

NEWBUILDCON - Standard Newbuilding Contract - PART II

v1.31	account code, the expenditure account code description, the document number, the clearing date and the invoice amount.	
	"Contract Manager" means [REDACTED] of Transport for London or such other person as notified by the Buyer to the Builder from time to time.	
	"Contractual Date of Delivery" means the contractual date of delivery of the Vessels stated in Box 10 .	22
	"Defects" means any deficiencies or defects in the design, construction, material and/or workmanship of a Vessel or the Vessels on the part of the Builder or its Sub-contractors.	23 24
	"Delivery Date" means the Contractual Date of Delivery as may be adjusted in accordance with the terms of this Contract.	25 26
	"Delivery Acceptance Trials" means the pre-delivery trials for the Vessels to be undertaken on the River Thames at or near Woolwich in accordance with section G27 of the Specification.	
	"Final Instalment" means the last instalment payable at delivery for the Vessels calculated in accordance with Clause 15 (Payments).	27 28
	"Flag State" means the State of the flag which the Vessels will fly when registered, as stated in Box 7 .	29 30
	"Instalments" means the amounts payable for the Vessels in accordance with Box 11 .	31
	"In writing" means any method of legible communication.	32
	"Maker's List" means the list of suppliers for equipment, machinery and services approved by the Parties and stated in Annex C.	33 34
	"Parties" means the Builder and the Buyer.	35
	"Party" means the Builder or the Buyer, as the case may be.	36
	"Permissible Delays" means delays to the construction and/or delivery of the Vessels and which entitle the Builder to extend the Delivery Date in accordance with Clause 34 (Permissible Delays).	37 38 39
	"Personnel" means the employees, agents, servants, suppliers and independent contractors engaged by either Party in order to perform work or duties under this Contract for which that Party is responsible.	40 41 42
	"Plans and Drawings" means the plans and drawings for the Vessels attached hereto or listed and/or described in the Specification.	43 44
	"Regulatory Authorities" means the regulatory authorities whose rules and regulations must be complied with in the construction and delivery of the Vessels. Such bodies shall include the Flag State together with the other bodies listed in the Specification.	45 46 47
	"Shipyard" means the place or places stated in Box 5-Box 2 where the Vessels will be assembled and/or constructed.	48 49

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v1.31	"Specification" means the technical details for the Vessels contained in Annex B.	50
	"Sub-contractor" means any person (not being a servant or employee of the Builder) or company with whom the Builder has entered into a contract for the design, construction, manufacture or supply of any item, equipment, work or service for the Vessels (or either of them).	51 52 53
	"Transparency Commitment" means the Buyer's commitment to publish its contracts, tender documents and data from invoices received in accordance with the Local Government Transparency Code 2015 and the Buyer's own published transparency commitments.	
	"Vessels" (each a "Vessel") means the vessels described in Box 4 (including their machinery, equipment and appurtenances described in the Specification) with hull numbers as per Box 6, built in accordance with this Contract.	54 55 56
	INTERPRETATION	57
	Singular/Plural	58
	In this Contract the singular includes the plural and vice versa as the context admits or requires.	59 60
	Headings	61
	The index and headings to the Clauses and Annexes to this Contract are for convenience only and will not affect its construction or interpretation.	62 63
	Jointly and severally	64
	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.	65 66
	OVERARCHING PARAGRAPH	
	The Buyer is responsible for passenger transport on the River Thames including the Woolwich Ferry Service connecting Woolwich and North Woolwich. The Buyer wishes to replace the vessels that currently operate on the Woolwich Ferry route with two (2) new-build vessels (the "Project").	
	The Parties acknowledge and agree that this Contract is for the construction of two (2) Vessels and the Contract is to be construed accordingly.	
	It is noted and agreed by the Parties that delivery of both Vessels shall be simultaneous and that the Buyer requires delivery of both Vessels under this Contract in order to complete the Project. The delivery of only one (1) Vessel to the Buyer would not satisfy the Buyer's requirements in order to complete the Project.	
	As a result of the foregoing, where the Buyer, pursuant to the terms of this Contract accrues and exercises a right to terminate this Contract, this Contract shall be terminated in respect of both Vessels. For the avoidance of doubt, this Contract shall terminate in respect of both Vessels regardless of whether or not the right of termination accrued in relation to only one Vessel.	

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SECTION 1 – VESSEL

1. Builder's and Buyer's obligations	67
It is mutually agreed between the Builder and the Buyer that:	68
(a) the Builder shall design, construct, test and survey, launch, equip, complete, sell and deliver the Vessels to the Buyer all in accordance with good international shipbuilding and marine engineering practice; and	69 70 71
(b) the Buyer shall purchase, take delivery of and pay for the Vessels.	72
2. Description	73
(a) The Vessels shall be constructed at the Shipyard and shall have the Builder's Hull Numbers stated in <u>Box 6</u> .	74 75
(b) The Vessels shall have the dimensions and characteristics as stated in <u>Box 4</u> and the Specification. These shall be defined, measured and calculated in accordance with the Specification or, if omitted from the Specification, in accordance with the following:	76 77 78
(i) Speed – The Each Vessel's average speed on a sea trial undertaken in both directions over a measured distance of one (1) nautical mile, with clean hull, in fine weather with wind speed and sea state not exceeding Beaufort Wind Force Scale 3 and Douglas Sea State Scale 2 respectively on a draft as stated in Box 4D(i) shall be at least the number of knots stated in <u>Box 4D(ii)</u> . During such a sea trial the engine's output in	79 80 81 82 83
kilowatts shall be as stated in <u>Box 4D(iii)</u> corresponding to the percentage of the engine's maximum continuous power output stated in <u>Box 4D(iv)</u> at the approximate revolutions per minute stated in <u>Box 4D(v)</u> .	84 85 86
(ii) Fuel Consumption – The fuel consumption of the main engine on the test bed using fuel of the type and specification stated in Box 4C(vii) shall not exceed the number of grams per kilowatt/hour stated in Box 4C(iv) when the engine develops the number of kilowatts with an effective calorific value of the number of kilocalories per kilogram stated in Box 4C(ii) and Box 4C(vii) respectively.	87 88 89 90 91
(iii) Deadweight - The Each Vessel's deadweight shall be the number of metric tons stated in <u>Box 4A(iii)</u> on international summer freeboard, corresponding to a mean draft in salt fresh water (specific gravity 1.0251) as stated in <u>Box 4A(iv)</u> . The specified deadweight shall include fuel, provisions, stores, freshwater, crew and passengers in addition to spare parts not less than the requirements of the Classification Society.	92 93 94 95 96
(iv) Propulsion – The Vessel's propulsion machinery shall be of the type and with maximum continuous power in kilowatts at the number of revolutions per minute as stated in Box 4C(i), 4C(ii) and 4C(iii).	97 98 99
(v) Cargo Capacity – The Each Vessel's cargo capacity shall be the capacities stated in <u>Box 4B1(i)</u> and <u>4B2</u> .	100 101
(vi) Other matters – The Each Vessel shall meet the technical requirements stated in <u>Box 4E</u> .	102 103
3. Classification, Rules and Regulations	104
(a) The Vessels shall be designed, constructed, surveyed, tested and delivered in compliance with the applicable laws, rules, regulations and requirements of the	105 106

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Classification Society stated in Box 8 , and the Regulatory Authorities:	107
(i) in force as of the date of this Contract stated in Box 1 , or	108
(ii) if not in force as of the date of this Contract, which are ratified and promulgated on or before the date of this Contract and which will be compulsory for the Vessels on or before the delivery of the Vessels in accordance with Clause 28 (Delivery).	109 110 111
All such laws, rules, regulations and requirements of the Classification Society and the Regulatory Authorities shall be complied with without qualification (see Clause 26 (Changes in Rules and Regulations)).	112 113 114
(b) The final decisions of the Classification Society or Regulatory Authorities shall be binding on the Parties as to the Vessel's compliance with their respective applicable laws, rules, regulations and requirements.	115 116 117
(c) All costs, fees and charges incidental to and in respect of compliance with the applicable laws, rules, regulations and requirements of the Classification Society or Regulatory Authorities referred to above shall be for the Builder's cost and expense.	118 119 120
4. IMO Hazardous Materials Inventory	121
The Builder shall, in accordance with the IMO Guidelines on Ship Recycling, Resolution A.962 (23), with amendments in force as of the date of this Contract:	122 123
(a) Endeavour to take due account of the each Vessel's ultimate disposal when designing and constructing the Vessels by:	124 125
(i) using materials which can be recycled safely and in an environmentally sound manner; and	126 127
(ii) by minimising the use of materials known to be potentially hazardous to health and the environment.	128 129
(b) In consultation with equipment manufacturers provide the Buyer with a Green Passport Statement of Compliance issued by the Classification Society (one per Vessel) each containing information including the Vessel's hull number and main particulars and listing any and all materials known to be potentially hazardous utilised in the construction of the Vessel, its equipment and systems.	130 131 132 133 134
The list of the materials known to be potentially hazardous shall contain the location and the approximate quantity/volume of each identified material on board the relevant Vessel.	135 136
5. Protective Coatings	137
The Each Vessel's double-side skin spaces and dedicated seawater ballast tanks shall be coated in accordance with the Specification. In any event the minimum coating standard shall be in accordance with the requirements of the IMO Performance Standard for Protective Coatings for dedicated seawater ballast tanks in all types of ships and double side skin spaces of bulk carriers (IMO PSPC, Resolution MSC. 215(82)) and, where applicable, in accordance with the IACS Common Structural Rules for Bulk Carriers and for Oil Tankers or subsequent modifications or replacement applicable in accordance with Clause 3(a) (Classification, Rules and Regulations).	138 139 140 141 142 143 144 145
6. Source of Origin	146



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If so requested by the Buyer, the Builder shall identify the country of origin of all the main components listed in the ~~Maker's List and~~ Specification (in addition, see Clause 52 (Timber Standards)).

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SECTION 2 – FINANCIAL

7. Contract Price	149
The Contract Price (representing the sum for both Vessels) shall be the amount stated in <u>Box 9(a)</u> as may be adjusted in accordance with the terms of this Contract.	150 151
Save where expressly indicated otherwise in this Contract, the Contract Price and any other payments to be made to the Builder pursuant to this Contract shall be paid in the currency stated in <u>Box 9(b)</u> and in accordance with the payment terms stated in <u>Box 11</u> and <u>Clause 15</u> (Payments).	152 153 154
8. Speed Deficiency	155
If the speed of the a Vessel or the Vessels (as the case may be) as stated in <u>Box 4D(ii)</u> is not achieved in the manner stated in the Specification or <u>Clause 2(b)(i)</u> the following shall apply:	156 157
(a) There shall be no adjustment of the Contract Price for the affected Vessel(s) except to the extent provided in Sub-clause 8(b).	158 159
(b) If the reduction in speed of the affected Vessel(s) is greater than 2/10ths of a knot, the Contract Price shall be reduced by the amount stated in <u>Box 13(i)</u> for each whole 1/10th of a knot reduction in speed in excess of 2/10ths of a knot as liquidated damages up to the maximum amount (for each Vessel) stated in <u>Box 13(ii)</u> .	160 161 162 163
(c) If the reduction in speed would entitle the Buyer to a reduction in the Contract Price for an affected Vessel greater than the maximum amount stated in <u>Box 13(ii)</u> , the Buyer shall have the option to terminate this Contract in accordance with <u>Clause 39(a)(iv)</u> (Suspension and Termination).	164 165 166 167
(d) For the avoidance of doubt the Parties acknowledge and agree that this Clause 8 (Speed Deficiency) shall apply to the Vessels independently and cumulatively. Therefore, in circumstances where liquidated damages are payable due to both Vessels having a speed deficiency, the Contract Price shall be reduced by the sum of the liquidated damages applying to each Vessel – for example, where one Vessel has a speed deficiency that entitles the Buyer to a reduction in the Contract Price in the amount of [REDACTED] and the other Vessel has a speed deficiency that entitles the Buyer to a reduction in the Contract Price in the amount of [REDACTED] then the total reduction to the Contract Price in accordance with this Clause 8 would be [REDACTED]	
9. Excessive Fuel Consumption	168
If the fuel consumption of the Vessel's main engine on the test bed using the fuel specified in <u>Box 4C(vii)</u> exceeds the figure stated in <u>Box 4C(iv)</u> the following shall apply:	169 170
(a) There shall be no adjustment of the Contract Price except to the extent provided in Sub-clause 8(b).	171 172
(b) If the excess fuel consumption is greater than 2% (two percent) of the specified fuel consumption the Contract Price shall be reduced by the amount stated in <u>Box 14(i)</u> for each whole percentage in excess of 2% as liquidated damages up to a maximum amount	173 174 175

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