

Terms and Conditions

701814450 – BOATS/0005

**DESIGN, BUILD AND SUPPORT OF
INTERCEPT AND ESCORT CRAFT**

TERMS AND CONDITIONS

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PART 1 – DEFENCE CONDITIONS**1. Defence Conditions (DEFCON)**

1.1. The following DEFCONs shall apply to the Contract:

No	Edition	Title
5J	(Edn. 08/11/16)	Unique Identifiers
14	(Edn. 16/21)	Inventions and Designs Crown Rights and Ownership of Patents and Registered Designs
15	(Edn. 06/21)	Design Rights and Rights to Use Design Information (See CDR No 01 attached at Schedule 11 (Contract Data Requirements List – DEFFORM 315)) Note: The Contractor is hereby requested to identify any self-standing background IPR.
16	(Edn. 06/21)	Repair and Maintenance Information – See CDR No 01 attached at Schedule 11 (Contract Data Requirements List – DEFFORM 315)
21	(Edn. 06/21)	Retention of Records - See CDR No 01 and CDR No 02 attached at Schedule 11 (Contract Data Requirements List – DEFFORM 315)
23	(Edn. 06/21)	Special Jigs, Tooling and Test Equipment
68	(Edn. 05/21)	Supply of Data for Hazardous Articles, Materials and Substances
76	(Edn. 06/21)	Contractor's Personnel at Government Establishments
82	(Edn. 06/21)	Special Procedures for Initial Spares
90	(Edn. 06/21)	Copyright Note: For the purposes of clause 4c the prescribed Nations are those within NATO & the EU and Australia & New Zealand
113	(Edn. 02/17)	Diversion Orders
117	(Edn. 07/21)	Supply of Documentation for NATO and Defence Inventory Introduction
126	(Edn. 06/21)	International Collaboration
127	(Edn. 08/21)	Price Fixing Condition for Contracts of Lesser Value (this shall apply to amendments to contract and ad hoc tasks valued at less than £250,000)
129	(Edn. 02/22)	Packaging (For Articles other than munitions)

No	Edition	Title
129J	(Edn. 18/11/16)	The Use of The Electronic Business Delivery Form
501	(Edn. 10/21)	Definitions and Interpretations
503	(Edn. 07/21)	Formal Amendments to Contract
507	(Edn. 07/21)	Delivery
513	(Edn. 04/22)	Value Added Tax and Other Taxes
514	(Edn. 08/15)	Material Breach
515	(Edn. 06/21)	Bankruptcy and Insolvency
516	(Edn. 04/12)	Equality
518	(Edn. 02/17)	Transfer
520	(Edn. 08/21)	Corrupt Gifts and Payments of Commission
522	(Edn.11/21)	Payment
524	(Edn. 12/21)	Rejection
524A	(Edn. 02/20)	Counterfeit Materiel
525	(Edn. 10/98)	Acceptance
526	(Edn. 08/02)	Notices
527	(Edn. 09/97)	Waiver
528	(Edn. 07/21)	Import and Export Licences (to be submitted in accordance with Schedule 28 (Import and Export Controls))
529	(Edn. 09/97)	Law (English)
530	(Edn. 12/14)	Dispute Resolution (English Law) (Any dispute concerning the Intercept and Escort Craft(s) compliance or non-compliance with the rules, regulations and requirements of the Classification Society or other Regulatory Authorities shall be referred to the appropriate Classification Society or Regulatory Authority for a decision which shall be final and binding upon the Parties. All other disputes shall be dealt with in accordance with DEFCON 530)
531	(Edn. 09/21)	Disclosure of Information
532A	(Edn. 04/20)	Protection of Personal Data (Where Personal Data is being processed on behalf of the Authority)
534	(Edn.06/21)	Prompt Payment (Sub-Contracts)

No	Edition	Title
537	(Edn. 12/21)	Rights of Third Parties
538	(Edn. 06/02)	Severability
539	(Edn. 01/22)	Transparency (Contractor Commercially Sensitive Information" shall mean the information listed in the Contractor Commercial Sensitive Information, Schedule 18 (Contractor Commercial Sensitive Information))
550	(Edn. 02/14)	Child Labour and Employment Law
566	(Edn. 10/20)	Change of Control of Contractor
601	(Edn. 04/14)	Redundant Materiel (shall apply in respect of DEFCON 611 (Edn. 02/16), Issued Property and to the extent that the redundant materiel derives from the property owned by the Authority and issued to the Contractor)
602A	(Edn. 12/17)	Deliverable Quality Plan
604	(Edn. 06/14)	Progress Reports (for the purposes of the Contract, the frequency of reports shall be as detailed in the Annex B to the Integrated Project Management Plan (Schedule 6) and Key Performance Indicators (Schedules 8)
606	(Edn. 07/21)	Change and Configuration Control Procedure
607	(Edn. 05/08)	Radio Transmissions
608	(Edn. 07/21)	Access and Facilities to be Provided by the Contractor (for the purposes of this Contract the Contractor shall ensure that any Offices, Lay Apart Stores or facilities provided by the Contractor to the Authority are fitted with security locks on all doors and any windows that can be opened. The Contractor shall ensure access to keys is limited to authorised personnel only, in agreement with the Authority).
609	(Edn. 07/21)	Contractor's Records
611	(Edn. 02/16)	Issued Property
612	(Edn. 06/21)	Loss of or Damage to the Articles
621A	(Edn. 12/21)	Transport (if Authority is responsible for transport).
621B	(Edn. 12/21)	Transport (Applicable if the Contractor is responsible for transport).
624	(Edn. 11/13)	Use of Asbestos in Arms, Munitions or War Materials
627	(Edn. 11/21)	Quality Assurance - Requirement for a Certificate of Conformity

No	Edition	Title
630	(Edn. 02/18)	Framework Agreements – (for the purposes of this Contract this shall only apply to the In-Service Support requirement)
632	(Edn. 11/21)	<p>Third Party Intellectual Property – Rights and Restrictions</p> <p><u>AUTHORISATION BY THE CROWN FOR USE OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS</u></p> <p>Notwithstanding any other provisions of the Contract and for the avoidance of doubt, <i>award of the Contract by the Authority and placement of any contract task under it does not constitute an authorisation by the Crown under Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949. The Contractor acknowledges that any such authorisation by the Authority under its statutory powers must be expressly provided in writing, with reference to the acts authorised and the specific intellectual property involved.</i></p>
637	(Edn.05/17)	Defect Investigation and Liability
642	(Edn. 07/21)	Progress Meetings
643	(Edn. 12/21)	Price Fixing (Non-qualifying contracts) (this shall apply to amendments to contract and ad hoc tasks valued at more than £250,000). The period in Clause 4 of this DEFCON shall be 5 years.
644	(Edn. 07/18)	Marking of Articles
646	(Edn. 10/98)	Law and Jurisdiction (Foreign Suppliers – If applicable)
647	(Edn. 05/21)	Financial Management Information (for the purposes of the Contract, the reports shall be submitted to the Authority's Project Officer detailed in Schedule 5 (Addresses and Other Information) within 3 (three) Business Days of the end of each calendar month.
649	(Edn. 12/21)	Vesting
656B	(Edn. 08/16)	Termination for Convenience – Over £5M
660	(Edn 12/15)	Official-Sensitive Security Requirements
670	(Edn. 02/17)	Tax Compliance
671	(Edn. 10/22)	Plastic Packaging Tax
678	(Edn. 09/19)	SME Spend Data Collection
681	(Edn. 06/02)	Decoupling Clause – Subcontracting with the Crown

No	Edition	Title
691	(Edn. 03/15)	Timber and Wood-Containing Products Supplied under the Contract
694	(Edn. 07/21)	Accounting for Property of the Authority
697	(Edn. 06/21)	Contractors on Deployed Operations.
703	(Edn. 06/21)	Intellectual Property Rights - Vesting in the Authority (This condition will only apply to PDS tasks that are fully funded by the Authority. For the avoidance of doubt DEFCON 703 does not apply to any other tasks/materials/deliveries under the Contract.)

PART 2 – SPECIAL CONDITIONS

2. Interpretation

- 2.1. In addition to the provisions of DEFCON 501 (Interpretation), the words and phrases set out in Schedule 3 (Definitions & Interpretations) shall have the meaning ascribed to them in those Schedules unless otherwise provided for in this Contract.
- 2.2. In this Contract, except where the context otherwise requires:
 - 2.2.1. a reference in this Contract to any Clause, Paragraph, Schedule or Annex is, except where expressly stated to the contrary, a reference to such Clause, Paragraph, Schedule or Annex of this Contract;
 - 2.2.2. any reference in this Contract to a range of Clauses, Paragraphs, Schedules or Annexes shall, except where expressly stated to the contrary, be inclusive of those Clauses, Paragraphs, Schedules or Annexes used to define the range;
 - 2.2.3. any reference to this Contract or to any other document shall include any permitted variation, amendment or supplement to such document;
 - 2.2.4. references to any documents being "in the agreed form" means such documents have been initialled by or on behalf of each of the parties for the purpose of identification;
 - 2.2.5. reference to a person includes firms, partnerships and corporations and their successors and permitted assignees or transferees;
 - 2.2.6. all covenants, agreements, undertakings, indemnities, representations and warranties by more than one person are entered into, given or made by such persons jointly and severally;
 - 2.2.7. references to a public organisation (other than the Authority) shall be deemed to include a reference to any successor to such public organisation or any organisation or entity which has taken over either or both the functions and responsibilities of such public organisation. References to other persons (other than the Authority) shall include their successors and assignees;
 - 2.2.8. reference to the phrase "agreed or determined" means agreed between the parties or determined pursuant to the resolution of any dispute under DEFCON 530 (Dispute Resolution);
 - 2.2.9. any reference to any ISN website link is provided for Information purposes only and such link does not form part of the Contract.
- 2.3. The words and phrases "other", "including" and "in particular" shall not limit the generality of any preceding words or be construed as being limited to the same class as any preceding words where a wider construction is possible.

3. Precedence of Documents

- 3.1. The documents constituting this Contract are intended to be consistent. In the event of any ambiguity, conflict or inconsistency between the Contract and any document referred to or cross-referenced in the Contract, or between documents referred to or cross-referenced in the Contract, the conflict shall be resolved according to the following descending order of priority:
 - 3.1.1. Clauses 1 to 66 of this Contract and Schedule 3 (Definitions and Interpretations);

- 3.1.2. Schedule 2A (Statement of Technical Requirements – Technical Baseline) and Schedule 26 (Statement of Support Requirement – Build) and Schedule 27 (Statement of Technical Requirement– In-Service Support (Option)) of this Contract;
- 3.1.3. Other Schedules, Schedule 2B – Statement of Technical Requirements – Component 2 – Fitness for Purpose – ref Zodiac Milpro International Tender dated February 2023 as clarified by Up Issue of Documentation dated April 2023), Schedule 2C (Statement of Technical Requirements – Contractors Proposal ref Zodiac Milpro International Tender dated February 2023 as clarified by Up Issue of Documentation dated April 2023) and and Schedule 6 (Integrated Project Management Plan) and Schedule 24 (Contractor Master Schedule) of this Contract;
- 3.1.4. Schedule 2B – Statement of Technical Requirements – Component 2 – Fitness for Purpose – ref Zodiac Milpro International Tender dated February 2023 as clarified by Up Issue of Documentation dated April 2023), Schedule 2C (Statement of Technical Requirements – Contractors Proposal ref Zodiac Milpro International Tender dated February 2023 as clarified by Up Issue of Documentation dated April 2023) and Schedule 6 (Integrated Project Management Plan) and Schedule 24 (Contractor Master Schedule) of this Contract;
- 3.1.5. any other document of this Contract;
- 3.1.6. any other document agreed between the Parties after the Commencement Date.

4. Contractual Matters

- 4.1. All queries and correspondence relating to or affecting the Contract shall be addressed to the Authority's Commercial Officer as specified in box 1 to Schedule 5 (Appendix - Addresses and Other Information).

5. Entire Agreement

- 5.1. This Contract constitutes the entire agreement between the Parties relating to the subject matter of this Contract. This Contract supersedes all prior negotiations, representations and undertakings, whether written or oral, except that this Clause shall not exclude liability in respect of any fraudulent misrepresentation.

6. Assignment

- 6.1. Neither Party to the Contract shall give, bargain, sell, assign, or otherwise dispose of the Contract or any part thereof, or the benefit or advantage of the Contract or any part thereof, without the previous consent in writing of the other Party.

7. Contractor Warranties and Representations

Contractor Warranties

- 7.1. The Contractor warrants and represents to the Authority that:
 - 7.1.1. it is properly constituted and incorporated and has the corporate power to own its assets and to carry on its business as it is now being conducted;
 - 7.1.2. it has the power to enter into and to exercise its rights and perform its obligations under this Contract;