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as stated in <u>Box 14(ii)</u> ;	176
(c) If the excess fuel consumption would entitle the Buyer to a reduction in the Contract Price greater than the maximum amount stated in <u>Box 14(ii)</u>, the Buyer shall have the option to:	177 178 179
(i) accept the main engine at a reduction in the Contract Price corresponding to the maximum amount stated in <u>Box 14(ii)</u> or	180 181
(ii) reject the main engine and either	182
(1) require the Builder to rectify the deficiency and repeat the trial or replace the main engine with one that conforms to the requirements of the Contract. (The time taken to rectify the deficiency and repeat the trial or replace the main engine in accordance with this Sub-Clause shall not be a Permissible Delay) or	183 184 185 186
(2) terminate this Contract forthwith in accordance with <u>Clause 39(a)(v)</u> (Suspension and Termination).	187 188
10. Deadweight Deficiency	189
If the actual deadweight of the a Vessel or the Vessels (as the case may be) determined in accordance with the Specification	190
is less than the deadweight stated in <u>Box 4A(iii)</u> the following shall apply:	191
(a) There shall be no adjustment of the Contract Price for the affected Vessel(s) except to the extent provided in Sub-clause 10(b)	192 193
(b) If the reduction in deadweight of the affected Vessel(s) is greater than the number of metric tonnes stated in <u>Box 15(i)</u> then for each whole increment of ten metric tonnes in excess of the figure in <u>Box 15(i)</u> below the deadweight stated in <u>Box 4A(iii)</u> the Contract Price shall be reduced by the amount stated in <u>Box 15(ii)</u> as liquidated damages up to a maximum amount (for each Vessel) as stated in <u>Box 15(iii)</u> .	194 195 196 197
(c) If the reduction in deadweight would entitle the Buyer to a reduction in the Contract Price for an affected Vessel greater than the maximum amount stated in <u>Box 15(iii)</u> the Buyer shall have the option to terminate this Contract in accordance with <u>Clause 39(a)(vi)</u> (Suspension and Termination).	198 199 200 201
(d) For the avoidance of doubt the Parties acknowledge and agree that this Clause 10 (Deadweight Deficiency) shall apply to the Vessels independently and cumulatively. Therefore, in circumstances where liquidated damages are payable due to both Vessels having a deadweight 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 deadweight deficiency that entitles the Buyer to a reduction in the Contract Price in the amount of [REDACTED] and the other Vessel has a deadweight 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 10 would be [REDACTED]	
11. Cubic Capacity Deficiency	202
If the actual cubic capacity of the Vessel determined in accordance with the Specification	203



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is less than the cubic capacity specified in <u>Box 4B1(i)</u> the following shall apply:	204
(a) There shall be no adjustment of the Contract Price except to the extent provided in Sub-clause 11(b)	205 206
(b) If the reduction in cubic capacity is greater than the number of cubic metres stated in <u>Box 16(i)</u> then for each full cubic metre in excess of the figure in <u>Box 16(i)</u> below the cubic capacity stated in <u>Box 4B1(i)</u> the Contract Price shall be reduced by the amount stated in <u>Box 16(ii)</u> as liquidated damages up to a maximum amount as stated in <u>Box 16(iii)</u>.	207 208 209 210
(c) If the reduction in cubic capacity would entitle the Buyer to a reduction in the Contract Price greater than the maximum amount stated in <u>Box 16(iii)</u> the Buyer shall have the option to terminate this Contract in accordance with <u>Clause 39(a)(vii)</u> (Suspension and Termination).	211 212 213 214
12. Other Deficiencies (optional Clause)	215
NOTE: This Clause has been left blank intentionally to allow the parties to insert, where appropriate, a liquidated damages provision covering deficiencies in any special technical requirements for a particular vessel type and specified by the parties in <u>Box 4E</u> and <u>Box 17</u>. (See also <u>Clause 39(a)(viii)</u>).	216 217 218 219
13. Late Delivery for non-permissible delays	220
If delivery of the Vessels takes place more than <u>30 20</u> days after the Delivery Date then for each day thereafter the Contract Price shall be reduced by the amount stated in <u>Box 18</u> per day as liquidated damages up to a maximum delay of <u>180 100</u> days (comprising a <u>30 20</u> day grace period plus <u>150 80</u> days).	221 222 223 224
If the delay exceeds <u>180 100</u> days the Buyer shall have the option to terminate this Contract in accordance with <u>Clause 39(a)(iii)</u> (Suspension and Termination).	225 226
14. Guarantees	227
(a) Buyer's Instalment/Performance Guarantee	228
To secure the Buyer's obligation to pay the instalments of the Contract Price prior to delivery the Buyer shall, within the number of days stated in <u>Box 19(a)(i)</u> after the signing of this Contract, deliver to the Builder an irrevocable and unconditional guarantee issued	229 230 231
by the bank or party stated in <u>Box 31</u> substantially in the form and substance set out in Annexes A(i) (Instalments) or A(ii) (Performance) as stated in <u>Box 19(a)(ii)</u>, failing which the Builder shall have the option to terminate this Contract in accordance with <u>Clause 39(b)(iv)</u> (Suspension and Termination).	232 233 234 235
(b) Builder's Refund Guarantee	236
To secure the Builder's obligation to refund the Buyer's pre-delivery instalments pursuant to this Contract the Builder shall, within the number of days stated in <u>Box 19(b)(i)</u> after the signing of this Contract and before the date for payment of the first instalment in accordance with <u>Clause 15(a)(i)</u> (Payments – Instalments), provide the Buyer with a Refund Guarantee issued by the bank or party named in <u>Box 32</u> substantially in the form and substance set out in ANNEX A(iii)(Refund Guarantee), failing which the Buyer shall have the option to terminate this Contract in accordance with <u>Clause 39(a)(ix)</u> (Suspension and Termination).	237 238 239 240 241 242 243 244
(c) Guarantee Compliance and Expiry	245
The Builder Parties shall ensure that any guarantee issued on itstheir behalf shall:	246

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(i) comply with the laws, regulations, constitution and procedures of the guarantor and its country of issue, including but not limited to, its registration with any necessary authorities; and	247 248 249
(ii) on expiry be returned to the guarantor; and	250
(iii) in the case of the Refund Guarantee (<u>sub-Clause 14(b)</u>), remain in force until the first to occur of: either	251
(1) the payment to the Buyer by the Builder or by the bank or party named in Box 32 of all sums secured by the Refund Guarantee a date at least 300 days after the Contractual Date of Delivery stated in Box 10 or 30 days after the final resolution of any dispute under Clause 42 (Dispute Resolution), whichever is the later; or	252 253 254
(2) on 5th April 2019 being one hundred and eighty (180) days after the Contractual Date of Delivery stated in Box 10 or 30 days after the final resolution of any Dispute (as defined in the Refund Guarantee), whichever is the later; or	255
(2) (3) due delivery of the Vessels to, and acceptance of the Vessels by, the Buyer as evidenced by the exchange and acceptance of two Protocols of Delivery and Acceptance (one for each Vessel) each signed by the Buyer and by the Builder whichever is the sooner.	256
15. Payments	257
(a) Instalments	258
The Contract Price shall be paid by the Buyer to the Builder by Instalments, when due and payable in accordance with <u>Box 11</u> and this Clause, the pre-delivery Instalments being paid as advances and not deposits as follows:	259 260 261
(i) Unless otherwise stated in <u>Box 11</u> the first Instalment shall be due and payable by the Buyer five (5) Banking Days after the Refund Guarantee has been provided in accordance with <u>Clause 14(b)</u> (Builder's Refund Guarantee).	262 263 264
(ii) The Builder shall give the Buyer invoices for each Instalment under this Contract, each of which (with the exception of the invoices for the first and Final Instalment) shall have appended to it a certificate issued by the Classification Society in the form, or in substantially the same form, as attached at Annex E and a certificate of approval signed by the Buyer's Representative each confirming that the relevant construction/payment milestone has been reached.	265
With the exception of the first and Final Instalment the Builder shall give the Buyer an invoice to cover the sum due to it not less than ten (10) Banking Days prior to the due date of each Instalment.	266 267 268
(iii) All Instalments other than the first and Final Instalment shall be payable within four (4) Banking Days of the due date thereof.	269 270
(iv) The Final Instalment shall be due and payable upon delivery of the Vessels in accordance with <u>Box 11</u> and <u>Clause 28</u> (Delivery).	271 272
(b) Payment for Modifications and other items	273
(i) The sums due or refundable as a result of modifications and changes, and changes in Rules and Regulations under <u>Clause 24</u> (Modifications and Changes) and <u>Clause 26</u> (Changes in Rules and Regulations) shall be added to or deducted from the Final	274 275 276

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Instalment.	277
(ii) All expenses payable in accordance with Clause 27(c)(iii) (Conduct of the Sea Trial), Clause 54(c)(iii) (Conduct of the Delivery Acceptance Trials) and Clause 22(b) shall be paid together with the Final Instalment.	278 279
(iii) Sums due for other items shall be paid within fifteen (15) Banking Days after receipt by the Buyer of the Builder's invoice.	280 281
(c) Payment of Liquidated Damages	282
Any amounts for liquidated damages under Clause 8 (Speed Deficiency), Clause 9 (Excessive Fuel Consumption), Clause 10 (Deadweight Deficiency), Clause 11 (Cubic Capacity Deficiency), Clause 12 (Other Deficiencies) and Clause 13 (Late Delivery for non-permissible delays) shall be calculated and determined before delivery and may be deducted from the Final Instalment.	283 284 285 286 287
(d) Payment Procedures	288
(i) If the date on which any payment is due in accordance with the provisions of this Contract does not fall on a Banking Day, payment shall be made on the next Banking Day.	289 290 291
(ii) Payment of sums due in accordance with the provisions of this Contract shall be made, in the case of payments to the Builder, by electronic transfer to the Builder's account stipulated in Box 12 and, in the case of payments to the Buyer by electronic transfer to such bank as the Buyer by notice to the Builder nominates to receive payments on its behalf.	292 293 294 295 296
(iii) The cost of remitting payments shall be for the account of the payer.	297
(iv) Payments by either Party to the other under this Contract, and their receipt, shall not be deemed a waiver of any right or claim either Party may have against the other.	298 299
(v) In the event of late payment of Instalments by the Buyer, the Builder shall have the right to suspend work under this Contract in accordance with Clause 39(c) (Suspension of Work).	300 301 302
16. Taxes, duties, stamps, dues and fees	303
(a) The Builder shall bear and pay all taxes, duties, stamps, dues and fees imposed in the place stated in Box 2 in connection with the execution and/or performance of this Contract, excluding any taxes, duties, stamps, dues and fees imposed in the place stated in Box 2 upon the Buyer's Supplies which shall be for the Buyer's cost and expense.	304 305 306 307
(b) Subject to Clause 16(d) , the Buyer shall bear and pay all taxes, duties, stamps, dues and fees imposed outside the place stated in Box 2 in connection with the execution and/or performance of this Contract, except for taxes, duties, stamps, dues and fees imposed upon those items and services procured by the Builder for construction of the Vessel.	308 309 310 311
(c) If either Party pays any taxes, duties, stamps, dues and fees for which the other Party is responsible under this Clause, the other Party shall reimburse the paying Party within fifteen (15) Banking Days of receipt of notice to that effect, together with evidence of the amount paid.	312 313 314 315
(d) The Parties acknowledge that following the result of the Brexit Referendum, it is likely that the United Kingdom will soon cease to be a member of the European Union.	

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The Parties further acknowledge that the Brexit Date may occur before the Vessels are delivered to the Buyer by the Builder pursuant to this Contract.

If delivery of the Vessels occurs pursuant to this Contract after the Brexit Date then the Parties agree that any customs duties and/or charges relating to the import of the Vessels into the United Kingdom which are imposed/payable following changes in applicable law as a result of or arising out of the United Kingdom ceasing to be a member of the European Union, but which would not have been imposed/payable had delivery of the Vessels occurred pursuant to this Contract before the Brexit Date, shall be paid as follows:

(i) by the Buyer if delivery of the Vessels pursuant to this Contract occurs on or before 31 December 2018; or

(ii) by the Builder if delivery of the Vessels pursuant to this Contract occurs on or after 1 January 2019.

17. Right to set-off	316
Except as expressly set out in this Contract, the Buyer shall not have the right to retain or set-off any amount against any payment due to the Builder under this Contract except in relation to the Final Instalment as specifically provided in this Contract (see Clause 15 (Payments) and Clause 30 (Final Instalment)).	317 318 319 320
18. Interest	321
If either Party fails to pay any sum due in accordance with the terms of this Contract, the other Party shall have the right to charge interest from the due date at the rate stated in Box 30 on such outstanding sums (see also Clause 39 (Suspension and Termination)).	322 323 324



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SECTION 3 – PRODUCTION

19. Sub-contracting	325
The Builder shall employ the Sub-contractors as set out in, and in accordance with the terms of , the Specification or Maker's	326
list. Except for minor work, the Builder shall not employ other sub-contractors without the Buyer's approval, which shall not be unreasonably withheld.	327 328
Notwithstanding any sub-contracting, the Builder shall remain fully responsible for the due performance of such work as if undertaken by the Builder at the Shipyard.	329 330
20. Approvals	331
The times and numbers specified in this Clause shall apply unless otherwise stated in the Specification.	332 333
(a) As soon as possible and not later than sixty (60) running days after the effective date of the Contract (see Clause 44 (Effective date of Contract)) the Builder shall provide the Buyer with proposed detailed building and testing -schedules for the Vessels in PDF and DWG electronic format . The Buyer shall comment	334 335 336
on the schedules as soon as possible and at the latest within fourteen (14) running days after receipt of the proposals. The Builder shall thereafter prepare and issue in writing amended building and testing schedules incorporating the Buyer's comments within fourteen (14) running days thereafter.	337 338 339 340
(b) The Builder shall submit despatch to the Buyer in PDF and DWG electronic format a total of three (3) full sets of the copy of each of the Plans and Drawings for the Buyer's approval (excluding workshop drawings) and shall also submit such other technical information	341 342
as the Buyer may reasonably require, not less than thirty (30) running days before any construction works commence on either Vessel . The Builder shall give notice to the Buyer advising the date of despatch-submission of the Plans and Drawings and the Buyer shall give notice to the Builder	343 344 345
confirming receipt thereof. The Buyer shall within fourteen (14) running days of receipt send-respond to the Builder one (1) set of the Plans and Drawings -with the Buyer's approval or approval with comments, amendments or reservations in relation to the Plans and Drawings .	346 347 348
In the event that the Buyer needs additional time to consider the Plans and Drawings submitted pursuant to this Clause, it shall request the same in writing of the Builder whose agreement shall not be unreasonably withheld or delayed . In the event that the Buyer's comments, amendments or reservations are unclear, unspecified or illegible, the Builder may give notice requesting clarification. If the Buyer fails to respond to the request to provide clarification within five (5) running days of receipt of the Builder's notice, the Builder shall determine whether and to what extent it can adopt the comments, amendments or reservations.	349 350 351 352 353 354 355 356
If requested by the Buyer in writing, the Plans and Drawings shall also be sent in an agreed electronic format.	357 358
(c) The Builder shall take due note of the Buyer's comments, amendments or reservations (if any) on Plans and Drawings submitted pursuant to this Clause and, if such comments, amendments or reservations are not of such a nature or extent as to constitute a	359 360 361

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modification or change of the Specification within the meaning of Clause 24 (Modifications and Changes), then the Builder shall commence or continue construction of the Vessels in accordance with the corrected or amended Plans and Drawings.	362 363 364
(d) If the Builder considers the comments, amendments or reservations to the Plans and Drawings are of a nature or extent that constitutes a modification or change under Clause 24 (Modifications and Changes), the Builder shall notify the Buyer accordingly and proceed in accordance with Clause 24 (Modifications and Changes). If the Buyer disagrees the matter shall be resolved in accordance with Clause 24(e) .	365 366 367 368 369
(e) In the event that the Buyer fails to return any Plans and Drawings to the Builder with approval or approval with comments, amendments or reservations, if any, within the time limit stated above, such Plans and Drawings shall be deemed to have been approved by the Buyer.	370 371 372 373
(f) The Buyer's approval or deemed approval of any Plans and Drawings shall not affect the obligations of the Builder to design, construct and deliver, or the obligations of the Buyer to take delivery of, and pay for, the Vessels in accordance with the other provisions of this Contract; nor shall it diminish the Builder's responsibility in respect of its obligations under this Contract nor shall it constitute any acceptance by the Buyer of any responsibility for any defect in the Vessels.	374 375 376 377 378 379
(g) The Builder shall give the Buyer, as soon as practicable, copies of all relevant correspondence relating to the Vessels to and from the Classification Society and the Regulatory Authorities, together with all plans approved by the Classification Society.	380 381 382
21. Buyer's Supplies	383
(a) Buyer	384
(i) The Buyer shall, at its own risk, cost and expense, supply and deliver to the Builder all of the Buyer's Supplies. Such items shall be delivered at a warehouse or other storage facility at the Shipyard or as otherwise directed by the Builder in a proper condition ready for installation by the Builder or Sub-contractor in or on the Vessels (hereinafter "Installation"), in accordance with the building and-testing schedules in Clause 20(a) (Approvals) or as may reasonably be required by the Builder.	385 386 387 388 389 390
(ii) To assist Installation, the Buyer shall provide the Builder with the necessary documentation including specifications, plans, drawings, instruction books, manuals, test reports and certificates required to comply with all applicable rules and regulations. If so requested by the Builder, the Buyer shall, if reasonably possible and at no cost to the Builder, arrange for the representatives of the manufacturers of the Buyer's Supplies to assist the Builder in Installation and/or to carry out the Installation of the Buyer's Supplies by themselves or to make necessary adjustments at the Shipyard in accordance with the manufacturer's instructions, including commissioning.	391 392 393 394 395 396 397 398
(iii) The Builder may reject any and all of the Buyer's Supplies when and if found on reasonable grounds to be unsuitable or in improper condition for Installation or not in compliance with the Classification Society or Regulatory Authorities' requirements.	399 400 401
(iv) If delay in delivery of any of the Buyer's Supplies in accordance with Sub-Clause (a) (i) exceeds thirty (30) days and will cause actual delay to the delivery of the Vessels, the Builder shall have the right to proceed with the construction of the Vessels without Installation of the delayed items. The Buyer shall accept and take delivery of the Vessels so constructed.	402 403 404 405 406
(b) Builder	407
(i) The Builder shall safely store and handle the Buyer's Supplies after delivery thereof	408



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at a warehouse or other storage facility at the Shipyard or elsewhere as determined by the Builder and shall, at its own cost, expense and responsibility, install them in or on the Vessels in accordance with the Specification, provided that the Builder shall not be responsible for the quality, efficiency and/or performance of any of the Buyer's Supplies.	409 410 411 412 413
(ii) The Buyer's Supplies shall be at all times the property of the Buyer but shall be at the Builder's risk from the time of their delivery to the Shipyard until the time of their redelivery to the Buyer whether or not as part of the Vessels.	414 415 416
22. Buyer's Representative, Assistants, Officers and Crew	417
(a) The Buyer may, at its own cost and expense, have one representative present at the Shipyard throughout the construction together with a reasonable number of assistants and, as appropriate, officers and crew. The Buyer shall notify the Builder in advance in writing of:	418 419 420 421
(i) the names of the Buyer's Representative, assistants and, as appropriate, officers and crew; and	422 423
(ii) the scope of the Buyer's Representative's authority which, in particular, shall include the extent to which the Buyer's Representative has authority to approve plans, drawings and calculations, agree modifications and invoices and attendance at and approval of tests, trials and inspections relating to the Vessels at the Shipyard and/or premises of Sub-contractors; and	424 425 426 427 428
(iii) any other information reasonably required by the Builder to facilitate access to the Shipyard and/or premises of Sub-contractors.	429 430
(b) The Builder shall, at its own cost and expense, provide the Buyer's Representative and assistants with reasonable office accommodation and facilities (including communication equipment, such as telephone, fax and appropriate internet access, and printers or a connection to the Builder's printers) as the Buyer may reasonably require. The Buyer shall bear the costs of all communication expenses arising from the use by the Buyer's Representative and assistants of the communications equipment provided by the Builder. Such expenses shall be payable by the Buyer on receipt of an invoice from the Builder in accordance with Clause 15(b) (Payments - Payment for Modifications and other items).	431 432 433 434 435 436 437 438 439
(c) The Builder shall have the right to request the Buyer to replace the Buyer's Representative or any assistants but only if the Builder shows that they are carrying out their duties in an unreasonable manner detrimental to the proper progress of the construction of the Vessel, in which case the Buyer shall make proper replacement as soon as possible.	440 441 442 443 444
(d) The Buyer's Representative shall have the right to communicate directly with the Classification Society and the Flag State , provided such communication does not unreasonably interfere with the Builder's communication with the Classification Society and the Flag State .	445 446 447
(e) The Builder shall render reasonable assistance to the Buyer in helping to provide suitable accommodation, obtain necessary visas, residence and work permits and any other administrative assistance as the case may be for the Buyer's Representative, assistants and, as appropriate, officers and crew.	448 449 450 451
23. Inspections, Tests and Trials	452

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(a) To enable the Buyer's Representative and assistants to carry out their duties and inspect the work being done, the Buyer's Representative and/or assistants shall have the right to inspect the Vessels throughout the period of the construction of the Vessels and until its their delivery and acceptance.	453 454 455 456
(b) The Buyer's Representative and/or assistants shall have the right to attend all tests, trials and inspections, including those supervised by the Classification Society and Regulatory Authorities, on any parts of the Vessels whether or not installed. The Builder shall give the Buyer reasonable notice in advance of all such tests, trials and inspections to enable the Buyer's Representative and/or assistants to attend. If the Buyer's Representative and/or assistants becomes aware of non-conformity of any aspect of the design, construction, material or workmanship arising out of such tests, trials and inspections he/they shall notify the Builder as soon as possible.	457 458 459 460 461 462 463 464
(c) For the purposes of attending such inspections, tests and trials the Builder shall, at any time during working hours or at any other time when work is being performed, provide the Buyer's Representative and/or assistants with unimpeded access to the Shipyard, Vessels, workshops, and anywhere else where work on or storage of items connected with the construction of the Vessels is being performed. The Builder shall use its best efforts to arrange similar access for inspection purposes to Sub-contractor's premises during working hours or at any time when work is being performed.	465 466 467 468 469 470 471
(d) Neither the Buyer's Representative's and/or assistants' inspection and/or attendance at any inspection, test or trial, nor the Buyer's Representative's and/or assistants' failure to notify the Builder of any non-conformity shall relieve the Builder from its obligations under this Contract or be deemed to be or construed as a waiver of any objection to, or any acceptance of, faulty design, construction, material and/or workmanship, or any admission that any materials or workmanship are of the standard required for due performance of this Contract.	472 473 474 475 476 477 478
24. Modifications and Changes	479
(a) The Buyer shall have the right at any time to request reasonable modifications or changes in the Specification and/or Plans and Drawings. The Buyer shall request such modifications and/or changes in writing, giving sufficient particulars, documentation and details fully to describe the modifications and/or changes requested.	480 481 482 483
(b) The Builder shall, as soon as possible after receipt of the written request for modifications or changes, give the Buyer a written proposal of the consequences of implementing such modifications and/or changes. These consequences may include changes in the Contract Price, Delivery Date, capacity, draft, speed- or fuel consumption of the Vessels or any other provisions of this Contract. If in the Builder's reasonable judgement, such modifications and/or changes will adversely affect the Builder's planning or programme in relation to the Builder's other commitments, the Builder shall notify the Buyer that it declines to give such a proposal for the requested modifications and/or changes or part thereof.	484 485 486 487 488 489 490 491 492
(c) The Builder shall use reasonable efforts to minimise the extra costs, delay or other negative impact on the Vessel's' capacity, performance or other factors caused by the Buyer's request. The Builder's proposal shall be reasonable for such work.	493 494 495
(d) On the basis of the Builder's proposal the Buyer may elect in writing to agree to the necessary amendments to this Contract, in which case the Builder shall build the Vessels	496 497

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in accordance with this Contract so amended.	498
(e) If the Buyer does not accept the Builder's notice as provided in Clause 20(d) (Approvals) or if in the Buyer's opinion the Builder's proposal for modifications and/or changes under this Clause is unreasonable, the Buyer may, by giving notice to the Builder, order the Builder to proceed with the requested modifications and/or changes but the consequences of implementing such modifications and/or changes shall be decided in accordance with Clause 42 (Dispute Resolution).	499 500 501 502 503 504
(f) If the Buyer elects not to continue with the request for modifications and/or changes, the Buyer shall notify the Builder accordingly.	505 506
(g) If the Buyer does not respond within seven (7) running days after receipt of the Builder's notice in Sub-Clause (b) , the Buyer shall be deemed to have withdrawn the request for modifications and/or changes.	507 508 509
25. Builder's Modifications and Substitution of Materials	510
The Builder shall have the right to make minor modifications and/or changes to the Specification and/or plans if so required by virtue of changes to the Builder's local conditions or facilities, the availability of materials and equipment, the introduction of improved methods or for any other reason of a similar nature provided that the Builder shall first obtain the Buyer's written approval, which shall not be unreasonably withheld or delayed.	511 512 513 514 515 516
Such modifications and/or changes shall satisfy the requirements of the Classification Society and the Regulatory Authorities and shall not relieve the Builder from its obligation to otherwise deliver the Vessels in accordance with this Contract. Any savings obtained shall be credited to the Buyer and the Buyer shall not be obliged to pay any extra for, or suffer any delay in delivery or other adverse consequences of, such modifications and/or changes.	517 518 519 520 521 522
26. Changes in Rules and Regulations	523
If, after the date of Contract, there are any changes in applicable laws, rules, regulations or requirements (or their application) of the Classification Society or Regulatory Authorities, the following shall apply:	524 525 526
(a) Upon receipt of notice of such changes either Party shall promptly notify the other Party thereof.	527 528
(b) If such changes will be compulsory for the Vessels at the time of delivery, the Builder shall, unless the Buyer at its sole discretion seeks and obtains a waiver from the Classification Society or Regulatory Authorities (as appropriate), incorporate such modifications and/or changes into the construction of the Vessels. The Parties shall endeavour to agree on such adjustments to the Contract Price, Delivery Date or other Contract terms as are a direct consequence of the change in applicable laws, rules, regulations or requirements. If the Parties fail to agree on the adjustments, the Builder shall proceed with the required changes and the matter shall be decided in accordance with Clause 42 (Dispute Resolution).	529 530 531 532 533 534 535 536 537
(c) If such changes are not compulsory but the Buyer requires the changes to be incorporated, Clause 24 (Modifications and Changes) shall apply.	538 539
27. Sea Trials	540
The times and numbers specified in this Clause shall apply unless otherwise stated in	541

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the Specification.	542
(a) Notice	543
The Buyer's Representative, together with a suitable number of assistants, officers and crew, shall have the right to be present at sea trials that shall be conducted for each Vessel . The Builder shall give the Buyer at	544
least fourteen (14) running days notice of the time and place and expected duration of sea trials of each Vessel and the Buyer shall promptly acknowledge receipt of such notice.	545
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If neither the Buyer's Representative nor any authorised assistants attend the sea trials of a Vessel or either Vessel	548
for any reason after such notice to the Buyer, such absence shall be deemed to be a waiver by the Buyer of its right to be present. The Builder may then conduct the sea trials of the relevant Vessel or both Vessels (as the case may be)	549
without the Buyer's Representative being on board, provided that a representative of the Classification Society and Regulatory Authorities is present. In such circumstances, the results and conditions of the sea trials shall be as confirmed in writing by the Classification Society and/or Regulatory Authorities.	550
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(b) Weather Conditions	555
The sea trials of each Vessel shall be conducted in weather conditions as described in this Contract	556
and/or Specification. If the sea trials are interrupted or prevented by weather conditions in excess of the stated conditions, any resulting delay in delivery of the Vessels shall be deemed a Permissible Delay in accordance with Clause 34 (Permissible Delays). In such an event, the sea trials shall be discontinued or postponed until the first favourable day thereafter when weather conditions permit.	557
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(c) Conduct of the Sea Trials	562
(i) The sea trials shall be conducted in the presence of representatives from the Classification Society and Regulatory Authorities and in the manner described in this Contract. The sea trials shall be of sufficient scope and duration to enable the Parties to verify and establish that the each Vessel conforms in all respects with the performance requirements of this Contract. The Builder shall have the right to repeat any sea trials, subject to appropriate notice to the Buyer.	563
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(ii) The Builder shall provide sufficient crew necessary for the safe navigation of the Vessels.	569
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(iii) All expenses in connection with the sea trials of each Vessel , including the provision of bunkers, lubricating oil, grease, fresh water and stores needed to undertake the sea trials shall be for the Builder's cost and expense. Together with the Final Instalment, the Buyer shall reimburse the Builder at cost price for any quantities of bunkers and unbroached lubricating oil, grease, fresh water and stores remaining on board each Vessel at delivery.	571
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(d) Method of Acceptance or Rejection	576
(i) Upon completion of the sea trials for both Vessels the Builder shall give the Buyer the results of the sea trials in writing. If the Builder considers that the results thereof demonstrate that the Vessels conforms to the requirements of this Contract, the Builder shall give the Buyer notice of when delivery will take place. Such notice shall state where and when the Vessels will be ready for delivery, which will be at least fifteen (15) running days after the notice is given. Within five (5) running days after receipt of this notice and the trial results, the Buyer shall notify the Builder in writing of its acceptance for	577
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delivery or rejection of the Vessels, subject always to satisfactory completion of the Delivery Acceptance Trials.	584
(ii) If the results of the sea trials demonstrate that either the Vessel or both Vessels or any part or equipment thereof does not conform to the requirements of this Contract, or if the Buyer rejects the either Vessel or both Vessels for other reasons which the Builder accepts as valid, the Builder shall take all necessary steps to rectify such non-conformity. If necessary the Builder shall for its own cost and expense carry out a further sea trial for either or both Vessels (as appropriate) in accordance with this Clause to ascertain that the both Vessels complies with the terms of this Contract. Upon demonstration by the Builder that the deficiencies have been corrected, the procedure set out in this Sub-Clause (d) shall apply.	585 586 587 588 589 590 591 592
(iii) If the Buyer gives notice of rejection for either Vessel or both of the Vessels under (i) above or rejects either Vessel or both of the Vessels under (ii) above, the Buyer shall state in which respects the Vessels (or either of them) does not conform to the requirements of this Contract (hereinafter " Delivery-Sea-trial Defects ").	593 594 595
(iv) If the Sea-trial Delivery Defects are of minor importance and do not affect Class or the operation of the Vessels in their intended trade but the Builder is unable to rectify the matter within a reasonable time and in any event before the accrual of the Buyer's right to terminate in accordance with Clause 39 (Suspension and Termination), the Builder may nevertheless require the Buyer to take delivery of the affected Vessel or Vessels , on condition that the Builder first:	596 597 598 599 600 601
(1) undertakes to remedy the Sea-trial Delivery Defects for its own cost and expense as soon as possible; and	602 603
(2) agrees in writing to indemnify the Buyer for any loss incurred as a consequence thereof, including loss of time; and	604 605
(3) provides the Buyer with a guarantee issued by the party named in Box 32 (or if Box 32 is not filled in, a bank guarantee from a first class bank) substantially in the form and substance set out in Annex A(iv) for a sum which the Buyer reasonably requests to cover (1) and (2) above, failing agreement such sum to be resolved in accordance with Clause 42 (Dispute Resolution);	606 607 608 609 610
whereupon the Buyer shall accept delivery of the Vessels, subject always to satisfactory completion of the Delivery Acceptance Trials.	611
(v) If the Builder disputes the rejection of the a Vessel or Vessels by the Buyer pursuant to this Clause , the dispute shall be resolved in accordance with Clause 42 (Dispute Resolution).	612 613

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SECTION 4 – DELIVERY

28. Delivery	614
Subject to <u>Clause 27(d)</u> (Sea Trials – Method of Acceptance or Rejection) and <u>Clause 54(d)</u> (Delivery Acceptance Trials – Method of Acceptance or Rejection) the Vessels shall be delivered simultaneously to the Buyer on or after the Delivery Date at a safe place at or near Woolwich on the River Thames or such other safe place as agreed between the Parties the Shipyard or at a safe place in the immediate vicinity thereof in a clean and orderly condition, ready for service, upon:	615 616
(a) exchange and acceptance by the Parties hereto of a-two Protocols of Delivery and Acceptance (one for each Vessel) each signed by each Party acknowledging delivery of the relevant Vessel by the Builder and acceptance thereof by the Buyer; and	617 618 619 620 621
(b) the provision by the Builder of the other documents listed in <u>Clause 29</u> (Documents on delivery); and	622 623
(c) payment by the Buyer of the Final Instalment in accordance with <u>Clause 30</u> (Final Instalment).	624 625
29. Documents on Delivery	626
Upon exchange of the Protocols of Delivery and Acceptance the Builder shall provide at no cost to the Buyer the following additional documents (one of each document for each Vessel):	627 628
(a) Protocol of Trials made pursuant to the Specification.	629
(b) Protocol of Inventory and Equipment of the Vessel, including spare parts, as detailed in the Specification.	630 631
(c) Protocol of Surplus Consumable Stores which are payable by the Buyer to the Builder.	632 633
(d) Plans and Drawings pertaining to the Vessel together with all necessary instruction manuals, as detailed in the Specification.	634 635
(e) All certificates including the documents required to be furnished on delivery pursuant to this Contract. All certificates shall be issued without qualification.	636 637
If, however, the Classification certificate and/or other required certificates are not available at the time of delivery, the Buyer shall accept interim certificates provided that the Builder, at its cost and expense, provides the Buyer with final certificates as promptly as possible.	638 639 640
The Builder warrants that:	641
(i) such interim certificates shall enable the Vessel or Vessels (as the case may be) to be registered and trade and operate without restriction; and	642 643
(ii) final certificates shall be provided as above.	644
If the Builder fails to perform (i) and/or (ii) above, the Builder shall compensate the Buyer	645



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for any loss incurred as a consequence thereof, including loss of time.	646
(f) Declaration of Warranty by the Builder that the Vessel is free and clear of any liens, claims, charges, mortgages and other encumbrances.	647 648
(g) Builder's Certificate.	649
(h) Certificate of Non-Registration.	650
(i) Commercial invoices covering Final Instalment and modifications.	651
(j) Bill of Sale or other document that certifies that the title of the Vessel passes to the Buyer.	652 653
(k) IMO Hazardous Material Inventory Statement of Compliance in accordance with IMO Resolution A.962(23) (as referred to in Clause 4 (IMO Hazardous Materials Inventory)).	654 655 656 657
(l) Three (3) bound copies of the plans, drawings and manuals for the Vessel and its operating systems.	
(l)(m) Any other documents reasonably required by the Buyer.	
The Buyer may require the Builder by giving reasonable notice, prior to delivery, to arrange for any documents listed above to be duly notarised and, if required, legalised at the Buyer's cost and expense.	658 659 660
30. Final Instalment	661
(a) The Final Instalment shall be adjusted in accordance with this Contract and notified by the Builder to the Buyer not later than seven (7) Banking Days prior to the notified date of delivery (see Clause 27(d) (Sea Trials – Method of Acceptance or Rejection)). Not later than two (2) Banking Days prior to the notified date of delivery the amount of the Final Instalment, as adjusted, shall be deposited with the Builder's Bank as set out in Box 12 , with irrevocable instructions that, subject to Sub-Clause (c) below, the amount shall be released to the Builder against presentation by the Builder of a copy of the Protocols of Delivery and Acceptance for the Vessels, each signed by the Builder and the Buyer. Interest, if any, accruing on such deposit shall be for the benefit of the Buyer.	662 663 664 665 666 667 668 669 670
(b) If the Buyer does not agree the amount of the Final Instalment as adjusted and notified by the Builder, the Buyer shall notify the Builder within five (5) running days. Thereafter the Buyer may take delivery of the Vessels on payment of the Final Instalment as adjusted (or such other amount as the Builder may agree) but without prejudice to the Buyer's rights and remedies under this Contract and the dispute shall be resolved in accordance with Clause 42 (Dispute Resolution).	671 672 673 674 675 676
(c) If the Protocols of Delivery and Acceptance for the Vessels are not so presented within seven (7) days following the date for delivery of the Vessels as notified by the Builder in accordance with Clause 27(d) (Sea Trials – Method of Acceptance or Rejection), the Buyer shall have the right to withdraw the said deposit plus accrued interest. However, if and when a new date for delivery of the Vessels is notified to the Buyer by the Builder in accordance with Clause 27(d) (Sea Trials – Method of Acceptance or Rejection), the Buyer shall make a further cash deposit for the Final Instalment in accordance with the same terms and conditions	677 678 679 680 681 682 683

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as set out above.	684
31. Title and Risk	685
Title and risk of loss of or damage to the Vessels shall rest with the Builder until exchange of the Protocols of Delivery and Acceptance for the Vessels is effected, immediately upon which title and risk in both Vessels shall pass to the Buyer.	686 687 688
At the time of delivery, or at the time of the Buyer taking title to the Vessels pursuant to Clause 39(e)(ii), the Vessels shall be free of all liens, claims, charges, mortgages and other encumbrances.	689 690
32. Possession and Removal of the Vessel	691
(a) Subject to Clause 39(e)(ii), the Buyer shall take physical possession of the Vessels immediately upon Delivery and Acceptance thereof.	692 693
(b) The Buyer shall remove the Vessel from the place of delivery within five (5) running days after Delivery and Acceptance as aforesaid. If the Buyer does not so remove the Vessel within the said period, the Buyer shall pay to the Builder reasonable mooring charges for the Vessel. The Builder shall also have the right to move the Vessel from the place of delivery to another safe place at its convenience at any time after the five (5) running days' period has expired provided the Buyer is notified accordingly.	694 695 696 697 698 699
33. Vessel Registration	700
The Buyer shall register the Vessels at its own cost and expense.	701



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SECTION 5 – LEGAL

34. Permissible Delays	702
(a) The Delivery Date shall be extended if any of the following events cause actual delay to the delivery of the Vessels:	703
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(i) Force majeure events	705
(1) acts of God;	706
(2) any government requisition, control, intervention, requirement or interference;	707
(3) threat or act of war, warlike operations, terrorism or the consequences thereof;	708
(4) riots, civil commotions, blockades or embargoes;	709
(5) epidemics;	710
(6) earthquakes, landslides, floods, tidal waves or extraordinary weather conditions;	711
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(7) strikes, lockouts or other industrial action, but only if of a general nature and not limited solely to the Builder and/or the Sub-contractors or their employees;	713
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(8) fire, accident, explosion (whether in the Shipyard or elsewhere);	715
(9) any interruption to the supply of public utilities to the Builder;	716
(10) any other cause of a similar nature to the above beyond the control of the Builder or its Sub-contractors;	717
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(11) delays to sea trials in accordance with Clause 27(b) (Sea Trial – Weather Conditions);	719
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(12) delays to Delivery Acceptance Trials in accordance with Clause 54(b) (Delivery Acceptance Trials – Weather Conditions).	
(ii) Other events	721
(1) Late delivery of, or delivery of, any defective Buyer's Supplies in accordance with Clause 21(a)(iv) (Buyer's Supplies);	722
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(2) Delays due to modifications and changes in accordance with Clause 24(b) or (e) (Modifications and Changes);	724
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(3) Delays due to changes in rules and regulations in accordance with Clause 26 (Changes in Rules and Regulations);	726
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(4) An actual or constructive total loss in accordance with Clause 38(b)(ii) (Insurances – Allocation of Insurance Proceeds);	728
	729
(5) Suspension of work pursuant to Clause 39(c) (Suspension and Termination – Suspension of Work);	730
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(iii) Provided that in respect of (i) and (ii) above:	732



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(1) such events were not caused by the error, neglect, act or omission of the Builder or its Sub-contractors; and	733 734
(2) were not, or could not reasonably have been, foreseen by the Builder at the date of the Contract; and	735 736
(3) the Builder shall have complied with <u>Sub-Clause (b)</u> hereunder; and	737
(4) the Builder shall have made all reasonable efforts to avoid and minimise the effects such events have on the delivery of the Vessels.	738 739
(b) The Builder shall notify the Buyer within ten (10) running days of when the Builder becomes aware of the occurrence of any event of delay on account of which the Builder asserts that it may have the right to claim an extension of the Delivery Date. A failure to so notify shall bar the Builder from claiming an extension to the Delivery Date. The Builder shall also advise the Buyer in writing (A) within two (2) running days of the ending of any event notified under this Clause that the event has ended, and (B) as soon as reasonably possible after (A), the length of extension of the Delivery Date claimed by the Builder.	740 741 742 743 744 745 746
35. Builder's Guarantee	747
(a) The Builder shall guarantee the Vessels against any Defects (see Definitions) provided such Defects are:	748 749
(i) discovered within the number of months stated in <u>Box 20</u> (hereinafter "the Guarantee Period") after delivery of the Vessels in accordance with <u>Clause 28</u> (Delivery); and	750 751
(ii) notice thereof is given to the Builder as soon as reasonably possible after the discovery thereof and latest thirty (30) running days after the expiry of the Guarantee Period describing such Defects so far as reasonably practical	752 753 754
(hereinafter called "Guarantee Defects").	755
(b) The Builder shall make any necessary repairs or replacements to rectify any Guarantee Defects or damage to the Vessel or Vessels (as the case may be) caused as a direct and immediate consequence of such Guarantee Defects. The Builder shall provide regular progress reports to the Buyer detailing the progress of any such repairs and replacements, which shall be made at the Shipyard at the Builder's cost and expense.	756 757 758 759
(c) The Buyer shall have the right to arrange for the necessary repairs to rectify any Guarantee Defects or damage to a Vessel or the Vessels (as the case may be) caused as a direct and immediate consequence of such Guarantee Defects to be made at a location other than the Shipyard elsewhere or obtain any necessary replacement parts and materials:	760 761 762 763
(i) if it is impractical to bring the Vessel or Vessels (as the case may be) to the Shipyard; or	764
(ii) if the Builder cannot supply necessary replacement parts and materials without impairing or delaying the operation or working of the Vessel.	765 766
(d) In the event that the Buyer makes the necessary repairs or replacements at any other shipyard or works other than the Shipyard, the Buyer shall first, but as soon as possible, give the Builder notice of the time and place such repairs will be made. The Builder shall	767 768 769

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have the right, without prejudice, to inspect through its own representative the nature and extent of the Guarantee Defects to be replaced or repaired. The Builder shall, in such case, promptly advise the Buyer in writing, after such examination has been completed, of its acceptance or rejection of such Guarantee Defects as ones that are covered by the guarantee.	770 771 772 773 774
(i) The Builder shall pay the Buyer in the currency stated in <u>Box 9</u> the reasonable cost and expenses of such repairs or replacements.	775 776
(ii) Where applicable, the Buyer shall return replaced parts to the Builder at the Builder's request and cost and expense provided the Builder makes such request at the time of the replacement. In the event that they are the subject of a dispute under <u>Clause 42</u> (Dispute Resolution), the Builder shall hold the replaced parts available for inspection by the Buyer. Upon their replacement, the ownership of replaced parts shall revert to the Builder.	777 778 779 780 781 782
(e) The Builder guarantees repairs or replacements to a Vessel or the Vessels (as the case may be) made under <u>sub-Clause (b)</u> above for an additional Guarantee Period of the number of months stated in <u>Box 21</u> from the date of completion of such repairs or replacements provided such work has been performed by the Builder or its Sub-contractors. The additional Guarantee Period shall, however, not end on a date earlier than the end of the original Guarantee Period for any such item. Subject always to the notice period of thirty (30) running days referred to in Clause 35(a)(ii), the original Guarantee Period and any additional Guarantee Period shall not exceed the sum of the number of months stated in Box 20 and Box 21 hereof.	783 784 785 786 787 788
(f) If, as a result of the guarantee works, a Vessel or the Vessels (as the case may be) has/have been lying idle continuously for a period in excess of thirty (30) days, the Guarantee Period shall be extended by the total number of such days (counting from the first day the Vessel(s) is/are idle) that fall within the Guarantee Period, whether or not other work was carried out during such period.	789 790 791 792
(g) Without prejudice to any other rights the Buyer may have under this Contract, following the expiry of the Guarantee Period or in the event that the Builder is in breach of its obligation to rectify Guarantee Defects in accordance with this Clause, the Builder shall at the Buyer's request assign (to the extent to which it may validly do so) to the Buyer, or as the Buyer may direct, the right, title and interest of the Builder in and to all guarantees or warranties given by the Sub-contractors or suppliers of any of the materials or equipment used in the construction of the Vessels.	793 794 795 796 797 798 799
36. Guarantee Engineer	800
(a) The Buyer shall have the right to require the Builder to, or the Builder may, appoint a Guarantee Engineer to attend onboard the Vessels for such portion of the Guarantee Period as the Buyer may reasonably require which, for the avoidance of doubt, shall include the Builder providing a Guarantee Engineer on-site for a period of six consecutive weeks (commencing at the Buyer's discretion) during the Guarantee Period, with the said six week period commencing prior to but including the time of the Vessels being placed into service on the Woolwich Ferry route. In addition to the foregoing the Builder will ensure that a Guarantee Engineer attends to provide on-site support within twenty-four (24) hours of any request for such support from the Buyer. The Buyer and its employees shall provide the Guarantee Engineer with full co-operation in carrying out his duties. The Guarantee Engineer shall act as the Builder's representative on board and shall give the Buyer full co-operation to enable the Buyer to obtain the most efficient use of the each Vessel's	801 802 803 804 805 806