for a data item, has the meaning given by clause [2.4.4] of the Master SOW; and b. in every other context, means the act of the Commonwealth Representative approving a particular claim, proposal or course of action as a basis for further work, under the Contract. Approval in either case does not constitute Acceptance; and "Approve" and "Approved" have a corresponding meaning.	
Approved Subcontractor	means a Subcontractor listed in Attachment H or in a Scope Statement and "Approved Subcontract" has a corresponding meaning.	
Asbestos Containing Material	has the meaning given in subregulation 5(1) of the <i>Work Health and Safety Regulations 2011</i> (Cth).	
At Risk Amount	has the meaning given by item 4 of the table at Schedule 3 to Annex D of Attachment A of the COT.	T
Audit	means a systematic, independent and documented process for obtaining audit evidence and evaluating it objectively to determine the extent to which audit criteria are fulfilled.	
AusTender	means the centralised publication of Australian Government business opportunities, annual procurement plans, multi-use lists and contracts awarded at https://www.tenders.gov.au/?event=public.home .	
Australian Industry	means any of the following that are registered for an ABN and that carry on business in Australia or New Zealand: a. any body corporate registered under the <i>Corporations Act 2001</i> (Cth), the <i>Companies Act 1955</i> (New Zealand), or incorporated under any law of the Commonwealth, or a State or Territory of Australia or a law of New Zealand; b. a partnership formed under the laws of the a State or Territory of Australia or a law of New Zealand; c. a natural person. For the avoidance of doubt, this includes Australian based subsidiaries of overseas companies/primes/original equipment manufacturers who are registered in Australia with an ABN and where the work is performed in Australia with Australian based employees of the subsidiary.	
Australian Industry Capability	means the capability of the Australian Industry to support the acquisition and sustainment of military equipment for the ADF.	

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Australian Privacy Principles	has the same meaning as in the <i>Privacy Act 1988</i> (Cth).	
Australian Standards	means a standard published by Standards Australia Limited ACN 087 326 690.	
Authorisation	means a licence, accreditation, permit, registration, regulatory approval, Export Approval or other documented authority (however described), required by law and necessary for the delivery of the Supplies or the performance of the Contract.	
Availability	means a measure of the degree to which an item or system is in an operable and committable state at a particular point in time.	T
Bank Guarantee Deed	means the draft deed at Attachment I of the draft Head Contract.	T
Base Date	has the meaning given by Item 2 of the Details Schedule or, for a Scope Statement, the date included in the Scope Statement as the Base Date for that Scope.	
Batch	means a batch of Ships included in a Build Scope.	T
Batch TCE	means a Target Cost Estimate for a Batch.	T
Break Fee	is the amount payable under clause 14.12 of the COCs, as calculated in accordance with Attachment B to the Contract.	
Budgetary Estimate	means, in respect of a Scope, the Tenderer's estimate of Allowable Costs (as set out in the Cost Breakdown Structure) to deliver the Scope in accordance with the Contract.	T
Build Margin	means a margin that is owned by the Contractor and is incorporated to account for uncertainties resulting from: <ul style="list-style-type: none"> a. differences in specified and delivered equipment; b. unknowns at the time a prediction is made; and c. anticipated minor changes in the design as items are exchanged during construction due to issues such as uncertainty associated with build location changes. 	T
Build Review	means a review by the Commonwealth of the construction of a Ship, and includes the activities referred to in clause 14.5 of the Conditions of Contract.	
Build Review Notice	means a notice given by the Commonwealth under clause 14.5 of the Conditions of Contract.	
Build Scope	means the Scope required to be performed by the Contractor to build a Ship or Ships.	
Capability	means the ability, resulting from the employment of the Mission System and the Support System, to achieve a desired operational effect in a nominated environment within a specified time and to sustain that effect for a designated period.	T
Capability Upgrade Margin	means a margin which allows for changes to be made to the operational capability of the Ship different from those defined in the MSS.	T
Change of Control	means: <ul style="list-style-type: none"> a. a body corporate or entity that Controls the Contractor or the Guarantor ceases to Control the Contractor or the Guarantor; or b. a body corporate or entity that does not Control the Contractor or the Guarantor comes to Control the Contractor or the Guarantor. 	

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Circuit Layout	means a circuit layout that is protected under the <i>Circuit Layouts Act 1989</i> (Cth) or the corresponding laws of any other jurisdiction.	
Claim	means a claim, demand, suit or proceeding of any kind, including by way of court proceedings, proceedings in the nature of arbitration, mediation or other methods of dispute resolution and administrative claims and proceedings (whether or not before a tribunal).	
Closing Time	means the Closing Time specified in the Tender Details Schedule.	T
CNS Strategy	means the strategy set out in Annex C to Attachment F.	
collective training	means the training of one or more crews, detachments, sub-units, units and formations in the conduct of tactical operations.	T
Combat Management System	means a combat management system selected by the Commonwealth for the Ships after the Closing Time.	T
Combat System	means the system providing the combat and defensive capabilities of a Ship including navigation systems, internal and external communications systems, command management and direction systems, various sensor and effector capabilities together with associated computer networks.	
Combat System Integrator	means a person engaged to integrate the Combat System into a Ship.	T
Combat System Specification	means the specification for the Combat System.	
Commencement of Prototyping Activities	means the commencement of the use of the Adelaide Shipyard in 2020 by the cutting of steel for the fabrication of steel ship structures used in prototyping activities to prove the capabilities of the Contractor, with the available infrastructure and production systems, prior to the Commencement of Ship Construction. "Commencing Prototyping Activities" has the same meaning.	T
Commencement of Ship Construction	means the commencement of the continuous construction at the Adelaide Shipyard, by the cutting of steel for the fabrication of steel ship structures to form part of the first Ship.	T
Commercial Licence	means, in relation to Commercial TD or Commercial Software, a non-exclusive licence of all Intellectual Property in respect of Commercial TD or Commercial Software. .	
Commercial Software	means Software, produced or developed by a person (other than the Contractor), that is: a. a Commercial Item; or b. supplied as part of, or in conjunction with, a Commercial Item under the applicable standard commercial terms applicable to the item; or c. Free and Open Source Software, and identified as 'Commercial Software' in the TDSR Schedule.	
Commercial TD	means TD, produced or developed by a person (other than the Contractor), that is: a. a Commercial Item; or b. supplied as part of, or in conjunction with, a Commercial Item or Commercial Software under the applicable standard commercial terms applicable to the item or software, and identified as 'Commercial TD' in the TDSR Schedule.	
Commercialise	means to exploit the Intellectual Property in TD, Contract Material or Software in return for the receipt of a Royalty or a commercial return.	

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Commonwealth Contractor	means a person (other than the Contractor or a Subcontractor) engaged by the Commonwealth to provide goods or services to the Commonwealth.	
Commonwealth Default	means a Default by the Commonwealth, a Commonwealth Officer or a Commonwealth Contractor.	
Commonwealth Direction	means a direction given by the Commonwealth under clause 4.14 of the COC.	
Commonwealth Mandated GFM	means GFM identified as “Commonwealth Mandated GFM” in Annex A to Attachment E or in a Scope Statement.	
Commonwealth Officer	means any of the following: a. a Minister of State for the Commonwealth; b. a person employed or engaged under the <i>Public Service Act 1999</i> (Cth) or the <i>Members of Parliament (Staff) Act 1984</i> (Cth); c. a person who is included in Defence Personnel; and d. a member of the Australian Federal Police.	
Commonwealth Personnel	means any officers, Defence Personnel or agents of the Commonwealth.	
Commonwealth Premises	means any of the following that is owned, leased, occupied or operated by the Commonwealth: a. an area of land or any other place (whether or not enclosed or built on); b. a building or other structure; and c. a vehicle, a vessel (including a submarine) or an aircraft.	
Commonwealth Property	means property of any kind (including GFM) owned or leased by, or in the possession of, the Commonwealth.	
Commonwealth Service Provider	means a person (including an officer or employee of the person) engaged to perform a function, or discharge a duty, of the Commonwealth, including a person engaged to provide: a. professional, administrative, contract management or project management services to Defence; or b. technical management or assurance services, including in relation to verification and validation, safety, certification, security, or capability development.	
Commonwealth Software	means the Software listed in Annex C to the TDSR Schedule.	
Commonwealth TD	means the TD listed in Annex C to the TDSR Schedule.	
Company ScoreCard	has the meaning given by the Defence Company ScoreCard Policy Statement.	
Competitive Evaluation Process	means the activities and processes undertaken to achieve the Project Objectives, including activities and processes: a. contemplated under or described in the PSC ; b. conducted before, during or after the term of the PSC.	T

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Concept Design	means the modification to the RSD comprising: a. Modified Mission System Specification (MMSS) in accordance with RRDS-DID-ENG-MMSS; b. Master Equipment List (MEL) in accordance with RRDS-DID-ENG-MEL; and c. General Arrangement (GA) Drawings in accordance with RRDS-DID-DWG-GA, as prepared under the Participant Services Contract.	
Confidential Information	means: a. any information in the Contract that is identified in Attachment N; or b. any other information: (i) that is commercially sensitive (not generally known or ascertainable); and (ii) the disclosure of which would cause unreasonable detriment to the owner of the information or another party; and (iii) that was provided with an express or implied understanding that it would remain confidential, but does not include information that: c. is or becomes public knowledge other than by breach of the Contract; d. is in the possession of a party without restriction in relation to disclosure before the date of receipt; or e. has been independently developed or acquired by the receiving party.	
Configuration Item	means an aggregation of hardware/software, or any of its discrete proportions, which satisfies an end item use function and is designated for Configuration Management.	
Configuration Management	means a process for establishing and maintaining consistency of a product's performance, functional, and physical attributes with its requirements, design and operational information throughout its life.	
Consortium	means an association proposed by a Tenderer in a response to the RFT, and includes a joint venture or partnership.	T
Consortium Member	a person who is a member of a Consortium.	T
consumable	means a non-Repairable Item (non-RI) which is consumed, or used beyond recovery in normal use, including non-RIs such as ammunition, adhesives, rivets, paint, fuel, lubricants, sealants, sheet metal, lock wire, nuts, bolts, cleaning materials and electrical wiring cables.	T
Contact Officer	means the Contact Officer specified in the Tender Details Schedule.	T
Continuous Improvement	means seeking to improve performance and cost effectiveness by process monitoring, process audit, change management, life cycle costing management, demand change management, logistics support analysis and maintenance requirements determination / failure modes effect criticality analysis.	T
Continuous Naval Shipbuilding	means the naval shipbuilding strategy of the Commonwealth that requires the long term continuous build of warships in Australia.	
Contract	means the COC (including the Details Schedule), each Scope Statement and Annexes, the attachments including the Statement of Work, and any document expressly incorporated as part of the Contract.	
Contract (Support)	means a contract entered into, or to be entered into, to sustain the major elements of the Supplies.	

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Contract Change Proposal	means a proposal in the format required by and submitted in accordance with clause 12.1 of the COC.	
Contract Documentation	means documentation forming part of any Head Contract, including the Conditions of Contract, Statements of Work, other Attachments and contract plans and other data items.	T
Contract Master Schedule	means the schedule maintained by the Contractor for the production of the Supplies, including Supplies in a Build Scope anticipated to be included in the Contract.	
Contract Material	means information, other than TD or Software, reduced to a material form (whether stored electronically or otherwise) that is provided or required to be provided to the Commonwealth under or in connection with the Contract.	
Contract Objectives	means the objectives of the parties in entering into the Contract set out in clause 1.3 of the COC.	
Contract Performance Review	means the review of the Contractor's performance conducted in accordance with the Master SOW.	
Contract Price	means the amount specified in Attachment B as the Contract Price and, where applicable, an amount set out in a Scope Statement.	
Contract Work Breakdown Structure	means the contract work breakdown structure required by the Master SOW.	
Contractor (Support)	means the party (other than the Commonwealth) to the Contract (Support).	
Contractor Default	means a Default in relation to the Contract by the Contractor or Contractor Personnel.	
Contractor Maintained Licensed Fittings	for a GFF Licensed Area, means the Licensed Fittings identified in the list titled "Contractor Maintained Licensed Fittings" included in Appendix 2 of the relevant annex to Attachment O.	
Contractor Managed Commonwealth Assets	means any item of Commonwealth Property subject to inventory and stock control that is in the care, custody or control of the Contractor or Contractor Personnel for the purposes of the Contract.	
Contractor Personnel	means each of the following: a. an employee, officer or agent of the Contractor; b. a Subcontractor; and c. an employee, officer or agent of a Subcontractor.	
Contractor Premises	means any of the following: a. premises owned by the Contractor, a Related Body Corporate of the Contractor, or a Subcontractor; and b. premises (including any GFF): (i) that is leased by, or licensed to, the Contractor, a Related Body Corporate of the Contractor, or a Subcontractor; and (ii) where the Contractor, Related Body Corporate or the Subcontractor is responsible for controlling physical access to the premises.	

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Control	means, in relation to the Contractor or the Guarantor, any of the following: a. the ability to exercise or control the exercise of the right to vote in respect of more than 50% of the voting shares or other form of voting equity in the Contractor or the Guarantor; b. the ability to dispose or exercise control over the disposal of more than 50% of the shares or other form of equity in the Contractor or the Guarantor; c. the ability to appoint or remove a majority of the directors of the Contractor or the Guarantor; d. the ability to exercise or control the exercise of the casting of a majority of votes at the meeting of the board of directors of the Contractor or the Guarantor; and e. any other means, direct or indirect, of dominating the decision making and financial and operating policies of the Contractor or the Guarantor.	
Controller	has the same meaning as in the <i>Corporations Act 2001</i> (Cth).	
Corrective Maintenance	means those actions necessary to restore items or systems (both hardware and software) to a satisfactory condition or level of performance after Failure or other unsatisfactory condition has been detected. It may be performed on any item, irrespective of whether another form of Maintenance (such as Preventive Maintenance) is also defined for the item. In some cases the Corrective Maintenance action necessary may be equivalent to a Preventive Maintenance task defined for the item. Corrective Maintenance may also occur as a result of a suspected Failure, even if further investigation indicates that no actual Failure occurred.	T
Cost Breakdown Structure	the structure and details for specific products and activities required under the Contract against which pricing information is to be supplied at Schedule 2 of Annex D to the Tender Data Requirements.	T
Cost Event	has the meaning in clause 7.4.1b of the COC.	
Costed Risk Register	means the risk register required by Annex D to Attachment A to the COT.	T
Cost-Plus Fixed Fee	means the pricing model of that name described in Attachment B. Note to tenderers: this is described in Annex D to Attachment A of the COT.	
Data Management System	means the Contractor's system for providing on-line access to data items	T
day	means a calendar day.	
Deed of Confidentiality and Fidelity	means a Deed of Confidentiality in the form at Annex B to Attachment I of the Contract (or such other form required by the Commonwealth).	
Deed of Undertaking	means a deed in the form of Annex H to Attachment A to the COT.	T

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Default	<p>means any of the following:</p> <ol style="list-style-type: none"> a breach of an express or implied provision of the Contract by a party to the Contract; and a breach of a general law duty or an applicable law in relation to the Contract by any of the following: <ol style="list-style-type: none"> the Commonwealth or Commonwealth Personnel; a Commonwealth Contractor or an employee, officer or agent of a Commonwealth Contractor; and the Contractor or Contractor Personnel. <p>A breach of a general law duty or an applicable law by Commonwealth Personnel, a Commonwealth Contractor or an employee, officer or agent of a Commonwealth Contractor is taken to be a Default by the Commonwealth.</p> <p>A breach of a general law duty or an applicable law by Contractor Personnel is taken to be a Default of the Contractor.</p>
Default Notice	means a notice given under clause 14.9.1 of the COC.
Defect	<p>means a defect, fault (including a fault which results in a Failure), a damage or omission, whether in design, workmanship or materials, and includes a Latent Defect; and "Defective" has a corresponding meaning.</p> <p>Without limiting what "Defective" means, Supplies are Defective if:</p> <ol style="list-style-type: none"> they do not conform to the requirements of the Contract; they are not fit for purpose as described in clause 4.3 of the COC; or they are not in proper and effective working order. <p>A defect, fault, damage or omission in an item is not a Defect to the extent that it results from fair wear and tear.</p>
Defence	means the Department of Defence and/or the Australian Defence Force.
Defence Emergency	<p>each of the following:</p> <ol style="list-style-type: none"> a Time of Defence Emergency or a Time of War within the meaning of the <i>Defence Act 1903</i> (Cth); a period in which the Reserves (as defined in the <i>Defence Act 1903</i> (Cth)), or any part thereof, are called out under section 50D of the <i>Defence Act 1903</i> (Cth); a period during which the ADF (or any part of it) is called out or utilised under Part IIIAAA of the <i>Defence Act 1903</i> (Cth); any other event or circumstance, or combination of events or circumstances, that the Commonwealth Representative designates in writing to the Industry Participants as a Defence Emergency for the purposes of this definition. Without limiting those events or circumstances, the Commonwealth Representative may make such a designation in respect of events or circumstances relating to: <ol style="list-style-type: none"> Defence Aid to the Civil Power within the meaning of any Defence Instruction; Defence Assistance to the Civil Community within the meaning of any Defence Instruction; Defence Response to Overseas Disasters within the meaning of any Defence Instruction; or Defence Special Aeromedical Evacuations within the meaning of any Defence Instruction.

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Defence Industry Security Program	means the program described by that name in the Defence Security Manual.	
Defence Personnel	means an employee of the Department of Defence or a member of the Australian Defence Force (whether of the Permanent Forces or Reserves as defined in the <i>Defence Act 1903</i> (Cth)) and the equivalents from other organisations on exchange to Defence.	
Defence Property	means Commonwealth Property administered by Defence.	
Defence Rates Review	means a formal review of contractor labour rates and overheads conducted by Defence's Financial Investigation Services.	T
Defence Service Provider	means a person, other than Defence Personnel, involved in Defence work or engaged by Defence.	
Delay Event	has the meaning in clause 7.4.1a of the COC.	
Delivery Schedule	means an Annex to a Scope Statement called a Delivery Schedule which sets out the timeline for delivery of Supplies and for work under the Scope.	
Design and Productionisation	means the work required as part of the Design and Productionisation Scope.	T
Design and Productionisation Scope	means the Scope for the design of the Ships and the establishment of the production facilities at the Shipyard as set out in Part B to Attachment A.	
Design Authority	means the authority established by the Contractor pursuant to clause 4.5 of the COC.	
Design Documentation	means each design, drawing, plan and other document in relation to the design of the Ships and associated Supplies required by the Contract and includes: [...RELEVANT DESIGN DOCUMENTATION TO BE INCLUDED...]	
Design Margin	means the margin that is owned by the Contractor and is incorporated to account for uncertainties resulting from: a. prediction errors associated with estimating techniques; b. unknowns at the time a prediction is made; and c. anticipated minor changes in the design as the design develops.	T
Designer's Certificate	means the Contractor's certification of an item of equipment, sub-system or system which requires Approval by an authorised design acceptance representative that the design complies with all applicable regulatory requirements.	T
Details Schedule	means the Details Schedule of the Contract and includes the Details Schedule of any Scope Statement.	
Development Baseline	means the approved technical documentation that describes the functional, interoperability and interface characteristics of a Configuration Item during the detailed design and development phase of its life cycle.	T
Deviation	means written authorisation to depart from the originally specified requirements for a product before its production, granted following an application for a Deviation submitted before the event, when a condition is identified as not being able to be achieved, such as any of the following: a. test requirement; b. process requirement; c. material requirement; and d. quality system requirement.	

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Dispute	means any dispute, difference or disagreement between the parties arising out of or in connection with this Contract, including any dispute or difference as to the formation, validity, existence or termination of this Contract.	
Dispute Notice	means a notice issued under clause 14.6.3 of the COC.	
document	includes each of the following: a. any paper or other materials on which there are writing, marks, figures, symbols or perforations having meaning for persons qualified to interpret them; and b. any article or material from which sound, images, or writings are capable of being reproduced with or without the aid of any other article or device.	
Earned Value Management	means the program for integrating scope, schedule, and resources and for measuring project performance under the Contract. It compares the amount of work that was planned with what was actually completed and what was actually spent to determine if cost and schedule performance are as planned. It also includes the management action to correct deviations from the plan.	
Earned Value Management System	means a system established for clause 4.17 of the Conditions of Contract and that complies with clause [3.2.5] of the Master SOW. Note to tenderers: this is described in clause 4.3 of Annex E to Attachment A of the COT.	
Effective Date	means the date set out in Item 1 of the Details Schedule	
End Product	means an item, either an individual part or assembly, in its final or completed state.	T
Engineering Change Proposal	means a formal written proposal by the Commonwealth or the Contractor, prepared in accordance with the terms of the Contract, to vary the specific requirements of an article, either delivered or to be delivered, which will require revision of any of the following: a. the contract specification; b. the engineering drawings; and c. any document referenced from the documents identified in either subclause a or b.	
Engineering Support	means the organisation of hardware, software, materiel, Facilities, Personnel, processes, and Technical Data needed to enable engineering and design-management services to be competently provided for the Materiel System throughout its LOT. Engineering Support includes software support.	T
Enterprise	means the major Commonwealth shipbuilding programs undertaken in Adelaide, South Australia including the Project, SEA1000 Future Submarine Program, SEA1180 Offshore Patrol Vessel Program and the completion of the SEA4000 Air Warfare Destroyers.	
Enterprise Key Performance Indicator or Enterprise KPIs	means the Performance Measure of that description in Attachment P.	
Enterprise Performance Incentive	means a monetary performance incentive for achievement of an KPI that addresses an Enterprise requirement.	T
Enterprise Resource Planning	means the integration of an organisation's functional areas using a suite of computer or software based systems, generally consisting of one database, one application and a unified interface across the entire enterprise.	T

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Environment	<p>in the context of environmental management, means any of the following:</p> <ul style="list-style-type: none"> a. ecosystems and their constituent parts; b. natural and physical resources; c. the qualities and characteristics of locations, places and areas; d. noise; and e. the social, economic, aesthetic and cultural aspects of a thing mentioned in paragraphs a, b or c. <p>in the context of the Mission System and Support System design, means the user specific regulatory, physical, functional or climatic and, operating or support environment, as specified in the OSI.</p>	
Environmental Law	<p>any legislation which regulates or has as its purpose, objective or effect the regulation, protection or enhancement of any of the following in respect of any land:</p> <ul style="list-style-type: none"> a. each interaction of any activity on the land or of the land itself with the Environment; and b. each of the following aspects of that land: <ul style="list-style-type: none"> (i) heritage items on the land or heritage values or significance of the land or anything on it; (ii) contamination of or from the land or from activities on the land; (iii) pollution of or from the land or from activities on it; (iv) the flora and fauna on or in the vicinity of the land including threatened species, populations or ecological communities or their habitats on or in the vicinity of the land; (v) critical habitat on or in the vicinity of the land; (vi) the propensity of the land to be affected by natural disasters such as bushfires, flooding or geotechnical instability or earthquakes; (vii) the physical, chemical or geotechnical characteristics of the land or any structures on it; and (viii) the zoning or permissible uses of the land. 	
Evaluation Criteria	means the criteria set out in column (a) of the table in clause 3.9.1 of the COT.	T
Excepted Risk	<p>means an event or circumstance that is any of the following:</p> <ul style="list-style-type: none"> a. an act of God, including a natural disaster, such as a bushfire, an earthquake, a flood, a landslide or a cyclone; b. war, invasion, acts of foreign enemies, hostilities between nations, a terrorist act as defined in section 100.1 of the Criminal Code, civil insurrection or militarily usurped power; c. confiscation by governments or public authorities; and d. ionising radiation, contamination by radioactivity from nuclear fuel or waste, or combustion of nuclear fuels. 	
Expert	means the technical expert referred to in Attachment L.	
Expert Determination Rules	means The Institute of Arbitrators & Mediators Australia Expert Determination Rules current as at the date the Referral Notice under clause 3.2 of Attachment L was given.	

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Export Approval	means an export licence, agreement, approval or other documented authority (however described) relating to export, required from the relevant authority in the country of origin and necessary for the performance of the Contract, including the provision and use of the Supplies.	
External Maintenance	means maintenance not performed by the ship's crew and includes both Preventive and Corrective Maintenance.	T
Facilities	means all mobile, fixed, permanent and semi-permanent buildings, structures, installations, and the associated machinery, plant and utilities for the operating, engineering, Maintenance, supply, Training, and administrative elements of a Materiel System.	
Facilities Assumption Document	means the document at Appendix 3 to Annex F of the Tender Data Requirements.	T
Facilities Condition Report	in relation to a GFF Licensed Area, means the report at Appendix 3 of the relevant annex to Attachment O.	
Facilities Delay Event	means a GFF Delay Event in respect of the Shipyard.	
Failure	means the inability of a system or component to perform its required functions within specified performance requirements. The fault tolerance discipline distinguishes between a human action (a mistake), its manifestation (a hardware or software fault), the result of the fault (a failure), and the amount by which the result is incorrect (the error).	
Fee	an amount payable as profit and calculated in accordance with Attachment B or a Scope Statement.	
Final Acceptance	means signature, by the Commonwealth Representative, of a Final Acceptance Certificate in accordance with clause 7.8 of the COC.	
Final Acceptance Certificate	means the certificate issued under clause 7.8 of the COC and as set out at Annex D to Attachment I.	
Finance Annex	means an annex to a Scope Statement that sets out the price and payment arrangements applicable to that Scope Statement.	
Financial Data Table	means the table of the same name included in Attachment B or a Scope Statement.	

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Financial Indebtedness	<p>an obligation (whether present or future, actual or contingent) to pay or deliver any money or commodity under or in respect of any financial accommodation including under or in respect of any:</p> <ul style="list-style-type: none"> a. money borrowed or raised; b. redeemable or repurchasable share or stock; c. bill of exchange, promissory note or other financial instrument (whether or not transferable or negotiable); d. put option or buyback or discounting arrangement in respect of any property; e. lease, licence or other arrangement in respect of any property entered into primarily to raise finance or to finance the acquisition of that property (other than a lease, licence or arrangement which may be accounted for as an operating lease under applicable generally accepted accounting principles); f. hire purchase or deferred payment obligation for any property or service; g. interest or currency swap or hedge arrangement, financial option, futures contract or analogous transaction; or h. arrangement which achieves the same or a similar commercial effect as or to any of the above, <p>and any guarantee of Financial Indebtedness of another person.</p>	
Fixed Fee	means the agreed and fixed amount of Fee payable to the Contractor under a Cost-Plus Fixed Fee model.	T
Fixed Price	has the meaning given by Annex D to Attachment A of the COT.	T
Fixed Price model	means the pricing model of that name described in Attachment B.	
Free and Open Source Software	<p>means Software that:</p> <ul style="list-style-type: none"> a. is distributed on a free to use basis without a requirement to pay a Royalty or other fee; and b. may be used, modified, developed or adapted by any person subject to specified conditions, <p>and includes open source software, public domain software, shareware, community source software and freeware.</p>	
Functional Baseline	means the current Approved documentation for a system or top level CI, which describes the functional, performance, interoperability and interface characteristics and the Verification required to demonstrate the achievement of those specified characteristics. The system or segment specification establishes the functional baseline for the Mission System and the Support System.	
Fundamental Inputs to Capability	<p>means a standard checklist designed to report on all of the inputs that enable the effective and ongoing generation of Defence capabilities.</p> <p><i>Note to tenderers: The inputs include personnel, organisation, collective training, major systems, supplies, facilities and training areas, support, and command and management.</i></p>	T
Future Frigates	means the Ships.	
General Interest Charge	the general interest rate charge available from the Australian Taxation Office.	
GFF Common Area	means an area of a GFF Licensed Area or the Commonwealth Premises in which the GFF is located, identified in the plans in Appendix 1 of the relevant annex to Attachment O as a GFF Common Area.	

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GFF Delay Event	<p>means any of the following:</p> <ul style="list-style-type: none"> a. the Commonwealth excludes the Contractor or Contractor Personnel from the GFF (or a substantial part of it) other than as reasonably necessary for the normal operation and maintenance of the Commonwealth Premises in which the GFF is located; b. the Commonwealth requires the Contractor to relocate from the GFF to another location; c. the GFF Licence is terminated by the Commonwealth; and d. the Contractor cannot exercise (or fully exercise) a right granted under the GFF Licence due to a Commonwealth Default or a breach of a general law duty or an applicable law by an Unrelated Party, <p>other than as a result of a Contractor Default or an Excepted Risk.</p>
GFF Licence	means the licence granted by clause 4.11 of the COC.
GFF Licence Application Date	in relation to a GFF Licensed Area, means the date specified in the annex for that GFF Licensed Area as the date on which the GFF Licence applies to the GFF Licensed Area.
GFF Licence Commencement Date	in relation to the GFF Licence, means [PROJECT TO INSERT DATE] , being the date the GFF Licence commences.
GFF Licence Expiry Date	in relation to the GFF Licence, means [PROJECT TO INSERT DATE] , being the date the GFF Licence expires and ceases to have effect.
GFF Licence Term	in relation to a GFF Licence, means the period determined in accordance with clause 1.1 of Attachment O.
GFF Licensed Area	in relation to a GFF Licence, means the area forming part of a Commonwealth Premises and identified as such in Appendix 1 of the relevant annex to Attachment O, including all buildings in that area and all Licensed Fittings in that area or those buildings.
GFF Permitted Purpose	<p>means any of the following:</p> <ul style="list-style-type: none"> a. the purpose of performing the Contractor's obligations under and in connection with the Contract; and b. if the Commonwealth Representative consents in writing to the use of a GFF Licensed Area for a purpose under or in connection with another contract to which the Commonwealth is a party, the other purpose.
GFM Annex	means an Annex of the same name in a Scope Statement that sets out the GFM to be provided to the Contractor under the Scope.
Glossary	means this glossary.
Government Agency	<p>means a person or body performing governmental functions, including any of the following:</p> <ul style="list-style-type: none"> a. a body politic; b. a government or government department or other body; c. a governmental, semi-governmental or judicial person; and d. a person (whether autonomous or not) charged with the administration of a law.
Government Furnished Data	means the data listed in Annex A to Attachment E under the heading "Government Furnished Data".

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Government Furnished Equipment	means the equipment listed in Annex A to Attachment E under the heading "Government Furnished Equipment".	
Government Furnished Facilities	means the GFF Licensed Area(s) identified in Attachment O.	
Government Furnished Information	means the information listed in Annex A to Attachment E under the heading "Government Furnished Information".	
Government Furnished Material	is the collective name for the GFD, GFE, and GFI to be provided to the Contractor under the Contract and which is listed in Annex A to Attachment E or a GFM Annex to a Scope Statement.	
GST Act	means the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth) and associated taxation legislation.	
Head Contract	means the Head Contract COC (including the Details Schedule), each Scope Statement and Annexes, the attachments including the Statement of Work, and any document expressly incorporated as part of the Head Contract.	T
Incentive Payment	means a payment of that description as calculated in accordance with Attachment B or a Scope Statement.	
Indigenous Enterprise	means an organisation that is 50 per cent or more Indigenous owned that is operating a recognised and registered business. Note to tenderers: Supply Nation maintains a list of enterprises that meet this requirement (www.supplynation.org.au).	T
In-Service Growth Margin	means a margin which allows for un-attributable growth to the Ship.	T
In-Service Support Contractor	means the contractor engaged to provide support for the Ships after Acceptance.	T
Insolvency Event	means, in respect of a person, any of the following: a. the person: (i) becoming insolvent; (ii) ceasing to carry on all or a material part of its business; or (iii) taking any step toward entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors; b. the appointment of a Controller, a liquidator or provisional liquidator, trustee for creditors or in bankruptcy or analogous person to the person or any of the person's property; c. the person becoming subject to external administration provided for in Chapter 5 of the <i>Corporations Act 2001</i> (Cth); d. the person suffering execution against, or the holder of a Security Interest or any agent on its behalf taking possession of, any of the person's property (including seizing the person's property within the meaning of section 123 of the <i>Personal Properties Securities Act 2009</i> (Cth)); e. the person being taken under section 459F(1) of the <i>Corporations Act 2001</i> (Cth) to have failed to comply with a statutory demand; f. an order or resolution for the winding up or deregistration of the person; g. a court or other authority enforcing any judgment or order against the person for the payment of money or the recovery of any property; and h. any analogous event under the law of any applicable jurisdiction.	

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Integrated Baseline Review	means the review conducted to determine the adequacy of: a. the Contractor's Performance Measurement Baseline in accordance with clause [3.2.5] of the Master SOW; and b. the Subcontractors' Performance Measurement Baseline in accordance with clause [3.5.2] of the Master SOW.	
Integrated Investment Program	means the Integrated Investment Program for the Department of Defence which is published by the Commonwealth.	T
Integrated Logistic Support	means the unified and iterative approach to the management and technical activities needed to: a. influence the operational and materiel requirements and design specifications; b. define the support requirements best related to materiel system design and to each other; c. develop and provide the required support at the most economic cost; d. maximize equipment availability, while keeping operating and support costs at a minimum over the life of every item in the system; and e. review equipment support requirements throughout the life of every item in the system.	T
Integrated Shipyard Schedule	means the schedule for the completion of the Enterprise conducted at the Shipyard.	
Intellectual Property	means all present and future rights conferred by law in or in relation to any of the following: a. Copyright; b. rights in relation to a Circuit Layout, Patent, Registrable Design or Trade Mark (including service marks); or c. any other rights resulting from intellectual activity in the industrial, scientific, literary and artistic fields recognised in domestic law anywhere in the world whether registered or unregistered.	
Interoperability	means the ability of systems, units or forces to provide services to, and accept services from, other systems, units or forces and to use the services so exchanged to enable them to operate effectively together.	T
IP Deed	means a deed in the form of Annex A to Attachment I of the Contract, referred to in clause 6.7 of the COC.	
Issue	means a concern or action whose progress needs to be monitored, but which is technically not a risk because it does not represent any cost or schedule threat to the Contract at this point in time. Typical issues include action items from meetings, corrective actions, and concerns or actions arising from correspondence, metrics collection and analysis, deviation from progress against plans, and reviews of process application.	T
Key Commercial Item	means a Commercial Item of the type described in Annex C to the TDSR Schedule.	
Key Person	means a person filling a Key Staff Position.	
Key Staff Position	means any position within the Contractor's organisation or an Approved Subcontractor's organisation that requires a person with highly specialised skills or such capabilities that are crucial to the success of the project.	

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Latent Defect	means a Defect that: a. was not discoverable by reasonable care or inspection before Acceptance of the Supplies (or if the Contract does not provide for Acceptance of the Supplies, Final Acceptance), as the case may be; and b. other than in relation to Software, falls outside the incidence of random Failures to be expected of Supplies of the relevant kind.	
Licence	means a non-exclusive licence of IP in respect of TD, Software or Contract Material, being a licence that: a. is fully paid-up and does not require any additional payment by the licensee, including by way of Royalty or any other fee; b. cannot be revoked or terminated by the licensor for any reason except upon expiration of a statutory protection term; c. operates in perpetuity without any action required on the part of the licensee to renew or extend the licence; d. operates on a world-wide basis; and e. binds each successor in title to the owner of the Intellectual Property in respect of the TD, Software or Contract Material, but does not include a right to Commercialise.	
Licensed Fittings	means the following items in a GFF Licensed Area: a. fixed internal partitioning and panelling; b. floor coverings, window blinds and awnings; c. cabling and connection points of any installed telecommunication systems; d. lines, conduits, connections, taps, outlets, controls and regulatory and safety devices of any reticulated electricity, gas or water supply; e. sinks and basins, f. fire sprinkler systems; g. light, heating and air-conditioning fittings; h. installed warning or alarm systems; i. signage supporting the function or the intended function of the GFF; j. hoses and compressor units; k. other fixed plant and equipment (not being GFE), including that listed in an appendix to an annex to Attachment O; and l. any other items made available in a GFF Licensed Area by the Commonwealth for the Contractor's use, and any items that replace those while the GFF Licence is in force, but does not include items that are GFE.	
Life Cycle Cost	means the total cost to the Commonwealth of acquisition and ownership (both direct and indirect) of the Mission System and Support System over the LOT of the Mission System. The LCC includes all costs associated with acquisition, In-Service operations, logistics support, and disposal.	T
Life-Of-Type	means the planned duration of the service life of the Ship. For this Contract, the LOT is the period of [PROJECT TO INSERT PERIOD] years following Final Acceptance.	

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Local Industry Activities	means the value of Australian industrial base work performed in Australia in support of the Defence acquisition activities. It is the (GST exclusive) dollar value of work committed in contract, where the actual works clearly creates, enhances or maintains Defence capability and that will be performed by Australian Industry.	
Local Overheads	means Australian expenditure on taxes, custom duties, insurances, bank fees, COTS/ MOTS hardware, software and supplies, infrastructure, corporate overheads, goods and services. For the avoidance of doubt, any expenditure that does not fall within the Local Industry Activity definition is Local Overheads.	
Logistics Support Analysis	means a disciplined and structured approach, highlighting actions to define, analyse, and quantify logistics support requirements, and to influence design for supportability, throughout system development.	T
Long Lead Time Item	means a Support System Component which, because of its complexity of design, complicated manufacturing process, or limited production capacity, would cause extended production or procurement cycles that would preclude timely delivery if not ordered in advance of the normal provisioning processes under the Head Contract for the particular type of Support System Component.	T
Loss	means any liability, loss (including economic loss), damage, compensation, costs and expenses.	
Maintenance	means all actions taken to retain materiel in, or restore it to, a specified condition or to restore it to serviceability; and "Maintain" has a corresponding meaning. It includes inspection, condition monitoring, servicing, repair, overhaul, testing, calibration, rebuilding, reclamation, upgrades, modification, recovery, classification and the salvage of technical equipment. Maintenance includes both Corrective Maintenance and Preventive Maintenance.	T
Maintenance Support	means the organisation of hardware, software, materiel, Facilities, Personnel, processes, and Technical Data needed to enable Maintenance services to be competently provided for the Materiel System throughout its LOT.	T
Major Change	means a Class I Engineering Change Proposal.	
Malware	means Software or Source Code the intent or effect of which is malicious, ie software that may appear to perform a useful or desirable function, but that actually gains unauthorised access to system resources or induces the user to execute other malicious logic. Malware is a generic term for a number of different types of malicious code including adware, spyware, bots, ransomware, rootkits, trojans, viruses and worms.	
Management Reserve	means the allowance for risk as described in Attachment B. <i>Note to tenderers: Management Reserve is described in Annex D of Attachment A to the COT.</i>	
management services	means Contractor enabling services that comprise the ongoing component of Master Scope.	T
Mandated GFM	means Government Furnished Material mandated by the Commonwealth for use in the Project.	
Mandated Subcontract	a Subcontract required to be entered into with a Mandated Subcontractor.	
Mandated Subcontractor	a Subcontractor identified by the Commonwealth for the purposes of clause 12.11 of the COC.	
Mandated Supplies	means goods or services provided by a Mandated Subcontractor.	
Master Scope	means the Scope for the ongoing and enduring management and related activities of the Project.	

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Master SOW	means the Statement of Work for the Master Scope.
Master Specifications	means the specifications used for the first Ship.
Material Adverse Effect	<p>without limiting the meaning of the expression Material Adverse Effect or any other provision of the Contract, an event has a Material Adverse Effect if, in the Commonwealth's reasonable opinion, the event:</p> <ul style="list-style-type: none"> a. has or is likely to have a substantial or significant adverse effect on the procurement (including the design, construction, installation, integration, testing, trialling and delivery) of the Supplies; or b. has or is likely to have a substantial or significant adverse effect on: <ul style="list-style-type: none"> (i) the ability of the Contractor or a Related Body Corporate to perform its obligations in relation to the procurement (including the design, construction, installation, integration, testing, trialling and delivery) of the Supplies; or (ii) the effectiveness or priority of a Security Interest given to the Commonwealth to secure obligations in relation to the Contract.
Material Subcontract	means a Subcontract with a Material Subcontractor
Material Subcontractor	means a Subcontractor, or proposed Subcontractor that will have, or has, a work share of greater than 7.5% of the total Contract value and that is specified as a Material Subcontractor under clause 12.12 of the COC.
Materiel Safety	<p>means that the Materiel Systems, including elements thereof, are, so far as is reasonably practicable, without risks to the health and safety of persons who:</p> <ul style="list-style-type: none"> a. use those Materiel Systems or elements for a purpose for which they were designed and manufactured; b. handle those Materiel Systems or elements; c. store those Materiel Systems or elements; d. construct those Materiel Systems or elements; e. carry out any reasonably foreseeable activity in relation to the manufacture, assembly or use of the Materiel Systems or elements or proper storage decommissioning, or disposal (eg, inspection, operation, cleaning, Maintenance or repair of Materiel Systems or elements); and f. are at or in the vicinity of a workplace and who are exposed to Materiel Systems or elements at that workplace or whose health or safety is affected by any activity referred to in sub-paragraph (a) to (e) above.
Materiel System	means the combination of the Mission System and the Support System.
Matter of National Environmental Significance	<p>has the meaning under the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cth).</p>
Milestone	means an event specified as a Milestone in any of Attachment B, Attachment C or a Scope Statement.
Milestone Date	in relation to a Milestone, means the date for achievement of the Milestone as set out in any of Attachment B, Attachment C or a Scope Statement..
Milestone Payment	in relation to a Milestone, means the amount set out in Annex B to Attachment B or a Scope Statement in respect of the Milestone.

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Moral Rights	means each of the following rights: a. a right of attribution of authorship; b. a right not to have authorship falsely attributed; and c. a right of integrity of authorship.	
Objective Quality Evidence	means specified documentary evidence required to Verify and/or Validate an End Product for its specified application.	T
Operating and Support Intent	means document which details the full range of operational effects of the capability (the “operating intent”) and the FIC elements required to support he achievement of the operational effect (the “support intent”). In the early phases, the OSI will evolve as the requirements become more formally defined, more information becomes available, and constraints are better understood. In service, the Ships will be expected to operate within this OSI.	T
Operating Expenses	means the total of all costs, charges, fees, expenses, Taxes and other outgoings paid or payable, charged or chargeable, assessed or assessable upon or otherwise incurred by the Commonwealth in respect of the Commonwealth Premises in which the GFF is located or in managing, supervising, operating, cleaning, painting, maintaining and keeping secure the Commonwealth Premises in which the GFF is located and not otherwise recouped by the Commonwealth under the GFF Licence, including all of the following: a. all amounts paid or payable to any Government Agency in respect of the Commonwealth Premises in which the GFF is located (not including a GFF Licence fee, if any); b. all insurance premiums payable in respect of the insurances effected by the Commonwealth in respect of the Commonwealth Premises in which the GFF is located against risks referable to the Commonwealth Premises in which the GFF is located or to the Commonwealth in relation to the Commonwealth’s ownership or interest in the Commonwealth Premises in which the GFF is located; c. amounts incurred in respect of the maintenance, operation, renovation, repair, upgrade and upkeep of the Commonwealth Premises in which the GFF is located (other than those parts of the Commonwealth Premises in which the GFF is located from which the Contractor derives no benefit from a right of access); d. amounts incurred in respect of cleaning, lighting, maintaining and servicing common areas; e. amounts incurred in respect of caretaking, security and other expenses associated with facilities provided on or from the Commonwealth Premises in which the GFF is located; f. amounts incurred in respect of control and security (including fees payable to the Commonwealth’s security contractors, car parking attendants and traffic supervisors) in connection with the Commonwealth Premises in which the GFF is located (including amounts incurred in respect of salaries and wages, labour on costs and accident compensation insurance premiums); g. amounts incurred in respect of maintenance, repair and testing of fire fighting and protection equipment (including sprinkler installations, hydrants, fire extinguishers, smoke detectors and other fire fighting equipment) installed by the Commonwealth on the Commonwealth Premises in which the GFF is located, including amounts paid or payable to a Government in respect of the supply, maintenance, servicing and monitoring of fire alarms; h. amounts incurred in respect of any other services (including IT services) provided in respect of the Commonwealth Premises in which the GFF is located, including: (i) amounts payable to specialist contractors;	

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	<p>(ii) wages paid to permanent staff employed; and</p> <p>(iii) the cost of materials used by the Commonwealth, in connection with those services;</p> <p>i. amounts that the Commonwealth incurs in respect of the management and supervision of the Commonwealth Premises in which the GFF is located and arrangements for use or occupation of or access to the Commonwealth Premises in which the GFF is located;</p> <p>j. amounts incurred in complying with any requirement of a Government Agency in relation to the Commonwealth Premises in which the GFF is located (other than those parts of the Commonwealth Premises in which the GFF is located to which there is no access or use by the public or the Contractor) but excluding requirements which are the responsibility of a particular tenant, licensee or occupier of the Commonwealth Premises in which the GFF is located; and</p> <p>k. any other expenditure reasonably and properly incurred by the Commonwealth in the operation and maintenance of the Commonwealth Premises in which the GFF is located,</p> <p>but excluding any of the following:</p> <p>l. costs of capital repairs (provided these are not needed because of Contractor Default);</p> <p>m. amounts that the Commonwealth is not permitted by law to recover from the Contractor;</p> <p>n. amounts of GST in respect of the GFF Licence; and</p> <p>o. any other amounts payable or to be borne by the Contractor under Attachment O.</p>	
Operating Support	means the organisation of hardware, software, materiel, Facilities, Personnel, processes and Technical Data needed to enable the Mission System to be competently operated throughout its LOT.	T
Organic Maintenance	means maintenance conducted by a ship's crew.	T
Organic Spares	means spares procured for the purposes of Organic Maintenance.	T
Other Performance Measure	means a Performance Measure listed in Attachment P, which is used to obtain information that is relevant to the management of the Contract but which is not a KPI.	
Outcome	means an outcome for a Performance Measure described in Attachment P.	
Ozone Depleting Substance	means any substance identified as having ozone depleting potential in the <i>Ozone Protection and Synthetic Greenhouse Gas Management Act 1989</i> (Cth) or any regulations made under that Act.	
Packaging	means the wrapping, container, cushioning materials and palletisation materials as required in which an item is delivered, handled, stored or distributed until required for use or to be disposed of.	
Participant Services Contract	<p>as applicable to the Contractor, means:</p> <p>a. the Participant Services Contract between the Commonwealth of Australia and Fincantieri S.p.A., signed by the parties on 4 August 2016;</p> <p>b. the Participant Services Contract between the Commonwealth of Australia and BAE Systems Surface Ships Limited, signed by the parties on 11 August 2016 and 12 August 2016; and</p> <p>c. the Participant Services Contract between the Commonwealth of Australia and Navantia S.A., signed by the parties on 12 August 2016,</p> <p>as amended from time to time.</p>	

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Pass Through Expenses	means reimbursable expenses incurred by the Contractor (eg travel expenses) that will be reimbursed by the Commonwealth at cost (ie without margin or mark-up).	T
Patent	means the rights and interests in any registered, pending, or restored standard or innovation patent under the <i>Patents Act 1990</i> (Cth) or the corresponding laws of any other jurisdiction, including all provisional applications, substitutions, continuations, continuations-in-part, continued prosecution applications including requests for continued examination, divisions, additions and renewals, all letters patent granted, and all reissues, re-examinations and extensions, term restorations, confirmations, registrations, revalidations, revisions and supplemental protection certificates.	
Performance Attribute	means each Performance Attribute identified in Annex A to Attachment P of the Contract.	
Performance Measure	means a unit or standard of measurement pertaining to a particular Supply, action, deed or proceedings, measured either from the process itself or the impact on the resultant outcomes.	
Performance Measurement Baseline	means the agreed time-phased budget plan against which Contract performance is measured under the Earned Value Management System.	
Permitted Security Interest	means: a. a Security Interest (if any) created under the Contract; b. a lien that arises by operation of law in the ordinary course of ordinary business, where the amount secured is not overdue or is being diligently contested in good faith and appropriately provisioned; c. a Security Interest: (i) existing on the date of this document that has been approved by the Commonwealth; or (ii) that arises after the date of this document and that the Commonwealth approves before it arises, where the amount secured does not increase, and the time for payment of that amount is not extended beyond the amount and time approved by the Commonwealth; d. a turnover trust under a subordination arrangement approved by the Commonwealth; e. any title retention arrangement which is entered into in the ordinary course of day-to-day trading on arm's length and customary terms (or on terms more favourable to the Contractor than customary terms), as long as the obligation it secures is discharged when due or is being diligently contested in good faith and appropriately provisioned; or f. an interest that is a Security Interest by virtue only of the operation of section 12(3) of the <i>Personal Property Securities Act 2009</i> (Cth).	
Personal Information	has the same meaning as in the <i>Privacy Act 1988</i> (Cth).	
Platform System	all elements of the ship other than the Combat System, including the hull system, propulsion system, electrical system, auxiliary system, outfit, furnishings, explosive ordnance handling and storage and the physical interfaces between the elements of the Combat System and the rest of the ship.	T

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Potential Catastrophic Event	includes: a. crash on deck; b. launching ships boats at high speeds; c. ship engages own helicopter; d. explosion of ship magazine; and e. toxic incident.	T
Prescribed Activities	means any of the following: a. the use, handling or storage of: (i) a prohibited carcinogen, restricted carcinogen or lead, each as defined in subregulation 5(1) of the <i>Work Health and Safety Regulations 2011</i> (Cth); or (ii) Hazardous Chemicals the use of which is restricted under regulation 382 of the <i>Work Health and Safety Regulations 2011</i> (Cth) including polychlorinated biphenyls; b. unless otherwise agreed by the Commonwealth, the use, handling or storage of Hazardous Chemicals that are defined in the <i>Work Health and Safety Regulations 2011</i> (Cth) as: (i) Schedule 11 Hazardous Chemicals exceeding manifest quantities; or (ii) Schedule 15 Chemicals where the applicable State or Territory regulator has determined the storage facility to be a major hazard facility; c. the use, handling or storage of a Problematic Source; d. the use, handling or storage of ordnance; e. high risk work as defined in subregulation 5(1) of the <i>Work Health and Safety Regulations 2011</i> (Cth) that requires dedicated work plans; f. electrical work on energised electrical equipment as contemplated by the <i>Work Health and Safety Regulations 2011</i> (Cth); g. high risk construction work, demolition work or excavation work, each as defined in subregulation 5(1) of the <i>Work Health and Safety Regulations 2011</i> (Cth); h. work involving ACM as contemplated by subregulation 419(2) of the <i>Work Health and Safety Regulations 2011</i> (Cth); i. work that requires a confined space entry permit in accordance with <i>Work Health and Safety Regulations 2011</i> (Cth); and j. remote or isolated work as defined in subregulation 48(3) of the <i>Work Health and Safety Regulations 2011</i> (Cth).	
Preventive Maintenance	means all scheduled Maintenance actions performed to retain the systems in a serviceable condition, to ascertain the condition and correct functioning of the system hardware or software, and to improve the reliability of the systems by providing systematic inspection, detection, prevention and delaying of known Failure Modes. Preventive Maintenance tasks include: a. scheduled inspection on-condition tasks; b. scheduled inspection Failure-finding tasks; c. scheduled removal rework tasks; and d. scheduled removal discard tasks.	T
Pricing Model	means the financial arrangements applicable to a Scope as described in Annex D to Attachment A to the Conditions of Tender	T

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Pricing Rules	means the financial requirements for an element of Scope as described in Attachment B. Note to tenderers: these are included at Schedule 3 of Annex D to Attachment A to the conditions of tender.	
Pricing Rules	means the financial provisions at Schedule 3 of Annex D to Attachment A to the Conditions of Tender.	T
Principals Council	means the body of that name established by a Strategic Agreement related to the management and coordination of the Enterprise.	
Priority Industry Capability	means the capability set out in Annex A to Attachment F that confers an essential strategic advantage by being available within Australia and which, if not available, would significantly undermine Defence self reliance and ADF operational capability.	T
Privacy Commissioner	has the same meaning as in the <i>Australian Information Commissioner Act 2010</i> (Cth).	
Problematic Source	means a source of ionising or non-ionising radiation, from a material or apparatus, that is required to be licensed with the Australian Radiation Protection and Nuclear Safety Agency.	
Problematic Substance	means an Ozone Depleting Substance, Synthetic Greenhouse Gas, Dangerous Good or Hazardous Chemical.	T
Procurement Plan	means the plan describing the Contractor's approach to procuring goods and services for producing the Supplies.	
Product Baseline	means the current Approved documentation that describes the configuration of a Configuration Item during the production, fielding/deployment and operational support phases of its life cycle. The product baseline prescribes all necessary physical or form, fit, and function characteristics of a CI, the selected functional characteristics designated for production Acceptance testing, and the production Acceptance test requirements.	T
Production Readiness Review	means the review undertaken to determine the Contractor's readiness to commence production of the Ships.	
Production Readiness Review	means the review undertaken to determine the Contractor's readiness to commence production of the Ships.	T
Progress Certificate	means a certificate issued under clause 7.6 of the COC in the form set out at Annex C to Attachment I.	
Progress Certification	means certification in accordance with clause 7.6 of the COC signified by the Commonwealth Representative's signature of the Progress Certificate.	
Project	means the SEA 5000 Phase 1 Future Frigates project for the acquisition of nine Ships to replace the ANZAC Class Frigates.	
Project Board	means the board established pursuant to clause 2.7 of the COC.	
Project Objectives	means the objectives of the Project listed in the Project Overview and Statement of Requirements.	T
Project of Concern	means a project or sustainment activity identified by the Minister for Defence as a Project of Concern.	T

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Proportionate Liability Law	means any of the following: a. <i>Civil Liability Act 2002</i> (NSW) – Part 4; b. <i>Wrongs Act 1958</i> (Vic) – Part IVAA; c. <i>Civil Liability Act 2002</i> (WA) – Part 1F; d. <i>Civil Liability Act 2003</i> (Qld) – Chapter 2, Part 2; e. <i>Civil Law (Wrongs) Act 2002</i> (ACT) – Chapter 7A; f. <i>Proportionate Liability Act 2005</i> (NT); g. <i>Law Reform (Contributory Negligence and Apportionment of Liability Act) 2001</i> (SA) – Part 3; h. <i>Civil Liability Act 2002</i> (Tas) – Part 9A; i. <i>Competition and Consumer Act 2010</i> (Cth) – Part VIA; j. <i>Corporations Act 2001</i> (Cth) – Part 7.10, Div 2A; and k. <i>Australian Securities & Investments Commission Act 2001</i> (Cth) – Part 2, Division 2, Subdivision GA.
Quality	means the degree to which a set of inherent characteristics fulfils requirements.
Reference Ship Design	has the meaning given to that term in the Participant Services Contract. T
Referral Notice	has the meaning given by clause 3.2 of Attachment L.
Registrable Design	means a design able to be protected under the <i>Designs Act 2003</i> (Cth) or the corresponding laws of any other jurisdiction.
Related Body Corporate	has the meaning given by section 9 of the <i>Corporations Act 2001</i> (Cth).
Relevant Work	in relation to a Step In, means the work of the Contractor contemplated by the Contract (including all Scope Statements), including the design, construction, installation, integration, testing and trialling of the Supplies as contemplated by the Contract (including all Scope Statements) that is the subject of a Step In Notice.
Repairable Item	means an item that when unserviceable can be reconditioned or economically repaired to a serviceable state for further use.
Request	means a request for tender, proposal, quotation or information or similar request for the provision of goods or services to the Commonwealth.
Required Performance Level	for a KPI, means the minimum level of performance, as measured by the KPI for each Review Period, required to be achieved by the Contractor as specified in Attachment P.
Review Period	for a Performance Measure, means the period over which the Contractor's performance against the Performance Measure is measured and assessed, as specified in Attachment P.
Risk Register	means the log used by the Contractor for recording each risk, risk assessment and risk-management strategy in accordance with the Approved RMP.
Royalty	means a payment or credit made by a licensee in consideration for the exercise of a particular right or privilege by the licensor in favour of the licensee for the use of, or the right to use any Intellectual Property, however calculated.

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Safe System of Work	means the formal outcome (eg orders, instructions and procedures) of the safety risk assessment which results from a systematic examination of a task in order to identify all hazards. The SSOW communicates to workers the means by which hazards are eliminated or risks minimised so far as reasonably practicable.	T
Safety Case	a structured argument, supported by a body of evidence that provides a compelling, comprehensible and valid justification that a ship or equipment is safe for its given application in a given operating environment.	T
Schedule 11 Hazardous Chemicals	has the meaning given in subregulation 5(1) of the <i>Work Health and Safety Regulations 2011</i> (Cth).	
Schedule 15 Chemical	has the meaning given in subregulation 5(1) of the <i>Work Health and Safety Regulations 2011</i> (Cth).	
Scheme of Complement	means the workforce structure required to deliver and enable directed capability outcomes for a ship, squadron or other discrete unit, listed by position in terms of rank, workgroup and skill level characteristics.	T
Scope	means any of: a. the Master Scope; b. the Design and Productionisation Scope; c. a Build Scope; d. any additional scope of work included in a Scope Statement (including the applicable Statement of Work).	
Scope Notice	means a notice in the form of Annex A to Attachment Q	
Scope Response	means the Contractor's response to the Commonwealth's requirement to deliver a Scope, given in accordance with clause 3.6 of the COC	
Scope Specifications	means the specification for work under a Scope.	
Scope Statement	for a Scope, means the Special Conditions of Contract and includes any Annexes to the Scope Statement.	
Seaworthiness Outcome	means maximising the operational effect, while minimising the hazards and risks to personnel, the public and the environment.	
Security	means a security and includes any Security required or given under a Scope.	
Security Interest	means any of the following: a. a security for the payment of money or performance of an obligation, including a mortgage, charge, lien, pledge, trust, power or title retention or flawed deposit arrangement; b. a "security interest" as defined in section 12(1) or (2) of the <i>Personal Property Securities Act 2009</i> (Cth); and c. an agreement to create any of these or allow any of these to exist.	
Senior Representative	means the Chief Executive Officer of a party.	
Sewerage Treatment Plant	means the facility so identified on the plan at Appendix 1 of an annex to Attachment O.	

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Shared Facilities	in relation to the GFF Licence, means: a. if a part of a GFF Licensed Area is identified in a plan at Appendix 1 to an annex to Attachment O as Shared Facilities, that part of the GFF Licensed Area; and b. any part of a GFF Licensed Area specified as Shared Facilities in a notice by the Commonwealth Representative under clause 4 of Attachment O.	
Ship	means an ASW Frigate that is to be delivered under the Contract.	
Ship Margin Assessment	has the meaning provided by clause 1.7 of Annex F to Attachment A of the COT.	T
Shipbuilding Manager	means an individual or body corporate with specialist shipbuilding management expertise appointed by the Strategic Board in accordance with clause 14.3 of the Contract.	
Shipbuilding Workforce Development Plan	means the Contractor's plan to establish and maintain the capability of the Australian shipbuilding workforce, including shipbuilding management, scheduling and planning, production, design and engineering and test and activation. Note to Tenderers: the Shipbuilding Workforce Development Plan will be developed from the successful Tenderer's response to Annex B to Attachment A to the COT and Offer Definition and Improvement Activities.	T
Shipyard	the part of the land comprised in Certificate of Title Register Book Volume 5128 Folio 418 under the <i>Real Property Act 1886</i> (SA), and all buildings and other structures on that land.	
Shipyard Facilities Licence	means the licence granted by clause 4.12 of the COC.	
Shipyard Operator	means a person operating the Shipyard from time to time.	
Shipyard Requirements	means the Shipyard Requirements listed in clause 2.4 of the COC.	
Shipyard User	means the Contractor, Contractor Personnel and each person engaged under a contract with the Commonwealth in relation to the Enterprise and includes the Subcontractors of that person.	
So Far As Reasonably Practicable	means that which is, or was at a particular time, reasonably able to be done in relation to ensuring health and safety, taking into account and weighing up all relevant risks and issues, including: a. the likelihood of the hazard or the risk concerned occurring; b. the degree of harm that might result from the hazard or the risk; c. what the person concerned knows, or ought reasonably to know, about: (i) the hazard or the risk; and (ii) ways of eliminating or minimising the risk; d. the availability and suitability of ways to eliminate; or minimise the risk; and e. after assessing the extent of the risk and the available ways of eliminating or minimising the risk, assessing the cost associated with available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk.	T
Software	means a collection of computer code comprising a set of instructions or statements used directly or indirectly by a computer to bring about a certain result, (including using a computer programming language to control a computer or its peripheral devices) and includes computer programs, firmware and applications, but excludes Source Code.	

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Software List	means the list of Software provided in accordance with the SOW and CDRL Line Number ENG-610.	
Source Code	means the expression of Software in human readable form which is necessary to understand, maintain, modify, correct and enhance that Software.	
Spare	means an item that is a Repairable Item (RI) or a non-Repairable Item that is not currently fitted to an end item or system.	
Special Conditions of Contract	means any Annex called Special Conditions of Contract in a Scope Statement.	
Specification	a detailed statement of a set of requirements to be satisfied by a material, product, system or process, indicating the procedures for checking compliance with these requirements. It may take the form of either a standard produced for common and repeated use, or a publication, which defines a unique product or process, and may incorporate reference to published standards.	
Statement of Requirements	means clause 5 of the Project Overview and Statement of Requirements.	T
Statement of Work	means the statement of the work for each Scope, as set out in each Part of Attachment A or a Scope Statement, and includes all annexes to an SOW and any specifications referred to in an SOW.	
Step in Date	means the date of the relevant Step in Notice, or a later date specified in the Step in Notice.	
Step in Notice	has the meaning in clause 14.2.1 of the Conditions of Contract.	
Step in Period	means the period commencing on the Step In Date and ending on the Step Out Date.	
Step in Rights	has the meaning in clause 14.2.5 of the Conditions of Contract.	
Step out Date	has the meaning in clause 14.2.2 of the Conditions of Contract.	
Stop Payment Milestone	means a Milestone identified as a Stop Payment Milestone in any of Attachment B, Attachment C or a Scope Statement, .	
Strategic Agreement	means an agreement: a. with a Shipyard User, other shipbuilders, industry organisations or governments (Commonwealth, State, Territory or local); and b. identified by the Commonwealth as a Strategic Agreement in relation to shipbuilding matters undertaken by the Enterprise or a member of the Enterprise.	
Subcontractor	means any person (not the Commonwealth) that, for the purposes of the Contract, provides items or services directly or indirectly to the Contractor and includes Approved Subcontractors; and "Subcontract" has a corresponding meaning.	

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Sublicence	means a non-exclusive sublicense of Intellectual Property in respect of Technical Data, Software or Contract Material, being a sublicense that: a. is fully paid-up and does not require any additional payment by the sublicensee, including by way of Royalty or any other fee; b. cannot be revoked or terminated by the sublicensor for any reason except upon expiration of a statutory protection term; c. operates in perpetuity without any action required on the part of the sublicensee to renew or extend the licence; d. operates on a world-wide basis; and e. binds each successor in title to the owner of the Intellectual Property in respect of the Technical Data, Software or Contract Material, but does not include a right to Commercialise.	
Supplier	means a Subcontractor that is not an Approved Subcontractor.	T
Supplies	means goods and services including Technical Data, Software and Contract Material required to be supplied under the Contract and includes items acquired in order to be incorporated into the Supplies.	
Supplies Acceptance Certificate	means a certificate in the form of the annex to DID-PM-MGT-SAC or other form agreed between the parties.	
Supply Chain Capability Plan	means the Contractor's plan to establish and maintain a suitable supply chain in Australia to support the Project and the CNS Strategy. Note to Tenderers: the Supply Chain Capability Plan will be developed from the successful Tenderer's response to Annex B to Attachment A to the COT and Offer Definition and Improvement Activities..	T
Supply Support	means the organisation of hardware, software, materiel, Facilities, Personnel, processes and Technical Data needed to enable supply services to be completely provided for the Materiel System throughout its LOT. Supply Support also includes the Supply Resources of Spares and Packaging.	
Support and Test Equipment	means the equipment needed to support the operation, support and disposal of the Mission System and Support System Components, as and when required, throughout the life of the Materiel System. S&TE includes ground handling equipment, tools, personal protective equipment, metrology and calibration equipment, test equipment and automated test equipment, and diagnostic software for support equipment Maintenance. S&TE does not include either Training Equipment or Mission System equipment that is used by the Mission System when it is directly engaged in the performance of its mission.	
Support Resources	means the physical products (including Spares), equipment, materials, Facilities, Technical Data, Personnel, and any other physical resources required to operate and support all or a particular part of the Mission System as the case requires.	
Support System	means the sum of: a. the existing support infrastructure (including that of the Commonwealth, the Contractor and its Subcontractors, the Contractor (Support) and its Subcontractors); and b. the additional support elements being generated under the Contract to enable the Mission System to be effectively operated and supported so that it can meet its operational requirements, and includes support required for Support System Components.	

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Support System Components	means the physical end-items of the Support System that can be defined using a specification. Support System Components are a subset of Support Resources and include Packaging, Technical Data, equipment, materials, and Facilities, as well as Spares and other physical components required for the support of those Support System end-items. Support System Components do not include Personnel or Spares for the Mission System.	
Support System Specification	means the specification for the Support System.	
Surveillance	means continual monitoring and Verification of the status of an entity and analysis of records to ensure that specified requirements are being fulfilled (the entity could be a system, process, product, project, contract etc).	
Synthetic Greenhouse Gas	means any gas identified as a Synthetic Greenhouse Gas in the <i>Ozone Protection and Synthetic Greenhouse Gas Management Act 1989</i> (Cth) or in any regulations made under that Act.	
System	means an aggregation of end products and enabling products to achieve a given purpose.	
Target Cost Estimate	means the amount with respect to a Scope which represents an estimate of: a. the agreed Allowable Costs required to undertake the Scope; plus b. Management Reserve.	
Target Cost Incentive Model	means the financial model of that name described in Attachment B.	
Target Fee	means the agreed amount of Fee expected to be earned by the Contractor for a TCE conducted under a Target Cost Incentive Model financial model.	
Task Group	means a grouping of units under one commander subordinate to the task force commander, formed for the purpose of carrying out specific functions. It is the second highest level in a task organisation.	T
Tax	means a tax, levy, duty, charge, deduction or withholding, however it is described, that is imposed by law or by a Government Agency, together with any related interest, penalty, fine or other charge.	
TDSR Schedule	means Attachment G to the Contract.	
Technical Data	means technical or scientific data, know-how or information reduced to a material form (whether stored electronically or otherwise) in relation to the Materiel System, and includes data, databases, manuals, guides, handbooks, designs, standards and specifications, design documentation, reports, writings, models, sketches, plans, drawings, calculations, simulations, notes, instructions, training materials and test results, and includes Source Code.	
Technical Data List	means the list of Technical Data provided in accordance with the Master SOW and CDRL Line Number ILS 1010.	
Telecommunications Electronics Material Protected from Emanating Spurious Transmissions	means the investigation, study and control of compromising emanations from information processing equipment.	T
Tender Data Requirements List	means the list at Attachment A to the COT.	T
Tender Details Schedule	means the Tender Details Schedule contained in the COT.	T

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Tender Validity Period	means the Tender Validity Period specified in the Tender Details Schedule.	T
Tendered Life Cycle Cost Model	means a Tenderer's response in the form required at Schedule 2 (Tender Life Cycle Cost Model) of Annex D to Attachment A of the COT.	T
Tenderer	means a person invited to respond to the RFT.	T
Test	an activity in which a scientific method is used to obtain quantitative or qualitative data relating to the safety, performance, functionality, contractual compliance, and supportability of a system.	
Trade Mark	means a trade mark protected under the <i>Trade Mark Act 1989</i> (Cth) or corresponding laws of any other jurisdiction.	
Training	means the processes, systems, materials, resources, and services for bringing Personnel to the required standard of competency by instruction, practice or other prescribed methodology.	
Training Equipment	means any item of equipment required to perform Training.	
Training Materials	means material, not contained in a publication, necessary for a suitably qualified instructor to effectively and efficiently conduct a sequence of Training given to a body of students who meet the defined entry requirements. This material includes lesson scripts, assessment instruments (including recording/tracking tools), Training aids, student precis, exams, mass briefs, sorties, and, if applicable, computer-based training hardware, software and manuals.	T
Training Support	means the organisation of hardware, software, materiel, Facilities, Personnel, processes, and Technical Data needed to enable Training services to be competently provided for the Materiel System throughout its life.	T
Transition	means the activities undertaken by the Contractor, Subcontractor and the Commonwealth to transition the Supplies that have been produced under the Contract from the project oriented, development environment to an operating and support environment, leading to eventual closing out of the Contract.	T
True-Up	for a TCE, means the process set out in Attachment B for determining the Contractor's Fee or Target Fee entitlements in respect of the Scope covered by the TCE.	
turn-around-time	means that element of time needed to transport, service, repair, or check out an item for recommitment. This constitutes the time that it takes a Spare to go through the complete cycle from dispatch to the Contractor, through Contractor repair and return the Spares inventory ready for use.	T
Unallowable Cost	means costs which cannot be passed to the Commonwealth, as defined at clause 4 of Schedule 4 of Annex D to Attachment A of the COT.	T
Uninsurable	has the meaning given by clause 10.1.21 of the COC.	
Unrelated Party	means any person other than any of the following: a. the Commonwealth and Commonwealth Personnel; b. the Contractor and Contractor Personnel; c. a Related Body Corporate of the Contractor; and d. an employee, officer or agent of a Related Body Corporate of the Contractor.	

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Use	<p>means, in relation to a licence of any Technical Data, Software or Contract Material granted to a licensee:</p> <ul style="list-style-type: none"> a. use, reproduce, adapt, modify the Technical Data, Software or Contract Material in accordance with the licence; or b. disclose, transmit and communicate the TD, Software or Contract Material: <ul style="list-style-type: none"> (i) to the licensee's Personnel; or (ii) to a sublicensee under a sublicense granted in accordance with the licence.
Validation	means confirmation by examination and provision of objective evidence that the specific intended use or application of a product or service, or aggregation of products and services, is accomplished in an intended usage environment; and "Validate" and "Validated" have corresponding meanings.
Verification	means confirmation by examination and provision of objective evidence that specified requirements to which a product or service, or aggregation of products and services, is built, coded, assembled and provided have been fulfilled; and "Verify" has a corresponding meaning.
WGE Act	means the <i>Workplace Gender Equality Act 2012</i> (Cth).
WHS Legislation	<p>means any of the following:</p> <ul style="list-style-type: none"> a. the <i>Work Health and Safety Act 2011</i> (Cth) and the <i>Work Health and Safety Regulations 2011</i> (Cth); and b. any corresponding WHS law as defined in section 4 of the <i>Work Health and Safety Act 2011</i> (Cth).
WHS Management System	has the meaning given to OHS Management System in AS/NZS 4801:2001.
Wilful Default	means a Default where the breach relates to an act or omission that is intended to cause harm, or otherwise involves recklessness in relation to an obligation not to cause harm.
Work Breakdown Structure	has the meaning given in DEF(AUST) 5664A – Work Breakdown Structures for Defence Materiel Projects.
Work Package	<p>a discrete element of work identified as such in the IMS or CMS.</p> <p>Note The Earned Value Standard describes a work package as follows: "Work packages are natural sub-divisions of control accounts and constitute the basic building blocks used in detail planning, controlling and measuring contract performance. It describes work to be accomplished by a specific performing organisation and serves as a vehicle for monitoring and reporting progress of work. Work packages shall have scope, budget and shall have scheduled start and finish dates. Work that is within scope of the control account, but has not been detail planned shall have budget set aside in planning packages. Work packages should have short durations to limit the potential for difficulties in assessing progress."</p>
Working Day	<p>in relation to the doing of an action in a place, means any day in that place other than:</p> <ul style="list-style-type: none"> a. a Saturday, Sunday or public holiday; and b. any day within the two-week period beginning on the first Saturday that falls before Christmas Day (or from Christmas Day when it falls on a Saturday).

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3. REFERENCED DOCUMENTS

Reference	Description
ABR 6303 Section 4, Chapter 27	Navy Safety Systems Manual – Fatigue
ABS Catalogue 6345	Wage Price Index
ABS Catalogue 6401	Consumer Price Index
ANP2410-0001	Naval Materiel Seaworthiness
AS 4817-2006	Project performance measurement using Earned Value
AS/NZS 4801:2001	Occupational health and safety management systems—Specification with guidance for use
AS/NZS ISO 19011: 2003	Guidelines for Quality and/or Environmental Management Systems Auditing
AS/NZS ISO 31000 – 2009	Risk Management – principles and guidelines
Australian Maritime Logistics Doctrine	Australian Maritime Doctrine, Australian Maritime Logistics Doctrine, 1st Edition
	<i>Auditor-General Act 1997 (Cth)</i>
	<i>The Australian Consumer Law (Schedule 2 to the Competition and Consumer Act 2010) (Cth)</i>
	CASG Cost Principles, as amended from time to time
	<i>Circuit Layouts Act 1989 (Cth)</i>
	Code of Practice, <i>Managing the Work Environment and Facilities</i> (an approved code of practice under section 274 of the WHS Act)
	Code of Practice, <i>Preparation of Safety Data Sheets for Hazardous Chemicals</i> (an approved code of practice under section 274 of the WHS Act)
	<i>Commonwealth Procurement Rules – July 2014</i>
	<i>Company ScoreCard Policy Statement 2015</i>
	<i>Copyright Act 1968 (Cth)</i>
	<i>Corporations Act 2001 (Cth)</i>
DEF(AUST) 5000 Volume 2, Part 18	RAN Technical Publication Requirements
DEF(AUST) 5664A	Work Breakdown Structures for Defence Materiel Projects
Defence Industry Policy Statement	<i>Building Defence Capability: A Policy for a Smarter and More Agile Defence Industry Base</i> , also known as “DIPS 2016”
DEFLOGMAN	Defence Logistics Manual
DEFLOGMAN Part 2, Volume 5, Section 17	<i>Stocktaking Defence Assets and Inventory</i>
DEF-STAN 00-60	Integrated Logistic Support
DI(G) PERS 25-4	Notification of Post Separation Employment
DI(G) PERS 25-6	Conflicts of interest and declarations of interests

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Reference	Description
DI(G) PERS 25-7	Gifts, Hospitality and Sponsorship
DLM	Defence Learning Manual
DPPM	Defence Procurement Policy Manual
DSM	<i>Defence Security Manual</i> , as amended from time to time
	Defence Supplement to AS4817-2006 – Project performance measurement using Earned Value
	<i>Designs Act 2003</i> (Cth)
	<i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cth)
GST Act	<i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth)
IPP	<i>Commonwealth Indigenous Procurement Policy</i> – July 2015. A copy of the IPP is available from: http://www.dpmc.gov.au/resource-centre/government/commonwealth-indigenous-procurement-policy
IBR Handbook	Integrated Baseline Review (IBR) Handbook May 2006 – Version 2.4
	<i>Legal Services Directions 2005</i>
	<i>National Measurement Act 1960</i> (Cth)
	<i>Ozone Protection and Synthetic Greenhouse Gas Management Act 1989</i> (Cth)
	<i>Patents Act 1990</i> (Cth)
	<i>Privacy Act 1988</i> (Cth)
	The United Nations Convention on Contracts for the International Sale of Goods
WHS Act	<i>Work Health and Safety Act 2011</i> (Cth)
WHS Regulations	<i>Work Health and Safety Regulations 2011</i> (Cth)
	<i>Workplace Gender Equality Act 2012</i> (Cth)
	<i>Workplace Gender Equality Procurement Principles</i>

4. WBS DICTIONARY FOR CONTRACT SUMMARY WBS

WBS Element	Definition
Mission System	<p>This element includes the hardware and software used to accomplish the primary mission of the defence materiel item.</p> <p>This element includes all integration, assembly, test and checkout, as well as all technical and management activities associated with individual hardware/software elements.</p> <p>This element also includes the integration, assembly, test and checkout associated with the overall MS. When an electronic/automated software system comprises several MSs, each will be listed separately at level 2.</p>
Support System	<p>This element includes all of the physical support deliverables being generated under the Contract, including any effort associated with the acquisition of, and/or the design, development and production of those physical deliverables.</p> <p>Includes any effort associated with delivery, installation, integration, and check out.</p> <p>Includes the acquisition, design, development and production of any logistics</p>

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WBS Element	Definition
	resources associated with those physical deliverables (ie, the logistics resources required for the support of Support System elements such as Facilities, S&TE, etc).
Integrated Logistics Support	<p>This element includes the overall planning, directing, and controlling of the ILS function.</p> <p>This element includes the effort associated with the logistics-analysis processes, the outcome of which result in the identification of the logistics resources (both range and scale) required to support both the Mission System and the Support System.</p> <p>Excludes the acquisition of, and/or the design, development and production of specific Support System Components (eg, S&TE, Facilities, Software Support Environment, Training Equipment and Materials, etc). These activities are covered under the individual Support System elements themselves.</p> <p>Excludes the acquisition, design, development and production of the logistics resources required for the support of the individual Support System elements themselves.</p>
Platform Integration	This element includes the effort involved in providing technical and engineering services to the platform manufacturer or integrator during the installation and integration of the Mission System into the host vehicle.
Project Management	<p>This element includes the business and administrative planning, organising, directing, co-ordinating, controlling, and approval actions designated to accomplish overall program objectives which are not associated with specific hardware elements and are not included in systems engineering.</p> <p>This element includes cost, schedule, performance measurement management, warranty administration, contract management, data management, vendor liaison, subcontract management, risk, IV&V activities, life cycle cost, transition to operational service, Australian Industry Capability, Intellectual Property.</p>
Systems Engineering	<p>This element includes the technical and management efforts of directing and controlling a totally integrated engineering effort of a system or program.</p> <p>This element includes the effort to define the system and the integrated planning and control of the technical program efforts of design engineering, specialty engineering, production engineering, and integrated test planning.</p> <p>This element also includes the effort to transform an operational need or statement of deficiency into a description of system requirements and a preferred system configuration.</p>
Verification and Validation	<p>This element includes V&V management and infrastructure for both the Mission System and the Support System as well as the actual V&V for all phases of the project.</p> <p>This element includes processes that demonstrate that the engineering design and development process is complete, demonstrate that the design risks have been minimised, demonstrate that the system will meet specifications and determine whether the engineering design is supportable (practical, maintainable, safe, etc.) for operational use.</p> <p>This element includes such tests as system demonstration, flight tests, sea trials, mobility demonstrations, stability tests, qualification operational test and evaluation, etc., and support thereto, required to prove the operational capability of the deliverable system.</p> <p>This element also includes logistics testing efforts to evaluate the achievement of Supportability goals and the adequacy of the support for the system (eg, deliverable maintenance tools, test equipment, technical publications, maintenance instructions,</p>

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WBS Element	Definition
	personnel skills and training requirements, and software support facility/environment elements).

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SEA 5000 PHASE 1

ATTACHMENT P

PERFORMANCE ASSESSMENT

Note to tenderers: The Attachment P at Contract execution will consist of a negotiated amalgamation of this draft Attachment P of the RFT and the successful tenderer's response.

1 OVERVIEW OF PERFORMANCE ASSESSMENT

1.1 Scope

- 1.1.1 This Attachment P defines the performance assessment process, which is designed to measure and assess the Contractor's performance against the Commonwealth's required Outcomes for the Contract.

1.2 Performance Assessment and Performance Management

- 1.2.1 Clause 1.2 provides an overview of the performance assessment process within this Attachment P, as a key element of the performance management framework for the Contract.
- 1.2.2 The Contractor's performance is assessed in accordance with this Attachment P through the use of Enterprise Key Performance Indicators (**EKPIs**) and Other Performance Measures (**OPMs**). EKPIs are Performance Measures that affect the Contractor's entitlement to Incentive Payments under Attachment B. OPMs are Performance Measures that do not affect the Contractor's entitlement to Incentive Payments.
- 1.2.3 Within this Attachment P:
- a. Clause 2 describes the key features of the performance assessment process, including the Outcomes the review periods and the assessment methodology;
 - b. Clause 3 describes the principles of the approach taken for measuring the Contractor's performance and the application of the Performance Measures;
 - c. Annex A specifies the EKPIs against which the Contractor's performance will be assessed. Annex A also contains the methodology used to assess the Contractor's Achieved Performance and calculate the Adjusted Performance Score for each EKPI; and
 - d. Annex B specifies the OPMs against which the Contractor's performance will be assessed.

2 KEY FEATURES OF THE PERFORMANCE ASSESSMENT PROCESS

2.1 Required Outcomes and Performance Measures

- 2.1.1 The performance assessment process is designed to measure the extent to which the Contractor's performance has contributed to the achievement of the Outcomes listed in the Annexes to Attachment P.
- 2.1.2 The Outcomes support the achievement of the Project Objectives described in clause 1.3.1b of the COC.
- 2.1.3 The Contractor's performance is assessed using the Performance Measures and the methodology specified in the Annexes to Attachment P.

2.2 Review Periods

- 2.2.1 The Contractor's performance against each Performance Measure shall be measured for each Review Period. Review Periods commence on Effective Date and continues for the period specified for that Performance Measure in Annex A or Annex B to Attachment P.

2.3 Determining Performance

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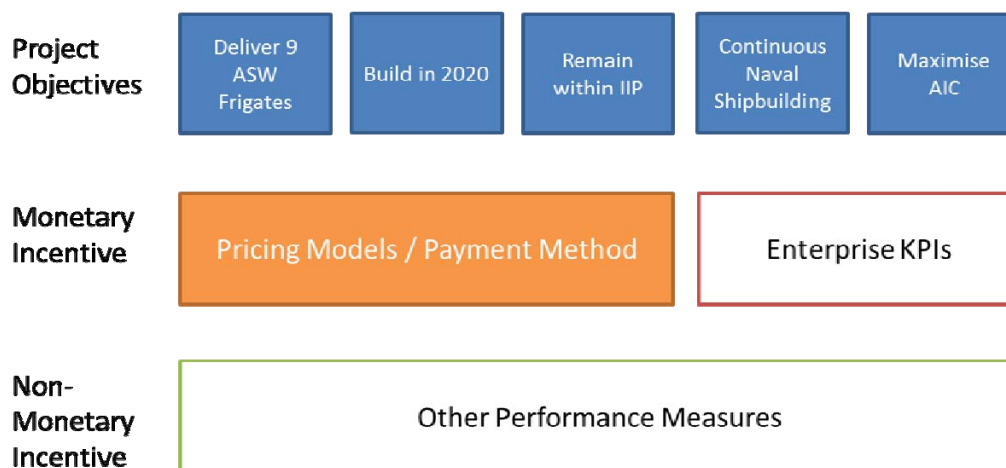
- 2.3.1 The Contractor's Achieved Performance against each Performance Measure for each Review Period shall be determined using measured and validated data, and the methodology set out in Annex A to this Attachment P.
- 2.3.2 The Commonwealth will measure and determine the Contractor's Achieved Performance against the EKPIs. This determination will be binding on the parties and will not be subject to review.
- 2.3.3 The Contractor's performance against each OPM for each Review Period shall be determined by the Commonwealth as set out in Annex B to this Attachment O. This determination will be binding on the parties and will not be subject to review.

3 PERFORMANCE MEASUREMENT PRINCIPLES**3.1 Purpose**

- 3.1.1 The purpose of the Performance Measures is to support the Commonwealth to measure the Contractor's performance of the Contract against in terms of achieving the Outcomes.
- 3.1.2 The Commonwealth will measure the Contractor's performance through the use of Performance Measures that focus primarily on the Project Objectives. Other key Contract Objectives are addressed by the operation of the price and payments arrangements in Attachment B.

3.2 Performance Measurement Hierarchy

- 3.2.1 The interaction of the Project Objectives, Attachment B, and the role of EKPIs and OPMs can be understood through the performance measurement hierarchy. The performance measurement hierarchy for the Contract is illustrated below in
- 3.2.2 Figure 1.
- 3.2.3 The Commonwealth will use of Performance Measures to support its assessment of the Contractor's performance against each relevant Project Objective.

Performance Management Hierarchy**Figure 1: Performance management hierarchy**

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3.3 Performance Measures

- 3.3.1 The Commonwealth will measure the Contractor's performance using the following Performance Measures:
- a. Enterprise KPIs (EKPIs) are Performance Measures that the Commonwealth uses to assess the Contractor's contribution to achieving the Project Objectives detailed in Annex A to Attachment P. EKPIs are intended to measure the Contractor's performance of its Continuous Naval Shipbuilding and Australian Industry Capability obligations under the Contract. The Contractor's performance against these KPIs may entitle the Contractor to an Incentive Payment under Attachment B.
 - b. Other Performance Measures (OPMs) are Performance Measures that the Commonwealth uses to assess the Contractor's contribution to achieving the Project Objectives detailed in Annex A to Attachment P. OPMs are intended to measure the Contractor's behaviour in satisfying its obligations under the Contract that address the Project Objectives. There are no Incentive Payments associated with OPMs, however OPMs may be taken into account in Contract Performance Reviews and Project Board meetings.
- 3.3.2 The Commonwealth may use different Performance Measures at different stages within the Contract. This will assist to minimise the number of Performance Measures the Contractor is required to measure and report on at any one time, whilst still providing the relevant performance information to the Commonwealth.

ANNEX A TO ATTACHMENT P

1 INTRODUCTION**1.1 Purpose**

1.1.1 This Annex A is used to define:

- a. the Enterprise KPIs (EKPIs) used in the performance assessment process; and
- b. the methodology for determining the Achieved Performance and Adjusted Performance Score for each EKPI.

1.2 Australian Shipbuilding Enterprise Performance

1.1.2 Several major Commonwealth shipbuilding programs will be undertaken in Adelaide, South Australia including the Project, Future Submarine Program, Offshore Patrol Vessel Program, and the completion of the Air Warfare Destroyers.

1.1.3 The Commonwealth requires the Contractor to contribute to the Commonwealth's desire to ensure that the shipbuilding programs are coordinated and managed at an Enterprise level. An example of the Contractor's contribution is ensuring that the Contractor's performance of the Contract considers any detrimental impacts on, and any joint opportunities with, other shipbuilding programs in areas such as workforce, supply chain, and long-shipbuilding capability in Australia.

1.1.4 There are shared objectives and outcomes associated with each of the programs across the Enterprise. The Commonwealth will measure the Contractor's contribution towards enabling the Commonwealth to achieve certain Enterprise objectives.

2 OUTCOMES AND EKPI INFORMATION**2.1 Incentive Payments**

2.1.1 The Contractor's performance against the EKPIs may entitle the Contractor to an Incentive Payment under Attachment B.

2.1.2 The Contractor may present to the Commonwealth a business case for including additional Performance Measures and associated Incentive Payments, as part of Contract Performance Reviews. The Commonwealth has absolute discretion to accept or reject any such business case. Each business case must contain the following information:

- a. the benefits to the Commonwealth expected;
- b. the activities the Contractor will be undertaking to meet the additional Performance Measure;
- c. the requirements of clause 2.2.1 a. b. c. and e.;
- d. the Statement(s) of Work in which the Performance Measure will operate, or period within the Statement(s) of Work; and
- e. the associated Incentive Payment sought by the Contractor.

2.1.3 If the Commonwealth indicates it is willing to accept a business case, the Contractor will prepare a Contract Change Proposal (CCP) and the business case can only be accepted following Approval of the CCP in accordance with clause 12.1 of the Conditions of Contract.

2.2 Outcomes and EKPI Table

2.2.1 The proposed EKPIs summarised in Table 1.1. An explanation of each column is detailed below:

- a. Outcome: The desired resultant effect on a Defence Capability that is an objective of, and enabled through, the Supplies provided by the Contract.
- b. Performance Attribute: The contribution that particular Supplies provide to enable an Outcome to be achieved. An Outcome may require more than one Performance Attribute.
- c. EKPI: The Enterprise level Performance Measure used to determine the extent to which the Contractor achieves a Performance Attribute.

ANNEX A TO ATTACHMENT P

- d. Weighting: The weighting applied, as a percentage, to an individual EKPI in calculating the Weighted Enterprise Performance Score (WEPS).
- e. Review Period: The duration of measurement activity required to determine the Achieved Performance for the EKPI.

Table 1.1: Required Performance Attributes and EKPIs

Outcome	Performance Attributes	EKPI	Weighting	Review Period
Continuous Naval Shipbuilding	<ul style="list-style-type: none"> - Build performance - Consistent level of Workforce - Training - Knowledge transfer - Consistent demand on Supply chain 	EKPI-01: Continuous Naval Shipbuilding	60%	Annual
Australian Industry Capability	<ul style="list-style-type: none"> - Engagement of Australian industry - Innovation in Australian industrial base - Procurement of materials with long term benefit to Australian industry 	EKPI-02: Increasing Australian Industry Capability	40%	Annual

3 EKPI-01: CONTINUOUS NAVAL SHIPBUILDING

3.1 Contractor's contribution to Continuous Naval Shipbuilding

3.1.1 The Project is a significant part of the Commonwealth's Continuous Naval Shipbuilding plan for Australia, including commitments in relation to construction of the Ships in Adelaide using an Australian shipbuilding workforce.

3.1.2 Several Performance Attributes to the success of the Continuous Naval Shipbuilding plan will be impacted by all major Commonwealth shipbuilding programs, these include, but are not limited to:

- a. **Workforce**: A consistent level of employment for workers in Adelaide will be required to achieve Continuous Naval Shipbuilding. There may be multiple concurrent employers of the workforce during the term of the Contract. The Contractor's performance of the Contract is to contribute to the sustainment of a consistent level of employment by the Enterprise.
- b. **Supply chain**: Continuous Naval Shipbuilding requires continuous engagement with, and development of a competitive Australian supply chain for the production, upgrade overhaul, repair, maintenance and support of Naval vessels. The Commonwealth's major shipbuilding programs will provide a consistent level of demand to encourage industry investment in and development of a sustainable Australian supply chain. The Contractor's performance of the Contract is to contribute to the continuous engagement of the supply chain across the Enterprise and assist in its continuing development by ensuring a consistent level of demand, providing opportunities for Australian suppliers to compete and by encouraging industry investment in the Australian supply chain.

ANNEX A TO ATTACHMENT P

- 3.1.3 The Commonwealth will measure the performance of the Contractor against a number of the Performance Attributes to Continuous Naval Shipbuilding.
- 3.1.4 Subject to satisfactory performance against this EKPI, the Contractor may be entitled to an Incentive Payment under Attachment B.

Table 1.2: EKPI-01 – Continuous Naval Shipbuilding

PERFORMANCE MEASURE PROFILE	
Performance Measure No.:	EKPI-01
Performance Measure Name:	Continuous Naval Shipbuilding
Purpose (Outcome/Output/Proposed Process Measured)	
<ol style="list-style-type: none"> 1. This Enterprise KPI represents as Superior, Good, Fair or Poor, the Contractor's contribution to Continuous Naval Shipbuilding 2. The following are Performance Attributes that the Commonwealth will measure in the assessment of EKPI-01: <ol style="list-style-type: none"> a. Quality and management of Australian shipbuilding capability: measuring the productivity of the workforce over time, ensuring capability can be transferred to future and concurrent programs b. Consistent workforce headcount by skill type: maintaining a minimum level of workforce and forecasting of volatility by skill type c. Develop shipyard capability: establish systems processes and tools that can be used by concurrent and subsequent Maritime build programs d. Knowledge transfer: identify existing capability gaps in Australian workforce; increase skill base of Australian workers to perform these roles over the course of program e. Growth and development of the Australian supply chain: sustain and increase Australian Suppliers market share and employment opportunities 	

Table 1.3: EKPI-01 – Performance Assessment

Performance Assessment				
The Commonwealth will assess the Contractors contribution to Continuous Naval Shipbuilding using the scale in the Table below and aggregate using the Performance Table 1.4.				
Continuous Australian Naval Shipbuilding Industry Capability Performance Attributes				
The Contractor...	Superior	Good	Fair	Poor
Agreed Performance Attributes 1-5	Enterprise exceeds planned level of Performance Attribute in the Review Period	Enterprise achieves planned level of Performance Attribute in the Review Period	Enterprise fails to achieve planned level of Performance Attribute in the Review Period	Enterprise fails to achieve planned level of Performance Attribute in the Review Period and the preceding two Review Periods

ANNEX A TO ATTACHMENT P

Table 1.4: EKPI-01 – Adjusted Performance Score

DATA MANAGEMENT & REPORTING		
Data Source	Commonwealth Assessment	
Data Owner	Commonwealth	
Report Frequency	Annual, in the final Contract Status Report for the Performance Period being assessed	
PERFORMANCE TABLE	Commonwealth Assessment	Adjusted Performance Score
Tolerance Purple	All Performance Attributes assessed as Superior.	100%
Tolerance Green	At least 70% of Performance Attributes assessed as Good or higher and no single Attribute assessed as lower than Fair	80%
Tolerance Amber	At least 70% of Performance Attributes assessed as Fair or higher	40%
Tolerance Red	Two or more Performance Attributes assessed as Poor.	0%

3.2 Calculating the Contractor's Weighted Adjusted Performance Score for EKPI-01 for a Review Period

3.2.1 The Contractor shall calculate the Contractor's Weighted Adjusted Performance Score for EKPI-01 for the Review Period as follows:

$$EKPI-01_{WADJ} = EKPI-01_{WEIGHTING} * EKPI-01_{ADJ}$$

Equation P-1: EKPI-01 Weighted Adjusted Performance Score for a Review Period

Where:

$EKPI-01_{WADJ}$ is the Weighted Adjusted Performance Score for EKPI-01;

$EKPI-01_{WEIGHTING}$ is the Weighting applied to EKPI-01 in accordance with Table 1.1 column (d); and

$EKPI-01_{ADJ}$ is the Adjusted Performance Score for EKPI-01 for the Review Period, as calculated from the EKPI-01 Performance Table.

4 EKPI-02: AUSTRALIAN INDUSTRY CAPABILITY

4.1 Contractor's Australian Industry Capability Performance

4.1.1 The Commonwealth will measure the Contractor's contribution under the Contract to the Project Objective of increasing Australian Industry Capability, in conjunction with the conduct of the Commonwealth's other major shipbuilding programs. This includes identifying opportunities for innovation in the supply chain and maximising the amount of Australian materials and labour used in the program.

4.1.2 Several Performance Attributes contribute to the success of the Australian Industry plan will be impacted by all major Commonwealth shipbuilding programs, these include, but are not limited to:

ANNEX A TO ATTACHMENT P

- a. **Engagement of Australian Industry:** Proactive engagement of Industry is required to increase the Australian Industry Capability. The major Commonwealth shipbuilding programs will establish requirements that could be met by Australian Industry. The Contractor's performance of the Contract is to contribute to the continuous engagement of Industry by the Enterprise, in order to ensure that the Commonwealth shipbuilding programs requirements are visible to potential suppliers.
 - b. **Innovation opportunities for Australian Industry:** The major Commonwealth shipbuilding programs present Innovation opportunities that could increase the capability of Australian industry. The Contractor's performance of the Contract is to contribute to the Enterprise efforts to identify innovation opportunities for Australian industry and ensure visibility to industry that could undertake the opportunities.
- 4.1.3 The Commonwealth will measure the performance of the Contractor against a number of the Performance Attributes to increasing Australian Industry Capability.
- 4.1.4 Subject to satisfactory performance against this EKPI, the Contractor may be entitled to an Incentive Payment under Attachment B.

Table 1.5: EKPI-02 – Increasing Australian Industry Capability

PERFORMANCE MEASURE PROFILE	
Performance Measure No.:	EKPI-02
Performance Measure Name:	Increasing Australian Industry Capability
Purpose (Outcome/Output/Proposed Process Measured)	
<ol style="list-style-type: none"> 1. This Enterprise KPI represents as Superior, Good, Fair or Poor, the Contractor's contribution to increasing Australian Industry Capability 2. The following are Performance Attributes that the Commonwealth will measure in the assessment of EKPI-02: <ol style="list-style-type: none"> a. Value-add to Australian industry: Increase value to Commonwealth identified Australian industry from Enterprise procurements b. Value of Australian materiel: Increase Enterprise procurements from Australian Industry that the Commonwealth identifies as having long-term benefit to Australian industry c. Enterprise investment in Australian industry: Investment in Australian industry where the business case to invest for a single shipbuilding program would not be viable, but is viable for the Enterprise as a whole d. Innovation and R&D: Outputs of innovation engagements with Australian Industry 	

ANNEX A TO ATTACHMENT P

Table 1.6: EKPI-02 – Performance Assessment

Performance Assessment				
The Commonwealth will assess the Contractors contribution to Australian Industry Capability using the scale in the Table below and aggregate using the Performance Table 1.7 .				
Continuous Australian Naval Shipbuilding Industry Capability Performance Attributes				
The Contractor...	Superior	Good	Fair	Poor
Agreed Performance Attributes 1-5	Enterprise exceeds planned level of Performance Attribute in the Review Period	Enterprise achieves planned level of Performance Attribute in the Review Period	Enterprise fails to achieve planned level of Performance Attribute in the Review Period	Enterprise fails to achieve planned level of Performance Attribute in the Review Period and the preceding two Review Periods

Table 1.7: EKPI-02 – Adjusted Performance Score

DATA MANAGEMENT & REPORTING		
Data Source	Commonwealth Assessment	
Data Owner	Commonwealth	
Report Frequency	Annual, in the final Contract Status Report for the Performance Period being assessed	
PERFORMANCE TABLE	Commonwealth Assessment	Adjusted Performance Score
Tolerance Purple	All Performance Attributes assessed as Superior.	100%
Tolerance Green	At least 70% of Performance Attributes assessed as Good or higher and no single Attribute assessed as lower than Fair	80%
Tolerance Amber	At least 70% of Performance Attributes assessed as Fair or higher	40%
Tolerance Red	Two or more Performance Attributes assessed as Poor.	0%

ANNEX A TO ATTACHMENT P

4.2 Calculating the Contractor's Weighted Adjusted Performance Score for EKPI-02 for a Review Period

- 4.2.1 The Contractor shall calculate the Contractor's Weighted Adjusted Performance Score for EKPI-02 for the Review Period as follows:

$$EKPI-02_{WADJ} = EKPI-02_{WEIGHTING} * EKPI-02_{ADJ}$$

Equation P-2: EKPI-01 Weighted Adjusted Performance Score for a Review Period

Where:

$EKPI-02_{WADJ}$ is the Weighted Adjusted Performance Score for EKPI-02;

$EKPI-02_{WEIGHTING}$ is the Weighting applied to EKPI-02 in accordance with Table 1.1 column (d); and

$EKPI-02_{ADJ}$ is the Adjusted Performance Score for EKPI-02 for the Review Period, as calculated from the EKPI-02 Performance Table.

ANNEX B TO ATTACHMENT P**1 INTRODUCTION****1.1 Purpose**

- 1.1.1 This Annex B is used to define the Other Performance Measures (OPMs) used in the performance measurement process.

1.2 Role of Other Performance Measures (OPMs)

- 1.2.1 OPMs are designed to allow the Commonwealth to measure the performance of the Contractor towards achieving the relevant Project Objectives and the OPMs fulfil a number of roles:
- providing the Commonwealth with visibility of the input activities that the Contractor is undertaking to achieve long term Enterprise objectives or Project Objectives;
 - validating the effectiveness of the relevant pricing and payment arrangements in Attachment B and EKPIs;
 - measuring the provision of the Supplies that are not linked to a Milestone or other payment; and
 - measuring Contractor behaviours.

1.3 Use of OPMs to supplement EKPIs

- 1.3.1 The Commonwealth proposes to use OPMs to measure Contractor performance against the long-term Project Objectives, some of which are also measured by EKPIs supported by an Incentive Payment regime.
- 1.3.2 OPMs will also measure the performance of the Contractor against short-term outputs, activities and behaviours that the Commonwealth considers are required for successful achievement of long-term Enterprise objective and Project Objectives.

2 OUTCOMES AND OPM INFORMATION**2.1 Measurement and Reporting of OPMs**

- 2.1.1 The Contractor's performance against OPMs will be taken into account in Contract Performance Reviews and Project Board meetings. There are no Incentive Payments associated with OPMs.
- 2.1.2 Table 1.8 sets out the Project Objectives addressed by each OPM.
- 2.1.3 Tables 1.9 to 1.16 set out a description of each OPM and the related Performance Assessment methodology.

Table 1.8: Required Objectives and OPMs

Objectives	OPMs	Review Period
Deliver nine ASW-capable Frigates from a MOTS design	OPM-01: Deliver nine ASW-capable Frigates from a MOTS design	Annual
Commence prototyping activity in 2020 and build within 24 months	No OPM Proposed	Annual
Remain within the provision of IIP	OPM-02: Remain Affordable	Annual
Continuous Naval	OPM-03: Contribution to	Annual

ANNEX B TO ATTACHMENT P

Shipbuilding	Continuous Naval Shipbuilding	
Maximise Australian Industry Capability	OPM-04: Australian Industry Capability	Annual

Table 1.9: OPM-01 – Deliver nine ASW-capable Frigates from a MOTS design

PERFORMANCE MEASURE PROFILE	
Performance Measure No.:	OPM-01
Performance Measure Name:	Deliver nine ASW-capable Frigates from a MOTS design
Purpose (Outcome/Output/Proposed Process Measured)	
<ol style="list-style-type: none"> 1. This OPM represents as Good, Fair or Poor, the Contractor's ability to achieve a mature design and to prepare the program for the build phase 2. The purpose of this OPM is to continuously monitor the Contractor's performance in: <ol style="list-style-type: none"> a. deliver a robust, mature ship design; b. establish and maintain good relationships with the Commonwealth and other suppliers to the program; c. minimise the levels of risk to the Contract Master Schedule; and d. deliver a build to support capability. 	

Table 1.10: OPM-01 – Performance Assessment

Deliver nine ASW-capable Frigates Performance Attributes			
The Contractor...	Good	Fair	Poor
delivers a design that requires a minimum number engineering changes that are fed back from the builder during the build phase	No issue	Minor issue	Significant issue
demonstrates its process for minimising levels of rework during the build phase, and reports this in accordance with the open-book accounting principle			
demonstrates its process for retiring risk to the program, and how this will reduce the risk of schedule slippage			
proactively identifies key considerations for the through-life support of the ship and presents design work plans or mitigation plans for these areas even if not expressly contracted to do so			
resolves disputes reasonably and equitably at the lowest level possible and will only consider the contract liability framework as a last resort			
provides prompt notification of material issues and risks			
Effectively tracks and demonstrates improved processes to reduce levels of rework			

ANNEX B TO ATTACHMENT P

ASSOCIATED PARAMETRICS

Cost per tonne			
Person-hours of rework per month, per vessel and cumulative			
Number of Engineering Change Requests raised less Number of Engineering Change Requests closed			
[Others TBD]			

Table 1.11: OPM-02 – Remain Affordable

PERFORMANCE MEASURE PROFILE	
Performance Measure No.:	OPM-02
Performance Measure Name:	Remain Affordable
Purpose (Outcome/Output/Proposed Process Measured)	
<ol style="list-style-type: none"> 1. This OPM represents as Good, Fair or Poor, the Contractor's ability and willingness to share appropriate cost and schedule information in accordance with the Commonwealth's reporting requirements: 2. The purpose of this OPM is to continuously monitor the Contractor's performance in: <ol style="list-style-type: none"> a. Delivering on time, accurate and complete historical cost and schedule information, to give confidence on Management Information provided to the Commonwealth b. Delivering on time, accurate and complete forecast of cost and schedule information, to enable the Commonwealth to project its long run position against IIP 	

Table 1.12: OPM-02 – Performance Assessment

Remain within the provision of IIP Performance Attributes			
The Contractor...	Good	Fair	Poor
consistently delivers transparent cost and schedule information at the required level of detail by the date requested.	No issue	Minor issue	Significant issue
ensures the accuracy and completeness of its cost and schedule reporting, including a detailed account of the assumptions made			
presents forecast of cost and schedule to Commonwealth including a detailed account of assumptions made			
displays a willingness to respond to requests for clarifying or supplementary information			
includes cost data on procurements from suppliers and sub-contractors			
ASSOCIATED PARAMETRICS			
Cost per tonne			
Estimate to (cost and schedule) complete			

ANNEX B TO ATTACHMENT P

Estimate at (cost and schedule) at completion			
Days of delay			
Schedule Performance Index (SPI) when using Earned Value Management			

Table 1.13: OPM-03 – Continuous Naval Shipbuilding

PERFORMANCE MEASURE PROFILE	
Performance Measure No.:	OPM-03
Performance Measure Name:	Continuous Naval Shipbuilding
Purpose (Outcome/Output/Proposed Process Measured)	
<ol style="list-style-type: none"> 1. This OPM represents as Good, Fair or Poor, the Contractor's ability contribute to increasing the benefit to Australian Industry from the Commonwealth shipbuilding Enterprise in Adelaide: 2. The purpose of this Reporting KPI is to continuously monitor the Contractor's performance in: <ol style="list-style-type: none"> a. Identifying innovation opportunities intended to increase the productivity or capability of the shipbuilding industry in Australia b. Proactively identifying technology advances applicable to the Ships 	

Table 1.14: OPM-03 – Performance Assessment

Continuous Naval Shipbuilding Performance Attributes			
The Contractor...	Good	Fair	Poor
Uses common tools, systems and procedures and shares resources on a best for program basis	No issue	Minor issue	Significant issue
notifies the Commonwealth of Innovations that offer cutting-edge technology and/or improve quality of the Shipbuilding Capability in Adelaide resulting in increased performance and Value for Money			
seamlessly introduces any approved innovations, new technology, updates or equipment through the provision of training sessions and support documentation			
anticipates significant changes in the workforce headcount, reporting this to the Commonwealth			
ASSOCIATED PARAMETRICS			
Headcount by skill type (historical and forecast)			
Investment Business Cases			

Table 1.15: OPM-04 – Australian Industry Capability

ANNEX B TO ATTACHMENT P

PERFORMANCE MEASURE PROFILE	
Performance Measure No.:	OPM-04
Performance Measure Name:	Australian Industry Capability
Purpose (Outcome/Output/Proposed Process Measured)	
<ol style="list-style-type: none"> 1. This OPM represents as Good, Fair or Poor, the Contractor's ability to contribute to increasing the benefit to Australian Industry from the Commonwealth shipbuilding Enterprise in Adelaide: 2. The purpose of this OPM is to continuously monitor the Contractor's performance in: <ol style="list-style-type: none"> a. Ensuring that potential suppliers in Australia, have visibility of the Enterprise material requirements b. Identify opportunities for innovation in the Australian supply chain and proactively communicate these to potential suppliers 	

Table 1.16: OPM-04 – Performance Assessment

Australian Industry Capability Performance Attributes			
The Contractor...	Good	Fair	Poor
provides accurate, well justified and credible business cases to the Commonwealth, at the earliest opportunity, for Innovation activities that are external to the Contract price and can be tendered to Australian Industry	No issue	Minor issue	Significant issue
exhibits collaborative behaviour to other parties within the Enterprise, and proactively identifies interface risk between programs			
adheres to or exceeds the Industry engagement and supply chain management activities that it commits to in its Supply Chain Management plan			
identifies risks and sustainability issues in the supply chain and reports them to the Commonwealth at the earliest opportunity			
conducts periodic quality and value for money comparison of equivalent Australian suppliers where they exist; choosing the Australian supplier where comparable			
proactively engages Australian Industry to ensure visibility of program requirements amongst potential suppliers			
ASSOCIATED PARAMETRICS			
Value for money comparisons between Australian and foreign suppliers			
Market Share - value of new business			
Supply chain risks retired			

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CASG/SHIP/RFT0445/17

SEA 5000 PHASE 1

**APPENDIX 1 TO APPENDIX A TO ANNEX G TO ATTACHMENT A TO CONDITIONS OF
TENDER**

PROPOSED LAYOUT OF THE SHIPYARD WORKSHOP

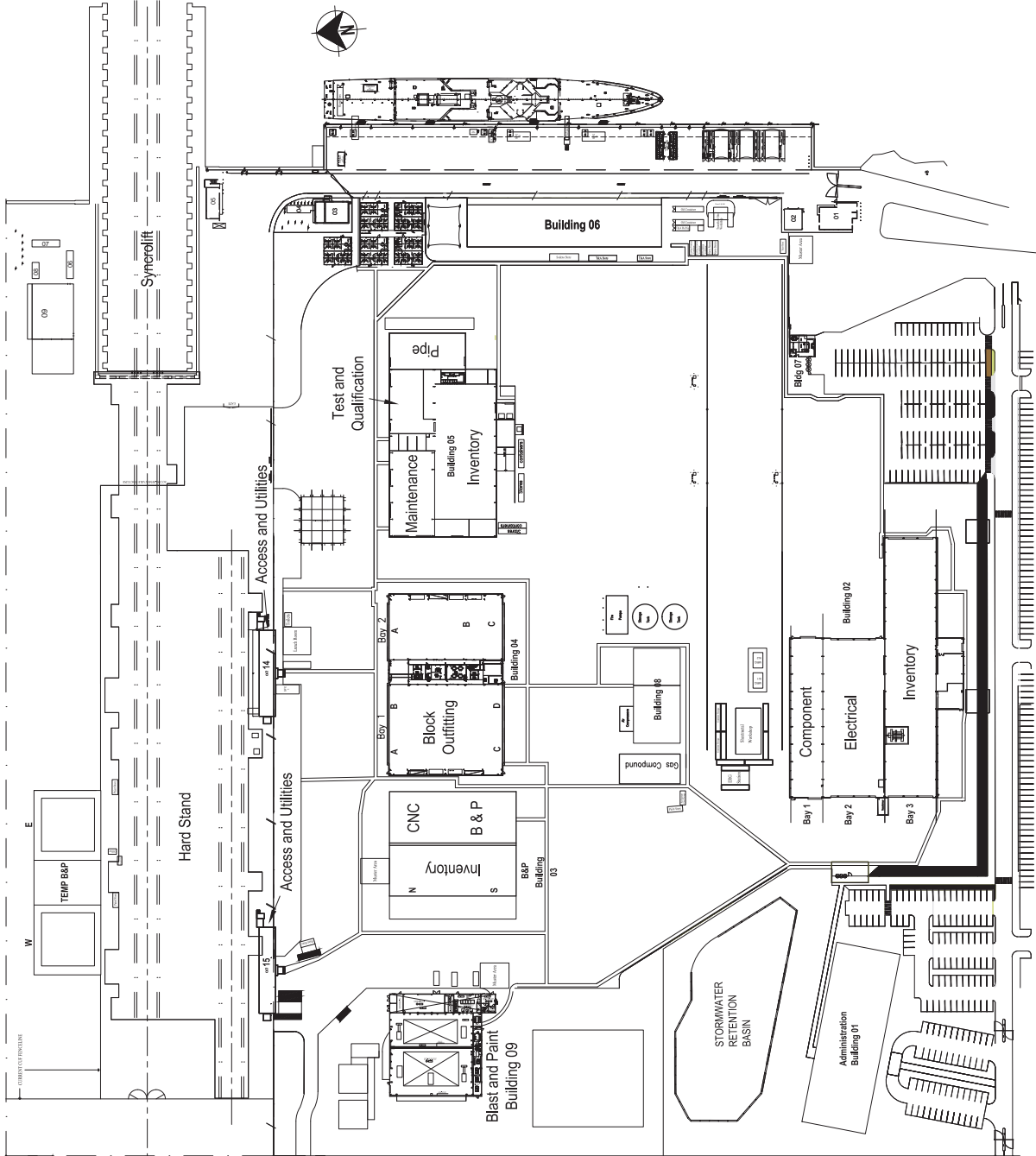
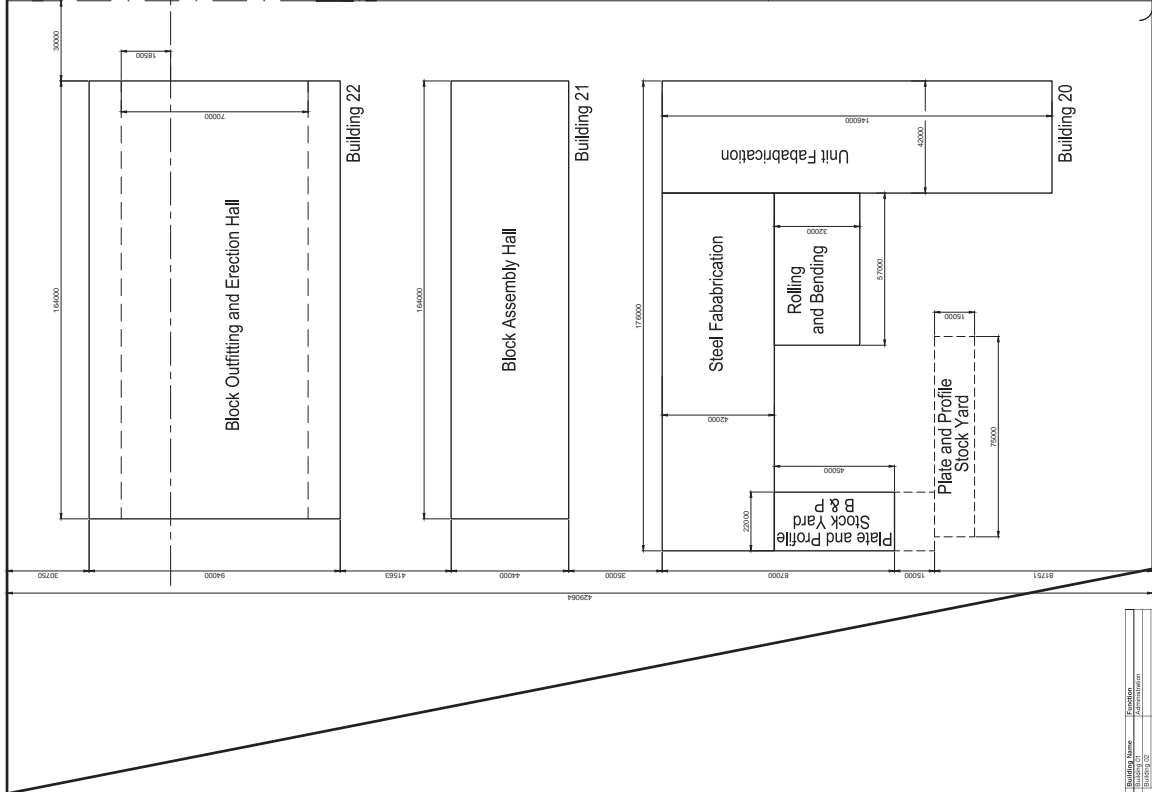
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APPENDIX 1 TO APPENDIX A TO ANNEX G TO ATTACHMENT A TO CONDITIONS OF
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Scale: 1:1000
Dw. LAHJ Date: 2017-02-22
QC: ARIS Date: 2017-03-10
Drg. No.: 100-200
Sheet 1 of 1

Project: SASIU
Shipyard Workshops

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Project: SASIU
Shipyard Workshops

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APPENDIX A TO ANNEX G TO ATTACHMENT A
FACILITIES ASSUMPTIONS DOCUMENT

1. INTRODUCTION

- 1.1** This Facilities Assumptions Document is a high-level description of the Shipyard and associated infrastructure proposed to be made available to the successful Tenderer for the purposes of the SEA 5000 Future Frigate Project (the Project).
- 1.2** The purpose of this Facilities Assumptions Document is to provide a set of assumptions and Shipyard parameters to assist Tenderers to respond to this RFT. In particular, Tenderers should:
- a. prepare their Tenders (including the Tenderer's shipbuilding strategy and pricing information) on the assumption that they will have access to a shipyard and associated infrastructure as described in this Facilities Assumptions Document; and
 - b. respond to Annex G to Attachment A to the Conditions of Tender based on this Facilities Assumptions Document. In particular, Annex G seeks information from Tenderers in relation to their approach to the use of the Shipyard, any identified gaps between the Shipyard and associated infrastructure described in this Appendix A and those required to deliver the Tenderer's shipbuilding strategy.
- 1.3** The description in this Facilities Assumptions Document is based on the existing infrastructure at the Adelaide Shipyard as proposed to be modified and upgraded for the purposes of the Project. The Commonwealth has engaged Odense Maritime Technology A/S to develop a design of modifications and upgrades to the Adelaide Shipyard to ensure it is fit for purpose for the Project and other Commonwealth projects within the Continuous Naval Shipbuilding industry.
- 1.4** The design of the Shipyard is not complete as at the release of this Facilities Assumptions Document; hence the data within this document should not be viewed as the final design detail. The focus of the design to date has been the design of the new buildings, which are detailed in Table 3: Building Numbers and Functions. The existing buildings shown to be modified for the purposes as stated within Table 3 have indicative parameters available only. Further investigation of the site throughout the design process may lead to changes in the locations of facilities between these existing buildings, but Tenders should assume is that the described facilities will be available at the Shipyard.
- 1.5** Additional information in relation to the Shipyard may be provided to the Tenderer during the RFT Process, including after the Closing Time (eg as part of any Offer Definition and Improvement Activities).
- 1.6** This Facilities Assumption Document has been developed only for the purpose of enabling Tenderers to prepare their responses to the RFT. The Commonwealth does not provide any representation or commitment in relation to current or future state of the Shipyard or the contractual arrangements that will apply in relation to the Shipyard. In particular, any functions described in this Facilities Assumption Document for elements of the Shipyard are indicative only; the successful Tenderer will be responsible for the utilisation of the Shipyard as part of its shipbuilding strategy and in accordance with the terms of any agreed Head Contract.

2. ASSUMPTIONS:

2.1 Overview

- 2.1.1** Where information is not present within this document, regarding the Shipyard, the information will be provided to the Tenderer when available during the procurement process, which may be following the tender Closing Time.
- 2.1.2** This section outlines a number of key assumptions relating to the Shipyard to assist Tenderers prepare their responses to this RFT. The balance of this Facilities Assumption Document sets out a high level description of the Shipyard (including the existing facilities and infrastructure as proposed to be modified and upgraded by the Commonwealth).
- 2.1.3** If there is an inconsistency between this clause 2 and another part of this Facilities Assumption Document, that other part shall have precedence over this clause 2.

2.2 Facilities and Equipment

- 2.2.1** As set out in the Project Overview and Statement of Requirements, the Shipyard, associated infrastructure, specified equipment, and the maintenance of these facilities and equipment will be provided as Government Furnished Facilities (GFF) for the purposes of the Head Contract and the Commonwealth will provide access in accordance with the draft Head Contract. Tenderers should assume that any costs the Tenderer incurs in connection with the GFF will be reimbursed on a pass-through basis.
- 2.2.2** The GFF will include the specialist equipment described in this Facilities Assumptions Document.
- 2.2.3** The Commonwealth is currently developing its facilities and infrastructure requirements for the integration of the Combat System, including any requirement for integration facilities (eg Land Based Testing Sites, or Maritime Integration Centres). The intent is to establish the functions associated with integration of the Combat System within Australia.
- 2.2.4** Tenderers should assume that the fit-out of any Integration Facility will occur in accordance with the Tenderer's proposed Contract Work Breakdown Structure and Contract Master Schedule in response to Annex E to Attachment A to the Conditions of Tender.
- 2.2.5** Tenderers should assume that the Shipyard described in this Facilities Assumptions Document will be completed, certified as compliant with Australian legislation, commissioned and available to suit the Tenderer's production schedule as required.
- 2.2.6** The Commonwealth shall be responsible for the maintenance of the Shipyard, including the provision of maintenance staff and a facilities maintenance organisation, as a part of the GFF.
- 2.2.7** A planned maintenance schedule shall be provided by the Commonwealth to the successful Tenderer, no less than three months in advance of the scheduled activities, who shall co-ordinate production to accommodate the maintenance activities and unavailability of the relevant facilities. Planned maintenance activities shall not be an Adjustment Event under the Head Contract.
- 2.2.8** Utilities, such as electrical two and three phase power and welding gasses shall be provided to the Tenderer throughout the production workshops on site, as appropriate to the functional designation of the work spaces as given in this document.
- 2.2.9** The successful Tenderer shall be responsible for the operation of the Shipyard, including the provision of equipment operators.
- 2.2.10** The common user facility ship lift shall be operated by or on behalf of the Commonwealth. The successful Tenderer shall work with the Commonwealth to coordinate access to the ship lift and to manage operational demand for the ship lift to suit the production schedule for this Project and other projects using the Shipyard.

- 2.2.11** Ground loading capacities shall be suitable for the facilities function as specified in this document.
- 2.2.12** Car parking space shall be available to all staff in the direct proximity of the Shipyard.
- 2.2.13** Site perimeter security shall be to the relevant Australian defence standard.
- 2.2.14** Site security personnel shall be provided as a part of the GFF.
- 2.2.15** The Temporary Blast and Paint facilities shown within the common user facility in Figure 4, at coordinates H6 and designated as TEMP B&P, area are not available to the SEA 5000 project.
- 2.3 Computer Numerical Controlled Machines**
- 2.3.1** Specifications for computer numerical control equipment shall be determined by the Commonwealth and be supplied as a part of the GFF.
- 2.3.2** The successful Tenderer shall be responsible for the interfacing of design data with the on site computer numerical controlled machinery.
- 2.4 Machine Automation**
- 2.4.1** Specifications for Automated Machines for use on site shall be determined by the Commonwealth and be supplied as a part of the GFF.
- 2.4.2** The successful Tenderer shall be responsible for the interfacing of design data with the on site automated machinery.
- 2.5 Transportation within the Shipyard**
- 2.5.1** The transportation options shown in Table 1 will be supplied as a part of the GFF for transportation of parts, units and blocks between workshops and buildings.

Type	Dimensions	Transportation ¹
Plates	13x3.5m 12 tons	Flatbed carrier
Profiles	13m 3 tons	Flatbed carrier
T-beams and girders	13m 3 tons	Flatbed carrier
Brackets	0.5x0.5 20 kg	Pallet
Micro panel	13x3.4 3 tons	Pallet
Straight panels	13x13m 20 tons	Hydraulic carrier
Curved panels	13x6m 20 tons	Hydraulic carrier
Straight units	13x13x3.2m 50 tons	Hydraulic carrier
Volume units	13x15x3.2m 50 tons	Hydraulic carrier
Complex units and subassemblies	20 tons	Hydraulic carrier
Blocks, PO1	25x25x10m 400 tons	Hydraulic carrier
Blocks, PO2	25x25x10m 400 tons	Hydraulic carrier
Grand Blocks	No relevant constraints	Hydraulic carrier/Trolley system
Vessel	160x25x36m 10,250 tons	Trolley system
Pipes	-	Flatbed carrier
Pipe banks	-	Flatbed carrier
Pipe units	-	Flatbed carrier
Ducting	-	Pallet and flatbed carrier
Machinery	-	Pallet
Machinery units	-	Flatbed carrier
Electrical components	-	Pallet
Electrical units	-	Pallet and flatbed carrier
Ship equipment	Max. 20 tons	Flatbed carrier

¹ Internal transportation not included

Unit paint	18x12x3.2m	Hydraulic carrier
Block paint	25x25x10m	Hydraulic carrier

Table 1: Transportation options

2.6 ICT Network Assumptions:**2.6.1** The Shipyard will have the following ICT capabilities:

- a. network connections to each desk location in all offices throughout the site;
- b. network connections to each of the production workshops; and
- c. the computer hardware as proposed by the Tenderer in its response to Annex E to Attachment A to the Conditions of Tender.

2.7 ICT Software Assumptions:

2.7.1 Tenderers should assume that their proposal for software in response to Annex G to Attachment A to the Conditions of Tender will be available to the Tenderer.

2.7.2 The Commonwealth shall provide the hardware capability and functionality to support the software proposal in Annex G to Attachment A to Conditions of Tender for use at the Facility.

3. SHIPYARD LAYOUT

- 3.1 The Commonwealth have assigned the area shown in Figure 1 below for the upgrade to include the existing ASC South shipyard, the common user facility area and a plot west of Mersey Road.



Figure 1: The site area for upgrade

3.2 Expansion Overview

- 3.2.1** The coloured buildings in Figure 2 below represent the proposed new or existing buildings to be modified at the Shipyard. At the time of Figure 2 was developed, the yellow and white hatched areas shown on the Block Assembly Hall (Building 21), the Paint Hall (Building 09) and the Block Outfitting and Ship Erection Hall (Building 22) were reflective of further expansion possibilities.
- 3.2.2** The Block Outfitting and Ship Erection Hall building's length has since been approved to incorporate the proposed additional length shown in this diagram as hatched yellow and white area, These dimensions are stated within Section 3.5.30 Building 22 – Block Outfitting and Erection Hall (Location: G9 from Figure 4.
- 3.2.3** In order to align the Block Outfitting and Erection hall with the existing Hard Stand area and Synchrolift, the erection centreline is aligned with the Synchrolift (Figure 2). The hall is furthermore placed west of Mersey Road in order to allow for a larger Hard Stand.



Figure 2: Shipyard Layout

3.3 Building Philosophy

3.3.1 Below in Table 2: Dimensions Related To Facility, are the limiting dimensions of the design of the Facility as given in this document, based on a facility flow and production processes described in Figure 3.

Type	Dimensions
Plates	13x3.5m 12 tons
Profiles	13m 3 tons
T-beams and girders	13m 3 tons
Brackets	0.5x0.5 20 kg
Micro panel	13x3.4 3 tons
Straight panels	13x13m 20 tons
Curved panels	13x6m 20 tons
Straight units	13x13x3.2m 50 tons
Volume units	13x15x3.2m 50 tons
Complex units and subassemblies	20 tons
Blocks, PO1	25x25x10m 400 tons
Blocks, PO2	25x25x10m 400 tons
Grand Blocks	No relevant constraints
Vessel	160x25x36m 10,250 tons

Table 2: Dimensions Related To Facility

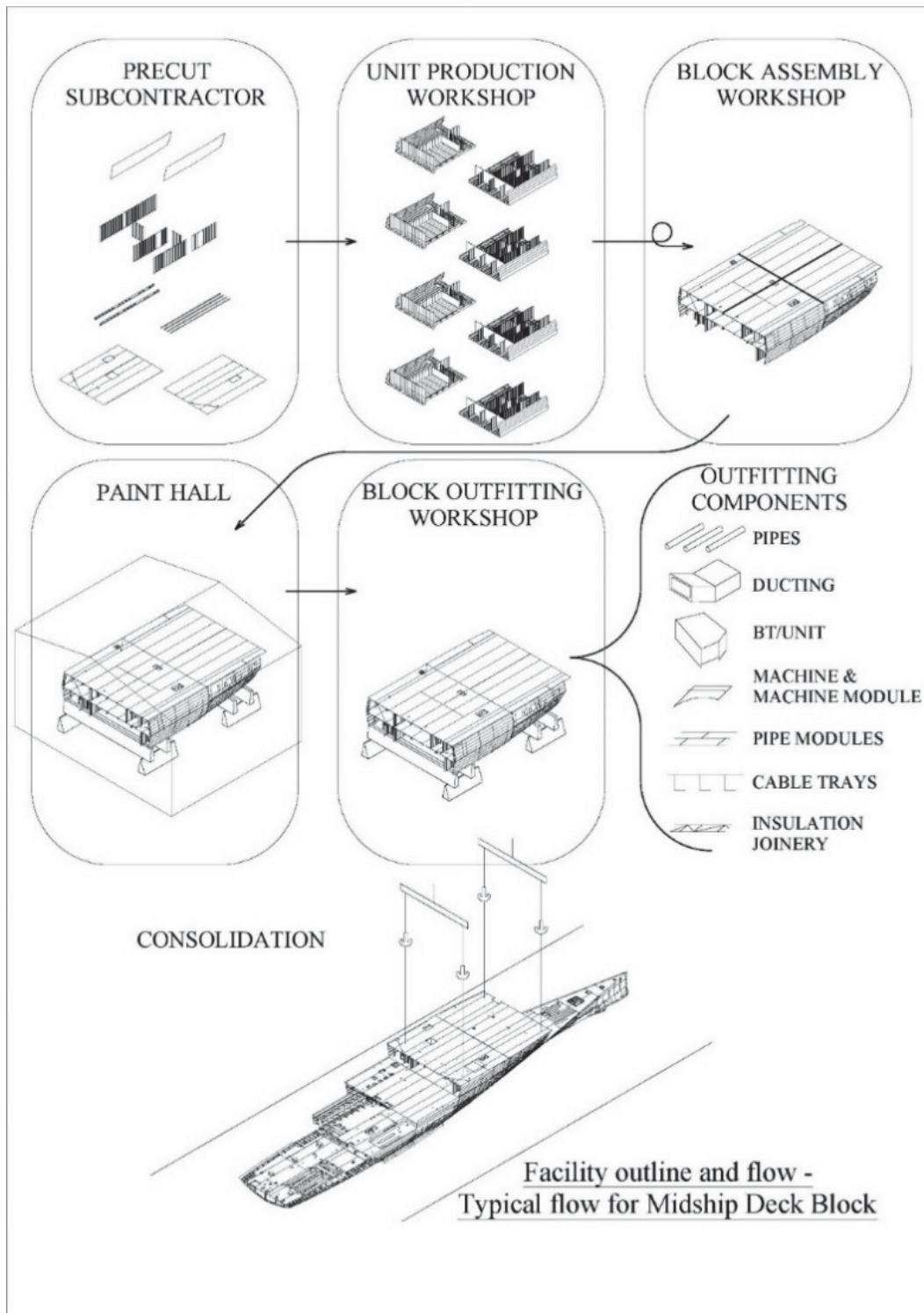


Figure 3: Concept Facility Outline and Flow, typical Midship Deck Block

3.4 Buildings Summary

3.4.1 Table 3: Building Numbers and Functions shows building numbers, names, functions and site location coordinates from Figure 4. The Shipyard Workshop Layout (Figure 4) is the concept shipyard layout for the workshops.

3.4.2 Note that the workshops described in the existing buildings may change location and function as the design detail of these buildings is yet to be developed. Figure 4: Proposed Layout of the Shipyard Workshops is also available in Appendix 1 in PDF format to allow for magnification of the layout as necessary.

New Buildings			
Facility Number	Facility Name	Function	Location Reference
B09	Building 09	Blast and Paint	E7
B20	Building 20	Steel Fabrication and Unit Workshop	-
	Bay West	Steel Storage and Treatment	C11
	Bay North	Steel fabrication	D10
	Bay South	Rolling & banding	D9
	Bay East	Unit fabrication	C9
B21	Building 21	Block assembly hall	E9
B22	Building 22	Block Outfitting and Erection Hall	G9
Existing Buildings to be Modified			
Facility Number	Facility Name	Function	Location Reference
B01	Building 01	Administration	C7
B02	Building 02	-	-
	Bay 1	Outfitting Component Workshop	C5
	Bay 2	Electrical	C5
	Bay 3	Inventory	C5
B03	Building 03		-
	Bay North	Computer numerical controlled Machine for Propellers	E6
	Bay South	Component Blast & Paint	E6
	Bay West	Inventory	E6
B04	Building 04	-	-
	Bay 1	Block Outfitting	E5
	Bay 2	Block Outfitting	E5
B05	Building 05	-	-
	Bay North-East	Maintenance Workshop	E4
	Bay North-West	Test and Qualification Centre	E4
	Bay East	Pipe Workshop	E3
	Bay West	Inventory	E4
B06	Building 06	Wharf Office Building	E2
B07	Building 07	Entrance Gate	C3
B08	Building 08	Bulk Storage Warehouse	D5
B14	Building 14	Outfit Support Tower, East	F5
B15	Building 15	Outfit Support Tower, West	F7
Not Assigned	Sheetmetal WS	Sheetmetal Workshop	C5

Table 3: Building Numbers and Functions

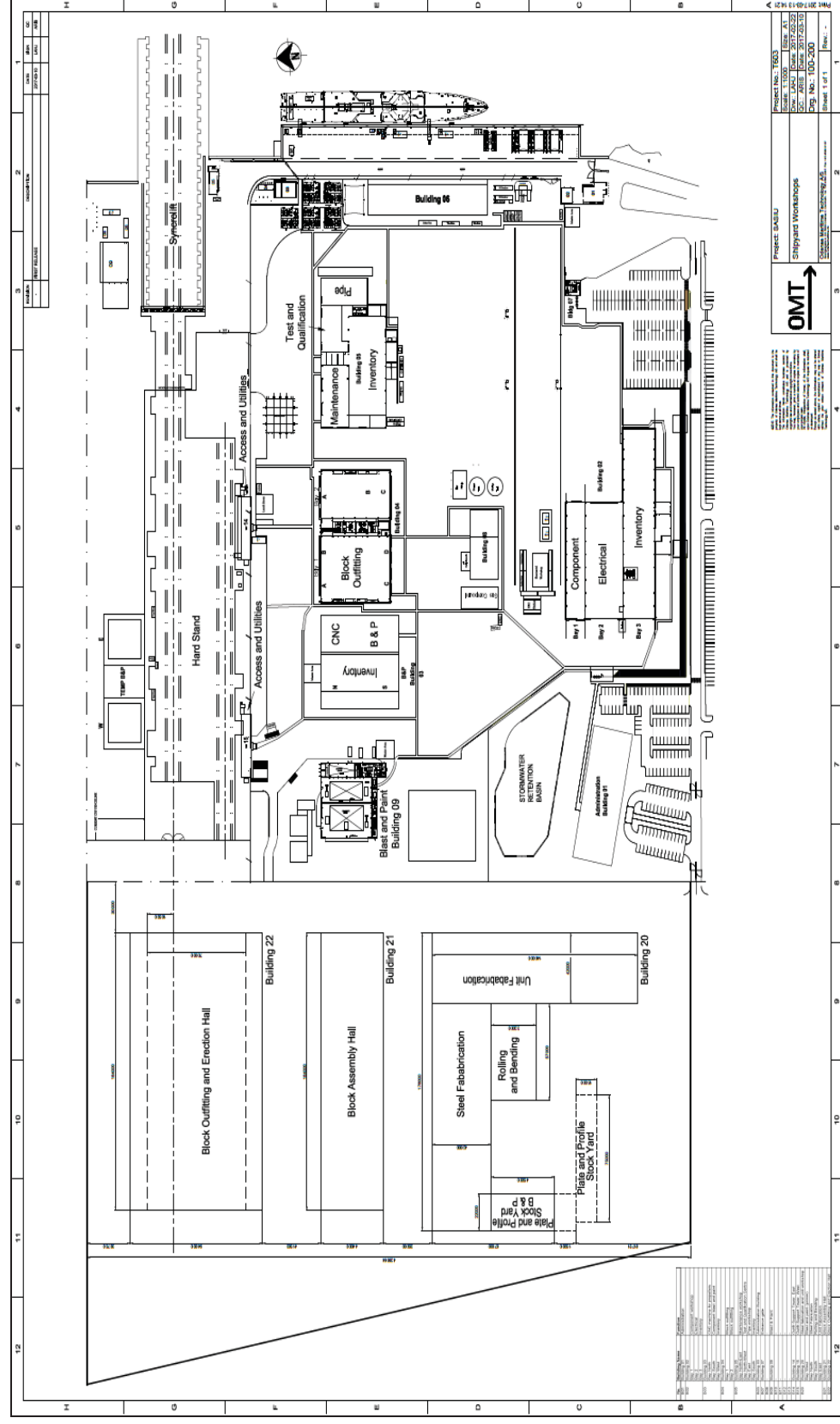


Figure 4: Proposed Layout of the Shipyard Workshops

Note: The Block Outfitting and Ship Erection Hall (Building 22) building's length has been expanded. These dimensions are stated within Section 3.5.30 Building 22 – Block Outfitting and Erection Hall (Location: G9 from Figure 4. The dimension stated for the length for Building 22 within this Layout is not reflective of the current approved design parameter.

3.5 Building Details

3.5.1 Building 01 – Administration Building (Location: C7 from Figure 4).

3.5.1.1 Technical Administration office of 5400m², with a capacity and services for approximately 320 staff.

3.5.2 Building 02 Bay 1 – Outfitting Component Workshop (Location: C5 from Figure 4).

3.5.2.1 Dimensions (LxB) - approximately 68.9m x 13.8m.

3.5.2.2 Main Doors (WxH):

- approximately 5m x 4.6m; and
- approximately 5.8m x 6m.

3.5.2.3 The layout is provided at Figure 5

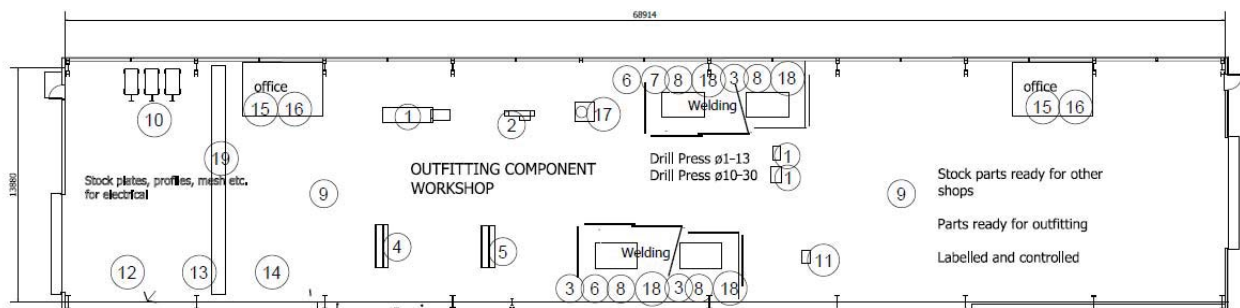


Figure 5: Layout of Outfitting Component Workshop

3.5.2.4 The list of equipment is at Table 4.

Pos	Item	No	data
1	Band saw	1	ø300
2	Profile cutting / punch	1	90 T
3	MIG/MAG Weld	3	350A 100%
4	Plate sheat	1	1500x4
5	Plate bend hydraulic	1	1500mm 150T
6	TIG	2	350A 100%
7	MIG/MAG Weld	1	450A 100%
8	Exhaust extraction	4	Local (flexible)
9	Exhaust extraction	2	Common
10	Trolley	3	0.8x1.5m
11	Belt / disc sander	1	
12	Shelving	1	Pipes
13	Shelving	1	Plates
14	Shelving	3	Tools
15	PC	2	Office
16	Printer	2	A3/A4
17	Drill Press	1	ø30
	Workbench and tools	4	
	Cranes		
18	Jib	4	500kg /3m
19	Overhead	1	5T 13m / 6m below hook

Table 4: List of equipment for the Outfitting Component Workshop

3.5.2.5 Utilities**3.5.2.5.1** In the Outfitting and Component Workshop the following utilities are available:

- a. compressed air;
- b. extraction; and
- c. two and three phase power (see Table 5).

Voltage	No.	Current
3x400 VAC	10	32A
2x230 VAC	20	16A

Table 5: Power Outlets

3.5.2.5.2 In the welding cabins the following utilities are available:

- a. O₂;
- b. LPG;
- c. Argon; and
- d. Argon/CO₂ mix

3.5.3 Building 02 Bay 2 – Electrical Workshop (Location: C5 from Figure 4).**3.5.3.1** Dimensions (LxB) - approximately 26m x 68m.**3.5.3.2** Main Doors (WxH):

- a. approximately 19.2m x 10.2m; and
- b. approximately 19.2m x 10.2m.

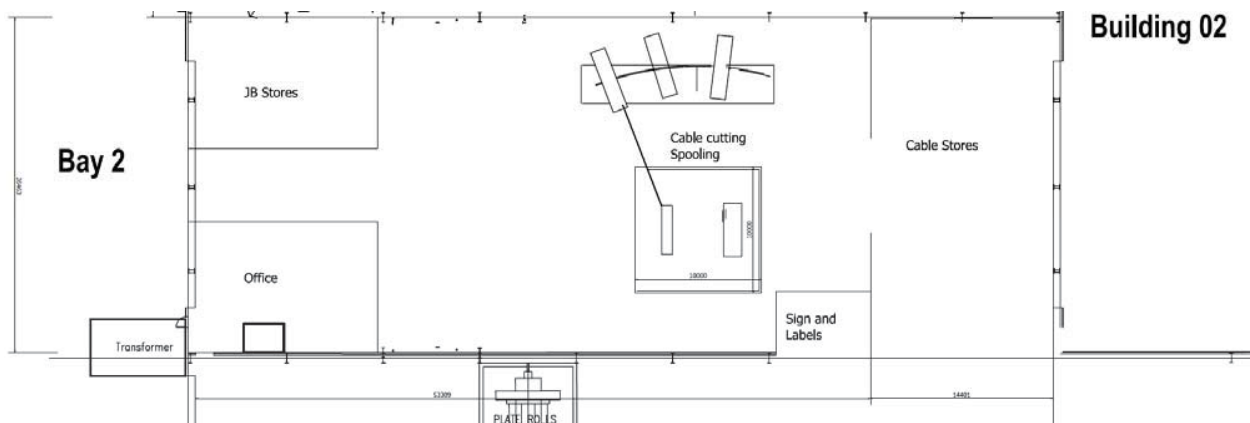
3.5.3.3 The layout is provided at Figure 6

Figure 6: Layout of Electrical Workshop

3.5.3.4 The list of equipment is as follows:

- a. Forklift;
- b. Heavy-duty shelving for high stacking;
- c. Overhead crane with a capacity of at least 2 tonnes;
- d. Cable cutter and racks for cable drum;
- e. Provision for three methods of cutting/spooling shall be provided:
 - i. Serial cutting/spooling;
 - ii. Parallel cutting/spooling; and
 - iii. Single cutting/spooling.
- f. Climate controlled Junction Box pre-assembly workstations (4-6);
- g. Shelving for consumables; and
- h. Forklift.

3.5.4 Building 02 Bay 3 – Inventory (Location: C5 from Figure 4).**3.5.4.1** Clear storage space allocated for the storage of inventory.**3.5.4.2** Dimensions (LxB) - approximately 110m x 22m.**3.5.5 Building 03 Bay West – Inventory (Location: E6 from Figure 4).****3.5.5.1** Clear storage space allocated for the storage of inventory.**3.5.5.2** Dimensions (LxB) - approximately 28m x 28m.**3.5.6 Building 03 Bay North – Computer Numerical Controlled Workshop for Propellers (Location: E6 from Figure 4).****3.5.6.1** Space allocated for computer numerical controlled machine for propellers.**3.5.6.2** Dimensions (LxB) approximately 28m x 28m.**3.5.7 Building 03 Bay South – Small Parts Blast and Paint (Location: E6 from Figure 4).****3.5.7.1** Dimensions (LxB) - approximately 55m x 28m.**3.5.8 Building 04 Bays 1 and 2 – Block Outfitting (Location: E5 from Figure 4).****3.5.8.1** Dimensions (LxB):

- a. Bay 1 approximately 49.2m x 37m; and
- b. Bay 2 approximately 49.2m x 26.7m.

3.5.8.2 Craneage:

- a. hook height of approximately 17m; and
- b. overhead cranes of approximately 100t and 25t.

3.5.8.3 Outfit Support - one centrally located two storey office and workshop facility within Building 04 providing direct access to the Blocks upper deck.**3.5.8.4** Ground Load Capacity - 100 tonnes/square meter.**3.5.9 Building 05 Bay East – Pipe Workshop (Location: E4 from Figure 4).****3.5.9.1** Dimensions (LxBxH) - approximately 33m x 16m.

3.5.9.2 Main Doors (WxH) - approximately 3.6m x 4m.

3.5.9.3 The layout for the Pipe spool workshop is shown below at Figure 7. Note that the grinding area, acid tanks and cleaning area are placed outside the workshop.

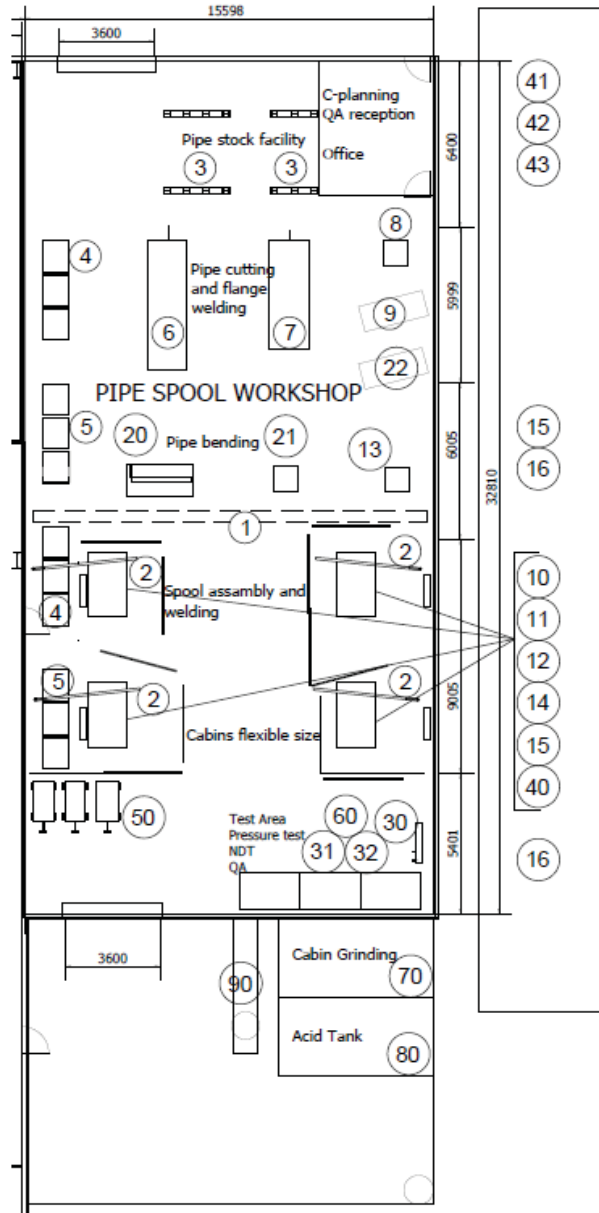


Figure 7: Layout of the Pipe Spool Workshop

3.5.9.4 The list of equipment is at Table 6:

Pos	Item	No.	Data
	Cranes		
1	Overhead	1	15m / 5 T 6m to hook
2	Jib	4	3m / 1 T
	Stocking facilities		
3	Pipe Storage	2	for ½-12"x6m Pipe
4	Flange storage		
5	Fitting Storage		
	Cutting		
6	Horizontal bandsaw	1	2-14" Pipe
7	CNC plasma cutting	1	½-18" Pipe
8	Edge grinding / preparation	1	
	Welding		
9	Automatic Flange to pipe Welding slipon and welding neck	1	2-12" sch 10-40
10	MIG/MAG 450A	4	
11	TIG 300A Pulse	4	
12	Workbench and tools	4	
13	Tube welding positioner semiautomatic	1	3-18"
14	Manual rollerbed	4	½-6"
15	Fume exhaust	5x	Local
16	Fume exhaust	2x	hall top roof
	Pipe Bending		
20	Automatic Pipe (spool) Bending	1	1-5" sch 10-40
21	Semi Automatic	1	½-2" sch 10-20
22	Fitting spool pipe Machine	1	½"-6" x 6m
	Test equipment		
30	Waterpump 100 bar	1	25 l/min (at 1 bar)
31	Fittings ½-12" for pressure test		
32	Tools bolts blinds for preparing spools for pressure test	set 1	10 psc ½"-3" 5 pcs 3½"-12"
	Office		
40	Welders PC for spool information	4	
41	Planning /office computer	1	
42	Printer (On Network)	1	
43	Plotter A1 (On network)	1	
	Transport		
50	Trolley	5	0.8x1.5m
	Marking		
60	Marking label machine / equipment	1	
	Grinding/Cleaning		
70	Equipped grinding cabin	1	
80	Acid tank		
90	Crane	1	500 kg

Table 6: List of equipment for the Pipe Spool Workshop

3.5.9.5 Utilities - In the workshop the following utilities shall be available:

- a. compressed air;
- b. extraction; and
- c. two and three phase power (see Table 7).

Voltage	No.	Current
3x400 VAC	10	32A
3x400 VAC	1	64A
2x230 VAC	20	16A

Table 7: Power Outlets

3.5.9.5.2 In the welding cabins, the following utilities shall be available:

- a. O₂;
- b. LPG;
- c. Argon; and
- d. Argon/CO₂ mix.

3.5.10 Building 05 Bay North-East – Equipment Maintenance Workshop (Location: E4 from Figure 4).

3.5.10.1 Note: This Bay shall be used for the repair and maintenance of equipment, both supplied and maintained by GFF and by the Tenderer. Assume the Workshop is available when necessary.

3.5.10.2 Dimensions (LxB) - approximately 28m x 15m.

3.5.10.3 The layout is shown below at Figure 8.

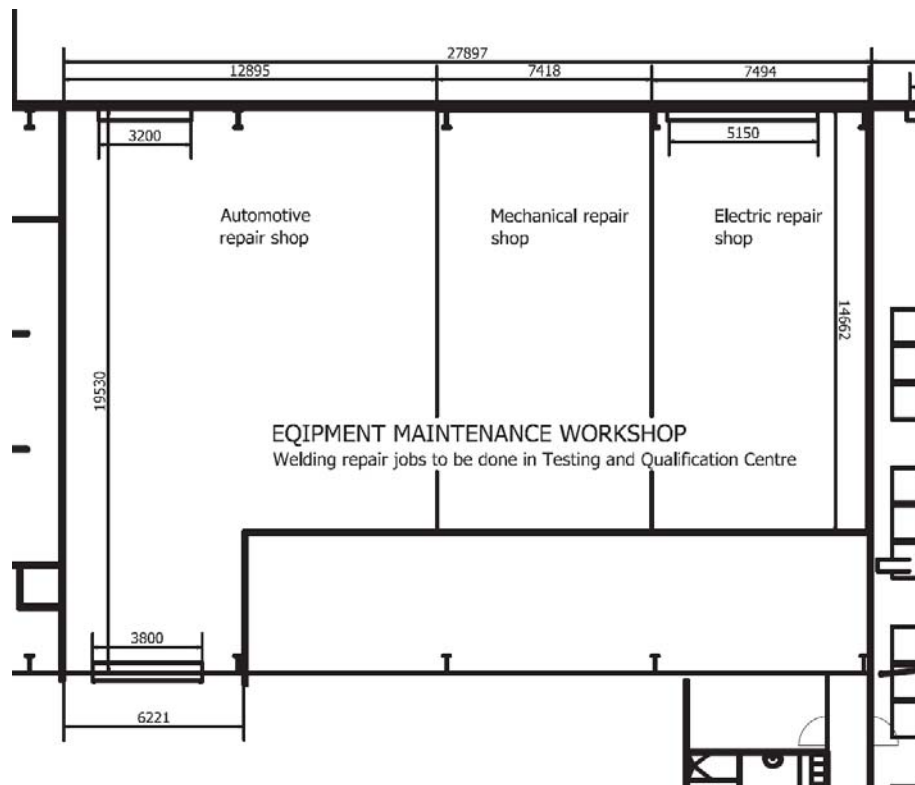


Figure 8: Layout of the Equipment maintenance workshop

3.5.11 Building 05 Bay North-West – Test and Qualification Centre (Location: E4 from Figure 4).

3.5.11.1 Dimensions (LxB) - approximately 19.73m x 37.38m

3.5.11.2 The layout is shown below at Figure 9.

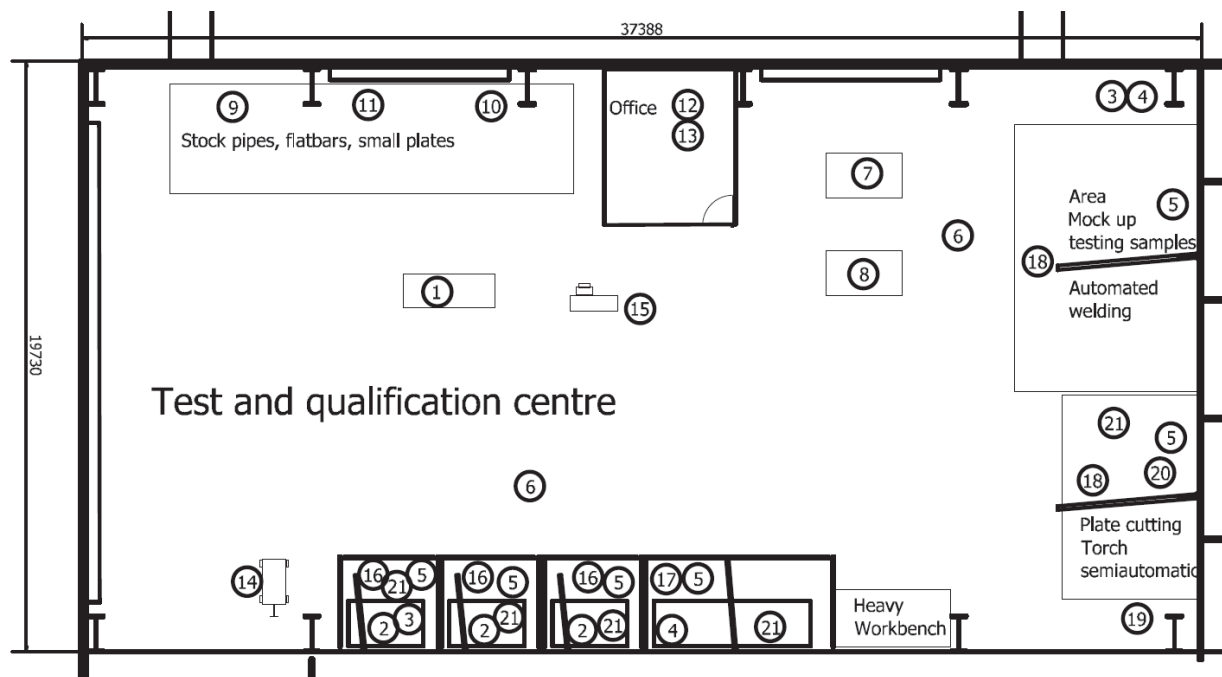


Figure 9: Layout of the Test and Qualification centre

3.5.11.3 The list of equipment is at Table 8:

	Item	No	data
1	Band saw	1	ø300
2	MIG/MAG Weld	3	350A 100%
3	TIG	2	350A 100%
4	MIG/MAG Weld	2	450A 100%
5	Local exhaust	6	(flexible)
6	Common exhaust	2	
7	Milling mach	1	1000x500mm
8	Lathe	1	ø300x1000
9	Shelving	1	Pipes
10	Shelving	1	Plates
11	Shelving	3	Tools
12	PC	1	Office
13	Printer	1	A3/A4
14	Trolley	1	0.8x1.5m
15	Belt / disc sander	1	
16	Jib Cranes	3	500kg /2.5m
17	Jib Cranes	1	500kg /3m
18	Jib Cranes	2	1000kg /5m
19	Plasma Cut Mach	1	100 A
20	Semi aut gas cut	1	1m rail
21	Workbench and tools	5	

Table 8: List of equipment for the Test and Qualification Centre

3.5.11.4 Utilities - In the workshop the following utilities are available:

- a. compressed air;
- b. extraction; and
- c. two and three phase power (see Table 9).

Voltage	No.	Current
3x400 VAC	10	32A
3x400 VAC	1	64A
2x230 VAC	20	16A

Table 9: Power Outlets

3.5.11.5 In the welding cabins, the following utilities are available:

- a. O₂;
- b. LPG;
- c. Argon; and
- d. Argon/CO₂ mix.

3.5.12 Building 05 – Inventory**3.5.12.1** Clear storage space allocated for the storage of inventory.**3.5.12.2** Dimensions (LxB) - approximately 65m x 38m.**3.5.13 Building 06 – Wharf Office Building (Location: E2 from Figure 4).****3.5.13.1** Note: This building cannot be re-purposed or its existing facilities proposed for modification. This building, other than the functions and facilities described below is reserved by the Commonwealth for potential Combat System Integration functions.**3.5.13.2** The existing facilities and functions will still be available within the building:

- a. office building for up to 200 persons;
- b. workshops and stores supporting the wharf;
- c. canteen and kitchen for the yard; and
- d. medical centre.

3.5.13.3 Dimensions (LxB) - approximately 21m x 84m**3.5.13.4** Environmental condition - climate control inside the office spaces of the building.**3.5.14 Building 07 – Entrance Gate (Location: C3 from Figure 4).****3.5.14.1** No data provided at present. Note: This information may be provided to the Tenderer during the RFT process, including after the Closing Time (eg as part of any Offer Definition and Improvement Activities).**3.5.15 Building 08 – Bulk Storage Warehouse (Location: D5 from Figure 4).****3.5.15.1** No data provided at present. Note: This information may be provided to the Tenderer during the RFT Process, including after the Closing Time (eg as part of any Offer Definition and Improvement Activities).

3.5.16 Sheetmetal WS – Sheetmetal Workshop (Location: C5 from Figure 4).

3.5.16.1 Note: No building number assigned at present and location may change.

3.5.16.2 Dimensions (LxBxH) - approximately 69m x 13.8m

3.5.16.3 The layout is shown below at Figure 10

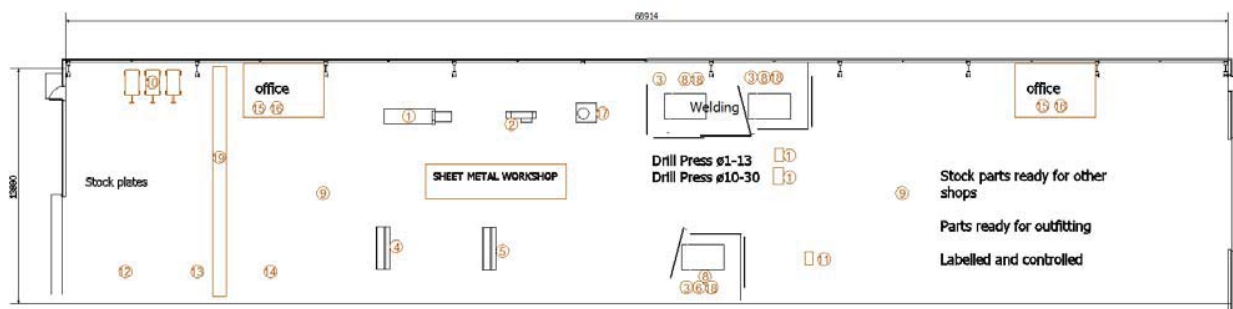


Figure 10: Sheet metal workshop layout

3.5.16.4 The list of equipment is at Table 10:

Pos	Item	No	data
1	Band saw	1	ø300
2	Hole punch mach	1	90 T
3	MIG/MAG Weld	3	350A 100%
4	Plate sheaR	1	2500x4
5	Plate bend hydraulic	1	2500mm 150T
6	TIG	1	350A 100%
7	CNC plasma cutter	1	100A
8	Exhaust extraction	3	Local (flexible)
9	Exhaust extraction	2	Common
10	Trolley	3	
11	Belt / disc sander	1	
12	Shelving	1	Standard duct/ spiropipes
13	Shelving	1	Plates
14	Shelving	3	Tools
15	PC	2	Office
16	Printer	2	A3/A4
17	Drill Press	1	ø30
18	Workbench and tools	3	
	Cranes		
19	Overhead	2	5T 13m / 6m below hook

Table 10 Equipment list for the sheet metal workshop

3.5.16.5 Utilities - in the workshop the following utilities must be available:

- Compressed air; and
- Extraction.

3.5.16.6 In the welding cabins, the following utilities must also be available:

- a. O₂;
- b. LPG;
- c. Argon; and
- d. Argon/CO₂ mix.

3.5.16.7 Power outlets at (Table 11):

Voltage	No.	Current
3x400 VAC	10	32A
2x230 VAC	20	16A

Table 11: Power outlets

3.5.17 **Building 09 – Blast & Paint (Location: E7 from Figure 4Error! Reference source not found.).**

3.5.17.1 Dimensions (LxBxH):

- a. Blast and Paint cabin approximately 34m x 34m x 15m;
- b. Technical equipment room approximately 34m x 9m; and
- c. Amenities, Office, Paint handling, workshops approximately 12m x 49m.

3.5.17.2 Main Doors (WxH) - approximately 28m x 13m

3.5.17.3 Environmental condition:

- a. The air conditioning system installed shall allow control of the humidity in such a way that the steel temperature always can be kept at 3 degrees Celsius above the dew point;
- b. For the blasting and the time span up to paint application the humidity is held within the following range $40\% \leq R \leq 60\%$; and
- c. Accepted temperature range will be $15 \text{ degrees Celsius} \leq T \leq 30 \text{ degrees Celsius}$.

3.5.17.4 The layout is shown below at Figure 11.

Architectural plan view of the Strihl Technik Design building. The plan shows a large central hall (32m x 13m) with a dashed-line area labeled "CABIN: STRIHAL TECHNIK DESIGN WALL TO BE PROTECTED WITH WHITE CURTAINS". To the right of the hall is a vertical strip of rooms: "STRUTHALTECHNIK DESIGN", "ALL TECHNICAL EQUIPMENT IS GATHERED IN ONE BUILDING TOTAL THREE FLOORS", "FLOOR LEVEL: BLAST MACHINE, FILTER SECTION, PAINTING (INLET), DUST COLLECTION", "FIRST FLOOR: FILTER SECTION, BLASTING (INLET), ABRASIVE SLOG", and "SECOND FLOOR: HEATING EQUIPMENT, EXHAUST EQUIPMENT". Above the hall are various support rooms: "MEETING ROOM", "CHAIRMAN OFFICE", "HALL WAY", "TOILET & SHOWER", "WORKERS DINING ROOM", "TOILETS", "WORKING CHANGING ROOM", "SHOWER", "SMALL PARTS WASHING", "SPARE PARTS APPLICATION", "PAINT WORK SHOP", "PAINT STOCK AND HANDLING", "PAINT KITCHEN", and "COMPRESSOR ROOM". Dimensions are provided: overall width 49m, overall depth 34m, hall depth 12m, and hall width 32m x 13m. Gate locations are marked: "GATE W32 m x H3 m" and "GATE W5 m x H5 m". A north arrow is at the bottom center.

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- a. Blasting Equipment:
 - i. Abrasive recycling and cleaning system with capacity of 8 hours continuous operation.
 - ii. Cup elevator to lift used abrasives back to the silo.
 - iii. 6 blast machines, including 6 blast hoses mounted with nozzles (length about 30m).
 - iv. 6 vacuum suction units, including 6 suction hoses (length about 30m).
 - v. Capacity and further details to be confirmed.
- b. Paint kitchen:
 - i. Two-component airless spray pumps.
 - ii. Paint supply system.
 - iii. Sufficient number of flushing pumps.
 - iv. Dosing control and filling station.
 - v. airless spray pumps.
- c. Movable equipment:
 - i. 2 units containing all necessary equipment for CO2-iceblasting and cleaning.
 - ii. 2 machines, including hoses and nozzles for each unit.
 - iii. 2 stationary ice pellets machines.
 - iv. 2 units containing all necessary equipment for airless spray application.
 - v. 2 airless pumps, including hoses and spray guns for each unit.
 - vi. Power tools for surface preparation and paint repair.
- d. Accessibility to the blocks:
 - i. 2 explosion proof cherry pickers certified for working in solvent-exposed areas.
 - ii. A number of ladders and similar for access to the ship blocks.
 - iii. Scaffolding equipment.

3.5.17.6 Utilities

- a. Compressed air supply
 - i. There shall be 7-8 bar available at the nozzle
 - ii. Air capacity shall be sufficient for approximately 6 blasting machines and fresh air for 12 operators.
- b. Other:
 - i. Sufficient number of connections for necessary operator equipment (blasting hoses, airless high-pressure hoses, suction hoses, power tools and electrical hand lamps)
 - ii. Further details to be confirmed

3.5.18 Building 10 (Location: n/a)

3.5.18.1 No data provided. Note: This information may be provided to the Tenderer during the RFT Process, including after the Closing Time (eg as part of any Offer Definition and Improvement Activities).

3.5.19 Building 11 (Location: n/a)

3.5.19.1 No data provided. Note: This information may be provided to the Tenderer during the RFT Process, including after the Closing Time (eg as part of any Offer Definition and Improvement Activities).

3.5.20 Building 12 (Location: n/a)

3.5.20.1 No data provided. Note: This information may be provided to the Tenderer during the RFT Process, including after the Closing Time (eg as part of any Offer Definition and Improvement Activities).

3.5.21 Building 13 (Location: n/a)

3.5.21.1 No data provided. Note: This information may be provided to the Tenderer during the RFT Process, including after the Closing Time (eg as part of any Offer Definition and Improvement Activities).

3.5.22 Buildings 14 East Outfit Support Tower (Location: 5F from Figure 4)

3.5.22.1 No data provided. Note: This information may be provided to the Tenderer during the RFT Process, including after the Closing Time (eg as part of any Offer Definition and Improvement Activities).

3.5.23 Building 15 West Outfit Support Tower (Location: 7F from Figure 4)

3.5.23.1 No data provided. Note: This information may be provided to the Tenderer during the RFT Process, including after the Closing Time (eg as part of any Offer Definition and Improvement Activities).

3.5.24 Building 16 (Location: n/a)

3.5.24.1 No data provided. Note: This information may be provided to the Tenderer during the RFT Process, including after the Closing Time (eg as part of any Offer Definition and Improvement Activities).

3.5.25 Building 17 (Location: n/a)

3.5.25.1 No data provided. Note: This information may be provided to the Tenderer during the RFT Process, including after the Closing Time (eg as part of any Offer Definition and Improvement Activities).

3.5.26 Building 18 – N/A (Location: n/a)

3.5.26.1 No data provided. Note: This information may be provided to the Tenderer during the RFT Process, including after the Closing Time (eg as part of any Offer Definition and Improvement Activities).

3.5.27 Building 19 – N/A (Location: n/a)

3.5.27.1 No data provided. Note: This information may be provided to the Tenderer during the RFT Process, including after the Closing Time (eg as part of any Offer Definition and Improvement Activities).

3.5.28 Building 20 - Steel Fabrication and Unit Workshop (Location: C9 from Figure 4)

3.5.28.1 A modern structural fabrication facility shall be provided including equipment allowing for the automation of certain processes. The Steel and Unit Fabrication contains the following departments:

3.5.28.1.1 Steel Storage and Surface Treatment Line - A steel storage and steel treatment line shall be provided. This facility shall support the following functions:

- Reception of plates (13m x 3.5m) and profiles (13m) from truck;
- Storage of plates and profiles. Handling carried out by a 10 tons magnet gantry crane;
- Feeding a surface treatment line. Plates directly and profiles via a collector;
- A surface treatment line for both plates and profiles;
- The line is served by a small paint mixing and storage room and covered with a simple shed with good natural ventilation; and
- Application of a 18-20 micron shop primer.

3.5.28.1.1.1 Plate and Profile Blast and Paint facilities shall be assumed to be sufficient for the Tenderer's proposed shipbuilding strategy. The surface treatment profile/surface roughness shall be assumed to be suitable for the requisite ship paint specification.

3.5.28.1.1.2 Dimensions (LxBxH):

- Steel & Profile Stockyard approximately 65m x 15m; and
- Surface Treatment Line approximately 60m x 22m.

3.5.28.1.1.3 Layout - the numbers within the layout correspond to the Equipment List also shown on the layout.

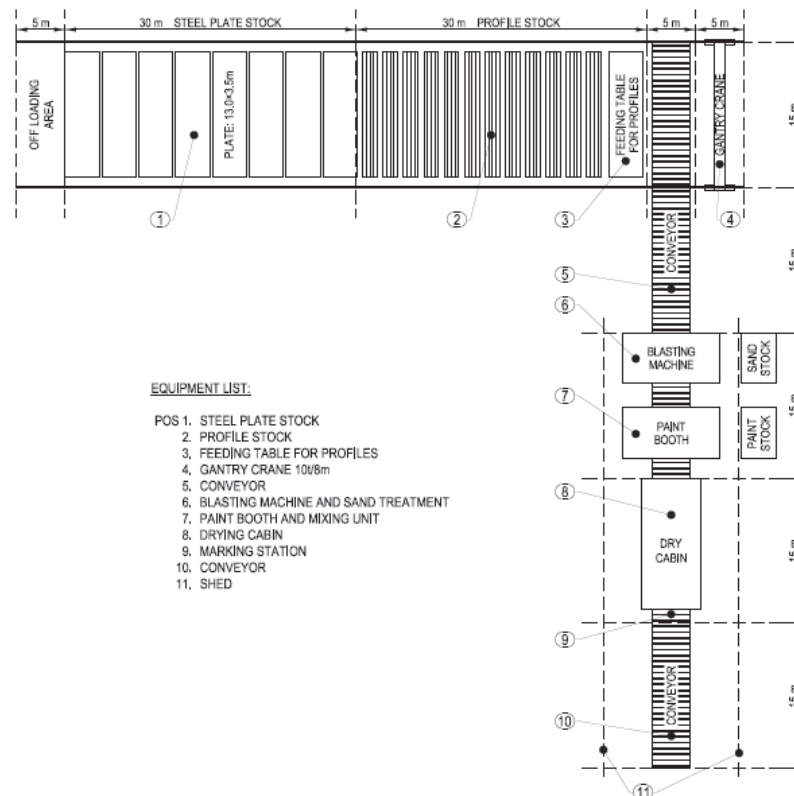


Figure 12 - Steel Stockyard and Surface Treatment Line

3.5.28.1.2 Steel Fabrication Workshop - The purpose of the steel part fabrication workshop is to process and fabricate hull structure elements from shop primed raw material. The layout of the workshop is based on the below main functions. The workshop is in direct connection with the unit assembly hall. Following processes and production equipment are located in the steel part fabrication workshop:

- a. Cutting of plates incl. sorting and immediate storage
- b. Cutting of profiles incl. sorting and immediate storage
- c. Welding lines
- d. Panel line
- e. Micro-panel line
- f. T-girder line
- g. Forming of plates, bending of profiles and press for corrugated bulkheads
- h. Transport of materials

3.5.28.1.2.1 The steel materials sizes accommodated for plates and profiles are as follows:

- a. Plate dimensions are length = 13m; width = 3.5m; thickness from 4-60mm. Steel quality grade A and grade EH40. Max weight about 5 tons
- b. Profiles are max length = 13m and types are flat bars, angle bars, T-bars and bulb flats

3.5.28.1.2.2 Dimensions (LxBxH) - approximately 132m x 40m x 8.4m

3.5.28.1.2.3 Main Doors (WxH) - Approximately 6m x 6m

3.5.28.1.2.4 Ground Load Capacity - The floor of Steel Fabrication Workshop shall be heavy-duty reinforced concrete slabs on piles designed to take the load of SPMTs 10 t/m². Other loads include:

- Point loads 50t on 0.5 x 0.5 m with minimum radius to the nearest point load = 4m.
- The floor of workshop with smaller dimensions shown in Figure 13 shall be heavy-duty reinforced concrete slabs supported on piles designed to take an even distributed load of 5 t/m².

3.5.28.1.2.5 Environmental condition - The workshops are unheated and with free ventilation.

3.5.28.1.2.6 The layout for the Steel Fabrication assembly workshop is shown below at Figure 13.

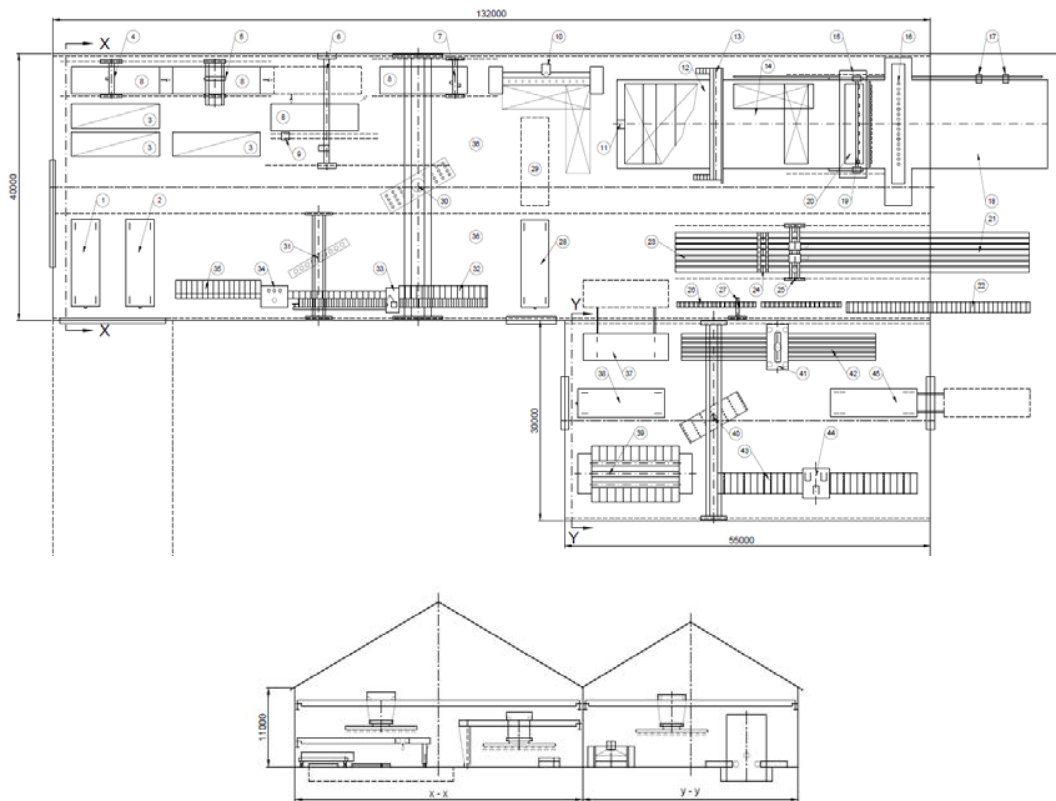


Figure 13 - Layout of Steel Fabrication Workshop and section view

3.5.28.1.2.7 The list of equipment is at Table 12.

Plate- and Profile Workshops	
Pos.	Item
1	Profile trailer
2	Plate trailer
3	Plate store
4	Marking gantry
5	Laser cutting gantry
6	1 ton gantry crane for sorting. Lifting height 2.5m
7	Marking gantry for both sides. Turning of plates on floor. Oxycutting. Primer removal
8	Cutting cassettes on rails. Lift by crane to sorting station
9	Pallet carriage
10	Milling machine for 4 edges
11	Plate front gripper
12	65m x 13m roller/chain panel line
13	One sided MIG welding machine
14	Area for load of single plates
15	Profile loading gantry
16	Profile welding machine
17	Side grippers. Panel ref. line
18	Loading of panels into Unit Workshop
19	Profile pick-up loader
20	Profile cassette
21	Loading of small items into Unit Workshop
22	Loading of T-girders into Unit Workshop
23	54m x 6m chain micro panel line
24	Magnet counter bend zone
25	Gantry with 2 robots
26	Table for T-girders
27	2 head MIG welding machine with induction counter heat
28	Trailer for plates and profiles to other workshops
29	Area for steel scrap containers
30	12 ton magnet crane. Lifting height 5m
31	3 ton magnet crane. Lifting height 3m
32	Table for profile plasma cutting robot
33	Plasma cutting robot with x-axis in the table
34	Profile edge milling machine
35	Feed table for profiles
36	Area for sorted plates and profiles
37	10 ton rail transport carriage
38	Material transport trailer
39	Plate roller
40	5 ton magnet crane. Lifting height 2.5m
41	300 ton press
42	Chain table
43	Roller table with transverse rollers
44	Frame bending machine
45	10 ton rail transport carriage for materials into Unit Workshop

Table 12 List of equipment for the Steel Fabrication Workshop

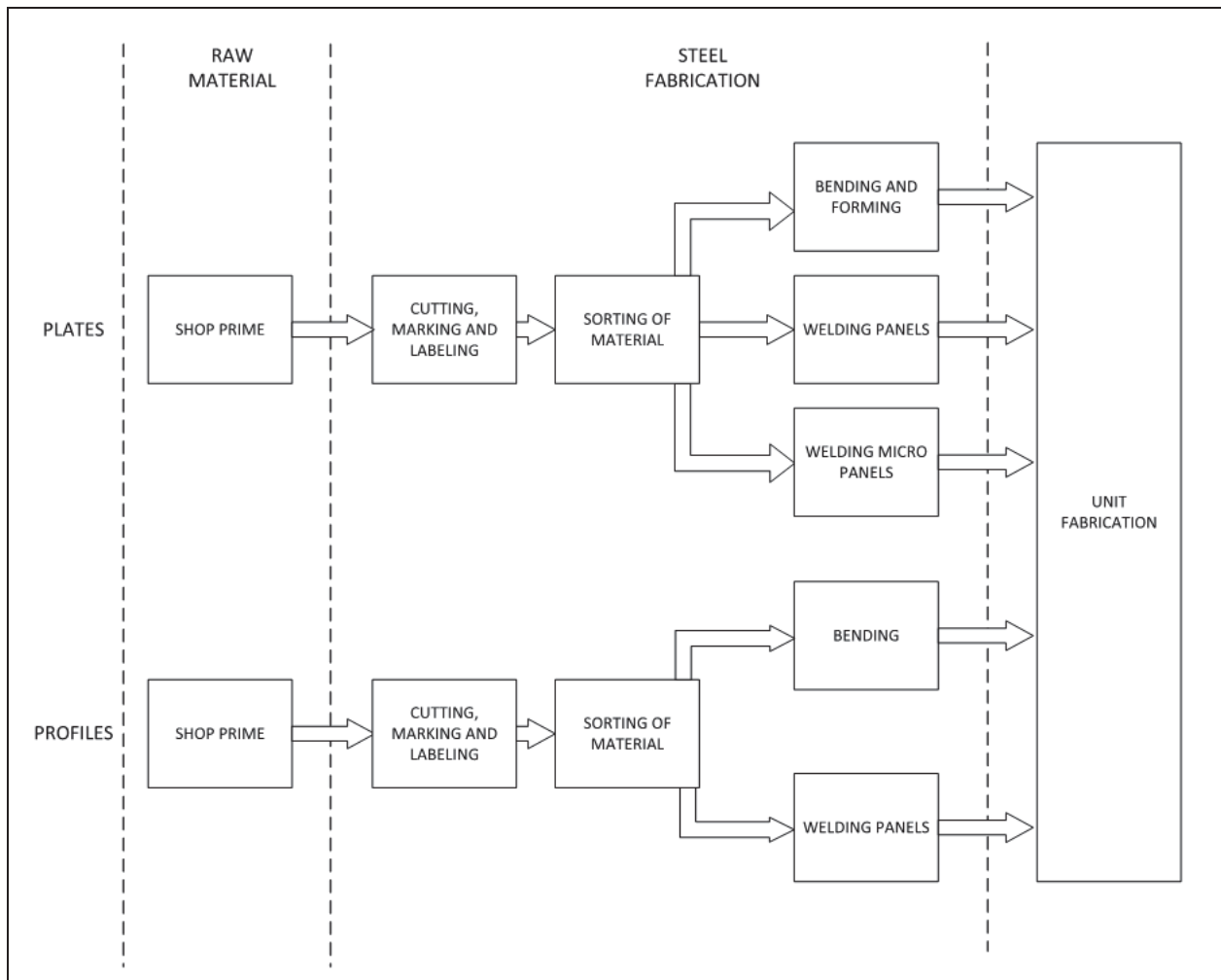


Figure 14 Concept High Level Workflow of Steel Fabrication Process

3.5.28.1.3 Steel Fabrication Process Concept

3.5.28.1.3.1 Cutting of plates

- a. The materials are unloaded with magnet cranes and stored in stacks on the floor
- b. The plates are fed into a line with three stations, where they are manufactured. The lines consist of transportable cutting cassettes made of a steel frame with steel lamellas.
- c. At the first station, plates are cleaned from primer and marked on the non-profile side. When finished, the plate is removed from the table, flipped over and returned to the table.
- d. Now the plate's "profile side" is up, the primer is removed from the welding zones. Thereafter, the plate is marked with text using ink and lines are marked with a laser
- e. The cassette transport system consists of rollers on steel frames and a push system.
- f. At the second station, plates are cut with a laser. The necessary smoke and light protection will be provided. This will be an off the shelf solution provided by the laser cutting supplier. The laser cutting process maximises cutting accuracy ($\Delta < \pm 1\text{mm}$).
- g. At the third station, the cassette with the items, which have been cut, is transported by crane to the sorting area, and the empty cassette is returned to the first station.

3.5.28.1.3.2 Cutting of profiles

- a. The profiles are loaded onto the feeding table by a magnet crane. The table feeds the milling machine.
- b. The milling machine mills the welding edge and adjusts the height of the profiles. The purpose is to get the best welding conditions for the later fillet welds.
- c. After milling, there is an intermediate feeding table, which pushes the profile to the cutting robot table.
- d. The profile-cutting plasma robot is fed by a moving table, such that smoke, noise and light are contained, limiting worker contact with these. The cutting robot can perform the necessary bevel weld preparation types.
- e. The magnet crane unloads the finished profiles.

3.5.28.1.3.3 Welding lines

- a. There are three lines: One for big panels, 13m x 15m, called a Panel Line, one for micro panels, 6m x 13m, called a Micro Line and one for T-girders, 13m x 1m, called a T-girder Line
- b. The desired output from the lines are to achieve high-quality welding, necessary tolerance and reduced welding deformations.
- c. To achieve the above goals, there is a milling machine. The milling process gives high tolerances, precise bevelling and exact angularity.
- d. The Panel Line includes one-sided welding capability for seams in the panels, but requires a precise and straight welding preparation.

3.5.28.1.3.4 Panel line

- a. The panel line consists of a roller plane, 65m long and 13m wide, equipped with a one-sided welding machine, a profile welding machine and grippers for the moving of the panel.
- b. In front of the line, there is an assembly area.
- c. The panel is pushed by the end gripper into the welding machine, and the seams are welded. The welding method is a one-sided controlled MAG or hybrid laser welding. During the welding, the seam is clamped firmly hydraulically.
- d. After the panel is welded, it is pushed to the side grippers, and a reference line is created. The side grippers push the panel through the profile-welding machine. The movement is digitally controlled, so the correct spacing of the profiles can be achieved.
- e. The profile-welding machine consists of a moveable profile loader on rails in connection with a welding machine. The loader picks up the profile on top of the loader by magnets and puts it on a magnet beam in front of the loader. The loader then moves into the welding machine, where the profile is coupled to the plate end and hydraulic pistons press it against the plate. To avoid angular distortion, the plate is counter-bent by magnets under the plate. The fillet welds are by MIG. The welding heads will have light and smoke protection/ ventilation.
- f. After profile welding the panel is pushed into the unit workshop.
- g. There is enough space between the one-sided welding machine and the profile-welding machine to also utilise the line for single-plate panels.

3.5.28.1.3.5 Micro-panel line

- a. The line consists of a 53m long and 6m wide chain plan. There is a zone for magnetic counter bend, and the fillet welds are made with a two-head robot welding system, where the welding is scanned by cameras.
- b. The finished items are transported into the unit workshop by the chain table.

3.5.28.1.3.6 T-girder line

- a. The line consists of a 25m long and 1m wide working table. A crane feeds the table with face bars and a web plates which are manually tack welded.
- b. The fillet welds are made with a two-head welding machine which is mounted on a track on the wall.
- c. To avoid longitudinal bending induction heat is available during welding.
- d. When finished, the girder is tilted or lifted by the magnet crane and transported to the roller table and into the unit workshop.

3.5.28.1.3.7 Forming and bending

- a. The forming machines are in a separate workshop.
- b. Forming of plate can be performed with use of a rolling machine with three rolls, with a support table on both sides. The roller is able to roll 13m long plates.
- c. A press shall be provided for general forming, capable of forming corrugated plate for bulkheads, complete with roller tables.
- d. A frame-bending machine shall be provided, equipped with a floating roller table.

- e. All material handling is done with the 5-ton magnet crane

3.5.28.1.3.8 Transport

- The transport of materials from the three lines into the unit workshop is done by the lines themselves
- A 12-ton rail transport carriage shall be provided for transportation from the cutting area to the forming workshop.
- After forming the plates and profiles, they are transported into the unit workshop by a 12-ton carriage between the forming workshop and the unit workshop.
- Scrap containers and other transport shall be provided.
- Pallets on trucks access shall be provided between the cutting shop and the unit workshop.

3.5.28.1.4 Unit Fabrication Workshop - The purpose of the unit fabrication workshop is to assemble hull structure elements into sub-assemblies or larger units that suit the following build-up of blocks. Maximum size is L = 13m, W = 15m and H = 4m.

3.5.28.1.4.1 Dimensions (LxBxH) - approximately 144m x 40m x 12.4m

3.5.28.1.4.2 Ground Load Capacity - the floor of Steel Fabrication Workshop shall be heavy-duty reinforced concrete slabs on piles designed to take the load of SPMTs 10 t/m².

3.5.28.1.4.3 Environmental condition - the workshops are unheated and with free ventilation

3.5.28.1.4.4 The layout is shown at Figure 15.

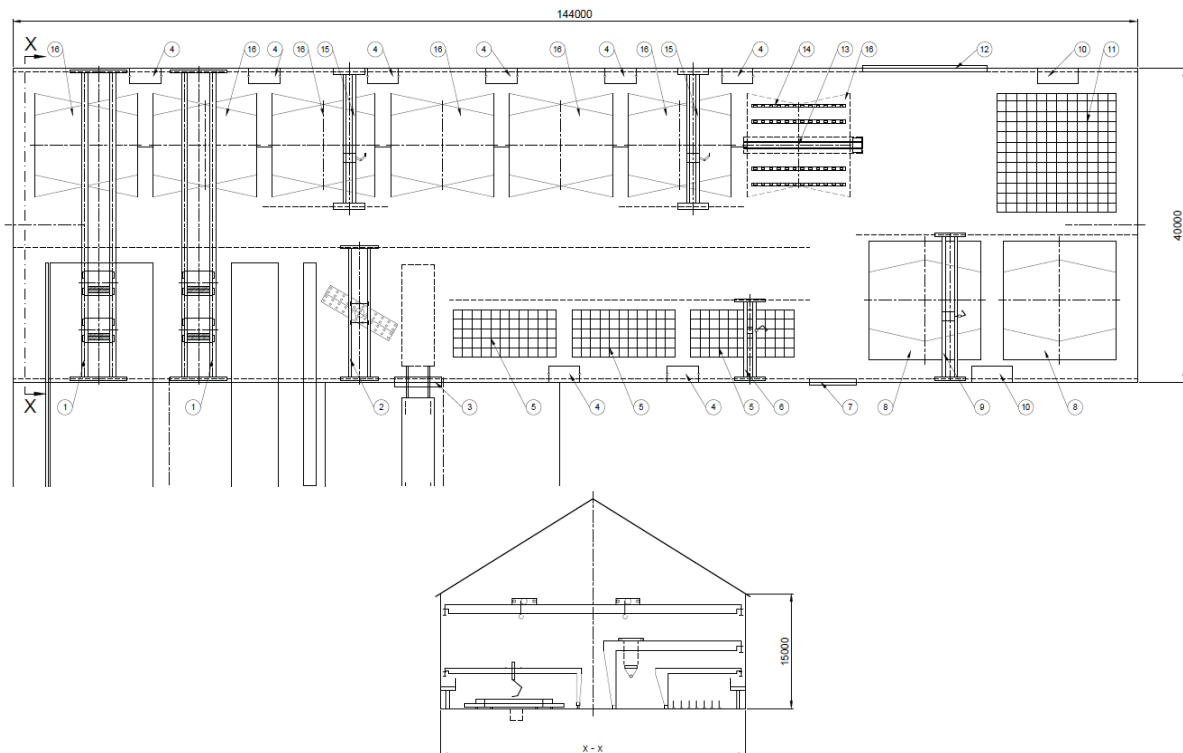


Figure 15 - Layout of Unit Fabrication Workshop and section view

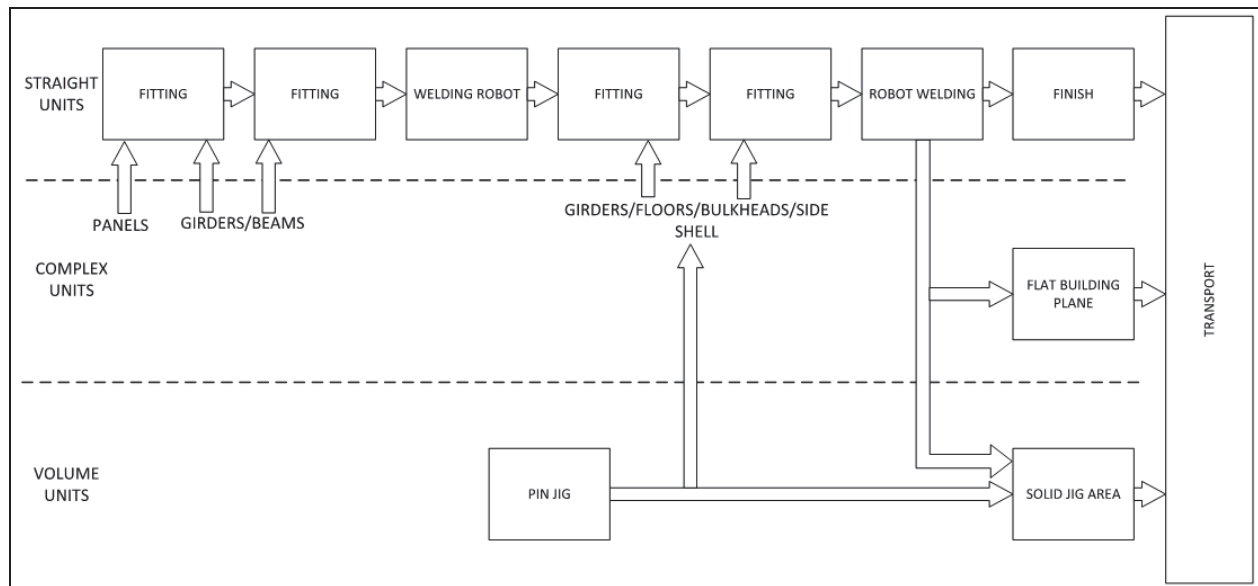


Figure 16 Concept High Level Workflow of Unit Fabrication Process

- Pin jig area - There shall be three pin jigs, each 13m long, 6m wide and with a pin height of 1m. Distances between the pins are 1m. The pin can be made with rough adjustment by U-shaped distance pieces and with protected threads on the top.
- Solid jig area - There shall be two solid jigs, each 13m long, 15m wide and height 0.5m. The maximum overhang should be kept below 140mm.
- Flat steel beam area - The dimensions are 15x15m.
- Jig wagon - A jig wagon shall be provided for the transportation of panels within the workshop.

3.5.28.1.4.4 List of Equipment is shown in Table 13.

Unit Section Workshop			7		6m gate
Pos.	Qty.	Item	8	2	13m x 15m fixed jig for overhanging shell plates
1	2	2 x 20 ton traverse crane. Lifting height 10m	9		Robot welding gantry
2		5 ton magnet crane. Lifting height 4m	10	2	5m material platform
3		6m gate	11		15m x 15m fixed jig for flat items
4	8	4m material platform	12		16m gate
5	3	13m x 6m pin jig. Spacing 1m	13		Pull system for jig wagon
6		Robot welding gantry	14	21	Roller rail for jig wagon
			15	2	Robot welding gantry
			16	7	Jig wagon

Table 13 List of equipment for the Unit Fabrication Workshop

3.5.28.1.4.4 Craneage - Two cranes with a lifting capacity of 2x20 tons each (total capacity of 80 tons).

3.5.29 Building 21 – Block Assembly Hall (Location: E9 from Figure 4)

3.5.29.1 The intended use of the block assembly hall is to assemble and outfit blocks from units and parts. The hall is flexible and can accommodate a variety of blocks, within a (W x L x H) 25 x 25 x 10m envelope.

3.5.29.2 Dimensions (LxBxH) - approximately 160m x 41m x 23m

3.5.29.3 Main Doors (WxH):

- a. Approximately 25m x 13m (x3)
- b. Approximately 5m x 5m (x5)

3.5.29.4 Craneage - two double girder cranes with a lifting capacity of 2x100 tons each (total capacity of 400 tons). Both cranes are also to be equipped with a fast 25 tons auxiliary winch. The clearance to the underside of crane girder shall be 20m.

3.5.29.5 Ground Load Capacity:

- a. The floor shall be heavy-duty reinforced concrete slabs on piles designed to take the load of SPMTs = 10 t/m².
- b. Other loads:
 - i. Support plinths 150t distributed on 1.7 x 2.7 m with minimum distance to adjacent support plinth, within a radius of 6.0 m.
 - ii. Point load 50t on 0.5 x 0.5 m with minimum radius to the nearest point load = 4m.
- c. A central Sand Box shall be provided for turning of structural assemblies.

3.5.29.6 Environmental condition - the workshops shall be unheated and with free ventilation.

3.5.29.7 Personnel - the amenities and lunch room facilities for blue collar and supervisors shall be provided. In addition to the amenities and the lunch room, office space for supervisors, planners and management shall also be provided.

3.5.29.8 The layout is shown at Figure 17.

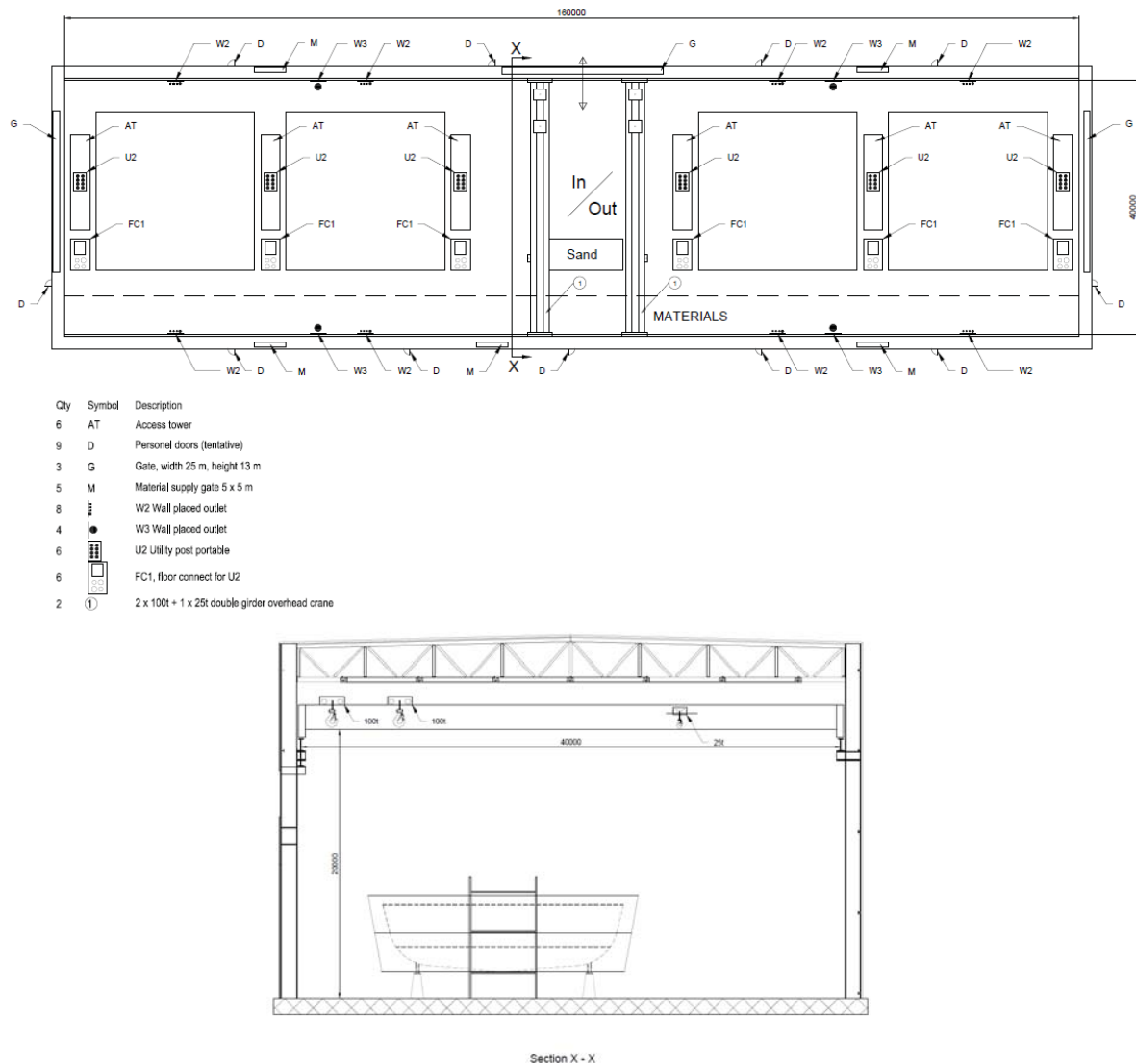


Figure 17 - Layout of Block Assembly Hall

3.5.30 Building 22 – Block Outfitting and Erection Hall (Location: G9 from Figure 4).

3.5.30.1 Dimensions (LxBxH) - approximately 175m x 70m x 34m

3.5.30.2 Main Doors (WxH):

- Approximately 26m x 15m
- Approximately 28m x 33m
- Approximately 34m x 33m
- Approximately 5m x 5m (x6)

- 3.5.30.3** Ground Load Capacity - The floors shall be heavy-duty reinforced concrete slabs with a thickness of 1000 mm supported on vertical piles placed in a grid of approximately 2.8-3 metres.
- 3.5.30.4** Environmental Condition - the workshops shall be unheated and with free ventilation.
- 3.5.30.5** Lighting Condition - During nightshifts, adequate lighting for workers shall be provided.
- 3.5.30.6** Personnel:
- Amenities and lunch room for blue collar workers and supervisors shall be provided.
 - In addition to the amenities and a canteen, office space for supervisors, planners and management shall be provided.
- 3.5.30.7** The layout is shown at Figure 18.

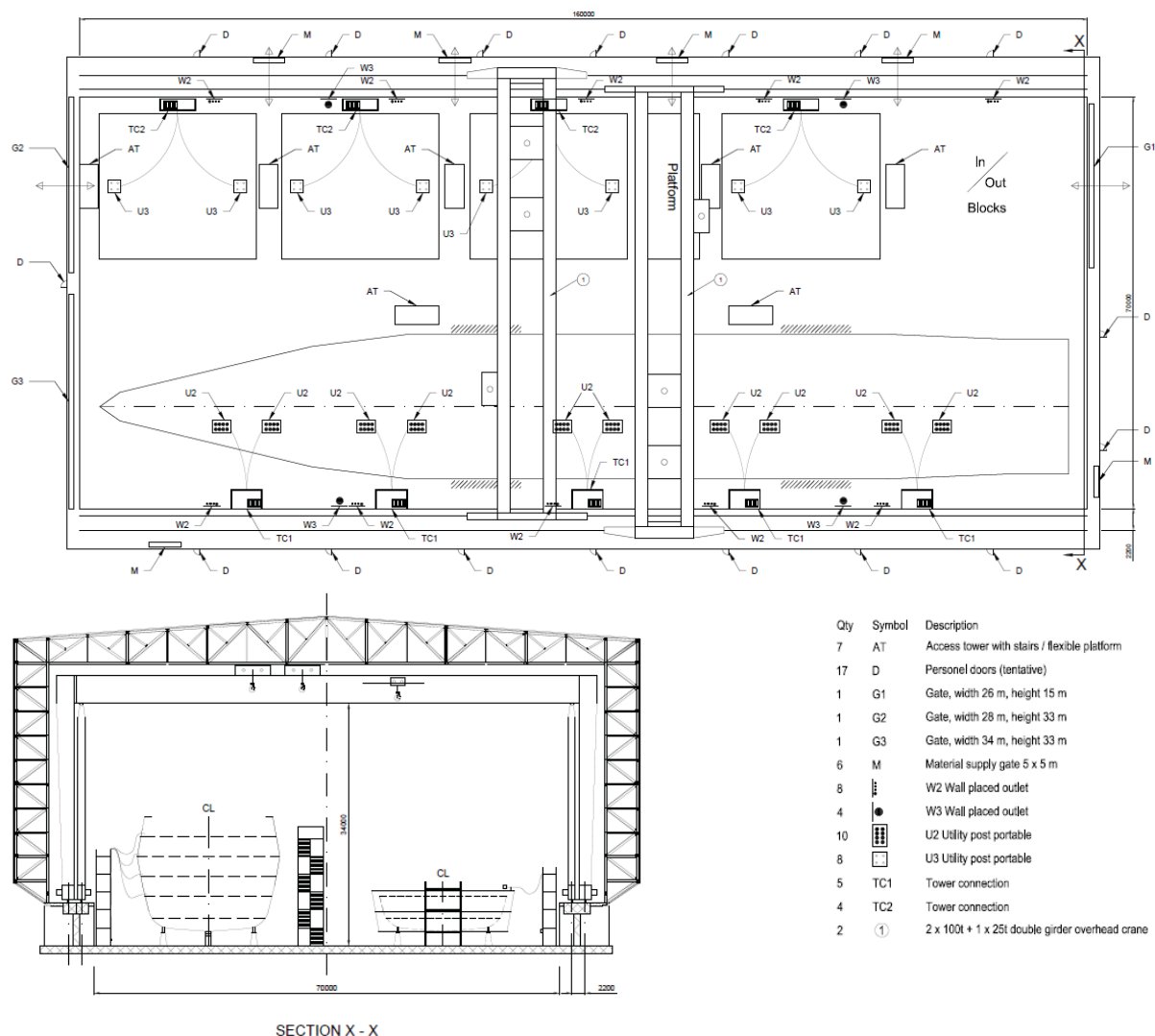


Figure 18 - Layout of Block Outfitting and Erection Hall

- 3.5.30.8** Note: The Block Outfitting and Ship Erection Hall building's length has been expanded, These dimensions are stated within 3.5.30.1 Dimensions (LxBxH). The dimension stated for

the length for Building 22 within this Layout is not reflective of the current approved design parameter.

- 3.5.30.9** Cranage - 2 x (2x100t) max 400t combined. Each crane with an aux 25t winch
- 3.5.30.10** Onsite Gantry Crane (Location: C4 from Figure 4) - 32.5m span 175 tonne capacity gantry crane with 21.8 meter clearance to the underside of the main beam.
- 3.5.30.11** Outfit Support Towers - Two fixed office, workshop and amenities buildings shall be available, located on the site such that direct access is provided adjacent to the ship when under construction on the common user facility hardstand area.
- 3.5.30.12** Self Propelled Modular Transporters - Four 216 tonne capacity self propelled modular transporters, 8.4m long (each), with a maximum capacity of 850 tonnes when coupled together.

4. COMMON USER FACILITY

4.1 The common user facility comprises of the Hard Stand, shiplift (Syncrolift) and wharf facilities.

4.2 The layout is shown at Figure 19

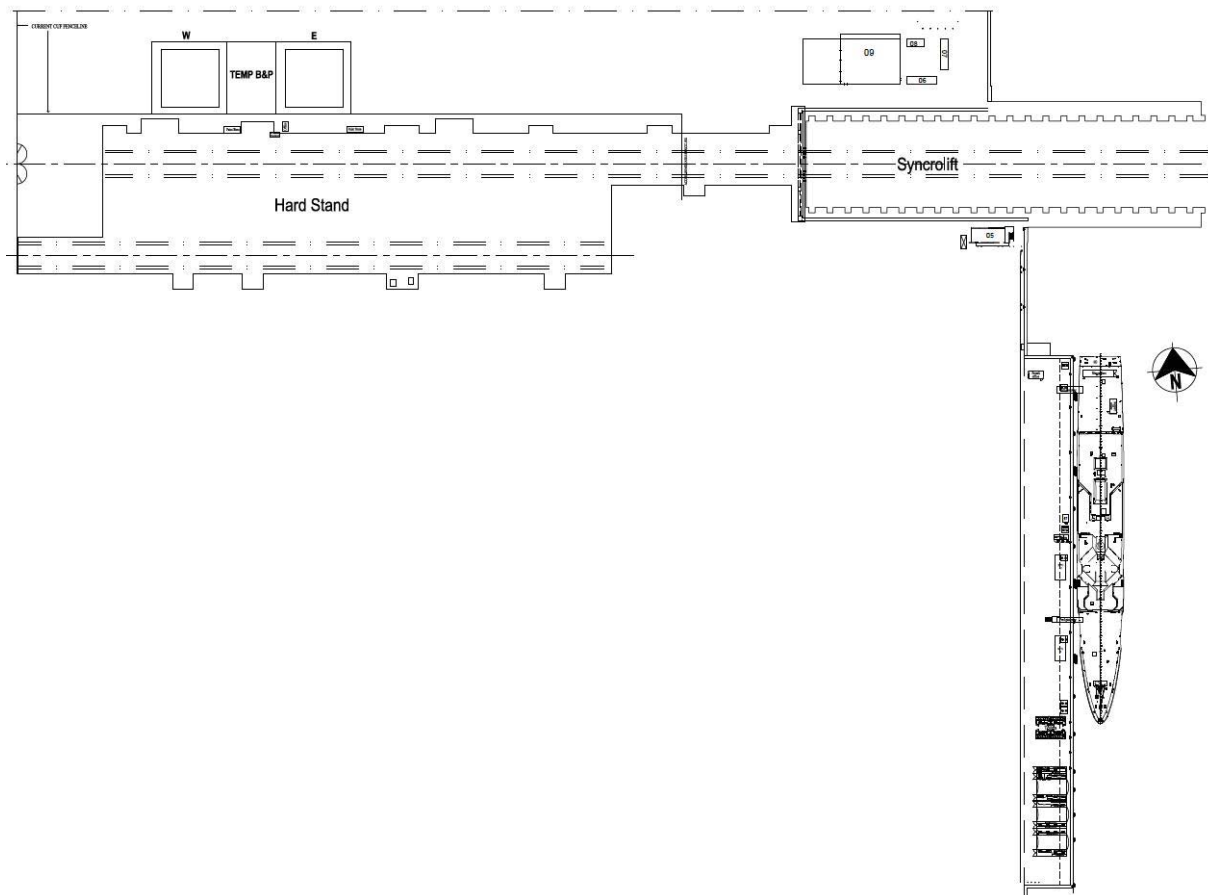


Figure 19 Common User Facility Layout

4.3 Wharf (Location: E2 from Figure 4):**4.3.1** Dimensions (LxBxD) - approximately 213m x 25 x (10.5m depth along side)**4.3.2** Utilities**4.3.2.1** Shore services for ships:

- a. industrial electrical (400 / 230V 50Hz) available from three service pits via portable transformers
- b. hotel electrical (450V 3 phase 60Hz) available from two service pits via customer supplied converters
- c. potable water
- d. compressed air (700l/s at 860kPa)
- e. communication/data points
- f. firemain
- g. sewer
- h. welding and cutting gases (LPG, argon, oxygen and carbon dioxide)

4.3.3 Wharf Loading Capacity (Location: E2 from Figure 4) - Load restrictions: The wharf can support cranes and other heavy vehicles weighing between 140 and 864 tonnes (total gross mass) depending on crane type and load distribution.**4.4** Shiplift (Location: G2 from Figure 4) - the Shiplift is capable of supporting vessels up to 9300t, and is 156 metres long, 34m wide and can lower 18m into the water,**4.4.1** Dimensions (LxBxD) - approximately 156m x 34m**4.4.2** Lift Capacity:

- a. 9,300t (or 130t per metre)
- b. Maximum vertical travel is 18 metres
- c. Maximum draught in SL is 9.5 metres approx (this is dependent on blocking requirements and location of ship's deepest point)

4.4.3 Shore services for ships on shiplift:

- a. industrial electrical (400 / 230V 50Hz) available from local transformer
- b. hotel electrical (4800A 450V 3 phase 60Hz) available from service pit via customer supplied converters
- c. potable water
- d. compressed air (700l/s at 860kPa)
- e. firemain

4.5 Runway, Dry Berth & Transfer System (Location: G3-G7 from Figure 4)**4.5.1** The runway and dry berth are supported by a rail-based transfer system enabling vessel movement around the site and onto the shiplift. A full range of utility services are available from service pits located around the runway and dry berth.**4.5.2** The transfer system comprises 42 hydraulically driven self propelled bogies and a 270t jack with a 10,000 tonne capacity which can traverse the extents of the common user facility site rail system. The wheels on the bogies can also be turned 90 degrees to allow the vessel to be moved laterally.

4.5.3 Services:

- a. electrical pits (11KV incoming supply fed from pits via transformers) comprising of
 - i. 20 industrial electrical (400 / 230V 50Hz)
 - ii. three hotel electrical (4800A 450V 3 phase 60Hz) via customer supplied converters
- b. 20 hydraulic pits comprising
 - i. potable water
 - ii. seawater (supply and return): max supply rate 130 l/s @ 1030 kPa
 - iii. welding and cutting gases (LPG, Argon, Oxygen and Carbon Dioxide)
 - iv. compressed air (700l/s at 860kPa)
 - v. sewer
 - vi. firemain

4.5.4 Ground Load Capacity -

- a. Load restrictions: The majority of the runway and dry berth supports cranes/heavy vehicles with full load capacities up to 900 tonnes.
- b. The runway is designed to accommodate loadings of up to DDG size destroyer (9300 tonnes)

4.5.5 Manitowoc Model 21000 Crane - Features of the crane capacity are as follows:

- a. 350 tonne capacity at 30 meters with a maximum lift of 900 t
- b. Maximum hook height of approximately 80 meters.

Appendices

- 1 Proposed Layout of the Shipyard Workshops