

Clarification Questions 2020

1. **Do the products T-1000 Max have any warranty and are the problems with the T-1000 model known worldwide?**

ANSWER: There is no other information available.

2. **What is the exact percentage that the T-1000 Max sell to Resistance represents for Skynet?**

ANSWER: There is no other information available.

3. **What is the distance between the North Govern Controlled Area and the large area, considering that there is a Rebel Controlled area in the middle? How long does it take for T-1000 Max to complete that distance? How high the drone has to be when flying across the Rebel Controlled Area for the rebels to not detect it?**

ANSWER: There is no other information available.

4. **Is Skynet having any problems regarding the transfer of the drone's technology to Resistance?**

ANSWER: There is no other information available.

5. **Does S. Connor have the full authority to make any kind of deal during the mediation process, being that Resistance is a government-controlled company?**

ANSWER: There is no other information available.

6. **Did Skynet send a technician to Resistance to identify the issue after it had notice of Drone 16's failure?**

ANSWER: There is no other information available.

7. **How was the inspection of the first batch of 30 drones by Resistance performed?**

ANSWER: There is no other information available.

8. **Did the Resistance inspect the entire batch of the delivered drones or just a sample?**

ANSWER: There is no other information available (Just a sample).

9. What is the cause of Resistance's payment delay? (ie. what are these "procedural bureaucracies"?)

ANSWER: There is no other information available.

10. How much of the ED\$1.26b has been paid? (Assume the first two batches have been paid for already, albeit delayed). If so, when have they paid?

ANSWER: There is no other information available.

11. Are S. Connor and J. Connor, CEO and VP CFO of Resistance, INC. respectively, related?

ANSWER: There is no other information available.

12. In Annex 3, it's shown that the Max takeoff weight of the T-1000 Max Specs is 2,250 kg, does this include the drone's weight, the load weight and the fuel weight (considering that the tank of the drone is full)?

ANSWER: There is no other information available.

13. Article 9, section 9.4, is missing the section that refers to the seller assigning its rights, but not its obligations

ANSWER: These are the complete contract documents.

14. To what "Lease Agreement" is the case referring to in the definition of "Closing" (Case, p. 8)?

ANSWER: These are the complete contract documents.

15. Where is the deadline (June 2020) (Case, p.6) for Skynet to transfer 45% of the technology foreseen in the contract? Is this deadline date correct?

ANSWER: There is no other information available.

16. Are the obligations referred to in Clause 1.2 (Case, p.9) corresponding to the correct liable party?

ANSWER: These are the complete contract documents.

17. Please clarify if the Closing provided for in the PSA occurs at the time the Products are delivered (Case, p. 10, Section 3.2(b) of the PSA) or upon Buyer's delivery to Seller of the Product Delivery Receipt (Case, p. 10, Section 3.2(c) of the PSA).

ANSWER: These are the complete contract documents.

18. Please clarify why the Case states that the drones delivery should occur in three parts (Case, p. 4) whereas the PSA does not provide for any delivery deadlines.

ANSWER: These are the complete contract documents.

19. Article 8.1 reads as a sale of all existing technology related to the T-1000 Max drones, but technology transfer agreements typically serve as a license for the use of a technology over a fixed time. Is this a sale or a license, and if it is a license, what are the royalty terms (as alluded to on page 4)?

ANSWER: There is no other information available.

20. Are the technicians and software engineers that are mentioned by Patrick in the email dated April 6, 2019 employees of Skynet or "manufacturers, service providers, or suppliers" under Buyer warranty as defined in Article 5.1?

ANSWER: There is no other information available.

21. Is there relevant geography surrounding West Republic and East Republic, especially with regard to neighboring countries or water bodies?

ANSWER: There is no other information available.

22. Clause 1.2(a) refers to "Buyer's agreement to sell a certain number of UAVs," as well as "Seller's agreement to purchase other like-kind replacement are mutually interdependent." What are the texts or main components of these agreements?

ANSWER: There is no other information available.

23. What other relevant international actors have a stake in the outcome of this mediation, especially with regard to humanitarian organizations and neighboring countries?

ANSWER: There is no other information available.

24. Did Resistance sign the Delivery Receipt (as established in the contract clause 3.2 (c)) regarding the delivery of July 2019? If so, did they perform the same quality tests as before (after the 1st delivery)?

ANSWER: There is no other information available.

25. Did Skynet send the technician as promised in the e-mail sent on April, 6th, 2019? If so, how did the technician assess and alter the situation?

ANSWER: There is no other information available.

26. Did Resistance inspect the drones using their maximum capacities (1,150 kg of maximum cargo with fuel and operational altitude of 7,000m, as stated by Skynet) upon the receipt of the first delivery (Jan 21st, 2019)?

ANSWER: There is no other information available.

27. Did Resistance perform tests on the T-1000 Max's using its own methods, did it follow Skynet's instructions for testing, or did it hire a third-party to perform the tests? [Justification: This question is closely related to question 3. It is important for us to know if Resistance's assessments are independent from Skynet's to understand where the alleged defects of the equipment originate. Were the testing instruments faulty? Was there a supervenient change?]

ANSWER: There is no other information available.

28. In order to get a better sense of the e-mail arrangement in Annex 4, how is it possible that there is an e-mail dated from February 2020 [p. 27], in which J. Connor demands the recall of the first 80 drones, if the answer to the e-mail is dated from August 2019 [p. 28]?

ANSWER: The correct date for the last e-mail is Monday, February 10, 2020 7:22:31 PM.

29. Is there any other agreement between the Parties outside the PSA? PSA's article 1.2 [p. 09] mentions the obligation of the Buyer to sell a certain number of UAVs model T-1000 Max and the obligation of the Seller to acquire other like-kind replacement that would go against article 9.3 [p. 14], which expressly determines that "the terms and conditions of this Agreement, including all exhibits hereto, constitute the entire agreement between the parties".

ANSWER: These are the complete contract documents.

30. How is it possible that Resistance noticed deficiencies on the Product only in March 2019? PSA's article 3.1(a) [p. 09] of the Agreement establishes that tests and acceptance flights shall

be conducted by Buyer prior to the Closing. Considering the Closing occurred, it can be inferred that Buyer conducted any tests deemed necessary to satisfy itself and that the Product met the provisions of the Agreement.

ANSWER: There is no other information available.

- 31. How much would the transfer of technology cost, when should this amount be paid and when should the technology be transferred? Article 2.1 of the PSA [p. 09] defines the Purchase Price as ED\$ 1.260.000.000,00 (1,26 billion East Dollars), the equivalent to 120 UAVs model T-1000 Max sold at ED\$ 10.5 millions each. Nevertheless, the Agreement is also a Technology Transfer Agreement, which usually sets a fixed value, royalties for the duration of the license and also a deadline, that should be established in spite of the time limit set on the description of the dispute (45% until June 2020) [p. 06].**

ANSWER: There is no other information available.

- 32. Is there any conflict of laws? If not, where does each apply? The Agreement mentions two different laws, the Laws of the District of Washington [article 9.8, p. 14] and the United Nations Convention on Contracts for the International Sale of Goods (“CISG”; also known as the “Vienna Convention”) [article 11, p. 16].**

ANSWER: There is no other information available.

- 33. Regarding the Purchase and Sale Agreement:**

(a) There is no information on the PSA about the deadlines for the delivery of the Product.

Was there a verbal agreement made between the parties about the dates described on page 4?

(b) Which is the applicable law in the PSA: the Law of the District of Washington (clause 9.8) or the CISG or “Vienna Convention” (clause 11)?

(c) Clause 9.11 mentions that “The representations, warranties, covenants and agreements of Buyer and Seller shall survive the Closing in perpetuity”. Does it imply that the PSA will have an eternal duration?

(d) Taking into account the definition given and Clause 3.2, b), from the PSA, each scheduled delivery represents a closing, so how does the Closing of the PSA work?

ANSWER: There is no other information available.

- 34. Regarding the Technology Transfer Agreement (TTA) and the transference of Intellectual Property (IP) to be done:**

(a) since a TTA is a contract in which the parties can license or assign the IP, is the TTA at question an Assignment type of agreement (a contract that transfers the ownership of IP rights) or a License type (contract that certifies the shared use of IP rights)?

(b) Will Skynet be able to use the technology knowledge and to manufacture and/or sell the T-1000 Max model after the transference or will these rights be held only by Resistance?

(c) Since the Agreement only mentions a price as to the negotiated 120 drones, is there an amount or established royalties concerning the transference of technology? If so, what is it?

ANSWER: There is no other information available.

35. Regarding the Inspection and the malfunctions of the drones:

(a) On the Purchase and Sale Agreement (PSA), article 3, item 3.1, it is stated that the Buyer shall conduct an Inspection in order to make sure “that the general condition of the Product and Documents is satisfactory and complies with the provisions of this Agreement”. However, the Inspection wasn’t able to find any “deficiencies in airworthiness items, or discrepancies which do not meet the manufacturer’s tolerances”, how did the inspection occur? What tests were done? Why weren’t the malfunctions revealed during the Inspection?

(b) After the malfunctions were found by Resistance and Drone 16 fell into enemy lines, on R. Patrick’s e-mail to Resistance, on page 26, it is said that Skynet would send a technician to identify the problems in the drones Resistance received. Was the technician really sent? If so, was he or she able to find any solution or explanation regarding the malfunctions of the Drones?

ANSWER: There is no other information available.

36. Regarding the fact that “Resistance, Inc.” is a government-controlled company:

(a) Does Resistance have financial autonomy from East Republic to sign and/or perform contracts with Skynet? If not, which law must be applied to analyse East Republic’s finances and public contracting?

(b) Considering the information that the delay in payment is allegedly due to “procedural bureaucracies” by Resistance, what are those bureaucracies and is there any other reason that may be causing the delay?

ANSWER: There is no other information available.

37. Regarding the deadlines for technology transfer, on page 6 we read that “the contract states, 45% of the technology would be transferred until Jun 2020” and, on page 25, J. Connor says that Resistance “would like to receive a deadline for some of the tech transfer”. However, the contract does not contain any provision regarding this deadline. Have the parties agreed on a schedule to transfer the technology? If so, when are the deadlines?

ANSWER: There is no other information available.

38. What does J. Connor mean when he states the following regarding the payment of the T-1000 drones (page 26 of the Problem): “we are facing some procedural bureaucracies”? Is there any financial problem that could jeopardize Resistance’s ability to pay the total amount for the drones set forth in the PSA agreement? What is the total amount paid by Resistance under the PSA agreement until February 10th, 2020, considering the e-mail sent by J. Connor to R. Patrick on February 10th, 2020 (page 27 of the Problem)?

ANSWER: There is no other information available.

- 39. Are there any grounds for Skynet refrain from transferring the 45% of the technology know-how to Resistance, as set forth in the PSA agreement? Is this situation anyhow related to the T-1000 report problems?**

ANSWER: There is no other information available.

- 40. Is Resistance interested to acquire Skynet's T-800 drone model?**

ANSWER: There is no other information available.

- 41. Is it possible for Skynet to fix the problem regarding the drones with a merely software update, or is it necessary to implement a recall in order to achieve the PSA agreement's specifications?**

ANSWER: There is no other information available.

- 42. When R. Patrick asks J. Connor to "limit the height and weight" is he referring to the actual capacity of the drone (page 27 of the Problem)?**

ANSWER: There is no other information available.

- 43. J. Connor sent an email to R. Patrick informing him and the Skynet team about Drone 16 falling into enemy lines (p. 25). Resistance's VP CFO also mentioned on the email that Drone 16 fell into enemy lines "after putting some more weight", but he did not mention how much weight was added. Also, he did not specify the altitude that the drone had reached by the time it fell. Thus, our question is: what was the altitude Drone 16 had reached when it fell and what was the cargo's weight it was carrying?**

ANSWER: There is no other information available.

- 44. On page 6 of the 2020 CPR International Mediation Competition Problem, it was mentioned that the due date of 45% of the technology transfer was June 2020. Nonetheless, we do not know the due date for the total transfer of technology. When is it?**

ANSWER: There is no other information available.

- 45. On article 8 of the PSA (p. 13), the rights related to the technology transfer are specified. However, it is not clear if there is a term for Resistance to use the Information transferred by**

Skynet or if the technology transfer is total and lasts for life. Does the technology transfer have a due date?

ANSWER: There is no other information available.

46. On article 9.8 of the PSA (p. 14), it is stated that the Agreement “shall be governed, interpreted, and construed in accordance with the laws of the District of Washington, without regard for its conflict of laws provisions”. Nonetheless, on article 11 (p. 16), it is specified that the applicable law is the United Nations Convention on Contracts for the International Sale of Goods (“CISG”; also known as the “Vienna Convention”). Which law should we consider to analyze the Agreement and to guide the negotiation?

ANSWER: United Nations Convention on Contracts for the International Sale of Goods (“CISG”; also known as the “Vienna Convention”).