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

1.1. The following DEFCONs shall apply to the Contract:

No	Edition	Title
5J	(Edn.18/11/16)	Unique Identifiers
23	(Edn.06/21)	Special Jigs, Tooling and Test Equipment
68	(Edn.10/22)	Supply of Data for Hazardous Articles, Materials and Substances
76	(Edn.11/22)	Contractor's Personnel at Government Establishments
82	(Edn. 06/21)	Special Procedures for Initial Spares
91	(Edn. 06/21)	Intellectual Property Rights in Software
113	(Edn.02/17)	Diversion Orders
117	(Edn.07/21)	Supply of Documentation for NATO Codification
126	(Edn.06/21)	International Collaboration Clause
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)
129J	(Edn.18/11/16)	The Use Of The Electronic Business Delivery Form
501	(Edn.10/21)	Definitions and Interpretations (for the purposes of this Contract, this definition of 'the Contract' replaces the definition in this DEFCON for 'the Contract'. 'the Contract' means the agreement concluded between the Authority and Contractor dated [X], including all specifications, plans, drawings, schedules and other documentation, expressly made part of the agreement. In the event of any inconsistencies or conflicts between the documents that form part of the Contract, please, refer to Condition 4 (Precedence of Documentation).
502	(Edn.05/17)	Specifications
503	(Edn.06/22)	Formal Amendments to Contract
507	(Edn.07/21)	Delivery
513	(Edn 07/24)	Value Added Tax and Other Taxes
515	(Edn.06/21)	Bankruptcy and Insolvency
516	(Edn.04/12)	Equality
518	(Edn.02/17)	Transfer

No	Edition	Title
520	(Edn.10/23)	Corrupt Gifts and Payments of Commission
522	(Edn.11/21)	Payment and Recovery of Sums Dues
524	(Edn.12/21)	Rejection
524A	(Edn. 12/22)	Counterfeit Materiel
525	(Edn.10/98)	Acceptance
526	(Edn.08/02)	Notices
527	(Edn.09/97)	Waiver
528	(Edn.10/24)	Import and Export Licences
529	(Edn.09/97)	Law (English)
530	(Edn.12/14)	Dispute Resolution (English Law)
531	(Edn.09/21)	Disclosure of Information
532A	(Edn.05/22)	Protection Of Personal Data (Where Personal Data is not being processed on behalf of the Authority)
534	(Edn.06/21)	Subcontracting and Prompt Payment
537	(Edn.06/02)	Rights of Third Parties
538	(Edn.06/02)	Severability
539	(Edn.01/22)	Transparency (Sensitive Information shall mean the information listed in the Tenderer's Sensitive Information, Schedule 13A (Tenderer's Sensitive Information) and Publishable Performance Information, shall mean the information in Key Performance Indicator Data Report, Schedule 13B (Publishable Performance Information – Key Performance Indicator Data Report))
540	(Edn. 05/23)	Conflicts of Interest
550	(Edn.02/14)	Child Labour and Employment Law
565	(Edn. 12/24)	Supply Chain Resilience and Risk Awareness
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.04/23)	Quality Assurance (With Quality Plan)
604	(Edn.06/14)	Progress Reports (for the purposes of this contract, also refer to Condition 73 (Progress Meetings and Progress Reports).
606	(Edn.07/21)	Change and Configuration Control Procedure
607	(Edn.05/08)	Radio Transmissions

No	Edition	Title
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.12/22)	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.10/04)	Transport (if the Contractor is responsible for transport). For the purposes of this Contract the Contractor shall comply with Department for Transport Code of Practice, Safety Loads on Vehicles and BS EN 12195 (Load restraining on vehicles – safety). The principle dimensions/load and centre of gravity of Boat(s) shall be in accordance with the relevant Book of Reference (BR) at Schedule 10 (Government Furnished Information)
624	(Edn.08/22)	Use of Asbestos
627	(Edn.04/24)	Requirement for a Certificate of Conformity
630	(Edn.02/18)	Framework Agreements
632	(Edn.11/21)	Third Party Intellectual Property – Rights and Restrictions <u>AUTHORISATION BY THE CROWN FOR USE OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS</u> 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>
637	(Edn.05/17)	Defect Investigation and Liability
642	(Edn.7/21)	Progress Meetings (for the purposes of this contract, also refer to Condition 73 (Progress Meetings and Progress Reports).
643	(Edn.12/21)	Price Fixing (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 five (5) years.
644	(Edn.10/24)	Marking of Articles

No	Edition	Title
647	(Edn. 03/24)	<p>Financial Management Information (for the purposes of this contract, the additional requirements below apply:</p> <p><u>1.Planning, Scheduling and Budgeting</u></p> <p>1.1. The Contractors shall provide a single page plan that reflects the scope of work and time frame required to complete delivery to the Authority. A table of milestones based on payment milestones may be agreeable with the Authority.</p> <p><u>2.Analysis and Reporting</u></p> <p>2.1 The Contractor shall provide an in-year spending forecast and shall indicate to the Authority within five (5) business days if at any time the Contractor expects that the funds required to complete the contract will exceed the agreed contract value. Additionally, if the funds required within any fiscal year are expected to exceed the amount authorised by the Authority, the Contractor shall notify the Authority within no more than five (5) Calendar Days.</p>
649	(Edn.12/21)	Vesting
656B	(Edn.08/16)	Termination for Convenience - £5M and Over
658	(Edn. 10/22)	Cyber (Further to DEFCON 658 the Cyber Risk Level of the Contract is Level 1 ('Foundational') as defined in Def Stan 05-138)
660	(Edn. 12/15)	Official-Sensitive Security Requirements – for the purposes of this Contract also refer to Condition 59 (OFFICIAL and OFFICIAL- SENSITIVE Security Condition for UK Contracts)
661	(Edn. 06/21)	War Risk Indemnity
670	(Edn.02/17)	Tax Compliance
671	(Edn.10/22)	Plastic Packaging Tax
675	(Edn.03/21)	Advertising Subcontracts (Defence and Security Public Contract Regulations 2011 only)
678	(Edn.09/19)	SME Spend Data Collection (as detailed in Schedule 21 (MOD SME Spend Data Collection (DEFFORM 139))
681	(Edn.06/02)	Decoupling Clause – Subcontracting with the Crown
694	(Edn.07/21)	Accounting For Property of the Authority
697	(Edn 11/22)	Contractors On Deployed Operations.
703	(Edn.06/21)	Intellectual Property Rights - Vesting in the Authority (Applicable to all work performed under the Contract except to the extent that the Contractor and Authority agree against particular task(s) to different intellectual property rights conditions terms because the Contractor or their sub-

No	Edition	Title
		<p>contractor owns the intellectual property rights in the relevant equipment in which case:-</p> <ol style="list-style-type: none">1. where the Authority has previously acquired the relevant equipment from the Contractor or their sub-contractor then the Authority and the Contractor shall agree terms consistent with such earlier work. However in the event that terms consistent with such earlier work are not specified under a task then DEFCON 703 shall apply to the work performed).

PART 2 – SPECIAL CONDITIONS

2. Contractual Matters

- 2.1. 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 3 (Addresses and Other Information).
- 2.2. The Authority shall be under no obligation to place any orders and shall not guarantee the frequency or value of orders.

3. Definitions

- 3.1. In addition to the provisions of DEFCON 501 (Definitions and Interpretations), the Contractor shall refer to Schedule 4 (Definitions).

4. Precedence of Documentation

- 4.1. 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:
 - 4.1.1. DEFCONs and Condition 1 to 8374 of this Contract and Schedule 4 (Definitions);
 - 4.1.2. Schedule 1 (Schedule of Requirements) and Schedule 2 (Statement of Technical Requirements) and Schedule 2A (Statement of Technical Requirements – Pricing);
 - 4.1.3. Other Schedules of this Contract excluding Schedule 8 (Integrated Project Management Plan) and Schedule 16A (Social Value – Tackling economic inequality – Create new businesses, new jobs, and new skills) and Schedule 16B (Social Value – Tackling economic inequality – Increase supply chain resilience and capacity) and Schedule 16C (Social Value – Fighting Climate Change – Effective stewardship of the environment) and Schedule 16D (Social Value – Equal Opportunity – Tackle Workforce inequality);
 - 4.1.4. Schedule 8 (Integrated Project Management Plan) and Schedule 16A (Social Value – Tackling Economic Inequality – Create new businesses, new jobs, and new skills) and Schedule 16B (Social Value – Tackling economic inequality – Increase supply chain resilience and capacity) and Schedule 16C (Social Value - Fighting Climate Change – Effective stewardship of the environment) and Schedule 16D (Social Value - Equal Opportunity – Tackle Workforce inequality);
 - 4.1.5. any other document of this Contract;
 - 4.1.6. any other document agreed between the Parties after the Contract Effective Date.
- 4.2. The Contractor shall notify the Authority's Authorised Representative immediately upon becoming aware of any conflict and/or inconsistencies between the documents or items identified in Clause 4.1 and shall recommend to the Authority's Authorised Representative which document or requirement should prevail giving reasons for such recommendation. As soon as reasonably practicable thereafter, the Authority's Authorised Representative shall direct which document or requirement shall prevail and determine, in conjunction with the Contractor, what amendment or adjustment if any, should be made to the Contract.

5. Contractor's Obligations

- 5.1. The Contractor shall be responsible for all aspects of work carried out under the Contract including all aspects of Sub-Contractor performance whether Sub-Contractors have been selected by the Contractor or nominated by the Authority.
- 5.2. Any Sub-Contract placed by the Contractor shall be subject to the terms and conditions of this Contract, together with such other conditions as the Contractor may require.
- 5.3. No advice, comment or information proffered, given or omitted by, or on behalf of, the Authority on or in relation to the Contractor's work in accordance with the Contract shall, in any way, extinguish, diminish or reduce the Contractor's obligations and responsibilities under the Contract. Neither shall the activities of the Authority or its representatives including scrutiny of any drawings, reports or specifications and/or the attendance of the Authority's Authorised Representatives at any tests or trials derogate from the Contractor's obligations and responsibilities under the Contract.

6. Duration

- 6.1. The Contract and the rights and obligations of the Parties to this Contract shall take effect on the Contract Effective Date and, except as set out in Condition 61 (Continuing Obligations), shall terminate on the earlier of:
 - 6.1.1. The Expiry Date; or
 - 6.1.2. The Termination Date.
- 6.2. The prices recorded in Schedule 2A (Statement of Technical Requirements – Pricing)) will run for the following Financial Years (FY):
 - 6.2.1. Year 1 (FY 26/27) – 1 April 2026 to 31 March 2027;
 - 6.2.2. Year 2 (FY 27/28) – 1 April 2027 to 31 March 2028;
 - 6.2.3. Year 3 (FY 28/29) – 1 April 2028 to 31 March 2029;
 - 6.2.4. Year 4 (FY 29/30) – 1 April 2029 to 31 March 3030;
 - 6.2.5. Year 5 (FY 30/31) – 1 April 3030 to 31 March 3031;
 - 6.2.6. Year 6 (FY 31/32) – 1 April 3031 to 31 March 3032; and
 - 6.2.7. Year 7 (FY 32/33) – 1 April 3032 to 31 March 3033

7. NOT USED

8. Key Personnel

- 8.1. The Contractor shall maintain an Organisation Chart through the duration of the Contract provided that any proposed change to the Organisation Chart shall not be required to be the subject of a Change but shall be notified to the Authority.
- 8.2. The Contractor shall:

- 8.2.1. advise the Authority prior to the removal from the performance of the Contractor Deliverables or replacement of any of the Key Personnel;
- 8.2.2. in the event of resignation or redeployment of any of the Key Personnel, inform the Authority of the proposed replacement of such Key Personnel, and supply the curriculum vitae of such replacement who shall have the status, skills and experience at least equivalent to the individual they are employed to replace;
- 8.2.3. allow the Authority the right to be present at the interview of any Key Personnel; and
- 8.2.4. allow the Authority to make representations to the Contractor where the Authority is not in agreement with the redeployment of any Key Personnel or with the replacement proposed by the Contractor. The Contractor shall give reasonable consideration to such representation, but the decision of the Contractor shall be final.
- 8.3. In the event of any redeployment or resignation of any of the Key Personnel, the Contractor shall reasonably enforce the contractual requirement of the Key Personnel to work their designated notice period(s), to ensure appropriate knowledge transfer to his or her replacement(s) and shall demonstrate to the Authority that an appropriate knowledge transfer plan has been implemented.

9. Price

- 9.1. All payments to the Contractor will be in accordance with Condition 12 (Payment).
- 9.2. The Contract contains a mix of Firm and Fixed Prices as stated in Schedule 2A (Statement of Technical Requirement – Pricing). All prices quoted are exclusive of UK VAT in accordance with DEFCON 513 (Value Added Tax).
- 9.3. Prices recorded in Schedule 2A (Statement of Technical Requirements – Pricing) are Firm for Year 1 (Financial Year (FY) 26/27), Year 2 (FY 27/28) and Year 3 (FY 28/29).
- 9.4. For all work which are Firm Prices, excluding the provision of spares, see Clause 9.6 below, the price agreed between the Authority and Contractor shall be calculated using the Firm Prices detailed at Schedule 2A (Statement of Technical Requirements) and applicable to the period in which the work is to be undertaken.
- 9.5. For all work which contain a Limit of Liability (LoL), the final price agreed between the Authority and Contractor shall be calculated using the Firm Prices detailed at Schedule 2A (Statement of Technical Requirements – Pricing) and applicable to the period in which the work is to be undertaken. In the event that Firm Prices cannot be agreed, prices will be in accordance with either DEFCON 127 (Price Fixing Condition for Contracts of Lesser Value) or DEFCON 643 (Price Fixing).
- 9.6. For the provision of spares, the price agreed between the Authority and the Contractor shall be the Firm Prices detailed at Table 4 (Spares) of Schedule 2A (Statement of Technical Requirements – Pricing) applicable at the date of order.

Variation of Price applicable to all tasks, excluding ordering of Spares

- 9.7. Prices recorded in Schedule 2A (Statement of Technical Requirements – Pricing) as Fixed, are at Year 1 (FY 26/27) price levels. The prices do not include provision beyond this date for increases or decreases in the market price of the articles being purchased. For the purposes of agreeing Firm Prices for Year 4 (FY 29/30), Year 5 (FY 30/31), Year 6 (FY 31/32) and Year 7 (FY 32/33) of the Contract the following price formula shall apply:

$$V = P (a+b(O_i/O_0)) - P$$

Where:

V represents the variation of price

P represents the Fixed price as stated in Schedule 2A (Statement of Technical Requirements – Pricing)

O represents the index HSGG (SPPI INDEX OUTPUT DOMESTIC - M Professional, scientific and technical services)

O₀ O₀ represents the 12-month average OUTPUT Price Index figure for the 12-month period prior to 1 April 2026.

O_i represents the 12-month average OUTPUT Price Index figure for the period which the variation is being added.

a represents the Non Variable Element (NVE) which shall be 10%

b represents the Variable Element which shall be 90%

$$a+b=1$$

9.8. The Index referred to in Clause 9.7 above shall be taken from the following tables:

OUTPUT Price Index - e.g. ONS Publication MM22 Table 2 'Price Indices of UK OUTPUT: All Manufacturing and Selected Industries', or, Table 4 'Price Indices of Products Manufactured in the UK'.

9.9. Indices published with a 'B' or 'F' marker, or a suppressed value, in the last 3 (three) years are not valid for Variation of Price clauses and shall not be used. Where the price index has an 'F' marker or suppression applied to it during the term of the Contract, the Authority and the Contractor shall agree an appropriate replacement index or indices. The replacement index or indices shall cover, to the maximum extent possible, the same economic activities as the original index or indices.

9.10. In the event that any material changes are made to the indices (e.g. a revised statistical base date) during the period of the contract and before final adjustment of the final contract price, then the re-basing methodology outlined by the Office for National Statistics (ONS, the series providers) to match the original index to the new series shall be applied.

9.11. In the event the agreed index or indices cease to be published (e.g. because of a change in the Standard Industrial Classification) the Authority and the Contractor shall agree an appropriate replacement index or indices, which shall cover to the maximum extent possible the same economic activities as the original index or indices. The methodology outlined by the Office for National Statistics used for rebasing indices (as in Clause 9.10 above) shall then be applied.

9.12. Notwithstanding the above, any extant index / indices agreed in the Contract shall continue to be used as long as it is / they are available and subject to ONS revisions policy. Payments calculated using the extant index / indices during its / their currency shall not be amended retrospectively as a result of any change to the index or indices.

9.13. The Contractor shall notify the Authority of any significant changes in the purchasing / manufacturing plan on the basis of which these provisions were drawn up and agreed, or of any other factor having a material bearing on the operation of these provisions such as to

cause a significant divergence from their intended purpose, in order that both parties may consider whether any change in this provision would be appropriate.

- 9.14. Prices shall be adjusted taking into account the effect of the above formula as soon as possible after publication of the relevant indices or at a later date if so agreed between the Authority and the Contractor. Where an index value is subsequently amended, the Authority and the Contractor shall agree a fair and reasonable adjustment to the price, as necessary.
- 9.15. Claims under this Condition shall be submitted to the Bill Paying Branch, certified to the effect the "requirements of this Condition 9" have been met.

Variation of Price applicable to ordering of Spares

- 9.16. Prices recorded in Schedule 2A (Statement of Technical Requirements – Pricing)) as Fixed, are at Year 1 (FY 26/27) price levels. The prices do not include provision beyond this date for increases or decreases in the market price of the articles being purchased. For the purposes of agreeing Firm Prices for Year 4 (FY 29/30), Year 5 (FY 30/31), Year 6 (FY 31/32) and Year 7 (FY 32/33) of the Contract the following price formula shall apply:

$$V = P (a+b(O_i/O_0)) - P$$

Where:

V represents the variation of price

P represents the Fixed price as stated in Schedule 2A (Statement of Technical Requirements – Pricing)

O represents the index GB7S (PPI INDEX OUTPUT DOMESTIC - C Manufactured products, excluding Duty)

O₀ represents the 12-month average OUTPUT Price Index figure for the 12-month period prior to 1 April 2026.

O_i represents the 12-month average OUTPUT Price Index figure for the period which the variation is being added.

a represents the Non Variable Element (NVE) which shall be 10%

b represents the Variable Element which shall be 90%

$$a+b=1$$

- 9.17. The Index referred to in Clause 9.16 above shall be taken from the following tables:

- 9.18. OUTPUT Price Index - e.g. ONS Publication MM22 Table 2 'Price Indices of UK OUTPUT: All Manufacturing and Selected Industries', or, Table 4 'Price Indices of Products Manufactured in the UK'.

- 9.19. Indices published with a 'B' or 'F' marker, or a suppressed value, in the last 3 (three) years are not valid for Variation of Price clauses and shall not be used. Where the price index has an 'F' marker or suppression applied to it during the term of the Contract, the Authority and the Contractor shall agree an appropriate replacement index or indices. The replacement index or indices shall cover, to the maximum extent possible, the same economic activities as the original index or indices.

- 9.20. In the event that any material changes are made to the indices (e.g. a revised statistical base date) during the period of the contract and before final adjustment of the final contract price, then the re-basing methodology outlined by the Office for National Statistics (ONS, the series providers) to match the original index to the new series shall be applied.
- 9.21. In the event the agreed index or indices cease to be published (e.g. because of a change in the Standard Industrial Classification) the Authority and the Contractor shall agree an appropriate replacement index or indices, which shall cover to the maximum extent possible the same economic activities as the original index or indices. The methodology outlined by the Office for National Statistics used for rebasing indices (as in Clause 9.20 above) shall then be applied.
- 9.22. Notwithstanding the above, any extant index / indices agreed in the Contract shall continue to be used as long as it is / they are available and subject to ONS revisions policy. Payments calculated using the extant index / indices during its / their currency shall not be amended retrospectively as a result of any change to the index or indices.
- 9.23. The Contractor shall notify the Authority of any significant changes in the purchasing / manufacturing plan on the basis of which these provisions were drawn up and agreed, or of any other factor having a material bearing on the operation of these provisions such as to cause a significant divergence from their intended purpose, in order that both parties may consider whether any change in this provision would be appropriate.
- 9.24. Prices shall be adjusted taking into account the effect of the above formula as soon as possible after publication of the relevant indices or at a later date if so agreed between the Authority and the Contractor. Where an index value is subsequently amended, the Authority and the Contractor shall agree a fair and reasonable adjustment to the price, as necessary.
- 9.25. Claims under this Condition shall be submitted to the Bill Paying Branch, certified to the effect that the "requirements of this Condition 9" have been met.

10. Class Lead Contractor

- 10.1. The responsibilities and obligations of the Class Lead Contractor shall be carried out in accordance with Schedule 2 (Statement of Technical Requirement) to this Contract.

11. Post Design Services (PDS)

- 11.1. The responsibilities and obligations of the Contractor undertaking PDS Tasks shall be carried out in accordance with Schedule 2 (Statement of Technical Requirement).

12. Payment

All Requirements listed in Schedule 2 (Statement of Technical Requirements) except Codified Spares and Un-Codified Spares and Delivery of New Boats and Delivery of Second-Hand Boats

- 12.1. The Contractor shall submit their claim for payment monthly in arrears on the Authority's acceptance of all work listed in Schedule 6 (KPI and Information Reporting) that has been completed or delivered in accordance with DEFCON 522 (Payment and Recovery of Sums Dues).

Codified Spares and Un-Codified Spares

- 12.2. Codified spares payment is via CP&F.

- 12.3. The Contractor shall submit their claim for payment monthly in arrears following delivery of all un-codified spares in accordance with DEFCON 522 (Payment and Recovery of Sums Dues).

Delivery of New Boats

- 12.4. The Contractor shall submit their claim for payment, in accordance with DEFCON 522 (Payment and Recovery of Sums Dues), as follows:

- 12.4.1. following acceptance of the Boat, 90% of the agreed price;
- 12.4.2. twelve (12) months after acceptance of the Boat, 5% of the agreed price;
- 12.4.3. twenty-four (24) months after acceptance of the Boat, 5% of the agreed price

- 12.5. Payment of the retentions at Clauses 12.4.2 and 12.4.3 above shall be subject to there being no outstanding defects on the Boat. If there are outstanding defects, it shall be at the Authority's sole discretion whether to allow the Contractor a reasonable time period, to be agreed on a case-by-case basis, within which to rectify such defects.

Delivery of Second-Hand Boats

- 12.6. The Contractor shall submit their claim for payment following acceptance of the Boat(s) in accordance with DEFCON 522 (Payment and Recovery of Sums Dues).

13. Key Performance Indicators

- 13.1. The Contractor's performance shall be monitored on a calendar month basis (or other period to be agreed between the two parties) by the Authority using the following Key Performance Indicators (KPI):

KPI No. 1. – Planned Maintenance Packages – Achieve the Agreed Delivery Date and Defect Rectification (KPI No 1. does not apply to 1st and 2nd Line Planned Maintenance)

- 13.1.1. KPI No. 1.1 (Achieve the Agreed Delivery Date): The Actual Delivery Date is to be completed by the Contractor on or within the total number of Calendar Days allowed for the applicable Boat Class listed in the table below of the Agreed Delivery Date stated in the MOD Boats Form 2010B to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A).

Boat Class	Total no of Calendar Days allowed	Service Credit to be applied
Avon Searider 5.4m	35	No
Combat Support Boat	63	No
Gemini 650	49	No
Pacific 24 Mk 4	63	No
Pacific 24 Mk 3	63	No
Rigid Raider Craft Mk III	49	No
STV Hindustan	49	No
STV Brecon	49	No

- 13.1.2. If the Actual Delivery Date declared in the MOD Boats Form 2010A to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A) exceeds the total number of Calendar Days allowed for the applicable Boat Class listed in Clause 13.1.1 above and the Boat Class is

subject to a Service Credit, the Authority will apply a Service Credit in accordance with Clause 13.1.5. below.

13.1.3. If the Actual Delivery Date is fourteen (14) Calendar Days or more in advance of the date specified for each Boat Class at Clause 0 below as declared in the MOD Boats Form 2010A to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A), and that Boat Class is subject to an Incentive Adjustment in accordance with Clause 72.1.2 below, the Authority will apply an Incentive Adjustment, in accordance with Clause 13.1.6 below.

13.1.4. KPI No. 1.2 (Defect Rectification): If, within three (3) months of the Planned Maintenance Package being completed by the Contractor, a defect is found because of work undertaken or scheduled work omitted under KPI No 1.1 (Achieve the Agreed Delivery Date), a MOD Boats Form 1030 (Defect Rectification Form) to Schedule 5A (BISS Forms), the Contractor will be required to undertake the rectification and the time to rectify that defect will be added to the time elapsed in KPI No 1.1 (Achieve the Agreed Delivery Date). The total time to complete a Planned Maintenance Package plus any associated defect rectification under KPI No 1.2 (Defect Rectification) shall be cumulative and must not exceed the total number of Calendar Days allowed for the applicable Boat Class listed in Clause 13.1.1 above. When the Authority issues a MOD Boats Form 1030 (Defect Rectification Form) at Schedule 5A (BISS Forms), the Contractor has one (1) business day before any time elapsed is counted towards the overall total number of Calendar Days allowed for the applicable Boat Class listed in Clause 13.1.1 above.

13.1.5. The Authority will apply a Service Credit in accordance with Clause 72.1.1 below, if the total time to complete the Planned Maintenance Package and rectify all defects within this three (3) month period exceeds the total number of Calendar Days allowed for the applicable Boat Class listed in Clause 13.1.1 above, which will be recorded on Schedule 6 (Key Performance Indicators and Information Reporting).

13.1.6. An Incentive Adjustment will be paid if the Actual Delivery Date for Planned Maintenance Package including Defect Rectification is achieved within the Calendar Days specified for each Boat Class at Clause 0 below, in accordance with Clause 0 below.

KPI No. 2 – Spares – Responding to Request for Quotes and Spares Delivery

13.1.7. KPI No. 2.1 (Responding to Request For Quotes for Spares): Fully completed Request For Quotes (RFQ) for codified and/or non-codified spares must be submitted by the Contractor within thirty (30) Calendar Days of the RFQ request being issued by the Authority, or where appropriate, an alternative RFQ response date agreed by both parties.

13.1.8. KPI No. 2.2 (Spares Delivery): All codified spares must be delivered to the Contractors Premises and within the delivery timescales stated in Table 4 (Spares) to Schedule 2A (Statement of Technical Requirements – Pricing)). All non-codified spares ordered on a MOD Boats Form 1020 (Work Request Form) to Schedule 5A (BISS Forms) must be delivered to the Contractors Premises and within the delivery timescales, as stated in the MOD Boats Form 1020 (Work Request Form) to Schedule 5A (BISS Forms).

13.1.9. If the codified spares are not delivered to the Contractors Premises, within the delivery timescales stated in Table 4 (Spares) to Schedule 2A (Statement of Technical Requirements – Pricing), the Authority will apply a Service Credit in accordance with Clause 72.1.1. below.

13.1.10. If the non-codified spares are not delivered to the Contractors Premises, within the delivery timescales stated in the a MOD Boats Form 1020 (Work Request Form) to Schedule 5A (Multi-Task Authorisation Form / Work Request Form), the Authority will apply a Service Credit in accordance with Clause 72.1.1. below.

KPI No. 3 – OPDEF Responses

13.1.11. KPI No. 3.1 (A1 and B1 OPDEFs): The Contractor shall respond to all A1 and B1 OPDEFs with a firm scope of work and quote within six (6) Calendar Days of the OPDEF being raised by the Authority. The Authority shall review the scope and quote and either negotiate or accept the scope and quote.

13.1.12. KPI No. 3.2 (A2 and B2 OPDEFs): The Contractor shall respond to all A2 and B2 OPDEFs with a firm scope of work and quote within seven (7) Calendar Days of the OPDEF being raised by the Authority. The Authority shall review the scope and quote and either negotiate or accept the scope and quote.

13.1.13. KPI No. 4.3: The Authority will issue a MOD Boats Form 1020 (Work Request Form) to Schedule 5A (BISS Forms) to the Contractor in accordance with the quote and scope as agreed in KPI No. 3.1 (A1 and B1 OPDEFs) and KPI No. 3.2 (A2 and B2 OPDEFs). The work must be completed within the time period specified on the authorised MOD Boats Form 1020 (Work Request Form) to Schedule 5A (BISS Forms).

13.1.14. If the work is not completed within the time period specified on the authorised MOD Boats Form 1020 (Work Request Form) to Schedule 5A (Multi-Task Authorisation Form / Work Request Form), the Authority will apply a Service Credit in accordance with Clause 72.1.1 below.

13.1.15. For KPIs 3.1, 3.2 and 3.3, if an OPDEF is raised as a result of a defect rectification to a Planned Maintenance Package (PMP), PMP KPIs 1.1 and 1.2 will take precedence.

KPI No. 4 – Reporting (excluding Schedule 6 (Information Reporting))

13.1.16. KPI No. 4.1 (Time): The Data Reporting, Analysis and Corrective Action System (DRACAS) report, and Documentation, Obsolescence, Reliability, Configuration, Security (DORCS) report detailed in Schedule 2 (Statement of Technical Requirements) must be submitted within the time period specified on a MOD Boats Form 1020 (Work Request Form) to Schedule 5A (Multi-Task Authorisation Form / Work Request Form).

13.1.17. KPI No. 4.2 (Rework): If the DRACAS and / or DORCS reports are found to be incorrect, incomplete or inaccurate within thirty (30) Calendar Days of receipt, the Contractor will be required to correct the DRACAS and / or DORCS report and resubmit this to the Authority.

13.2. KPIs have been given a weighting commensurate with their level of importance to the Authority:

KPI Title	KPI Sub-title	KPI weighting (RAG)
1. Planned Maintenance Packages	1.1. Achieve Delivery Date	60%
	1.2. Defect Rectification	
2. Spares	2.1. Responding to Request for Quotes	5%
	2.2. Spares Delivery	15%
3. OPDEF responses	3.1. Respond to A1 and B1 within six (6) Calendar Days	5%
	3.2 Respond to A2 and B2 within seven (7) Calendar Days	5%
	3.3 Complete work according to agreed timeframe	5%
4. Reporting	4.1 DRACAS and DORCS reports submitted on time	5%

KPI Title	KPI Sub-title	KPI weighting (RAG)
	4.2 Rework within thirty (30) Calendar Days	

13.3. The total weighted score shall be used to determine the Overall Contractor Performance score:

- 13.3.1. Good (Green): 95% and above
- 13.3.2. Approaching Target (Yellow): 90 – 94.9%
- 13.3.3. Requires Improvement (Amber): 75 – 89.9%
- 13.3.4. Inadequate (Red): 74.9% and under

13.4. The Overall Contractor Performance score will be used by the Authority to monitor performance. This shall be calculated and recorded each reporting calendar month using Schedule 6 (KPI and Information Reporting).

Key Performance Indicator Process

13.5. The Contractor shall, for each reporting calendar month, populate Schedule 6 (KPI and Information Reporting), which will be used to monitor performance against the KPIs.

13.6. The Contractor shall submit a completed Schedule 6, for the reporting calendar month, to the Authority's Commercial Officer specified at Box 1 to Schedule 3 (Appendix – Addresses and Other Information) within three (3) business days of the end of each reporting calendar month together with any supporting data including, if appropriate a contractual rectification plan(s). The KPI data in Schedule 6 (Key Performance and Information Reporting) provides information on current performance and shall cover all tasks completed in that reporting calendar month.

13.7. Where the Overall Contractors Performance score is scored as:

13.7.1. Good (Green), the Contractor's performance shall be deemed as meeting the contractual target.

13.7.2. Approaching Target (Yellow), the Contractor's performance just below the contractual target but not a major cause for concern unless underperformance is sustained.

13.7.3. Requires Improvement (Amber), Interventions required, the Contractor shall issue a contractual rectification plan to the Authority, for agreement, in accordance with Clause 13.9 below. The contractual rectification plan shall detail the Contractor's plans and timescales to resolve the shortfall in performance.

13.7.4. Inadequate (Red) major interventions or contractual rectification plans required, the Contractor shall issue a contractual rectification plan to the Authority, for agreement, in accordance with Clause 13.9 below. The contractual rectification plan shall detail the Contractor's plans and timescales to resolve the shortfall in performance.

13.7.5. If the Contractor's overall performance is scored 'Requires Improvement (Amber)' three (3) reporting calendar months out of a rolling six (6) calendar months, this shall constitute an 'Inadequate (Red)' score.

13.8. Where the Overall Contractor Performance score is 'Inadequate (Red)' 3 (three) reporting calendar months out of a rolling 6 (six) calendar months, the Contractor shall be considered to

be in Contractor Default and the Authority shall have the right to terminate the Contract in accordance with Condition 14 (Termination for Contractor Default).

13.9. The contractual rectification plan shall include, but not be limited to, details of;

13.9.1. Any such failure in performance by the Contractor;

13.9.2. The Contractor's explanation and root cause analysis of such failure in performance;

13.9.3. The Contractor's proposed actions to be taken to fully remedy such failure in performance;

13.9.4. Any measures (whether interim or otherwise) to prevent future recurrence and/or aggravation of such failure in performance;

13.9.5. The completion date by which the Contractor shall implement the proposed remedial steps (and any other measures, as described in Clause 13.9.3 above. The Contractor shall note that the completion date must be prior to the next monthly KPI report unless otherwise agreed by the Authority;

13.9.6. The date on which it is proposed that the Authority confirm that the remedial steps in accordance with Clause 13.9.3 above have been undertaken such that the relevant failure in performance is remedied to the Authority's reasonable satisfaction, such confirmation to be provided within two (2) business days of notification that the failure in performance has been remedied.

13.10. The Parties shall, acting reasonably, agree (within five (5) business days of the Contractor's submission of the contractual rectification plan the contents of any contractual rectification plan submitted pursuant to Clause 13.9. In the event that the Parties are unable to so agree, the matter shall be considered a dispute and resolved in accordance with DEFCON 530 (Dispute Resolution (English Law)).

13.11. If a contractual rectification plan is not produced prior to the next reporting period, the next KPI rating will automatically be classed as Inadequate (Red) and every subsequent KPI rating will be Red until a satisfactory contractual rectification plan is completed in accordance with 13.9.

13.12. Following agreement or determination of the contractual rectification plan pursuant to Clause 13.9.3 the Contractor shall implement such contractual rectification plan, and shall report to the Authority (on a weekly basis) on its progress in respect of such implementation, identifying within such report each remedial step covered by such contractual rectification plan as being:

13.12.1. On schedule for completion within the relevant timescale identified in the contractual rectification plan (as agreed or determined pursuant to Clause 13.9.313.9);

13.12.2. Behind schedule for completion within the relevant timescale identified in the contractual rectification plan (as agreed or determined pursuant to Clause 13.9.313.9), but not irremediably so ("Failing Status"); or

13.12.3. Irremediably behind schedule for completion within the relevant timescale identified in the contractual rectification plan (as agreed or determined pursuant to Clause 13.9.313.9) ("Failed Status")

13.13. If any remedial action is identified as being of Failing Status, the Contractor shall, at the same time as submitting the report in which such remedial step is so identified, submit its

proposals for correcting the fact that such remedial step is behind schedule for timely completion, and shall implement such proposals.

- 13.14. If any remedial step is identified as being of Failed Status, the Contractor shall, at the same time as submitting the report in which such remedial step is so identified, submit its proposals for correcting the fact that such remedial step is behind schedule for timely completion (including revising such schedule to the extent necessary), and, if the Authority (acting reasonably) agrees to such revised schedule, shall implement such proposals. Whilst The Authority may accept a contractors rectification plan, this doesn't constitute a formal change to the original contracted schedule, thus the contractor remains in a failed status until such time as the deliverable is received and accepted or terminated by the Authority.
- 13.15. Where the Authority terminates a task raised via a MOD Boats Form 1020 (Work Request Form) to Schedule 5A (BISS Forms) or a MOD Boats Form 2010A to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A) in accordance with Clause 13.8 above the Authority shall have the right to recover any additional cost it incurs in accordance with Condition 17 (Financial Consequences of Termination).

14. Termination for Contractor Default

- 14.1. Where any of the events described in Clause 14.2 has or have occurred then the Authority may, subject to Condition 19 (Relief Events); 18 (Authority Step-In); 20 (Measures in a Crisis); 21 (Force Majeure Events), 14.3 to 14.5 (Contractor Rectification) and 14.10 to 14.12 (Partial Termination), terminate this Contract by giving a Termination Notice to the Contractor, receiver, administrative receiver, liquidator, or any other person in whom the Contractor's interest in this Contract may be vested at the relevant time.
- 14.2. Each of the following events shall entitle the Authority to terminate this Contract by serving a Termination Notice:
- 14.2.1. A breach by the Contractor of any of its obligations under this Contract which materially affects the performance of the Services and/or the Contractor's other obligations under this Contract (other than any other breaches listed in this Condition);
 - 14.2.2. the occurrence of a Persistent Breach;
 - 14.2.3. the occurrence of the circumstances referred to in DEFCON 515 (Bankruptcy and Insolvency);
 - 14.2.4. subject to paragraph 3 of DEFCON 520 (Corrupt Gifts and Payment of Commission), the occurrence of the circumstances referred to in paragraph 2 of DEFCON 520;
 - 14.2.5. in accordance with Clause 13.8 above;
 - 14.2.6. a breach by the Contractor of DEFCON 518 (Transfer);
 - 14.2.7. a breach by the Contractor of DEFCON 566 (Change of Control of Contractor); and/or
 - 14.2.8. the Contractor commits a breach of this Contract which results in the criminal investigation, prosecution and conviction of the Contractor and any subcontractor under the Health and Safety Legislation.

Contractor Rectification

- 14.3. The Authority shall not terminate this Contract in the event of a Rectifiable Default except where compliant with Clauses 14.3 to 14.5. For the purposes of Clauses 14.3 to 14.5, a Rectifiable Default means any event identified in Clause 14.2.1 or in Clause 14.2.8. Where a Rectifiable Default has occurred, the Authority shall, if it wishes to terminate this Contract, give notice in writing (an Authority Rectification Notice) prior to issuing the Termination Notice to the Contractor, requiring the Contractor to make a proposal acceptable to the Authority for the rectification of the Rectifiable Default within fourteen (14) days after the date of the Authority Rectification Notice (or such longer period as may be agreed by the Authority).
- 14.4. If no such proposal for rectification is received by the Authority within fourteen (14) days of the date of the Authority Rectification Notice (or such longer period as may be agreed by the Authority), then the Authority may terminate this Contract.
- 14.5. Where a proposal for rectification is received by the Authority within fourteen (14) days after the date of the Authority Rectification Notice (or such longer period as may be agreed by the Authority) (being hereinafter referred to as the Rectification Plan), the Contractor shall remedy the default within fourteen (14) days (or such longer period as may be agreed by the Authority). At the expiry of that period (or other period if agreed) if the Contractor has failed to rectify, or cause to be rectified, the default to the satisfaction of the Authority, the Authority may proceed to terminate this Contract by the service of a Termination Notice.

Persistent Breach

- 14.6. If a particular breach (which has occurred and is considered by the Authority as being outside the scope of Condition 13 (KPIs)), has continued for more than sixty (60) days or occurred more than three (3) times in any three (3) month period, then the Authority's Authorised Representative may serve a notice on the Contractor;
- 14.6.1. specifying that it is a formal warning; and
- 14.6.2. giving reasonable details of the breach; and
- 14.6.3. stating that the breach is a breach which, if it recurs frequently or continues, may result in a termination of this Contract.
- 14.7. If, following the service of such a warning notice, the breach specified has continued beyond thirty (30) days or recurred in one or more months within the six (6) month period after the date of service, then the Authority's Authorised Representative may serve another notice (a Final Warning Notice) on the Contractor:
- 14.7.1. specifying that it is a Final Warning Notice; and
- 14.7.2. stating that the breach specified has been the subject of a warning notice served within the six (6) month period prior to the date of service of the Final Warning Notice; and
- 14.7.3. stating that, if such breach continues for more than thirty (30) days or recurs in one or more months within the six (6) month period after the date of service of the Final Warning Notice, the Contract may be terminated.
- 14.8. A warning notice may not be served in respect of any incident of breach which has previously been counted in the award of a separate warning notice.
- 14.9. If the breach continues for more than thirty (30) days or recurs in one or more months within the six (6) month period after the date of service of the Final Warning Notice (a Persistent Breach), the Authority's Authorised Representative may, by notice to the Contractor, terminate this Contract on the date falling twenty (20) days after receipt of such notice.

Partial Termination Right

- 14.10. The Contractor acknowledges the Authority's right to terminate part, but not the whole, of this Contract. If the Authority exercises such a right, the Contract Price shall be proportionately reduced to reflect the impact of such termination on the Services.
- 14.11. If any right to terminate this Contract is exercised under this Clauses 14.10 and 14.11, the Parties shall comply with the provisions of Condition 17 (Financial Consequences of Termination).
- 14.12. For the avoidance of doubt, where Clauses 14.10 and 14.11 apply, the Parties shall continue to fulfil their respective obligations in respect of those parts of this Contract that are not identified in the Termination Notice as being terminated.

15. Termination for Prohibited Acts

- 15.1. For the purposes of this Condition 15, sub-contractor means a sub-contractor to the Contractor, a sub-contractor of a sub-contractor to the Contractor, or any other sub-contractor if whatever tier involved in the provision of the Services.
- 15.2. If the Authority wishes to terminate this Contract because the Contractor or any sub-contractor (or anyone employed or acting on behalf of any of them) or any of its or their agents or shareholders commits a Prohibited Act, the Authority shall serve a Termination Notice on the Contractor stating:
- 15.2.1. the nature of the Prohibited Act unless, in the case of a Breach of Security, a Senior Civil Servant in its absolute discretion consider that the disclosure of the nature of the Breach of Security is not in the interests of national security; and
- 15.2.2. the identity of the party whom the Authority believes has committed the Prohibited Act; and
- 15.2.3. the date on which this Contract shall terminate in accordance with Clauses 15.5 to 15.8 (inclusive).
- 15.3. In these Clauses 15.1 to 15.9, the expression "not acting independently of" (when used in relation to the Contractor or sub-contractor (of whatever tier)) means and shall be construed as acting with the authority or knowledge of any one or more of the directors of the Contractor or sub-contractor (as the case may be).
- 15.4. Notwithstanding Clause 15.5 to 15.7 (inclusive), if a Prohibited Act is committed by the Contractor or an employee of the Contractor not acting independently of the Contractor, then the Authority may terminate this Contract by the Authority's Authorised Representative giving notice to the Contractor.
- 15.5. If the Prohibited Act is committed by an employee of the Contractor acting independently of the Contractor, then the Authority may notify the Contractor of termination and this Contract shall terminate, unless within 20 (twenty) business days of receipt of such notice the Contractor terminates the employee's employment and (if necessary) procures the performance of such part of the Services by another person.
- 15.6. If the Prohibited Act is committed by a sub-contractor (of whatever tier) or by an employee of such person not acting independently of that sub-contractor, then the Authority's Authorised Representative may notify the Contractor of termination and this Contract shall terminate, unless within 20 (twenty) business days of receipt of such notice the Contractor terminates the

relevant appointment and procures the performance of such part of the services by another person.

15.7. If the Prohibited Act is committed by an employee of a sub-contractor (of whatever tier) acting independently of that person, then the Authority may notify the Contractor of termination and this Contract shall terminate, unless within 20 (twenty) business days of receipt of such notice the sub-contractor terminates the employee's employment and (if necessary) procures the performance of such part of the Services by another person.

15.8. If the Prohibited Act is committed by any other persons not specified in Clauses 15.5 to 15.7 (inclusive), the Authority's Authorised Representative may notify the Contractor of termination and this Contract may terminate, unless within 20 (twenty) business days of receipt of such notice the Contractor procures the termination of such person's employment and the appointment of their employer (where not employed by the Contractor or any of the sub-contractors) and (if necessary) procures the performance of such part of the Services by another person.

15.9. If any right to terminate this Contract is exercised under these Clauses 15.1 to 14.8, the Parties shall comply with the provisions of Clause 17 (Financial Consequences of Termination).

16. Authority Voluntary Termination Right

16.1. The Authority shall have the right to terminate this Contract voluntarily in accordance with the provisions of DEFCON 656A (Termination for Convenience (Contracts over £5M)).

17. Financial Consequences of Termination

17.1. Where the Authority has terminated this Contract under Condition 14 (Termination for Contractor Default) and without prejudice to the aforesaid the Authority may appoint an alternative contractor to perform, or itself perform all or any of the Services as respects which this Contract is so terminated.

17.2. Where Clause 17.1 applies, the Authority shall be entitled to recover from the Contractor the amount by which the aggregate of the cost of performing the Services in this way and of the value of any articles allocated as aforesaid exceeds the amount which would have been payable to the Contractor in respect of all the Services or articles so replaced if they have been delivered or performed in accordance with the Contract.

17.3. Where this Contract is terminated pursuant to Condition 14 (Termination for Contractor Default), the provisions of Clauses 17.4 to 17.5 shall apply, except where such termination arises as a result of the circumstances referred to in Clause 14.2.3, in which case the Contractor shall not be entitled to any further payment from the Authority.

17.4. Where Clause 17.3 applies, the Contractor shall be entitled to be paid (subject to any other provision of this Contract affecting the level of such payment) for the Services and the Contract Deliverables provided to the Authority up to the date of termination as set out in the following:

17.4.1. the Schedule of Requirements (Schedule 1);

17.4.2. the Statement of Technical Requirement (Schedule 2) and / or Schedule 2A (Statement of Technical Requirements – Pricing));

17.4.3. MOD Boats Form 2010A to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A);

17.4.4. MOD Boats Form 1020 (Work Request Form) to Schedule 5A (BISS Forms).

17.4.5. A MOD Boats Form 1011 (Task Authorisation Form (TAF)) to Schedule 5A (BISS Forms)

17.5. During the relevant Exit Period for Termination, the Parties shall comply with their respective obligations pursuant to Condition 52 (Exit).

18. Authority Step In

Interpretation

18.1. In this Condition 18, references to the Authority taking action shall be deemed to include references to the Authority procuring the taking of action by others on behalf of the Authority.

Grounds for Step-In

18.2. If the Authority reasonably believes that it needs to take action in connection with the Services:

18.2.1. because a serious risk exists to the health or safety of persons or property or to the environment; and/or

18.2.2. to discharge a statutory duty; and/or

18.2.3. on the occurrence of an urgent operational requirement, then the Authority shall be entitled to take action in accordance with this Condition 18 (Authority Step-In).

Procedure for Authority Step-In

18.3. If Clause 18.2 applies and the Authority wishes to take action, the Authority shall notify (the "Step-In Notice") the Contractor of the following:

18.3.1. the action it wishes to take;

18.3.2. the reason for such action;

18.3.3. the date it wishes to commence such action;

18.3.4. the time period which it believes shall be necessary for such action; and

18.3.5. to the extent practicable, the effect on the Contractor and its obligation to provide the Services during the period such action is being taken.

18.4. Following service of the Step-In Notice, the Authority shall take such action as notified under Clause 18.3 (the "Required Action") and the Contractor shall give all reasonable assistance to the Authority while it is taking the Required Action.

Effects of Step-In without Contractor Breach

18.5. If the Contractor is not in breach of its obligations under this Contract and the Authority exercises its right to take action in connection with the Services pursuant to Clause 18.2:

18.5.1. then for so long as and to the extent that the Required Action is taken, and this prevents the Contractor from providing all or any part of the Services, the Contractor shall be relieved from its obligations to provide such part of the Services; and

18.5.2. in respect of the period in which the Authority is taking the Required Action and provided that the Contractor provides the Authority with reasonable assistance (such assistance to be at the expense of the Authority to the extent incremental costs are incurred), the amount due from the Authority to the Contractor shall equal the amount the Contractor would receive if it were satisfying all its obligations and providing the Services affected by the Required Action in full over that period.

18.5.3. costs incurred as a result of the Required Action shall be calculated based on the Contractor's reasonable certified costs.

Effects of Step-In following Contractor Breach

18.6. If the Contractor is in breach of its obligations under this Contract and in consequence the Authority exercises its right to take action in connection with the Services pursuant to this Condition 18:

18.6.1. then for so long as and to the extent that the Required Action is taken, and this prevents the Contractor from providing the Services, the Contractor shall be relieved from its obligations to provide such part of the Services; and

18.6.2. in respect of the period in which the Authority is taking the Required Action, the amount due from the Authority to the Contractor shall equal the amount the Contractor would receive if it were satisfying all its obligations and providing the Services affected by the Required Action in full over that period, less an amount equal to all the Authority's costs in taking the Required Action.

Authority Step-Out

18.7. The Authority shall provide the Contractor with reasonable notice of the Authority's intention to cease performance of the Required Action ("Step-Out") and the date on which it intends to do so.

18.8. On receipt of the notice referred to in Clause 18.7, the Parties shall consult with each other as to the method by which the Authority shall Step-Out and a step out plan (a "Step-Out Plan") shall be submitted by the Authority which shall include the actual date that the Authority shall step out and the date that the Contractor shall resume performance of the Services.

18.9. On the date on which the obligations contained in the Step-Out Plan have been achieved:

18.9.1. the Authority will be released from all of its obligations and liabilities in relation to the Required Action and the Step-Out Plan other than its obligations to pay the Contractor as required in this Condition 18; and

18.9.2. the Contractor shall resume all or any part of the Services which were the subject of the Required Action.

19. Relief Event

19.1. If, and to the extent that, a Relief Event adversely affects the ability of the Contractor to perform any of its obligations under this Contract, then the Contractor shall be entitled to apply for relief from any rights of the Authority arising under Condition 14 (Termination for Contractor Default) and its obligations under this Contract.

Procedure for Relief Event Claims

19.2. To obtain relief, the Contractor must:

19.2.1. as soon as practicable, and in any event within 2 (two) business days after it becomes aware that the occurrence of a Relief Event has directly caused or is likely to cause delay and/or adversely affect the ability of the Contractor to perform its other obligations notify the Authority of its claim for relief from its obligations under this Contract, including full details of the nature of the Relief Event, the date of occurrence, its likely duration and its effect on the Agreed Delivery Date of the MOD Boats Form 2010A to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A) or a MOD Boats Form 1020 (Work Request Form) to Schedule 5A (Multi-Task Authorisation Form / Work Request Form);

19.2.2. within three (3) business days of service on the Authority of the notice referred to in Clause 19.2.1, notify the Authority of full details of the relief claimed and demonstrate to the reasonable satisfaction of the Authority:

19.2.2.1. that the Contractor and its Sub-Contractors could not have avoided such occurrence or consequences by steps which they might reasonably be expected to have taken, without incurring material expenditure; and

19.2.2.2. that the Relief Event directly caused the delay in achieving the Agreed Delivery Date of the MOD Boats Form 2010B to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A) or a MOD Boats Form 1020 (Work Request Form) to Schedule 5A (BISS Forms) or A MOD Boats Form 1011 (Task Authorisation Form (TAF)) to Schedule 5A (BISS Forms) in accordance with Schedule 6 (KPIs and Information Reporting); and

19.2.2.3. that the time lost and/or relief from the obligations under the MOD Boats Form 2010A to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A) or a MOD Boats Form 1020 (Work Request Form) to Schedule 5A (BISS Forms) claimed could not reasonably be expected to be mitigated or recovered by the Contractor acting in accordance with Good Industry Practice, without incurring material expenditure; and

19.2.2.4. that the Contractor is using reasonable endeavours to perform its obligations under this Contract; and

19.2.2.5. notify the Authority if at any time it receives or becomes aware of any further information relating to the Relief Event, giving details of that information to the extent that such information is new or renders information previously submitted materially inaccurate or misleading.

19.3. If the Contractor has complied with its obligations under Clause 19.2, then, subject to Clause 19.3.3

19.3.1. the Contractor shall be entitled to such relief from its obligations provided under this Contract as is reasonable taking into account the likely effect of delay caused by the relevant Relief Event; and

19.3.2. the Authority shall not be entitled to exercise its right to terminate this Contract under Condition 14 (Termination for Contractor Default) for any reason directly arising out of the occurrence of the Relief Event(s); and

19.3.3. nothing in this Clause 19.3 shall affect any entitlement to make Service Credit retentions (whether temporarily or permanently) during the period in which the Relief Event falling within limbs (a)-(d) (inclusive) of the definition of the term "Relief Event" is subsisting provided that any such deductions shall be disregarded for the purposes of the Authority's right to terminate this Contract under Condition 14 (Termination for Contractor Default).

19.3.4. Where and to the extent that a Relief Event falling within limb (e) of the definition of the term "Relief Event" occurs directly and adversely affecting Service provision, Service Credit retentions shall not apply in relation to any Service failure arising directly from any such occurrence, where and to the extent that:

19.3.4.1. any Service failure or Service failures arising from the occurrence of any such event could not reasonably be expected to be mitigated or recovered by the Contractor or any Contractor Related Party acting in accordance with Good Industry Practice, without incurring material, additional expenditure; and

19.3.4.2. the Contractor uses reasonable endeavours to perform its obligations under this Contract.

Late Provision of Notice or Information

19.4. If the information required by Clause 19.2 is provided after the dates referred to in that Clause, then the Contractor shall not be entitled to any relief during the period for which the information is delayed.

Failure to Agree

19.5. If the Parties cannot agree the extent of relief required, or the Authority disagrees that a Relief Event has occurred or that the Contractor is entitled to relief from its obligations under this Contract, the Parties shall resolve the matter in accordance with DEFCON 530 (Dispute Resolution).

20. Measures in a Crisis (MIAC)

20.1. If, at any time, the Authority believes, in its sole opinion, that there exist any of the circumstances identified in Clause 20.2, the Authority's Authorised Representative may issue a written notice to the Contractor of such belief.

20.2. The circumstances referred to in Clause 20.1 are where, of view of:

20.2.1. the national interest, the requirements of national security or the occurrence of a state of transition to war, war or other emergency (whether or not involving hostilities); and/or

20.2.2. a request to the Authority by a local authority, public body, or statutory corporation for assistance in relation to the occurrence or possible occurrence of a major accident, crisis or natural disaster; and/or

20.2.3. a request by NATO, the United Nations, the European Union or any other country for support and assistance in relation to international obligations, it is necessary, appropriate or desirable for the Authority to take all or any of the measures described in this Condition 20.

20.3. Measure in a Crisis shall cease to apply when the Authority's Authorised Representative issues a written notice to that effect to the Contractor and thereafter the Contractor shall continue to be bound by the provisions of the Contract.

20.4. If the Authority's Authorised Representative has issued the notice contemplated in Clause 20.1, the Authority's Authorised Representative may require the Contractor, within such period as the Authority's Authorised Representative in its sole discretion specifies (but provided that such period is reasonable taking into account all relevant circumstances), to provide such information in the possession, knowledge or control of the Contractor as the Authority's Authorised Representative may, in its sole discretion, require including information relating to all or any of the following matters:

20.4.1. services currently being carried out by the Contractor; and/or

20.4.2. services to be carried out by the Contractor due to commence within a period specified by the Authority; and/or

20.4.3. the Contractor's current deployment of its employees whether inside or outside the Authority's sites; and/or

20.4.4. all supporting equipment and documentation currently held by the Contractor and the location of such equipment or documentation.

and the Contractor shall promptly and diligently comply fully with the requirement to provide such information.

20.5. Upon providing the Authority's Authorised Representative with the information requested pursuant to Clause 20.4, or upon expiry of the period specified by the Authority for the supply of such information, the Contractor shall, upon being so requested by the Authority's Authorised Representative, discuss in good faith with the Authority's Authorised Representative any matters which the Authority, in its sole opinion, may consider relevant or appropriate to any proposals the Authority may have for the reallocation of priorities for, or for the reorganisation of, Services carried out, or to be carried out, by the Contractor. These shall be in order to deal with the circumstances which gave rise to the issuing of a notice pursuant to Clause 20.1, including the following matters:

20.5.1. the revision (including early completion, suspension or cancellation) of any Service for the Authority; and

20.5.2. the immediate implementation of new services,

20.5.3. and the Parties shall endeavour, as far as reasonably possible, to reach agreement as a matter of urgency on such matters.

20.6. Notwithstanding any provision to the contrary in this Contract, and notwithstanding that any of the measures described in Clause 20.5 may not have been taken, required to be taken, or have been completed, the Authority may, at any time and in its sole discretion step-in or procure the stepping into this Contract, pursuant to Condition 18 (Step-In) and/or the Authority's Authorised Representative may instruct the Contractor:

20.6.1. to accelerate to early completion, to suspend, or to cease permanently, any part of the Services carried out by the Contractor for third parties, to remove (permanently or temporarily) the property of third parties from any Authority Site and to procure that such action is carried out on terms with such parties which result in the least possible Losses to the Contractor;

20.6.2. to accelerate to early completion or to suspend the Service provision;

20.6.3. to carry out any changes whatsoever to this Contract required by the Authority without reference to DEFCON 503 (Formal Amendments to Contract);

and the Contractor shall promptly and diligently comply with any instruction issued by the Authority's Authorised Representative referred to in this Clause 20.6.

20.7. If the Authority's Authorised Representative has instructed the Contractor in accordance with Clause 20.6, then:

20.7.1. for so long and to the extent that the provisions of Clause 20.5 or any instruction issued by the Authority's Authorised Representative pursuant to Clause 20.6 (MIAC Required Action) prevents the Contractor from providing all or any part of the Services, the Contractor shall be relieved from its obligations to provide such part of the Services; and

20.7.2. in respect of the period in which the Authority is taking the MIAC Required Action and provided that the Contractor complies with its obligations under Clauses 20.5 and 20.6, and provides the Authority with reasonable assistance (such assistance to be at the expense of the Authority to the extent incremental costs are incurred), the payment due to the Contractor from the Authority shall equal the amount the Contractor would receive if it were satisfying all its obligations and providing the Services affected by the MIAC Required Action in full over that period.

21. Force Majeure Events and Force Majeure Termination

21.1. On the occurrence of a Force Majeure Event, the Affected Party shall notify the other Party within 24 (twenty-four) hours. The notification shall include details of the Force Majeure Event, including evidence of its effect on the obligations of the Affected Party.

21.2. The Contractor shall, within 10 (ten) business days following such notification provide the Authority, in writing, with details of any action proposed to mitigate the effect of the Force Majeure Event.

21.3. As soon as practicable following notification under Clause 21.1, the Parties shall consult with each other in good faith and use all reasonable endeavours to agree appropriate terms to mitigate the effects of the Force Majeure Event and facilitate the continued performance of this Contract.

21.4. The Parties shall at all times following the occurrence of a Force Majeure Event use all reasonable endeavours to prevent and mitigate the effects of any delay and the Contractor shall at all times during which a Force Majeure Event is subsisting take all reasonable steps in accordance with Good Industry Practice to overcome or minimise the consequences of the Force Majeure Event.

21.5. Neither Party shall be entitled to bring a claim for a breach of obligations under this Contract by the other Party or incur any liability to the other Party for any Losses or damages incurred by that other Party to the extent that a Force Majeure Event occurs, and the Affected Party is prevented from carrying out obligations by that Force Majeure Event. Without prejudice to Clause 21.6, the Authority shall not be entitled to terminate this Contract under Clause 21.2 if the circumstances arise from a Force Majeure Event.

21.6. Nothing in this Condition 21 shall affect the Authority's entitlement to make Service Credit retentions in the period during which the Force Majeure Event is subsisting.

21.7. If the Affected Party is the Contractor, the Contractor shall only be entitled to receive payment for the Services that continue to be performed in accordance with the terms of this Contract.

21.8. The Affected Party shall notify the other Party as soon as reasonably practicable after the Force Majeure Event ceases or no longer causes the Affected Party to be unable to comply with its obligations under this Contract. Following such notification, this Contract shall continue

to be performed on the terms existing immediately prior to the occurrence of the Force Majeure Event.

- 21.9. Relief from liability for the Affected Party under this Condition 21 shall end as soon as the Force Majeure Event no longer causes the Affected Party to be unable to comply with its obligations under this Contract and shall not be dependent on the serving of notice under Clause 21.8.

Termination on the basis of Force Majeure Event(s)

- 21.10. If no terms pursuant to Clause 21.3 are agreed on or before the date falling 80 (eighty) business days after the date of the commencement of the Force Majeure Event(s) and such Force Majeure Event(s) is/are continuing or its/their consequence remains such that the Affected Party is unable to comply with its obligations under this Contract for a period of more than 120 (one hundred and twenty) business days, then either Party (the "Notifying Party") may give the other Party's Authorised Representative no less than 20 (twenty) business days written notice (such written notice period being the "FM Period") that the Notifying Party wishes this Contract to terminate on the basis of the occurrence of such Force Majeure Event(s) at the end of the FM Period.

- 21.11. If the Contractor gives notice to the Authority's Authorised Representative under Clause 21.10 that the Contractor wishes the Contract to terminate, then the Authority has the option either to accept such termination or to respond in writing on or before the date falling 10 (ten) business days after the date of its receipt stating that it requires the Contract to continue. If the Authority gives the Contractor such notice of continuance, then:

21.11.1. the Authority shall pay to the Contractor the charges from the date on which this Contract would have terminated under Clause 21.10, as if the Services were being provided in full (save that, where and to the extent the Contractor's delivery of any Services is not affected by the Force Majeure Event(s), nothing in this Clause 21.11 shall operate to affect the Authority's entitlement to make KPI retentions in the period during which the Force Majeure Event is subsisting); and

21.11.2. the Contract shall not terminate on the basis of the occurrence of such Force Majeure Event(s) if:

21.11.3. the Contractor gives notice to the Authority's Authorised Representative under Clause 21.10 that the Contractor wishes the Contract to terminate on the basis of the occurrence of such Force Majeure Event(s) and the Authority accepts such termination in writing; or

21.11.4. the Authority gives the Contractor no less than 20 (twenty) business days written notice that the Authority wishes this Contract to terminate on the basis of the occurrence of such Force Majeure Event(s)

this Contract shall, subject to Clause 21.12, terminate on such basis at the end of the relevant notice's FM Period.

- 21.12. If any right to terminate this Contract is exercised under this Condition 21, the Parties shall comply with the provisions of Condition 17 (Financial Consequences of Termination).

22. Tasking Procedure/Authorisation of Work via BERRYEATER Task Management Tool

- 22.1. All tasks will be raised by Authority via the BERRYEATER Task Management Tool except for requests for Codified Spares, in accordance with Section 3 to Part 1: Project Overview to Schedule 2A (Statement of Technical Requirements).

- 22.2. If the BERRYEATER Task Management Tool is unavailable, Condition 23 (Tasking Procedure/Authorisation of Work) below will apply.

23. Tasking Procedure/Authorisation of Work

- 23.1. This Condition will only apply if the BERRYEATER Task Management Tool is unavailable.

- 23.2. Tasks will be authorised by the Authority by issuing either;

23.2.1. A MOD Boats Form 1020 (DE&S Work Request Form) to Schedule 5A (BISS Forms), for all requirements excluding Codified Spares; or

23.2.2. A MOD Boats Form 1011 (Task Authorisation Form (TAF)) to Schedule 5A (BISS Forms) for all requirements excluding Codified Spares; or

23.2.3. A demand order through Contracting, Purchasing and Finance (CP&F), for Codified Spares detailed at Table 4 (Spares) of Schedule 2A (Statement of Technical Requirements – Pricing).

- 23.3. All MOD Boats Form 1020 (DE&S Work Request Form (WRF)) to Schedule 5A (BISS Forms) authorised by the Authority before the end of a Financial Year, as detailed at Schedule 5A (BISS Forms), the period shall be priced in accordance with the agreed Firm Prices for that Year (Financial Year) in Condition 6 (Duration).

- 23.4. In the event that any authorised MOD Boats Form 1020 (DE&S Work Request Form (WRF)) to Schedule 5A (BISS Forms) and MOD Boats Form 2010A to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A) with an Agreed Delivery Date is due to exceed the Expiry Date, the Contractor shall be required to complete the work scope contained within the MOD Boats Form 2010B to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A).

MOD Boats Form 1010 (Multi-Task Authorisation Form – Multi-TAF)

- 23.5. Before the placing of any tasks, the Authority will issue the Contractor with a completed MOD Boats Form 1010 (Multi-Task Authorisation Form – Multi-TAF), as detailed at Schedule 5A (BISS Forms). This form will impart to the Contractor:

23.5.1. The period of time covered by the MOD Boats Form 1010 (Multi-Task Authorisation Form), as detailed at Schedule 5A (BISS Forms).

23.5.2. The Limit of Liability (LoL). The price of all work performed during that period of time must be within this limit.

23.5.3. The assumptions in terms of Planned Maintenance, Unplanned Maintenance and other requirements used to derive the Limit of Liability.

23.5.4. The technical, financial and commercial approval which authorises the Authority to place this commitment.

- 23.6. On receipt from the Authority, the Contractor shall sign Part D of MOD Boats Form 1010 (Multi-Task Authorisation Form – Multi-TAF), as detailed at Schedule 5A (BISS Forms) to confirm acceptance of the MOD Boats Form 1010 (Multi-Task Authorisation Form – Multi-TAF), as detailed at Schedule 5A (BISS Forms) and return to the Authority.

- 23.7. The Contractor shall immediately inform the Authority's Project Officer detailed in Schedule 3 (Addresses and Other Information), either in writing or by e-mail, in the event that spend across all Work Request Forms in the period of time specified has reached 80% of the LoL identified in MOD Boats Form 1010 (Multi-Task Authorisation Form) as detailed at Schedule 5A (BISS Forms).

MOD Boats Form 1020 (Work Request Forms (WRF))

- 23.8. The Authority will issue a MOD Boats Form 1020 (DE&S Work Request Form (WRF)) to Schedule 5A (BISS Forms), as detailed at Schedule 5A (BISS Forms) for each discrete task that the Contractor is to perform. The scope of work described in the MOD Boats Form 1020 (DE&S Work Request Form (WRF)) to Schedule 5A (BISS Forms) shall be deemed to be a 'task' for the purposes of this contract.
- 23.9. Only Authorised Demanders detailed in Condition 79 (Authorised Demanders) are permitted to place tasks up to a value of £2,000, unless otherwise agreed with the Authority's Project Officer detailed in Schedule 3 (Addresses and Other Information) and the Contractor. All tasks above this value must be referred to Authority's Project Officer detailed in Schedule 3 (Addresses and Other Information) for approval.
- 23.10. The Contractor shall not undertake any work without the prior written authorisation of the Authority, which will be given by signing the appropriate part of a MOD Boats Form 1020 (DE&S Work Request Form (WRF)) to Schedule 5A (BISS Forms). The Authority will not be responsible in any way whatsoever for any work undertaken or task development costs incurred prior to receipt by the Contractor of written authorisation in accordance with this Clause 23.10. Task development costs shall at all times reside with the Contractor and shall not be passed on to the Authority unless explicitly agreed by The Authority in writing.
- 23.11. The Contractor shall maintain a list of all the MOD Boats Form 1020 (DE&S Work Request Form (WRF)) to Schedule 5A (BISS Forms) and their progress in the format detailed at Schedule 6 (Key Performance Indicators and Information and Reporting) and provide this electronically to the Authority's Authorised Project Officer on a monthly basis. This information, together with the KPI data as detailed in Condition 13 (Key Performance Indicators) and Schedule 6 (Key Performance Indicators and Information and Reporting) will be agenda items at the monthly project review meetings and the Authority will undertake audits. The information provided in Schedule 6 (Key Performance Indicators and Information and Reporting) shall correspond with the information provided in the MOD Boats Form 2010A to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A) at all times. Where a change is required to the estimated price and / or the estimated delivery date, the Contractor shall approach the Authority with a reason for the change and a new estimate of price and / or delivery date. The Authority shall have the final decision on whether the changes are acceptable and therefore reflected in Schedule 6 (Key Performance Indicators and Information and Reporting).
- 23.12. In the event that any work authorised by the Authority under a MOD Boats Form 1020 (DE&S Work Request Form (WRF)) to Schedule 5A (BISS Forms) is not subsequently required and is not undertaken by the Contractor, or where it is agreed by the Parties post the authorisation of a MOD Boats Form 1020 (DE&S Work Request Form (WRF)) to Schedule 5A (BISS Forms) that the Authority will supply Government Furnished Equipment (GFE) in lieu of Contractor supplied items, the Contractor shall agree a rebate with the Authority. The agreed rebate shall be deducted from the price of the MOD Boats Form 1020 (DE&S Work Request Form (WRF)) to Schedule 5A (BISS Forms).

MOD Boats Form 2010B (Take-On Take-Off and Acceptance – Type A) or MOD Boats Form 2010A (Take-On Take-Off and Acceptance – Type B)

- 23.13. On authorisation of a MOD Boats Form 1020 (DE&S Work Request Form (WRF)) to Schedule 5A (BISS Forms), for 3rd and 4th Line Planned Maintenance, as detailed in Schedule 2 (Statement of Technical Requirements) and Schedule 2A (Statement of Technical Requirements – Pricing), the Contractor shall raise a MOD Boats Form 2010B to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A).
- 23.14. The Contractor shall follow the Planned Maintenance Package Process flowchart on the Process tab of MOD Boats Form 2010A to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A).
- 23.15. If the Contractor has been tasked with transportation of the Boat, the Contractor or his representative shall complete and sign the 'Formal Custodianship' boxes to Initial Summary tab of MOD Boats Form 2010A to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A) on collection of the Boat from the Authority's Premises. If the Authority has transported the Boat, the Contractor or his representative shall complete and sign the 'Formal Custodianship' boxes to Initial Summary tab of MOD Boats Form 2010A to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A) on arrival at the Contractor's premises.
- 23.16. On the Initial Summary tab, the Contractor shall complete the 'Summary of Pre-Slip Trial' and 'Proposed Price of Work' and 'Agreed Delivery Date'. If a Service Credit and Incentive Adjustment will apply to the Planned Maintenance Package, the Agreed Delivery Date to be entered will be in accordance with Clause 13.1.1 above.
- 23.17. The Contractor shall also provide a full breakdown of the work expected to be required to complete the task on the Proposed Work Scope tab to MOD Boats Form 2010A to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A) listing the Tariff Items from Schedule 2A (Statement of Technical Requirements – Pricing) and non-Tariff Items.
- 23.18. The Contractor shall also provide a full breakdown of Emergent Tasks and/or Additional Tasks expected to be required to complete the task on the Proposed Emergent Work Scope tab to MOD Boats Form 2010A to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A), as detailed at Schedule 5B (Take-On Take-Off and Acceptance) listing the all Emergent Tasks and/or Additional Tasks, showing labour hours, materials etc. for all aspects of the work in accordance with DEFCONs 127 (Price Fixing Condition for Contracts of Lesser Value) or 643 (Price Fixing) as appropriate, and using the Firm Rates at Table 1 of Schedule 2A (Statement of Technical Requirements – Pricing).
- 23.19. Subject to the Authority agreeing the price (including Firm Price and Limit of Liability) and Agreed Delivery Date, the Authority's Authorised Representative will sign 'Authorisation to Proceed' boxes to Initial Summary tab of MOD Boats Form 2010A to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A) and return to the Contractor, thus giving authorisation for them to commence with any Emergent Tasks and/or Additional Tasks.
- 23.20. The Contractor shall maintain the information reporting spreadsheet at Schedule 6 (Key Performance Indicators and Information and Reporting), detailing the monthly activity completed against the task and the price for each activity.

MOD Boats Form 1011 (Task Authorisation Form (TAF))

- 23.21. A MOD Boats Form 1011 (Task Authorisation Form (TAF) to Schedule 5A (BISS Forms) is used to commit specific tasks and authorise the Contractor to commence work, either under a MOD Boats Form 1010 (Multi-Task Authorisation Form (Multi-TAF) to Schedule 5A (BISS Forms) or for specific tasks of work that fall outside of an approved MOD Boats Form 1010 (Multi-Task Authorisation Form (Multi-TAF)).
- 23.22. On issue of Part A (Details of TAF) to a MOD Boats Form 1011 (Task Authorisation Form) to Schedule 5A (BISS Forms), the Contractor shall complete:
- 23.22.1. Part B (Contractors Proposal);
 - 23.22.2. Part C (Notes and Additional Information); and
 - 23.22.3. Part D (Detailed Breakdown of Firm price).
- 23.23. The Contractors proposal shall be in accordance with the information required in Schedule 2 (Statement of Technical Requirements) and Schedule 2A (Statement of Technical Requirements – Pricing) and submit to the Authority for approval. Subject to the Authority agreeing the price (including Firm Price and Limit of Liability) and delivery date for the work, the Authority will sign Parts E, F and G (Authority Authorisation) and return to the Contractor, thus giving authorisation for them to commence.

Limit of Liability

- 23.24. Where a MOD Boats Form 2010A to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A) or MOD Boats Form 1011 (Task Authorisation Form (TAF)) to Schedule 5A (BISS Forms) authorised by the Authority includes a Limit of Liability (LoL) the Contractor shall immediately inform the Authority's Project Officer detailed in Schedule 3 (Addresses and Other Information), either in writing or by e-mail, in the event that:
- 23.24.1. The Contractor believes the work cannot be completed within the LoL specified on the MOD Boats Form 2010B to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A) or MOD Boats Form 1011 (Task Authorisation Form (TAF)) to Schedule 5A (BISS Forms). In such circumstances the Contractor shall provide the Authority's Project Officer with or the reasons for the potential overspend and an estimate for completing the outstanding work;
 - 23.24.2. Spend has reached 80% of the LoL. In such circumstances the Contractor shall provide the Authority's Project Officer with the reasons for the potential overspend and an estimate for completing the outstanding work;
 - 23.24.3. The cost of any single Emergent Task and/or Additional Task is likely to exceed £5,000 (Five Thousand Pounds Sterling).
- 23.25. The total amount to be paid by the Authority for work, which is subject of the LoL shall not, without the approval in writing of the Authority, exceed the LoL. Where the Authority agrees to an increase in the LoL this will be authorised by the Authority's Commercial Officer via a MOD Boats Form 2010B to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A) or MOD Boats Form 1011 (Task Authorisation Form (TAF)) to Schedule 5A (BISS Forms).

Extreme Urgency including Cat B2 OPDEFs and above

- 23.26. In cases of extreme urgency, including but not limited to Cat B2 OPDEFs and above, the Authority will authorise the Contractor by e-mail or telephone to undertake urgent tasks and will detail the scope of work and a LoL which will not exceed £5,000 (Five Thousand Pounds

Sterling). To facilitate this requirement the Contractor shall provide the Authority with a name and contact number, such person to be available on call 24 hours 7 days a week to provide Out of Hours Support.

- 23.27. OPDEFs are to be resolved to the satisfaction of the Authority within the timescales stated under Condition 13 (Key Performance Indicators).

1st and 2nd Line Planned Maintenance of Boats located at Britannia Royal Naval College (BRNC) Dartmouth

- 23.1. When tasked by the Authority, the Contractor shall carry out 1st and 2nd Line Planned Maintenance as defined in;

23.1.1. Table 5 (On-Site Support) to Schedule 2A (Statement of Technical Requirements – Pricing) on all boats located at Britannia Royal Naval College (BRNC) Dartmouth in this Contract; and

23.1.2. Table 5.1 (OTB OSS) and Table 5.2 (SWB OSS) to Schedule 2A (Statement of Technical Requirements – Pricing) on Officer Training Boats and 11m Standard Workboats located at Britannia Royal Naval College (BRNC) Dartmouth. All other requirements in the Statement of Technical Requirements for these boats will be conducted under Contract 712796450 (Lot 6).

- 23.2. The Authority will issue the Contractor with a MOD Boats Form 1020 (DE&S Work Request Form (WRF)) to Schedule 5A (BISS Forms) setting out the requirements for 1st and 2nd Line Maintenance by completing Part A of the form. The pricing shall be based on the 'On-site Support' firm price per annum divided by 12, as defined in Table 5 (On Site Support) of Schedule 2A (Statement of Technical Requirements – Pricing) The Authority also reserves the right to insert a Limit of Liability (LoL) to allow the contractor to perform any Emergent or Additional Tasks, upon receipt of the MOD Boats Form 1020 (DE&S Work Request Form (WRF)) to Schedule 5A (BISS Forms).

- 23.3. The Contractor shall immediately inform the Authority's Project Officer in the event that either:

23.3.1. The Contractor believes the work cannot be completed within the LoL specified; or

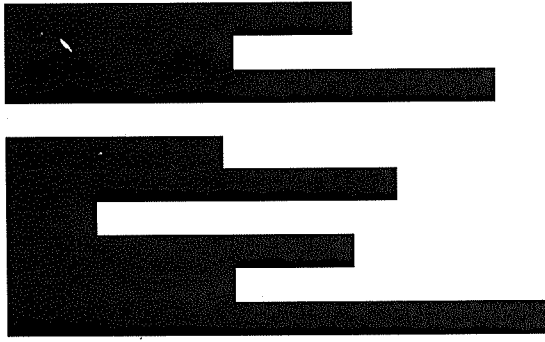
23.3.2. Spend has reached 80% of the LoL.

In such circumstances the Contractor shall provide the Authority's Project Officer with the reasons for the potential overspend and an estimate for completing the outstanding work.

- 23.4. The Contractor shall maintain the information reporting spreadsheet at Schedule 6 (Key Performance Indicators and Information and Reporting), detailing the monthly activity completed against the task and price for each activity

24. Ordering of Spares

- 24.1. The Authority will order codified spares as detailed at Table 4 (Spares) of Schedule 2A (Statement of Technical Requirements – Pricing)) electronically via the CP&F system.



24.3. Delivery shall be to the Contractors premises.

24.4. On some occasions, the Authority may request the Contractor to deliver spares direct to an Authority site. In such cases, the Authority will request the cost of transport and the Demand Order will be annotated accordingly.

24.5. The Contractor shall maintain a list of the spares ordered and keep a running total. This information will be an agenda item at the monthly project review meetings.

25. Boat Acceptance

25.1. The Contractor shall, on completion of all work specified in the applicable MOD Boats Form 2010A to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A) (including but not limited to authorised Emergent Tasks, Harbour Acceptance Trials or Sea Acceptance Trials and final cleaning) detail the work completed and submit to the Authority.

25.2. The Contractor shall give the Authority a minimum five (5) business days' notice to attend and/or be represented at the Sea Acceptance Trial and/or final inspection and acceptance. Any attendance at these events will be at the Authority's discretion.

25.3. If the Authority is satisfied that the work is complete in all respects, the Authority will accept the Boat by signing 'the Acceptance of Boat on behalf of DE&S' boxes on the CAD Report tab to MOD Boats Form 2010B to Schedule 5B Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A).

25.4. In the event that the Authority is not satisfied that the work is complete in all respects, the Authority will advise the Contractor of the reasons for the rejection. The Contractor shall advise the Authority of the date when the Boats will be re-presented to the Authority for acceptance in accordance with Clause 25.1 above.

25.5. Notwithstanding the provisions of Condition 27 (Guarantee), the Authority's signature of acceptance of MOD Boats Form 2010A to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A) will be without prejudice to the Authority's rights in respect of any defects in the work which in the reasonable opinion of the Authority:

25.5.1. were not apparent to the Authority during tests or trials or when the Boat was presented by the Contractor to the Authority for acceptance; or

25.5.2. only became apparent following acceptance by the Authority.

26. Boat(s) and/or Equipment Beyond Economical Repair (BER)

- 26.1. Should the Contractor determine that a Boat and/or equipment is BER, or that repair would be impracticable, or if for any reason it should be decided by the Authority at any stage to discontinue the repair, the Contractor shall immediately cease all work on that Boat and/or equipment. In such circumstances the Contractor shall inform the Authority giving details of the expenditure incurred up to the cessation of work and, in the case of items declared BER provide reasons for arriving at that conclusion. Subject to the Authority accepting the Boat and/or equipment is BER the Contractor will be paid a fair and reasonable price for all work authorised and undertaken up to the cessation of work.
- 26.2. In the event the Authority accepts a Boat and/or equipment is BER, the Authority will issue disposal instructions, which may be either:
- 26.2.1. complete disposal of the Boat and/or equipment as scrap or otherwise to the best advantage of the Crown; or
- 26.2.2. part disposal of the Boat and/or equipment as scrap, to the best advantage of the Crown, and part salvage of valuable repairable NATO codified sub-assemblies to stocks; or
- 26.2.3. return of the Boat and/or equipment to the Authority.
- 26.3. The proceeds from the disposal of a Boat and/or equipment in accordance with Clause 26.2 above shall be credited to the Authority in accordance with arrangements made between the Contractor and the Authority.
- 26.4. The Contractor shall not dispose of any Boat and/or equipment that are found to be BER without written authorisation from the Authority.

27. **Guarantee**

- 27.1. The Contractor shall guarantee all work undertaken under the Contract, including fitness for purpose and compliance with all current Health and Safety Legislation, and shall be responsible for the rectification of defects discovered within the guarantee periods stated below.

<u>Type of Work</u>	<u>Guarantee Period from the Actual Delivery Date</u>
Planned Maintenance / Unplanned Maintenance / Modifications	Twelve (12) months

<u>Type of Work</u>	<u>Guarantee Period from the Actual Delivery Date</u>
Supply of Articles / Codified Spares / Uncodified Spares	The longest guarantee period available either from the Consumer Rights Act 2015, six (6) months or the manufacturer's guarantee period.

- 27.2. The Authority will notify the Contractor in writing of any guarantee issues as soon as practicable, specifying the nature and extent of the guarantee issue, the date of its discovery and the location where the Authority requires the Contractor to undertake corrective action.
- 27.3. If during the guarantee period specified in Clause 27.1 above, any item or material or part thereof is found to be defective or show signs of weakness due to faulty materials or workmanship the Authority will have the right to either:

27.3.1. require the Contractor at his own expense to remove, repair and/or replace such defective materials and/or parts;

27.3.2. take such corrective action itself and to recover from the Contractor its expenses in so doing.

27.4. The Contractor shall be liable for all costs, expenses and liabilities incurred or suffered by the Authority as a consequence of the defects.

27.5. Notwithstanding anything contained in this Condition 27, the Contractor shall not be required to remedy or pay the cost of remedying any deficiency arising:

27.5.1. from fair wear and tear, or;

27.5.2. from negligence on the part of any person in the service of the Authority.

27.6. Where the Authority has supplied Government Furnished Equipment (GFE) the Contractor's guarantee shall only apply to the work undertaken by the Contractor to install the GFE in the Boat and not to the GFE itself. For the avoidance of doubt nothing in this Clause 27.6 shall reduce or limit the Contractor's guarantee obligations under the remainder of this Condition 27.

27.7. The Contractor shall assign to the Authority all guarantees or warranties given by Sub-Contractors or suppliers of any of the materials or equipment supplied under a MOD Boats Form 1020 (Work Request Form) to Schedule 5A (BISS Forms) or MOD Boats Form 1011 (Task Authorisation Form (TAF)) to Schedule 5A (BISS Forms) or MOD Boats Form 2010A to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A) which exceed the guarantee periods specified in Clause 27.1 above.

27.8. In the event of any rectification work being required under a MOD Boats Form 1020 (Work Request Form) to Schedule 5A (BISS Forms) or MOD Boats Form 1011 (Task Authorisation Form (TAF)) to Schedule 5A (BISS Forms) or MOD Boats Form 2010A to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A) during the guarantee period(s) specified at Clause 27.1 above, the guarantee period for the remedial work shall be the later of:

27.8.1. 3 (three) months from the date of acceptance of the remedial work; or

27.8.2. the end of the guarantee period.

27.9. The Contractor shall proceed with due diligence in all corrective action under this Condition 27.

28. NOT USED

29. Inspection, Tests and Trials

General

29.1. The Contractor shall undertake inspections, tests and trials in accordance with the requirements specified in the MOD Boats Form 2010B to Schedule 5B Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A), or in the appropriate Trials and Survey Form, at Schedule 10 (Government Furnished Information). All inspection, tests, trials and rectification of defects

arising must be completed prior to the Contractor offering up the Boat or equipment or system for acceptance by the Authority.

- 29.2. The programme for undertaking such inspections, tests and trials shall be agreed between the Contractor and the Authority and the Contractor shall ensure that inspections, tests and trials are not fragmented.
- 29.3. The Contractor shall be solely responsible for conducting all inspections, tests and trials and for co-ordinating their requirements and those of his Sub-Contractors.
- 29.4. The Contractor shall confirm in writing to the Authority's Authorised Representative 5 (five) business days before an inspection test or trial is to take place, or such other period if specified by the Authority, that:
- 29.4.1. the Boat or equipment or system will be ready; and
- 29.4.2. all pre-requisites for the trial will be met.
- 29.5. The Authority's Authorised Representative will arrange for the attendance of the Authority's inspection, test and trials team as required and will also advise the Contractor where he considers that all pre-requisites are not being met. In the event that written confirmation is not received by the Authority five (5) business days, or such other period if specified by the Authority, prior to an inspection, test or trial taking place or where the Authority is not satisfied that all pre-requisites are being met, the Authority's personnel will not attend the inspection, test or trial. In these circumstances the Contractor shall be liable for all costs.
- 29.6. The Authority will, at its discretion, have the right to:
- 29.6.1. postpone any or all inspections, tests or trials;
- 29.6.2. keep the Boat at sea for such periods as necessary;
- 29.6.3. require the Boat to proceed to sea for extra trials or for any other purpose not specified in the Contract;
- and will reimburse the Contractor for any reasonable costs thereby incurred, except where the events in Clauses 29.6.1 to 29.6.3 above is due to error, breach, omission or negligence on part of the Contractor.

Additional Contractor Inspections, Tests and Trials

- 29.7. Any additional inspections, tests and trials which the Contractor wishes to carry out prior to the Contractor offering up the Boat for acceptance by the Authority, shall be the responsibility and liability of the Contractor.

Inspection and Trials Teams

- 29.8. Where the Authority appoints personnel to attend inspections, tests and trials on behalf of the Authority, the presence of these personnel shall not in any way relieve the Contractor of his responsibilities under the MOD Boats Form 2010B to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A) or in the appropriate Trials and Survey Form, at Schedule 10 (Government Furnished Information).
- 29.9. In the event that any inspection, test or trial or part thereof, undertaken by the Contractor has to be repeated for any reason, including but not limited to all pre-requisites or requirements not being met, and for which the Contractor is responsible, the Contractor shall re-programme

or re-run the inspection, test or trial. In these circumstances the Contractor shall be liable for all costs, including reimbursement of the Authority's reasonable costs.

- 29.10. Without prejudice to the Contractor's responsibilities the Authority will, if so requested and subject to availability, provide personnel to carry out under the Contractor's orders, and acting as unpaid servants of the Contractor, duties for which specialised knowledge is required. Nothing in this Clause 29.10 shall extinguish, diminish or reduce the Contractor's responsibilities for inspections, tests or trials in accordance with the MOD Boats Form 2010B to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A) or in the appropriate Trials and Survey Form, at Schedule 10 (Government Furnished Information).

Sea Trials

- 29.11. Unless otherwise agreed between the Authority and the Contractor, the Contractor shall take command of the Boat(s) for sea trials. During all sea trials, whether Boat(s) are under the control of the Contractor or the Authority, the Contractor shall be fully responsible for the care and custody of the Boat(s). The Contractor shall liaise with the Authority's Authorised Representative on matters of Boat(s) safety.
- 29.12. Arrangements for Contractor's and Sub-Contractors' representatives attending sea trials shall be agreed between the Contractor and the Authority's Authorised Representative whose decision on numbers attending shall be final.
- 29.13. On satisfactory completion of sea trials, the Contractor shall complete the relevant MOD Boats Form 2010A to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A) or Harbour Acceptance Trials (HATs) and Sea Acceptance Trials (SATs) Survey and Trials Form 2A, attached at Schedule 10 (Government Furnished Information) and present to the Authority.

30. Chartering

- 30.1. Where the Authority issues a MOD Boats Form 1020 (Work Request Form) to Schedule 5A (BISS Forms) or MOD Boats Form 1011 (Task Authorisation Form (TAF)) to Schedule 5A (BISS Forms) for the charter of a Boat, a copy of the charter agreement to the MOD Boats Form 1020 (Work Request Form) or MOD Boats Form 1011 (Task Authorisation Form (TAF)) for the Authority's review prior to authorisation of the 1020 (Work Request Form) or MOD Boats Form 1011 (Task Authorisation Form (Task Authorisation Form (TAF))).

31. Integrated Project Management Plan (IPMP)

- 31.1. The Contractor shall demonstrate good project management practice in undertaking all activities under the Contract. The Authority and the Contractor shall adopt an open and honest approach at all times and ensure that potential risks to performance, cost and time are exposed at the earliest opportunity to enable them to be addressed to minimise any detrimental impact and maximise the benefit of any potential opportunities.
- 31.2. The Integrated Project Management Plan (IPMP) shall define how the Contract activities shall be managed, outlining the processes, procedures and techniques to be used with details of how all activities, plans and programmes will be established, monitored, changed, controlled, integrated and communicated with the Authority.
- 31.3. The IPMP shall adopt a consistent and coherent approach to project management and establish procedures and reporting mechanisms. Implementation of the IPMP will provide the Authority with confidence in the Contractor's ability to deliver to time, cost and performance in

accordance with the Contract and provide early visibility of potential issues so that mitigating action can be taken.

- 31.4. No later than 3 (three) months following the Contract Effective Date, the Contractor shall update and finalise the draft Integrated Project Management Plan (IPMP) together with the associated annexes at Schedule 8 (Integrated Project Management Plan) and issue to the Authority to review. The updated IPMP shall address the scope of work as set out in the Contract.
- 31.5. The Authority will review the updated IPMP and associated annexes and provide proposed amendments to the Contractor within 10 (ten) business days of receipt. Any such proposals shall be subject to agreement of the Contractor who shall incorporate all reasonable proposals from the Authority in to the IPMP within 10 (ten) business days of any discussion held between the parties as a result of the Authority's comments. Within 10 (ten) business days thereafter the Contractor shall submit the IPMP and associated annexes at Revision 1 status to the Authority as Schedule 8 (Integrated Project Management Plan).
- 31.6. The IPMP shall cross reference to the Contract Clauses, the Statement of Technical Requirements and Pricing and all associated Annexes within the IPMP as applicable.
- 31.7. The Contractor shall be responsible for the maintenance and updating of the IPMP throughout the life of the Contract. Any changes, agreed with the Authority, to the way in which Project and Engineering Management are delivered should be reflected in a revised IPMP, to be issued no later than one month following agreement of the change.
- 31.8. The IPMP shall comprise of the following:

Section Ref	Section Title
Part A: Engineering Management, In-Service Support and Security	
1.1	Project and Engineering Management
1.2	Business Continuity Plan
1.3	Exit and Transition Management Plan
1.4	Capacity Assessment
1.5	Security Plan
1.6	In-Service Support Plan
Part B: Through Life Support (Configuration management and Post Design Services)	
2.1	Configuration Management Plan (including Documentation Management)
2.2	Obsolescence Strategy
2.3	Conduct of Post Design Services (PDS) Tasks

32. **Boat Specific Safety Plan**

- 32.1. If requested by the Authority, the Contractor shall provide, within 10 (ten) business days of a MOD Boats Form 1020 (Work Request Form) to Schedule 5A (BISS Forms) or MOD Boats Form 2011 (Task Authorisation Form (TAF)) to Schedule 5A (BISS Forms) authorisation date, or such other period as may be agreed by the Authority, a Boat Specific Safety Plan. The plan shall incorporate all measures necessary, either by direct reference or by reference to related documentation, to ensure the safety of the Boat and all Contractor and Sub-Contractor personnel who will undertake work under the Contract and Authority personnel overseeing work including participating in trials.
- 32.2. The plan agreed between the Parties shall be issued by the Contractor to meet the requirements of the regulatory bodies concerned and shall be copied to the Authority's Project Officer. The Authority will have the right to carry out formal audits of the Boat Specific Safety Plan at any time during the course of the Contract.

33. Background Information

- 33.1. Where any Background Information (being information not generated in performance of the work under the Contract) is requested by the Authority in a WRF, or otherwise delivered to the Authority by the Contractor in performance of work under the Contract, then without prejudice to any rights which the Authority may have secured in such Background Information outside of the Contract the Contractor shall grant the Authority a royalty free non-exclusive licence to copy, modify and use and have copied modified and used the Background Information for any UK Government purpose whatsoever.
- 33.2. The Contractor shall clearly identify in the WRF any Background Information which the Authority and the Contractor agree is of such commercial sensitivity that it is releasable only to UK Government personnel. Where such information is identified, the Contractor shall provide the Authority with two clearly marked versions of any relevant deliverables: a first, unredacted version and a second, redacted version, from which the commercially sensitive information has been removed.

34. Retention of Records

- 34.1. During the continuance of this Contract and for not less than six years after its completion, the Contractor shall retain a copy of the Foreground Intellectual Property (IP), being the results under DEFCON 703 (Intellectual Property Rights - Vesting in the Authority) and Background Intellectual Property (IP) in a coherent format herein referred to as the control copy.
- 34.2. The Authority shall have the right during that time, and thereafter as long as the control copy is retained, to require the Contractor from time to time to furnish to the Authority copies of any and all such Foreground IP and Background IP in such form and detail as the Authority may prescribe. A reasonable charge for the service based on the marginal cost of providing such copies may be claimed by the Contractor.
- 34.3. After the period referred to in this Clause the Contractor shall not dispose of the control copy without first providing the Authority 6 (six) months' notice of its intention to dispose of the control copy and if the Authority so requests within that period then the Contractor, at their expense, shall deliver the control copy to the Authority.

35. Documents, Drawing and Information

- 35.1. All drawings, documents, design information and details of arrangements, models, mock-ups and samples provided by the Authority in connection with the Contract shall remain the property of the Authority.

Supply of Drawings, Documents etc by the Authority

- 35.2. Any drawings and documents supplied to the Contractor by the Authority shall be provided free of charge unless otherwise stated.
- 35.3. The Contractor shall immediately notify the Authority of any discrepancy, inconsistency or error in the documentation under this Contract, which comes to his attention, with the aim of the Authority and the Contractor agreeing an amendment to eliminate any such discrepancy.
- 35.4. On completion of the Contract, the Authority shall advise the Contractor of the method of disposal of all documents and other information supplied to him in connection therewith. All classified documents shall be returned or if authorised by the Authority, destroyed, in accordance with instructions, and certification of such destruction provided. The Contractor

shall only retain documentation where such retention has been authorised in writing by the Authority for use on other Government Contracts.

Supply of Support Documentation by the Contractor

- 35.5. The Contractor shall provide the Authority with technical handbooks, maintenance Schedules, operating instructions, spare parts lists and/or any other documentation in accordance with Schedule 2 (Statement of Technical Requirements) and / or the MOD Boats Form 1020 (Work Request Form) to Schedule 5A (BISS Forms).
- 35.6. The Contractor shall provide the Authority's Authorised Representative (see Condition 39) with all documentation necessary to undertake inspection, tests or trials at least 48 (forty eight) hours prior to the inspection test or trial or such other period as may be stated in the MOD Boats Form 1020 (Work Request Form) to Schedule 5A (BISS Forms).

Review of Documents provided by the Contractor

- 35.7. During the course of the Contract where documents are delivered to the Authority for review, unless specified otherwise, the Contractor shall allow no less than 10 (ten) business days for the Authority to respond. The Authority's comments on the documents will be supplied in writing. In cases where the Authority's comments are extensive, a separate review meeting will be held with the Contractor to discuss the changes required to the document.

36. Procedure for Making Direct Agreements with Sub-Contractors

- 36.1. The Contractor shall not place any Sub-Contract or order involving the design or development of equipment required under this Contract without the prior approval of the Authority.
- 36.2. The Contractor shall not enter into any commitment in relation to the design or development of equipment until such time as the Sub-Contractor has entered into an agreement with the Authority in the form set out at Schedule 9 (Design Rights and Patents (Sub-Contractor's Agreement - DEFFORM 177)). Wherever possible the request for approval should be accompanied by two copies of the agreement signed by the Sub-Contractor. If, in any case the Contractor is unable to comply with this Clause he shall report the matter to the Authority's Commercial Officer and await further instructions before placing the Sub-Contract or order.

37. Health and Safety

- 37.1. Notwithstanding and without prejudice to the provisions detailed elsewhere in the Contract, the Contractor shall be entirely responsible for the safety, whilst on his premises, of all personnel in connection with the Contract, whether or not in his employ.
- 37.2. Save as may otherwise be specifically defined in the Contract, the Contractor shall be in charge of, and entirely responsible for, the care, protection and security of the Boat(s) and all Authority property whilst in their possession.
- 37.3. Where the Authority engages an Independent Safety Advisor/Auditor/Assessor the Contractor shall provide access to records, including Sub-Contractor records to enable the Authority to carry out safety audits and other assessment activities. This shall include the provision of access to the Contractor and Sub-Contractors premises if required.

38. Hazardous Materials and Systems

- 38.1. Serious health hazards are associated with handling hazardous materials, including but not limited to toxic, low flashpoint and radioactive materials, and live electrical or pressurised systems. The Contractor shall take due care when working with such materials or systems.
- 38.2. The Contractor shall notify the Authority before commencing work under a MOD Boats Form 1020 (Work Request Form) to Schedule 5A (BISS Forms) or MOD Boats Form 1011 (Task Authorisation Form (TAF) to Schedule 5A (BISS Forms) which involves special health and safety hazards and shall draw the Authority's attention to any relevant Health and Safety legislation and any sections of the Contractor's own and, as appropriate, his Sub-Contractor's safety policies which cover such hazards. Similarly, the Authority will notify the Contractor, in advance, of any special health and safety hazards which may be introduced.
- 38.3. The Contractor shall ensure that any person handling hazardous materials, or working on or with hazardous systems or equipment, has been properly trained to deal with the hazards and that suitable warning notices are displayed in accordance with the requirements of the Health and Safety Executive.

39. Authority's Authorised Representative

- 39.1. Notwithstanding Condition 5 (Contractor's Obligations), the Authority may appoint an Authority's Authorised Representative to:
 - 39.1.1. inspect the work being done under the Contract and/or any part thereof, including materials and articles used or to be used therein;
 - 39.1.2. provide the Contractor with information and advice as required;
 - 39.1.3. monitor the progress of work on the Boat(s);
 - 39.1.4. implement procedures for the authorisation of Emergent Tasks or reductions (rebates) to a MOD Boats Form 2010B to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A);
 - 39.1.5. co-ordinate all visits by Authority personnel in connection with this Contract to the Contractor's premises and/or Sub-contractor premises;
 - 39.1.6. arrange for the attendance of Authority inspection, tests and teams as required.
- 39.2. The Authority's Authorised Representative will have the right to inspect all work being carried out under the Contract and to conduct inspections and/or audits at any reasonable time. Any deficiencies or defects found during these inspections and/or audits shall be rectified by the Contractor at no additional cost to the Authority.
- 39.3. To enable the Authority's Authorised Representative to carry out his duties, the Contractor shall:
 - 39.3.1. permit full access at all times to the work in progress and to all drawings, models, samples and articles or things of any kind pertaining to the Contract;
 - 39.3.2. maintain full co-operation and provide all such drawings, information and assistance as may reasonably be required;
 - 39.3.3. provide office and equipment including but not limited to desk, chair, telephone and internet facilities at the location where the work is being carried out;

39.3.4. submit all condition survey reports, dimension reports and readings from machinery in a timely manner;

39.3.5. submit Emergent Tasks or reductions (rebates) to a MOD Boats Form 2010A to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A) in accordance with the Contract.

39.4. The Authority's Authorised Representative will have the right to:

39.4.1. reject any workmanship, article or material, which does not conform with the requirements of the Contract;

39.4.2. stop any test or trial or any other activity being carried out by the Contractor on the Boat(s) at any time if, in his opinion, the safety of the Boat(s), its equipment or personnel on board is compromised.

39.4.3. In respect of Clauses 39.4.1 and 39.4.2 above, the Contractor shall have a right of appeal to the Authority whose decision will be final and conclusive.

39.5. In the event of appeal by the Contractor against an Authority rejection of any workmanship, article or material;

39.5.1. notice of appeal shall be given to the Authority within 2 (two) business days of receipt by the Contractor of notification of rejection;

39.5.2. workmanship shall not be made good, nor the article or material removed until directed by the Authority.

39.6. Successful Appeal - Should an appeal by the Contractor prove successful then the Contractor will be entitled to claim an extension of time, in relation to KPI's 1 and 3, Schedule 6 (Key Performance Indicators and Information Reporting) which is directly attributable to the successful claim. Any such extension of time shall be agreed between the Parties.

39.7. Unsuccessful or no Appeal - The Contractor shall make good or replace at his own expense and to the satisfaction of Authority's Authorised Representative, any workmanship, article or material rejected by the Authority. The Contractor shall also, if so, required by the Authority, mark any rejected article or material, in a manner acceptable to the Authority's Authorised Representative.

39.8. The Contractor shall not use surplus or used stores without the Authority's prior written approval. Where the Contractor proposes to use surplus or used stores in relation to a MOD Boats Form 1020 (Work Request Form) to Schedule 5A (BISS Forms), they shall submit their detailed proposals via the MOD Boats Form 2010B to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A), including the effects on prices or programme, to the Authority's Authorised Representative for consideration and, if appropriate, approval.

40. Attendance by Makers', Classification Society, Maritime and Coastguard Agency Representatives

40.1. The Contractor shall be responsible for co-ordinating and arranging all attendance to execute or oversee work in connection with delivery, installation on board, setting to work, acceptance, maintenance, trials and repair or examination of machinery, systems and equipment's, under the Contract.

- 40.2. The Contractor shall make all arrangements for, and provide all necessary drawings, access and facilities for any work in connection with registration, classification, certification, surveys or trials.
- 40.3. The Contractor shall be responsible for co-ordinating and arranging attendance by all surveyors necessary for any certification required by the Contract.

41. Incidents

- 41.1. If there is an incident which causes damage to any part of a Boat or which leads to a breach of security or safety, the Contractor shall inform the Authority immediately. If the Authority deems the incident to be sufficiently serious as to require investigation, the Contractor, if so requested, shall conduct such an investigation to establish the cause of the incident as soon as possible. In any event the Contractor shall identify the remedial action which they shall undertake to rectify the situation.
- 41.2. If the incident is such that the UK Health and Safety Executive sets up an enquiry to investigate the cause, then the Contractor shall be required only to establish recommendations for remedial action.
- 41.3. Where an investigation is to be conducted by the Contractor, the Authority will have the right to appoint representatives to participate in the investigation in any of the following capacities:
 - 41.3.1. as members of the investigating team;
 - 41.3.2. in an advisory capacity;
 - 41.3.3. to question witnesses.
- 41.4. The presence of such representatives of the Authority will be without prejudice to the Authority's right to accept or reject the findings and recommendations of the investigation.
- 41.5. If the Contractor wishes to call the Authority's personnel to an enquiry, either to give evidence or for any other purpose, prior approval to do so shall be sought from the Authority who will advise on the procedure to be followed.
- 41.6. A full report of the inquiry signed by all members of the investigating team shall be forwarded to the Authority and shall include:
 - 41.6.1. a summary of the proceedings;
 - 41.6.2. evidence of any witnesses, together with copies of any sketches or diagrams which may have been produced;
 - 41.6.3. details of any difference of opinion between the investigating team members on any material point;
 - 41.6.4. the conclusions and recommendations of the investigating team.
- 41.7. The report shall not deliberate on any possible consequential adjustments to the Contract and shall be without prejudice to the rights of the Authority under the Contract, or otherwise, in respect of any loss or damage arising from any such incident.
- 41.8. Notwithstanding the foregoing, if the Authority wishes to conduct a subsequent enquiry, the Authority will have the right to require the Contractor, Sub-Contractor(s) or any other person(s)

or personnel in their employ, to attend the Authority's enquiry in any capacity, to give evidence or for any other purpose.

- 41.9. If the Contractor proposes to call Service Personnel to the enquiry, either to give evidence or for any other purpose, prior approval to do so shall be sought from the Authority's Authorised Representative who will advise on the procedure to be followed.

42. Quality - General Requirements

- 42.1. The Contractor shall be responsible for ensuring that the quality of the work performed, and of the articles and materials supplied or repaired by him and all his Sub-Contractors, conforms to the requirements of the Contract.
- 42.2. The Contractor shall maintain a Quality Management System and continually improve its effectiveness in accordance with the terms and conditions of this Contract, ISO 9001-2015, the AQAP 2100 series and Defence Standards, as detailed below:
- 42.2.1. AQAP 2110 NATO Quality Assurance Requirements for Design, Development and Production (Edition D ver 1) dated June 2016
- 42.2.2. AQAP 2105 NATO Requirements for Deliverable Quality Plans (Edition C) dated Jan 2019.
- 42.2.3. Def Stan 05-61 Part 1 issue 7 Concessions dated 28 Nov 21.
- 42.2.4. Def Stan 05-61 Part 4 issue 4 Quality Assurance Procedural Requirements for Contractors Working Parties dated 28 Nov 21.
- 42.2.5. Def Stan 05-99 Pts 1&2 Issue 1 Managing Government Furnished Equipment in Industry dated Jul 17.
- 42.2.6. DEFCON 602A (Edn 04/23) (Quality Assurance with Deliverable Quality Plan)
- 42.2.7. Def Stan 05-135 Issue 2 Avoidance of Counterfeit Materiel dated 14 Jul 19.
- 42.3. In meeting the above, the Contractor shall provide the Authority with a Quality Management Plan in accordance with AQAP 2105 and Condition 30 (Integrated Project Management Plan) within 3 (three) months of the Contract Effective Date.
- 42.4. For the AQAP series, the following interpretations apply:
- 42.4.1. Where the Contract refers to the "Authority", the AQAP series refers to the "Acquirer"
- 42.4.2. Where the Contract refers to the "Contractor", the AQAP series refers to the "Supplier"
- 42.4.3. Where the Contract refers to the "Sub-Contractor", the AQAP series refers to the "Sub-supplier"

43. Quality Management Plan

- 43.1. The Contractor shall maintain the Quality Management Plan throughout the duration of the Contract; any changes shall be agreed with the Authority.

- 43.2. The Quality Management Plan shall set out the quality strategy, quality practices, available resources and sequence of activities relevant to the Contract and shall provide assurance to the Authority that:
- 43.2.1. the Contract requirements and terms and conditions of this Contract have been reviewed;
 - 43.2.2. effective quality planning has taken place;
 - 43.2.3. identified risk areas are being addressed and mitigating action being taken;
 - 43.2.4. the quality of products and/or processes shall be assured; and
 - 43.2.5. those specific elements of the Contractor's quality system that are to be applied to the Contract are appropriate.
- 43.3. To satisfy the above requirements, the Quality Management Plan shall meet the requirements as detailed in AQAP 2105, and shall include:
- 43.3.1. the strategy for Quality Assurance defining the Contractors commitment to complying with the quality system requirements as stated in this Contract.
 - 43.3.2. procedures that detail how the Quality Management System shall be used to deliver the Authority's requirements and which supplement the requirements for acceptance.
 - 43.3.3. arrangements for Quality Management review meetings to be held every three (3) months.
 - 43.3.4. procedures for maintaining ISO 9001:2015 certification.
 - 43.3.5. company organisation, competencies and resources
 - 43.3.6. supply base codes of practice, interfaces and standards policy.
- 43.4. In addition, the Contractor shall provide access to relevant parts of their Quality Manual upon request from the Authority.

44. Quality Assurance Representative (QAR)

- 44.1. All reference to the Quality Assurance Representative (QAR) in documents which form part of this Contract shall be read as referring to the Authority's Authorised Representative as specified at Box 7 of Schedule 3 (Addresses and Other Information).

45. Second-Hand Material

- 45.1. If the Contractor wishes to meet the requirements of any part of this Contract (in particular, DEFCON 627- Requirement for a Certificate of Conformity) by the supply or incorporation of material which is second-hand or has been previously used in any application the Contractor shall ensure that all deliverables incorporating such material are capable of meeting the full Project requirements, in terms of performance, life, wear, reparability and all other characteristics, of deliveries which do not incorporate such material.
- 45.2. Without prejudice to Clause 45.1 above no second-hand material shall be used unless the Contractor has first made available to the Authority documentary evidence showing the full traceability, provenance and history of manufacture, storage conditions, inspections, tests, use

and modification of the second-hand material and received the Authority's written agreement to its use. The Authority's decision in this matter will be final and conclusive.

- 45.3. If the Contractor supplies material in breach of this Condition 45 and evidence of that breach is made available to the Authority, the Authority's acceptance of, or lack of objection to, such material shall not constitute a waiver of that breach except where agreed under the procedures specified in Defence Standard 05-61 Part 1 Issue 7, as called up in this Contract, covering concessions.

46. Packaging

- 46.1. The Contractor shall be responsible for the packaging of spares in accordance with DEFCON 129 (Packaging (For Articles other than munitions)) to commercial packaging standard and marking of the packages with the consignment instructions as identified on the CP&F demand order.

47. Care and Protection of the Boat(s)

General

- 47.1. The Contractor shall be responsible for the care, protection, physical security, loss and damage of the Authority's Boats, their equipment and other equipment and materials whilst in their custody, as set out in the MOD Boats Form 2010B to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A), from the point of either:

47.1.1. collection by the Contractor in accordance with DEFCON 621B (Transport (if the Contractor is responsible for Transport)); or

47.1.2. delivery by the Authority to the Contractor's Premises in accordance with DEFCON 621A (Transport (if the Authority is responsible for Transport));

to the point of either:

47.1.3. delivery by the Contractor in accordance with DEFCON 621B (Transport (if the Contractor is responsible for Transport)); or

47.1.4. collection by the Authority from the Contractor's Premises in accordance with DEFCON 621A (Transport (if the Authority is responsible for Transport))

- 47.2. The Authority when handing over custody of a Boat will present the Contractor with a signed MOD Boats Form 2010B to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A). The Contractor shall sign the MOD Boats Form 2010 accepting custody of a Boat and shall complete the engine running hours before and after the refit or repair work has been undertaken. When returning custody of a Boat the Contractor shall sign and return the completed MOD Boats Form 2010A to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A) to the Authority.

Berthing/Slipping

- 47.3. The Boat(s) whilst in the care and protection of the Contractor shall be docked and undocked and slipped and unslipped in accordance with the requirements of the MOD Boats Form 1020 (Work Request Form) to Schedule 5A (BISS Forms) or MOD Boats Form 2010A to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to

Schedule 5C (Take-On Take Off and Acceptance – Type A) and as required to complete the work. At all other times the Contractor shall place the Boat(s) in a suitable berth approved by the Authority. Except as may otherwise be approved by the Authority, the Contractor shall ensure the Boat(s) is fully afloat at all states of the tide.

Stability

- 47.4. The Contractor shall be responsible for ensuring the Boat's stability is, at all times, satisfactory whilst in their care and protection. The Authority will have the right to require the Contractor, at their expense, to check the stability of a Boat at any time.

Clean Boat and Protection of Equipment

- 47.5. The Contractor shall maintain high standards of cleanliness to decks, Boat compartments and passageways, Boat structure, dock bottom and steps (where applicable) and dock side.
- 47.6. The Contractor shall ensure there is no contamination of equipment or installation by any means including dirt, condensation, paint, shipyard arisings, corrosive products of grit blasting, lagging and kindred operations. Arisings shall be removed on a daily basis, whenever the nature of the work permits, and debris shall not be allowed to accumulate. In places where equipment may be subject to heavy wear or knocks from passing traffic it must be boxed in. All deck coverings shall be protected from dirt and damage.
- 47.7. The Contractor shall be responsible for making good damage to paintwork and fittings arising from Work in Way.
- 47.8. The Contractor shall remain responsible for the condition and cleanliness until acceptance of the Boat by the Authority.
- 47.9. The Contractor shall ensure compartments in which switchboards are located are kept clear of stores, tools and clothing.
- 47.10. The Contractor shall ensure all work which may have an adverse effect on electronic and/or environmentally sensitive equipment is completed before any such equipment is moved aboard and/or fitted.

Fire Precautions

- 47.11. The Contractor shall be responsible for firefighting arrangements whilst a Boat is in their care and protection. The Contractor shall:
- 47.11.1. provide access and action by the local Fire Authority to meet applicable legislation;
 - 47.11.2. provide fire watcher and fire-fighters at all times during working hours and up to one hour after any hot work is complete in accordance with hot work procedures and for security rounds at cessation of the business day;
 - 47.11.3. ensure clearance of fire hazards;
 - 47.11.4. ensure availability of alarms, extinguishers and appliances;
 - 47.11.5. provide equipment and training and exercising of personnel.
- 47.12. Without prejudice to the Contractor's responsibility under Shipbuilding and Ship Repairing Regulations (1960), supplemented by the Health and Safety at Work Act and the Shipyard Auditable Health and Safety Policy Document and all applicable legislation, the Contractor shall as and when requested by the Authority:

47.12.1. allow access to the Contractor's facilities to enable the Authority to check that the efficacy of the Contractor's precautions at Clause 47.11 above is to the entire satisfaction of the Authority; and

47.12.2. provide evidence of their compliance with this Clause 47.12.

Fire Precautions specific to Minor Warships

47.13. For the purposes of Clauses 47.14 and 47.15 below all references to Minor Warships shall be deemed to also include HMS MAGPIE, HMS CUTLASS and HMS DAGGER and P2000s.

47.14. Whenever Service Personnel are standing by the Minor Warships during work the Contractor shall allow the Service Personnel, during all fire emergencies, to carry out their duties associated with damage control. Service Personnel duties will be defined and agreed between the commanding officer of the Minor Warships, the Authority's Authorised Representative and the Contractor at the time the Minor Warship arrives at the Contractor's Premises and before the Minor Warships control services and facilities are taken out of action.

47.15. During a Planned Upkeep period the Contractor shall be entirely responsible for the care and maintenance of any charged fixed fire smothering systems on board a Minor Warships likely to be required for use during the period of work. The Contractor shall ensure proper safety precautions are observed to prevent accidental release of the system's charge.

48. Fuels, Lubricants and Hydraulic Fluids

48.1. Where specified in a MOD Boats Form 1020 (Work Request Form) to Schedule 5A (BISS Forms) or MOD Boats Form 2010A to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A) the Authority will provide the Contractor, on a free issue basis, with fuels, lubricating oils and hydraulic fluids (but not greases) required for the purposes of setting to work and trials. In such circumstances the Contractor shall provide early notification to the Authority of his requirements for fuels, lubricating oils and hydraulic fluids (but not greases) to enable the Authority to make delivery and for the Contractor to complete all work required under the MOD Boats Form 2010A to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A) by the Authority's Agreed Delivery Date.

48.2. Upon receipt of the fuels, lubricating oils and hydraulic fluids from the Authority the Contractor shall ensure suitable and safe storage.

48.3. In the event that it is necessary for the Contractor to undertake repetition of any tests or trials, due to a failure of the Contractor, the Contractor shall be liable for the cost of the fuels, lubricating oils and hydraulic fluids consumed during such additional tests and trials. Where the Authority provides fuels, lubricating oils and hydraulic fluids, the costs will be charged to the Contractor by the Authority at the rates current at the date of consumption.

49. Government Furnished Information

General

49.1. All Government Furnished Information disclosed by the Authority pursuant to this Contract is set out in Schedule 10 (Government Furnished Information).

- 49.2. Subject to Clause 49.1 the Contractor shall not in any way be relieved from any obligation under this Contract nor shall it be entitled to claim against the Authority on grounds that the Government Furnished Information is insufficient, and shall make its own enquiries as to the adequacy of that information.
- 49.3. In the event the Contractor discovers that the Government Furnished Information supplied by the Authority is inaccurate, the Contractor shall immediately notify the Authority of such inaccuracy and any impact on the Contract including any requirement for a change in the Contract.
- 49.4. Nothing in this Condition 49 shall exclude any liability which the Authority or any of its agents or employees would otherwise have to the Contractor in respect of any statements made fraudulently or fraudulent omissions to make statements prior to the date of this Contract.
- 49.5. The Authority does not give any warranty or undertaking as to the completeness, accuracy, or fitness for any purpose of any of the Authority provided information. Neither the Authority nor its agents or employees shall be liable to the Contractor in contract (save as expressly provided elsewhere in the Contract), tort, statute nor otherwise, as a result of any inaccuracy of any kind, in the Authority provided information.

Drawings, documents and information

- 49.6. Where the Contract states that the Authority will supply any drawings, documents or information to the Contractor they will be provided free of charge.
- 49.7. On completion of the Contract, the Authority's Authorised Representative will advise the Contractor of the method of disposal of all drawings, documents and other information supplied to him in accordance with Condition 49.

50. Custody of and Accounting for Material owned by the Authority

- 50.1. Without prejudice and further to the provisions of DEFCON 601 (Redundant Material), DEFCON 609 (Contractor's Records), DEFCON 611 (Issued Property) and DEFCON 694 (Accounting for the Property of the Authority) and Def Stan 05-99 (Managing Government Furnished Equipment in Industry), the Contractor is wholly responsible for storage, protection, maintenance and accounting for all articles owned or supplied by the Authority for fitting in the Boat(s), and all articles removed from the Boat(s), during the course of the Contract.
- 50.2. Returnable crates, containers and packaging in which Authority supplies are delivered to the Contractor will be on loan. These shall be returned by the Contractor when empty, in accordance with instructions issued by the Authority. The Authority will bear the cost of return freight.
- 50.3. The Contractor shall issue a receipt to the Authority for equipment received.
- 50.4. The Contractor shall maintain a discrete stock record quoting the Authority's Contract reference and the name of the Boat(s). If required, this record shall be made available to the Authority for the purpose of undertaking periodic audits.
- 50.5. The stock record shall show the following:
- 50.5.1. Receipts - Serial number of consignor's voucher; description and part/package number and date of receipt.
- 50.5.2. Issue dates; stores requisition serial number; quantity; and signature of issuing authority.

50.5.3. Balance remaining.

- 50.6. The Contractor shall give priority to the return of all items or materials owned by the Authority, or which have become the property of the Authority under the terms of the Contract and which on completion of the Contract are surplus to requirements. These shall include inter alia, balances remaining, repairable and serviceable components removed from the Boat and not re-embodied, condemned stores and arisings. The cost of carriage from the Contractor's premises will be borne by the Authority.
- 50.7. The Contractor shall provide a list to the Authority of all such items or materials. The list shall also include any surplus materials or other things held by Sub-Contractors and which are the Authority's property under the under the terms of the Contract.
- 50.8. Unless stated otherwise in the Contract, the Contractor shall seek disposal instructions from the Authority, in respect of those items and materials and dispose of stores and materials as instructed. The Contractor shall credit the Authority with the value of such stores or arisings by means of a rebate to the MOD Boats Form 2010B to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A). Secure storage accommodation for materials permanently removed from the Boat shall be provided by the Contractor until disposal instructions are received from the Authority.

Explosives, Gasoline and Other Highly Flammable Materials

- 50.9. Without prejudice to, and further to the provision of, DEFCON 68 (Supply of Data for Hazardous Articles, Materials and Substances), when requested by the Authority, the Contractor shall provide a safe transit store for holding explosives, gasoline and other highly flammable materials, removed from the Boat pending disposal instructions from the Authority. Similarly, a safe store shall be provided by the Contractor for dangerous goods in transit which may be delivered by the Authority to the Contractor for the Boat.
- 50.10. The Authority will supply to the Contractor only those materials stated in Schedule 11 (Government Furnished Assets).

Use of Substances that Deplete the Ozone Layer

- 50.11. Where this Contract requires the use of substances that deplete the ozone layer to be removed from the Boat, arrangements shall be made with the Authority for these to be returned through the Authority to a banking facility. Similarly, where a requirement arises for the use of substances that deplete the ozone layer, and the Contract provides for supply by the Authority, application shall be made to the Authority in sufficient time to enable the Authority to make delivery of the substances by the required date.

Disposal of Waste Materials and Materials Removed from the Boat

- 50.12. Where under a MOD Boats Form 1020 (Work Request Form) to Schedule 5A (BISS Forms) or MOD Boats Form 2010A to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A) the Contractor is required to dispose of fuels, lubricating oils, dirty water, contaminated water and fittings containing prohibited substances, the Contractor shall arrange for treatment and disposal of such materials in accordance with applicable Local Authority and statutory environmental regulations.

Government Furnished Facilities

- 50.1. All Government Furnished Facilities disclosed by the Authority pursuant to this Contract is set out in Schedule 11(Government Furnished Assets).

51. Self-To-Self Delivery

- 51.1. Where any Article to be supplied under the Contract is to be delivered otherwise than being handed over by the Contractor to the Authority, as where an Article is to be delivered by the Contractor to his own premises or to those of a Sub-Contractor ('self-to-self delivery'), the risk in such Article shall (notwithstanding the provisions of DEFCON 612 (Loss of or Damage to the Articles)) remain vested in the Contractor until such time as the Article is handed over to the Authority.

52. Compatibility with Authority Systems

- 52.1. The Contractor shall ensure that all documents required for this Contract including but not limited to plans, drawings, report, forms and logs are supplied in the English Language.
- 52.2. The Contractor shall ensure that all notices and deliverable drawings and documents are provided in, or shall be fully compatible with, the following applications:
- 52.2.1. Microsoft Office 365 applications (MS Word, MS Access, MS Excel, MS PowerPoint, MS Outlook, MS Project)
- 52.2.2. Adobe Acrobat Reader 2020
- 52.2.3. Drawings in PDF format that permits a word-based search function.
- 52.3. In transferring information to the Authority, the Contractor shall:
- 52.3.1. ensure that all information is marked/classified in accordance with the Contract terms and conditions for data security.
- 52.3.2. ensure that all electronic information is free from viruses and malware.
- 52.3.3. ensure that e-mails do not exceed 99000 Mb in size.
- 52.3.4. not use memory sticks, USB Flash Drives or USB removable hard drives.

53. Sustainable Procurement

- 53.1. The Contractor shall take all reasonable steps to procure the observance of the economic, social and environmental legislation related to the subject matter or the execution of the Contract by any servants, employees or agents of the Contractor and any Sub-Contractors engaged in the performance of the Contract.
- 53.2. If the Contractor becomes aware of any potential or actual prosecution or proceedings, for criminal breaches of the economic, social and environmental legislation related to the subject matter or the execution of the Contract, against the Contractor, any servants, employees or agents of the Contractor and any Sub-Contractors engaged in performance of the Contract, the Contractor shall immediately notify the Authority at the address specified in the Contract.
- 53.3. Any convictions during the period of the Contract for criminal breaches of the economic, social and environmental legislation related to the subject matter or the execution of the

Contract by the Contractor or any of the Contractor's directors/partners or senior management who have powers of representation, decision or control, shall be regarded as a material breach of this Contract.

- 53.4. A sustainable procurement plan is not required for the purposes of this Contract.
- 53.5. The Contractor is encouraged to bring to the attention of the Authority any measures which might promote sustainable procurement from a social, economic and environmental point of view.
- 53.6. The Contractor shall take all reasonable steps to ensure that all activities under this Contract shall comply with certified environmental management standards based on ISO14001 or equivalent.

54. Exit

- 54.1. On termination of the Contract or a Task, and at any time and for whatever reason, the Authority shall not be liable for any additional costs, other than where the Authority is liable under the Contract, for the hand-over by the Contractor to any successor Contractor or to the Authority of all data as may exist in the Contractor's possession at the time of termination of the Contract or Task, and as relevant to the performance of the work by that successor Contractor or the Authority.
- 54.2. To provide for the possible hand-over to another Contractor on termination of the Contract or transfer back of responsibility for the work to the Authority, throughout the duration of the Contract, the Contractor shall maintain records, including an Intellectual Property Rights register, in a manner suitable to facilitate such a hand-over. The records shall be maintained by the Contractor in a manner that the Contractor would expect them to be maintained in were the Contractor to be a successor Contractor unfamiliar with the requirements. The Authority's minimum requirement is that subject to the ownership of the hardware and Intellectual Property Rights/Free User Rights vesting with the Authority, the records required by the Authority shall include, but not be limited to the following:
 - 54.2.1. a list of all Sub-Contractors and suppliers used by the Contractor in performance of the Contract including details of products and existing Contracts;
 - 54.2.2. warranty, guarantee and certification documentation, including test certificates as appropriate;
 - 54.2.3. a list of GFE holdings (including an inventory of the stores);
 - 54.2.4. reports produced for the Authority during the Contract (including supporting information referenced therein);
 - 54.2.5. a log of major technical and support decisions taken by the Contractor and the Authority during the Contract;
 - 54.2.6. support manuals for the systems and equipment in service on expiry or termination of the Contract, which provide sufficient information for the successor Contractor and operator to safely and efficiently support and operate the equipment;
 - 54.2.7. maintenance manuals, records and configuration status that provide sufficient information for the maintainer to safely and efficiently maintain the Boat(s); the maintenance manuals would include the parts breakdown of the equipment, etc;

54.3. In addition, the Contractor shall also return or destroy, with the Authority's permission, any documentation supplied by the Authority or generated by the Contractor on behalf of the Authority, including any information with an OFFICIAL - SENSITIVE classification.

54.4. The requirement for hand-over records as detailed in Clause 54.2 above to be maintained by the Contractor shall be included in Schedule 8 (Integrated Project Management Plan).

55. Transfer Regulations – (Transfer Undertaking (Protection of Employment))

55.1. Transfer Regulations will be in accordance with Schedule 12 (Transfer Regulations)

56. Public Relations and Publicity

56.1. The Contractor shall not by itself, its employees or agents, and shall procure that its Sub-Contractors shall not:

56.1.1. communicate with representatives of the press, television, radio or other communications media or members of the public on any matter concerning this Contract;

56.1.2. photograph or film in or upon any Authority Premises;

56.1.3. erect or exhibit on any part of the Authority Premises any signs or trade boards; or

56.1.4. exhibit or attach to any part of the Authority Premises any notice or advertisement,

56.1.5. unless the Authority has given its prior written consent or as otherwise required to comply with Legislation.

57. Import and Export of Boats and/or any Associated Equipment or Spares

57.1. In the event the Contractor, with the agreement of the Authority, takes the decision to transport a Boat, and/or any associated equipment or spares into or out of the UK the Contractor shall be responsible for all the relevant custom formalities. In these circumstances the Contractor shall be liable for all costs.

58. NOT USED

59. OFFICIAL and OFFICIAL- SENSITIVE Security Condition for UK Contracts

Definitions

59.1. The term "Authority" means a Ministry of Defence (MOD) official acting on behalf of the Secretary of State for Defence.

Security Grading

59.2. All aspects associated with this Contract are classified OFFICIAL. Some aspects are more sensitive and are classified as OFFICIAL-SENSITIVE. The Authority shall issue a Security Aspects Letter which shall define the OFFICIAL- SENSITIVE information that is furnished to the Contractor, or which is to be developed by it, under this Contract. The Contractor shall mark all OFFICIAL-SENSITIVE documents which it originates or copies during the Contract clearly with the OFFICIAL-SENSITIVE classification. However, the Contractor is not required to mark information/material related to the contract which is only OFFICIAL.

Official Secrets Acts

- 59.3. The Contractor's attention is drawn to the provisions of the Official Secrets Acts 1911-1989 in general, and to the provisions of Section 2 of the Official Secrets Act 1911 (as amended by the Act of 1989) in particular. The Contractor shall take all reasonable steps to make sure that all individuals employed on any work in connection with the Contract (including sub-contractors) have notice that these statutory provisions, or any others provided by the Authority, apply to them and shall continue so to apply after the completion or earlier termination of the Contract.

Protection of OFFICIAL and OFFICIAL- SENSITIVE Information

- 59.4. The Contractor shall protect OFFICIAL and OFFICIAL-SENSITIVE information provided to it or generated by it in accordance with the requirements detailed and any other conditions that may be specified by the Authority. The Contractor shall take all reasonable steps to prevent the loss or compromise of the information or from deliberate or opportunist attack.
- 59.5. The contractor shall apply Industry Security Notice (ISN) 2017/01 requirements to every industry owned IT and communication system used to store, process or generate MOD information including those systems containing OFFICIAL and/or OFFICIAL-SENSITIVE information. ISN 2017/01 details Defence Assurance and Risk Tool (DART) registration, IT security accreditation processes, risk assessment and risk management requirements. The ISN is available at:
- https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/594320/DART_ISN_-_V2_3.pdf
- 59.6. OFFICIAL and OFFICIAL-SENSITIVE information shall be protected in a manner to avoid unauthorised access. The Contractor shall take all reasonable steps to prevent the loss, compromise or inappropriate access of the information or from deliberate or opportunist attack.
- 59.7. All OFFICIAL and OFFICIAL-SENSITIVE material including documents, media and other material shall be physically secured to prevent unauthorised access. When not in use OFFICIAL and OFFICIAL- SENSITIVE documents/material shall be handled with care. As a minimum, when not in use, OFFICIAL-SENSITIVE material shall be stored under lock and key and in a lockable room, cabinets, drawers or safe and the keys/combinations are themselves to be subject to a level of physical security and control.
- 59.8. Disclosure of OFFICIAL and OFFICIAL-SENSITIVE information shall be strictly in accordance with the "need to know" principle. Except with the written consent of the Authority, the Contractor shall not disclose any of the classified aspects of the Contract detailed in the Security Aspects Letter other than to a person directly employed by the Contractor or sub-Contractor, or service provider.
- 59.9. Any samples, patterns, specifications, plans, drawings or any other documents issued by or on behalf of the Authority for the purposes of the Contract remain the property of the Authority and shall be returned on completion of the Contract or, if directed by the Authority, destroyed in accordance with Clause 59.39.

Access

- 59.10. Access to OFFICIAL and OFFICIAL-SENSITIVE information shall be confined to those individuals who have a "need-to-know", have been made aware of the requirement to protect the information and whose access is essential for the purpose of his or her duties.

- 59.11. The Contractor shall ensure that all individuals having access to OFFICIAL-SENSITIVE information have undergone basic recruitment checks. Contractors shall apply the requirements of HMG Baseline Personnel Security Standard (BPSS) for all individuals having access to OFFICIAL-SENSITIVE information. Further details and the full requirements of the BPSS can be found at the Gov.UK website at:

<https://www.gov.uk/government/publications/government-baseline-personnel-security-standard>.

Hard Copy Distribution

- 59.12. OFFICIAL and OFFICIAL-SENSITIVE documents shall be distributed, both within and outside company premises in such a way as to make sure that no unauthorised person has access. It may be sent by ordinary post or commercial couriers in a single envelope. The words OFFICIAL or OFFICIAL-SENSITIVE shall not appear on the envelope. The envelope should bear a stamp or details that clearly indicates the full address of the office from which it was sent.
- 59.13. Advice on the distribution of OFFICIAL-SENSITIVE documents abroad or any other advice including the distribution of OFFICIAL-SENSITIVE hardware shall be sought from the Authority.

Electronic Communication, Telephony and Facsimile Services

- 59.14. OFFICIAL information may be emailed unencrypted over the internet. OFFICIAL-SENSITIVE information shall normally only be transmitted over the internet encrypted using either a CESG Commercial Product Assurance (CPA) cryptographic product or a MOD approved cryptographic technique such as Transmission Layer Security (TLS). In the case of TLS both the sender and recipient organisations must have TLS enabled. Details of the required TLS implementation are available at:

<https://www.ncsc.gov.uk/guidance/tls-external-facing-services>

Details of the CPA scheme are available at:

<https://www.ncsc.gov.uk/scheme/commercial-product-assurance-cpa>

Exceptionally, in urgent cases, OFFICIAL-SENSITIVE information may be emailed unencrypted over the internet where there is a strong business need to do so and only with the prior approval of the Authority.

- 59.15. OFFICIAL-SENSITIVE information shall only be sent when it is known that the recipient has been made aware of and can comply with the requirements of these security conditions and subject to any explicit limitations that the authority shall require. Such limitations, including any regarding publication, further circulation or other handling instructions shall be clearly identified in the email sent with the material.
- 59.16. OFFICIAL information may be discussed on fixed and mobile telephones with persons located both within the UK and overseas. OFFICIAL-SENSITIVE information may be discussed on fixed and mobile types of telephone within the UK, but not within earshot of unauthorised persons.
- 59.17. OFFICIAL information may be faxed to recipients located both within the UK and overseas, however OFFICIAL-SENSITIVE information may be faxed only to UK recipients.

Use of Information Systems

59.18. The detailed functions that must be provided by an IT system to satisfy the minimum requirements cannot all be described here; it is for the implementers to identify possible means of attack and ensure proportionate security mitigations are applied to prevent a successful attack.

59.19. The contractor shall ensure 10 Steps to Cyber Security is applied in a proportionate manner for each IT and communications system storing, processing or generating MOD UK OFFICIAL or OFFICIAL-SENSITIVE information. 10 Steps to Cyber Security is available at:

<https://www.ncsc.gov.uk/guidance/10-steps-cyber-security>

The contractor shall ensure competent personnel apply 10 Steps to Cyber Security.

59.20. As a general rule, any communication path between an unauthorised user and the data can be used to carry out an attack on the system or be used to compromise or ex-filtrate data.

59.21. Within the framework of the 10 Steps to Cyber Security, the following describes the minimum-security requirements for processing and accessing OFFICIAL-SENSITIVE information on IT systems.

59.22. Access Physical access to all hardware elements of the IT system is to be strictly controlled. The principle of "least privilege" will be applied to System Administrators. Users of the IT System -Administrators should not conduct 'standard' User functions using their privileged accounts.

59.23. Identification and Authentication (ID&A). All systems shall have the following functionality:

59.23.1. Up-to-date lists of authorised users.

59.23.2. Positive identification of all users at the start of each processing session.

59.24. Passwords. Passwords are part of most ID&A, Security Measures. Passwords shall be 'strong' using an appropriate method to achieve this, for example including numeric and "special" characters (if permitted by the system) as well as alphabetic characters.

59.25. Internal Access Control. All systems shall have internal Access Controls to prevent unauthorised users from accessing or modifying the data.

59.25.1. Data Transmission. Unless the Authority authorises otherwise, OFFICIAL- SENSITIVE information shall be transmitted or accessed electronically (e.g. point to point computer links) via a public network like the Internet, using a CPA product or equivalent as described in Clause 59.13 above,

59.25.2. Security Accounting and Audit. Security relevant events fall into two categories, namely legitimate events and violations.

59.25.3. The following events shall always be recorded:

59.25.3.1. All log on attempts whether successful or failed,

59.25.3.2. Log off (including time out where applicable),

59.25.3.3. The creation, deletion or alteration of access rights and privileges,

59.25.3.4. The creation, deletion or alteration of passwords,

59.25.4. For each of the events listed above, the following information is to be

recorded:

59.25.4.1. Type of event,

59.25.4.2. User ID,

59.25.4.3. Date & Time,

59.25.4.4. Device ID, The accounting records shall have a facility to provide the System Manager with a hard copy of all or selected activity. There shall also be a facility for the records to be printed in an easily readable form. All security records are to be inaccessible to users without a need to know. If the operating system is unable to provide this then the equipment shall be protected by physical means when not in use i.e. locked away or the hard drive removed and locked away.

59.25.5. Integrity & Availability. The following supporting measures shall be implemented:

59.25.5.1. Provide general protection against normally foreseeable accidents/mishaps and known recurrent problems (e.g. viruses and power supply variations),

59.25.5.2. Defined Business Contingency Plan/Continuity Plan

59.25.5.3. Data backup with local storage,

59.25.5.4. Anti-Virus Software (Implementation, with updates, of an acceptable industry standard Anti-virus software),

59.25.5.5. Operating systems, applications and firmware should be supported,

59.25.5.6. Patching of Operating Systems and Applications used shall be in line with the manufacturers recommended Schedule. If patches cannot be applied an understanding of the resulting risk will be documented,

59.25.6. Logon Banners Wherever possible, a "Logon Banner" shall be provided to summarise the requirements for access to a system which may be needed to institute legal action in case of any breach occurring. A suggested format for the text (depending on national legal requirements) could be:

"Unauthorised access to this computer system may constitute a criminal offence"

59.26. Unattended Terminals. Users are to be automatically logged off the system if their terminals have been inactive for some predetermined period of time, or systems must activate a password protected screen saver after 15 minutes of inactivity, to prevent an attacker making use of an unattended terminal.

59.27. Internet Connections. Computer systems shall not be connected direct to the Internet or 'untrusted' systems unless protected by a firewall (a software based personal firewall is the minimum but risk assessment and management must be used to identify whether this is sufficient).

59.28. Disposal Before IT storage media (e.g. disks) are disposed of, an erasure product shall be used to overwrite the data. This is a more thorough process than deletion of files, which does not remove the data.

Laptops

- 59.29. Laptops holding any MOD supplied or contractor generated OFFICIAL-SENSITIVE information are to be encrypted using a CPA product or equivalent as described above.
- 59.30. Unencrypted laptops not on a secure site are to be recalled and only used or stored in an appropriately secure location until further notice or until approved full encryption is installed. Where the encryption policy cannot be met, a Risk Balance Case that fully explains why the policy cannot be complied with and the mitigation plan, which should explain any limitations on the use of the system, is to be submitted to the Authority for consideration. Unencrypted laptops and drives containing personal data are not to be taken outside of secure sites. For the avoidance of doubt the term "drives" includes all removable, recordable media (e.g., memory sticks, compact flash, recordable optical media e.g. CDs and DVDs), floppy discs and external hard drives.
- 59.31. Any token, touch memory device or password(s) associated with the encryption package is to be kept separate from the machine whenever the machine is not in use, left unattended or in transit.
- 59.32. Portable CIS devices are not to be left unattended in any public location. They are not to be left unattended in any motor vehicles either in view or in the boot or luggage compartment at any time. When the vehicle is being driven the CIS is to be secured out of sight in the glove compartment, boot or luggage compartment as appropriate to deter opportunist theft.

Loss and Incident Reporting

- 59.33. The contractor shall immediately report any loss or otherwise compromise of any OFFICIAL or OFFICIAL-SENSITIVE information to the Authority.
- 59.34. Accordingly, in accordance with Industry Security Notice 2014/02 as may be subsequently updated at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/293480/ISN_2014_02_Incident_Reporting.pdf

any security incident involving any MOD owned, processed, or Contractor generated OFFICIAL or OFFICIAL-SENSITIVE information defined in the contract Security Aspects Letter shall be immediately reported to the MOD Defence Industry Warning, Advice and Reporting Point (WARP), within the Joint Security Co-ordination Centre (JSyCC). This will assist the JSyCC in formulating a formal information security reporting process and the management of any associated risks, impact analysis and upward reporting to the MOD's Chief Information Officer (CIO) and, as appropriate, the company concerned. The MOD WARP will also advise the contractor what further action is required to be undertaken.

JSyCC WARP Contact Details

Email: For those with access to the RLI: CIO-DSAS-JSyCCOperations
Email: For those without access to the RLI: CIO-DSAS-JSyCCOperations@mod.gov.uk
Telephone: Working Hours: 0306 770 2187
Out of Hours/Duty Officer Phone: 07768 558863
Fax: 01480 446328
Mail: Joint Security Co-ordination Centre (JSyCC), X007 Bazalgette Pavilion, RAF Wyton, Huntingdon, Cambs, PE28 2EA.

Sub-Contracts

- 59.35. The Contractor may Sub-contract any elements of this Contract to Sub-contractors within the United Kingdom notifying the Authority. When sub-contracting to a Sub-contractor located in the UK the Contractor shall ensure that these Security Conditions shall be incorporated

within the Sub-contract document. The prior approval of the Authority shall be obtained should the Contractor wish to Sub-contract any OFFICIALSENSITIVE elements of the Contract to a Sub-contractor located in another country. The first page of Appendix 5 (MOD Form 1686 (F1686)) of the Security Policy Framework Contractual Process chapter is to be used for seeking such approval. The MOD Form 1686 can be found at Appendix 5 at:

[https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/367494/Contractual Process - Appendix 5 form.doc](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/367494/Contractual_Process_-_Appendix_5_form.doc).

If the Sub-contract is approved, the Authority shall provide the Contractor with the security conditions that shall be incorporated within the Sub-contract document.

Publicity Material

- 59.36. Contractors wishing to release any publicity material or display hardware that arises from this contract shall seek the prior approval of the Authority. Publicity material includes open publication in the contractor's publicity literature or website or through the media; displays at exhibitions in any country; lectures or symposia; scientific or technical papers, or any other occasion where members of the general public may have access to the information even if organised or sponsored by the MOD, Services or any other government department.

Private Venture

- 59.37. Any defence related Private Venture derived from the activities of this Contract are to be formally assessed by the Authority for determination of its appropriate classification. Contractors are to submit a definitive product specification for PV Security Grading in accordance with the requirement detailed at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/414857/201503_10_PV_Ex_Guidance_Document.pdf

Promotions and Potential Export Sales

- 59.38. Contractors wishing to promote, demonstrate, sell or export any material that may lead to the release of information or equipment classified OFFICIAL-SENSITIVE (including classified tactics, training or doctrine related to an OFFICIAL-SENSITIVE equipment) are to obtain the prior approval of the Authority utilising the MOD Form 680 process, as identified at:

<https://www.gov.uk/mod-f680-applications>.

Destruction

- 59.39. As soon as no longer required, OFFICIAL and OFFICIAL-SENSITIVE information/material shall be destroyed in such a way as to make reconstitution unlikely, for example, by burning, shredding or tearing into small pieces. Advice shall be sought from the Authority when information/material cannot be destroyed or, unless already authorised by the Authority, when its retention is considered by the Contractor to be necessary or desirable. Unwanted OFFICIAL-SENSITIVE information/material which cannot be destroyed in such a way shall be returned to the Authority.

Interpretation/Guidance

- 59.40. Advice regarding the interpretation of the above requirements should be sought from the Authority.
- 59.41. Further requirements, advice and guidance for the protection of MOD information at the level of OFFICIAL-SENSITIVE may be found in Industry Security Notices at:

<https://www.gov.uk/government/publications/industry-security-notices-isns>.

Audit

59.42. Where considered necessary by the Authority, the Contractor shall provide evidence of compliance with this Security Condition and/or permit the inspection of the Contractors processes and facilities by representatives of the Authority to ensure compliance with these requirements.

60. Entire Agreement

60.1. 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 60.1 shall not exclude liability in respect of any fraudulent misrepresentation.

61. Continuing Obligations

61.1. Save as otherwise expressly provided in this Contract or as already taken into account in the calculation of any payment on termination pursuant to this Contract:

61.1.1. termination of this Contract shall be without prejudice to any accrued rights or obligations under this Contract prior to termination; and

61.1.2. termination of this Contract shall not affect the continuing rights and obligations of the Contractor and the Authority under:

61.1.2.1. Condition 55 (TUPE), Condition 33 (Background Information), Condition 35 (Documents, Drawing and Information), Condition 17 (Financial Consequences of Termination), Condition 34 (Retention of Records), DEFCON 530 (Dispute Resolution (English Law)), DEFCON 609 (Contractor's records).

61.1.2.2. any other provision of this Contract which is expressed to survive termination, or which is required to give effect to such termination or the consequences of such termination.

62. Gainshare

62.1. Should either the Authority or the Contractor propose either a change to the Contract or an improved way of working which it is believed will result in a benefit to both the Authority and the Contractor, following discussions the Contractor shall raise a detailed proposal, including full details of the proposed benefit that would accrue to the Authority in approving the implementation of such a change. The proposal shall also include the Contractor's proposal for sharing of any resultant financial benefit based on the net effect of such a change.

62.2. In such cases both Parties shall consider whether the proposed change should be implemented. If approved by both Parties, the sharing arrangements and method of payment shall be agreed on a case-by-case basis.

62.3. Contractors shall also maintain an 'Efficiencies and Benefits Register' (Schedule 15) which details any efficiencies, improvements or benefits as a result of improved ways of working during the duration of the contract, regardless of whether these efficiencies were shared with the Authority via the Gainshare mechanism under the provisions of 62.1 and 62.2 above. This record shall include a brief description of the change and a metric for how the boat

performance or availability, the time taken to complete a work package, and / or the cost required to complete a work package will change as a result. The review of the Efficiencies and Benefits Register shall be a standing agenda item at Boats Meetings each month where any entries shall be jointly agreed. The register shall be made available to the Authority on demand.

63. Social Value

- 63.1. No later than three (3) months from the Contract Effective Date, the Authority and Contractor will agree a Performance Indicator to monitor the commitment your organisation is making under each Social Value theme at Schedule 16A (Social Value – Tackling Economic Inequality – Create new businesses, new jobs, and new skills), Schedule 16B (Social Value – Tackling economic inequality – Increase supply chain resilience and capacity), Schedule 16C (Social Value - Fighting Climate Change – Effective stewardship of the environment) and Schedule 16D (Social Value - Equal Opportunity – Tackle Workforce inequality) to ensure that opportunities under the contract are being delivered.

64. NOT USED

65. Permissible Delays

- 65.1. For avoidance of doubt, this Condition 6565 only applies to a MOD Boats Form 2010A to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A) or a MOD Boats Form 1030 (Defect Rectification Form) to Schedule 5A (BISS Forms) or a MOD Boats Form 1020 (Work Request Form) to Schedule 5A (BISS Forms), that the Contractor shall undertake in accordance with Condition 13 (Key Performance Indicators).

- 65.2. The Contractor shall notify the Authority in writing within five (5) Calendar Days of the occurrence of a Delay Event and may request in writing an extension to the date(s) specified in a MOD Boats Form 2010A to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A) or MOD Boats Form 1030 (Planned Maintenance Package Defect Rectification) to Schedule 5A (BISS Forms) or a MOD Boats Form 1020 (Work Request Form) to Schedule 5A (BISS Forms) is in accordance with Clause 65.3 provided that:

65.2.1. any Delay Event:

65.2.1.1. was not caused by the error, neglect, act or omission of the Contractor or its Sub-Contractors; and

65.2.1.2. could not reasonably have been, foreseen by the Contractor at the date specified in a MOD Boats Form 2010A to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A) or a MOD Boats Form 1030 (Planned Maintenance Package Defect Rectification) to Schedule 5A (BISS Forms) or a MOD Boats Form 1020 (Work Request Form) to Schedule 5A (BISS Forms); and

65.2.1.3. the Contractor shall have made all reasonable efforts to avoid and mitigate the effects a Delay Event has on the date(s) specified in a MOD Boats Form 2010A to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A) or a MOD Boats Form 1030 (Planned Maintenance Package Defect Rectification) to Schedule 5A (BISS Forms) or a MOD Boats Form 1020 (Work Request Form) to Schedule 5A (BISS Forms).

- 65.3. A request for an extension of time to the date(s) specified in a MOD Boats Form 2010A to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A) or a MOD Boats Form 1030 (Planned Maintenance Package Defect Rectification) to Schedule 5A (BISS Forms) or a MOD Boats Form 1020 (Work Request Form) to Schedule 5A (BISS Forms), shall be submitted by the Contractor to the Authority within five (5) Calendar Days of the occurrence of the Force Majeure Event or Delay Event and shall include:
- 65.3.1. demonstrable evidence of the cause and extent of the delay including;
 - 65.3.2. a statement on the effect the event has, or will have on the critical programme path or will be delayed;
 - 65.3.3. those contractual obligations which have been affected by the delay;
 - 65.3.4. proposals for mitigating the delay, including alternative arrangements.
- 65.4. A failure of the Contractor to notify the Authority in accordance with Clauses 65.2 and 65.3 shall prevent the Contractor from claiming an extension to the date(s) specified in a MOD Boats Form 2010A to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A) or a MOD Boats Form 1030 (Planned Maintenance Package Defect Rectification) to Schedule 5A (BISS Forms) or a MOD Boats Form 1020 (Work Request Form) to Schedule 5A (BISS Forms).
- 65.5. The Contractor shall:
- 65.5.1. advise the Authority immediately in writing that the Delay Event has ended; and
 - 65.5.2. as soon as reasonably practicable thereafter, and no later than fifteen (15) Calendar Days after the end of the Delay Event, submit in writing details of the length of extension to the date(s) specified in a MOD Boats Form 2010A to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A) or a MOD Boats Form 1030 (Planned Maintenance Package Defect Rectification) to Schedule 5A (BISS Forms) or a MOD Boats Form 1020 (Work Request Form) to Schedule 5A (BISS Forms) claimed including evidence that the critical path has been delayed.
- 65.6. Any extension of time granted or rejected by the Authority pursuant to this Condition 65 shall be fair and reasonable. For the avoidance of doubt the Authority shall have a right to grant an extension to the date(s) specified in a MOD Boats Form 2010A to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A) or a MOD Boats Form 1030 (Planned Maintenance Package Defect Rectification) to Schedule 5A (BISS Forms) or a MOD Boats Form 1020 (Work Request Form) to Schedule 5A (BISS Forms), irrespective of any claim by the Contractor.
- 65.7. For the avoidance of doubt, any act or omission of the Authority causing a Delay Event to work under a MOD Boats Form 2010A to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A) or a MOD Boats Form 1030 (Planned Maintenance Package Defect Rectification) to Schedule 5A (BISS Forms) or a MOD Boats Form 1020 (Work Request Form) to Schedule 5A (BISS Forms), shall not necessarily be a Delay Event in respect of any subsequent MOD Boats Form 2010A to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A) or a MOD Boats Form 1030 (Planned Maintenance Package Defect Rectification) to Schedule 5A (BISS Forms) or a MOD Boats Form 1020 (Work Request Form) to Schedule 5A (BISS Forms) if the work to be undertaken is detailed in Condition 13 (Key Performance Indicators).

66. Termination for A Permissible Delay

- 66.1. If a Permissible Delay is continuing, or its consequence remains such that the affected Party is unable to comply with its obligations under this Contract, for a period of more than one hundred and twenty (120) Calendar Days, then either Party may (subject to Clause 66.2 below) terminate this Contract or part thereof by serving upon the other Party a Termination Notice stating that:
- 66.1.1. It is terminating the Contract pursuant to Condition 66 and
- 66.1.2. The Contract shall terminate on the day falling fifteen (15) Calendar Days after the date of the Termination Notice.
- 66.2. If the Termination Notice has been served by the Contractor, the Authority may elect to require the Contract or part thereof to continue by serving the Contractor with written notice of such and the Parties shall agree a fair and reasonable adjustment in accordance with DEFCON 503 (Formal Amendments to Contract). The Contract or part thereof shall not terminate until the earlier of:
- 66.2.1. any applicable date for the termination or expiry of this Contract set out in Condition 6 (Duration); and
- 66.2.2. the expiry of any subsequent written notice (of at least thirty (30) Calendar Days) from the Authority to the Contractor that it wishes this Contract to terminate.
- 66.3. Subject to Clause 66.2 above the Contract shall terminate upon the expiry of fifteen (15) Calendar Days from the date of the Termination Notice.

67. Take Over/Tow-Out Option

- 67.1. The Authority shall, within fifteen (15) Calendar Days after termination of this Contract in accordance with Condition 14 (Termination for Contractor Default) or Condition 66 (Termination for a Permissible Delay), have the right to elect to take possession of the boat, documentation and other deliverables in their current state and to:
- 67.1.1. complete such work as be necessary in order to remove the Boat(s), documentation and other deliverables from the Contractors Premises or the premises of a Sub-Contractor, using the premises, labour, plant, machinery and equipment of the Contractor or Sub-Contractor (at the Contractor's risk); and
- 67.1.2. remove the Boat(s), documentation and other deliverables from the Contractors Premises or the premises of a Sub-Contractor in order to complete the Boats(s) elsewhere in accordance with this Contract.
- 67.1.3. upon giving prior written notice of such to the Contractor.
- 67.2. In the event that the Contract is terminated in accordance with Condition 14 (Termination for Contractor Default) all reasonable costs and expenses incurred by the Authority in exercising its rights in accordance with Clause 67.1 and completing the MOD Boats Form 2010A to Schedule 5B (Take-On Take-Off and Acceptance – Type B) or MOD Boats Form 2010A to Schedule 5C (Take-On Take Off and Acceptance – Type A) or a MOD Boats Form 1020 (Work Request Form) to Schedule 5A (BISS Forms) elsewhere shall be deducted from any outstanding payments to be made to the Contractor if the same be sufficient and if the same is not sufficient, such reasonable costs and expenses shall be made good by the Contractor on demand.

- 67.3. This Condition shall not apply if the Contractor has commenced action under DEFCON 530 (Dispute Resolution) at any time prior to the Authority exercising its rights in accordance with Clause 67.1.

68. Financial Consequences of Termination for a Permissible Delay

Termination for a Permissible Delay

- 68.1. Where this Contract is terminated pursuant to Condition 66 (Termination for a Permissible Delay), the provisions of Clauses 68.2 to 68.4 below shall apply.
- 68.2. Subject to Clause 68.3 below, where the Contract has been terminated in accordance with Condition 66 (Termination for a Permissible Delay) the Contractor shall promptly refund to the Authority the full amount of sums paid by the Authority to the Contractor under Condition 12 (Payment).
- 68.3. The Contractor shall only be entitled to be paid from the sums refunded to the Authority in accordance with Clause 68.2 for any aspect of the Contractor Deliverables that it has, as at the Termination Date, delivered to the Authority in accordance with the Contract (subject to any other provisions of this Contract affecting the level of such payment).
- 68.4. The Authority shall not be entitled to a refund under Clause 68.2 above where:
- 68.4.1. the permissible delay is caused entirely by an act or omission of the Authority; or
- 68.4.2. the Authority has exercised its right to Take Over/Tow-Out in accordance with Clause 67.1 above.

Miscellaneous Provisions

- 68.5. Each Party shall pay to the other any amounts payable pursuant to Condition 68 within twenty (20) business days of the Termination Date (or, if later, within twenty (20) business days of the amount being identified by both Parties as being payable, where it was not possible to determine on the Termination Date that such amount was payable).
- 68.6. Any payment made by the Authority to the Contractor or by the Contractor to the Authority, pursuant to this Condition 68 shall be in full satisfaction of the liability of the paying Party and shall be the sole remedy of the receiving Party in relation to this Condition 68.

69. DEFFORM 711 – Notification of Intellectual Property Rights (IPR) Restrictions

- 69.1. Where any of the conditions listed below (69.1.1 to 69.1.4) form part of the terms and conditions of the Contract or where other similar notification obligations exist, the Contractor warrants and confirms that all Intellectual Property Rights restrictions and associated export restrictions relating to the use or disclosure of the Contractor Deliverables that are notifiable under those conditions, or of which the Contractor is or should reasonably be aware as at the date of the Contract, are disclosed in DEFFORM 711, attached at Schedule 17 (DEFFORM 711 – Notification of Intellectual Property Rights (IPR) Restrictions to the Contract).
- 69.1.1. DEFCON 15 - (including notification of any self-standing background Intellectual Property).
- 69.1.2. DEFCON 90 - including copyright material supplied under clause 5.
- 69.1.3. DEFCON 91 - limitations of Deliverable Software under clause 3b.

69.1.4. DEFCON 632 - notifications under clause 1.

69.2. The Contractor shall promptly notify the Authority in writing if they become aware during the performance of the Contract of any required additions, inaccuracies or omissions in DEFFORM 711.

69.3. Any amendment to DEFFORM 711 shall be made in accordance with DEFCON 503.

70. Limitations on Liability

Definitions

70.1. In this Condition 70 the following words and expressions shall have the meanings given to them, except where the context requires a different meaning:

“Charges” means any of the charges for the provision of the Services, Contractor Deliverables and the performance of any of the Contractor’s other obligations under this Contract, as determined in accordance with this Contract;

“Data Protection Legislation” means all applicable Law in force from time to time in the UK relating to the processing of personal data and privacy, including but not limited to:

- (1) UK GDPR;
- (2) DPA 2018; and
- (3) the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426) as amended, each to the extent that it relates to the processing of personal data and privacy;

“Default” means any breach of the obligations of the relevant Party (including fundamental breach or breach of a fundamental term) or any other default, act, omission, negligence or statement of the relevant Party, its employees, servants, agents or subcontractors in connection with or in relation to the subject matter of this Contract and in respect of which such Party is liable to the other. In no event shall a failure or delay in the delivery of an Authority responsibility or an activity to be carried out by the Authority or its representatives in accordance with the Contract be considered a Default;

‘DPA 2018’ means the Data Protection Act 2018;

“Law” means any applicable law, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, regulation, order, regulatory policy, mandatory guidance or code of practice judgment of a relevant court of law, or directives or requirements of any regulatory body, delegated or subordinate legislation or notice of any regulatory body;

“Service Credits” means the amount that the Contractor shall credit or pay to the Authority in the event of a failure by the Contractor to meet the agreed Service Levels as set out/referred to in Condition 72 (Service Credits and Incentive Adjustments);

“Term” means the period commencing on the Contract Effective Date and ending on the Expiry Date or on earlier termination of this Contract.

‘UK GDPR’ means the General Data Protection Regulation (Regulation (EU) 2016/679) as retained in UK law by the EU (Withdrawal) Act 2018 and the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019;

Unlimited liabilities

70.2. Neither Party limits its liability for:

70.2.1. death or personal injury caused by its negligence, or that of its employees, agents or sub-contractors (as applicable);

70.2.2. fraud or fraudulent misrepresentation by it or its employees;

70.2.3. breach of any obligation as to title implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or

70.2.4. any liability to the extent it cannot be limited or excluded by law.

70.3. The financial caps on liability set out in Clauses 70.4 and 70.6 below shall not apply to the following:

70.3.1. for any indemnity given by the Contractor to the Authority under this Contract, including but not limited to:

70.3.1.1. the Contractor's indemnity in relation to DEFCON 91 (Intellectual Property in Software) and DEFCON 632 (Third Party IP - Rights and Restrictions);

70.3.1.2. the Contractor's indemnity in relation to TUPE at Condition 55 (Transfer Regulations (Transfer Undertaking (Protection of Employment)));

70.3.2. for any indemnity given by the Authority to the Contractor under this Contract, including but not limited to:

70.3.3. the Authority's indemnity under DEFCON 514A (Failure of Performance under Research and Development Contracts);

70.3.4. the Authority's indemnity in relation to TUPE under at Condition 55 (Transfer Regulations (Transfer Undertaking (Protection of Employment)));

70.3.5. breach by the Contractor of DEFCON 532A and Data Protection Legislation; and

70.3.6. to the extent it arises as a result of a Default by either Party, any fine or penalty incurred by the other Party pursuant to Law and any costs incurred by such other Party in defending any proceedings which result in such fine or penalty.

70.3.7. For the avoidance of doubt any payments due from either of the Parties to the other in accordance with DEFCON 811 or the Defence Reform Act 2014 and/or the Single Source Contract Regulations 2014, as amended from time to time, shall not be excluded or limited under the provisions of Clause 70.5 and/or 70.6 below.

Financial limits

70.4. Subject to Clauses 70.2 and 70.370.270.3 and to the maximum extent permitted by Law:

70.4.1. throughout the Term the Contractor's total liability in respect of losses that are caused by Defaults of the Contractor shall in no event exceed:

70.4.1.1. in respect of DEFCON 76 £ pounds (£11,250,000) in aggregate;

70.4.1.2. in respect of Condition 17 £ pounds (£12,500,000) in aggregate;

70.4.1.3. in respect of DEFCON 611 £ pounds (£12,250,000) in aggregate;
and

70.4.1.4. in respect of DEFCON 612 £ pounds (£12,250,000) in aggregate;

70.4.1.5. without limiting Clause 70.5.1 and subject always to Clauses 70.2, 70.3 and 70.5, the Contractor's total liability throughout the Term in respect of all other liabilities (but excluding any Service Credits paid or payable in accordance with Condition 72 (Service Credits and Incentive Adjustments), whether in contract, in tort (including negligence), arising under warranty, under statute or otherwise under or in connection with this Contract shall be £ pounds (£5,000,000) in aggregate;

70.5. on the exercise of any and, where more than one, each option period or agreed extension to the Term, the limitation of the Contractor's total liability (in aggregate) set out in Clauses 70.4.1 and 70.4.1.5 above shall be fully replenished such that on and from each such exercise or extension of the Term, the Authority shall be able to claim up to the full value of the limitation set out in Clauses 70.4.1 and 70.4.1.5 of this Contract.

70.6. Subject to Clauses 70.2, 70.3 and 70.7, and to the maximum extent permitted by Law the Authority's total liability (in aggregate) whether in contract, in tort (including negligence), under warranty, under statute or otherwise under or in connection with this Contract shall in respect of all liabilities (taken together) be limited to the Charges paid by the Authority in the relevant Contract Year in respect of any and all claims in that Contract Year.

70.7. Clause 70.6 shall not exclude or limit the Contractor's right under this Contract to claim for the Charges.

Consequential loss

70.8. Subject to Clauses 70.2, 70.3 and 70.9, neither Party shall be liable to the other Party or to any third party, whether in contract (including under any warranty), in tort (including negligence), under statute or otherwise for or in respect of:

70.8.1. indirect loss or damage;

70.8.2. special loss or damage;

70.8.3. consequential loss or damage;

70.8.4. loss of profits (whether direct or indirect);

70.8.5. loss of turnover (whether direct or indirect);

70.8.6. loss of business opportunities (whether direct or indirect); or

70.8.7. damage to goodwill (whether direct or indirect), even if that Party was aware of the possibility of such loss or damage to the other Party.

70.9. The provisions of Clause 70.8 shall not restrict the Authority's ability to recover any of the following losses incurred by the Authority to the extent that they arise as a result of a Default by the Contractor:

70.9.1. any additional operational and administrative costs and expenses arising from the Contractor's Default, including any costs paid or payable by the Authority:

- 70.9.1.1. to any third party;
- 70.9.1.2. for putting in place workarounds for the Contractor Deliverables and other deliverables that are reliant on the Contractor Deliverables; and
- 70.9.1.3. relating to time spent by or on behalf of the Authority in dealing with the consequences of the Default;
- 70.9.2. any or all wasted expenditure and losses incurred by the Authority arising from the Contractor's Default, including wasted management time;
- 70.9.3. the additional cost of procuring and maintaining in place transitional assistance and replacement deliverables for the remainder of the Term and any option period or agreed extension to the Term (including legal and other consultants' fees, procurement project costs, other expenses associated with such exercise and any increase in the fees for the replacement services over and above the Contract Price that would have been payable for the relevant Contractor Deliverables);
- 70.9.4. any losses arising in connection with the loss, destruction, corruption, inaccuracy or degradation of Authority data, or other data or software, including, to the extent the Authority data, other data or software can be recovered or reconstituted, the fees, costs and expenses of reconstituting such Authority data, data or software;
- 70.9.5. damage to the Authority's physical property and tangible assets, including damage under DEFCON 76 and 611;
- 70.9.6. costs, expenses and charges arising from, or any damages, account of profits or other award made for, infringement of any third-party Intellectual Property Rights or breach of any obligations of confidence;
- 70.9.7. any additional costs incurred by the Authority in relation to the Authority's contracts with a third party (including any compensation or interest paid to a third party by the Authority) as a result of the Default (including the extension or replacement of such contracts);
- 70.9.8. any savings, discounts or price reductions during the Term and any option period or agreed extension to the Term committed to by the Contractor pursuant to this Contract.

Invalidity

- 70.10. If any limitation or provision contained or expressly referred to in this Condition 70 is held to be invalid under any Law, it will be deemed to be omitted to that extent, and if any Party becomes liable for loss or damage to which that limitation or provision applied, that liability will be subject to the remaining limitations and provisions set out in this Condition 70.

Third party claims or losses

- 70.11. Without prejudice to any other rights or remedies the Authority may have under this Contract (including but not limited to any indemnity claim under DEFCONs 91 and 632 or at Law), the Authority shall be entitled to make a claim under this Contract against the Contractor in respect of any losses incurred by the Authority which arise out of a claim made against the Authority by a third party under any contract with that third party provided that such third party claim:
 - 70.11.1. arises naturally and ordinarily as a result of the Contractor's failure to provide the Contractor Deliverables or failure to perform any of its obligations under this Contract; and

70.11.2. is a type of claim or loss that would have been recoverable under this Contract if the third party were a party to this Contract (whether as the Authority or the Contractor), such claim to be construed as direct losses for the purpose of this Contract.

No double recovery

70.12. Neither Party shall be entitled to employ such rights and remedies available to it so as to seek to recover

70.13. more than once in respect of the same loss, but the Authority shall be entitled to use (singly or together) such rights and remedies available to the Authority so as to recover the full extent of any recoverable losses suffered or incurred, including any remedies the Authority may have against any guarantor.

71. Security Access Requirement

71.1. The Contractor shall ensure that all employees (including sub-contractors) that may be required to attend MOD sites (including but not limited to: Britannia Royal Naval College, Horsea Island, HMNB Clyde, HMNB Devonport, HMNB Gibraltar, HMNB Portsmouth, HMS Excellent and HMS Raleigh) must have the required personnel security and vetting in accordance with United Kingdom Security Vetting (UKSV) Requirements in order to gain UNESCORTED (or ESCORTED if prior approval is obtained) access. A Permissible Delay will not be granted to the Contractor if there are delays to employees undertaking personnel security or vetting requirements.

72. Service Credits and Incentive Adjustments

72.1. The Authority will not apply Service Credits to the first three (3) Planned Maintenance Packages in Financial Year 1 under Clause 72.1.1 below, although Incentive Adjustments will still be applicable from day 1 of the Contract Effective Date.

72.1.1. The Service Credits that the Authority will apply under Condition 13 (Key Performance Indicators) are listed below.

KPI Title	KPI Sub-title	Invocation Point	Service Credits
1 – Planned Maintenance Package	1.1 Achieve Delivery Date	Refer to Clause 13.1.1 above.	A Service Credit rate will be applied at a cumulative rate of 5% of the task value per day, for a maximum of 10 business days (50%), to be deducted from the next due invoice, as applicable:
1 – Planned Maintenance Package	1.2 Defect Rectification		
2.2	Spares – Delivery	After delivery timescales have elapsed.	PMP and OPDEF responses – rate applied to total value of PMP or OPDEF.
4	OPDEF responses	After period agreed between the Authority and the Contractor has elapsed.	Spares – rate applied to each individual spare.

72.1.2. The Incentive Adjustments that can be granted by the Authority under Condition 13 (Key Performance Indicators) are listed below.

KPI	KPI Title	Invocation Point	Incentive Adjustment
1	PMPs (Achieve Delivery Date and Defect Rectification)	Refer to Invocation table below	A one-off payment of 1% of the task value will be applied to the total value of that PMP invoice.

Boat Class	Invocation Point
Not applicable	

72.2. If the Contract is terminated, or termination proceedings have begun before the end of the Financial Year, any accrued and unpaid Incentive Adjustments will be retained by the Authority.

72.3. The provisions of this Clause are without prejudice to any other rights of the Authority under the Contract, including but not limited to those under Condition 14 (Termination for Contractor Default). Accordingly, in the event that the Authority terminates the Contract, Service Credits shall be due under Clause 72.1.1 above until the date of such termination.

72.4. Unless expressly stated by the Authority in writing, the provisions of DEFCON 527 (Waiver) shall apply to the Authority's right to recover Service Credits under this Condition.

73. Progress Meetings and Progress Reports

73.1. In addition to DEFCON 642 (Progress Meetings) and DEFCON 604 (Progress Reports), the Contractor shall attend progress meeting on a monthly basis, unless otherwise agreed with the Authority and the agenda will include but not limited to:

- 73.1.1. Overview of key issues (including DRACAS and DORCS report as required)
- 73.1.2. Maintenance delivery schedule
- 73.1.3. Post Design Services status update
- 73.1.4. Key Performance Indicators review
- 73.1.5. Commercial issues

73.2. These progress meetings shall be at no cost to the Authority.

74. Clarification Question Register

74.1. The list of clarifications that was issued during the tender stage is attached at Schedule 18 (Clarification Question Register).

75. Russian and Belarusian Exclusion

75.1. The Contractor shall, and shall procure that their Sub-contractors shall, notify the Authority in writing as soon as they become aware that:

- 75.1.1. the Contractor Deliverables and / or Services contain any Russian / Belarussian products and / or services; or
- 75.1.2. the Contractor or any part of the Contractor's supply chain is linked to entities who are constituted or organised under the law of Russia or Belarus, or under the control (full or

partial) of a Russian / Belarusian person or entity. Please note that this does not include companies:

75.1.2.1. registered in the UK or in a country with which the UK has a relevant international agreement providing reciprocal rights of access in the relevant field of public procurement; and / or

75.1.2.2. which have significant business operations in the UK or in a country with which the UK has a relevant international agreement providing reciprocal rights of access in the relevant field of public procurement.

75.2. The Contractor shall, and shall procure that their Sub-contractors shall, include in such notification (or as soon as reasonably practicable following the notification) full details of the Russian products, services and / or entities and shall provide all reasonable assistance to the Authority to understand the nature, scope and impact of any such products, services and / or entities on the provision of the Contract Deliverables and / or Services.

75.3. The Authority shall consider the notification and information provided by the Contractor and advise the Contractor in writing of any concerns the Authority may have and / or any action which the Authority will require the Contractor to take. The Contractor shall be required to submit a response to the concerns raised by the Authority, including any plans to mitigate those concerns, within 14 business days of receipt of the Authority's written concerns, for the Authority's consideration.

75.4. The Contractor shall include provisions equivalent to those set out in this clause in all relevant Sub-contracts.

76. The Deed of Guarantee and Indemnity given by a Parent Company in respect of a Subsidiary

76.1. The Deed of Guarantee and Indemnity given by a Parent Company in respect of a Subsidiary attached at Schedule 19 (Deed of Guarantee and Indemnity given by a Parent Company in respect of a Subsidiary) covers the Guarantor's obligations to the MOD to provide all resources and facilities (financial or otherwise) to enable the contractor to meet its obligations.

77. Bond given by a Bank as a Deed in respect of a single contract

77.1. The Bond given by a Bank as a Deed in respect of a single contract attached at Schedule 20 (Bond given by a Bank as a Deed in respect of a single contract) covers the Indemnifier's obligations to the MOD.

78. Transition Period

78.1. The transition period will be for the period from Contract Effective Date to 31 March 2026.

78.2. During the transition period, incoming Contractors are expected to procure resources, tooling, infrastructure, and anything else they may need to conduct the work that they have been successful in, at the Contractors own cost, however, they will not be able to take on any priced work until 1 April 2026.

79. Authorised Demanders

- 79.1. The Authority's Authorised Demanders for raising tasks under Condition 22 (Tasking Procedure / Authorisation of Work via BERRYEATER Task Management Tool) or Condition 23 (Tasking Procedure / Authorisation of Work) is detailed in Schedule 14 (Authorised Demanders)

80. Temporary Reallocation of Boat Classes following Termination of a Contract within the BISS26 Framework

- 80.1. In terms of managing the continued support requirements to Boats following termination of a Contract contained within the overarching BISS26 requirement, following notification that termination of a contract will be invoked the Authority shall reserve the right to reallocate in part or in full, boat/spares support to other existing Contracts within the BISS framework subject to a capability review conducted by the Authority. The Contractor shall provide the Authority with any and all relevant information required to conduct this review in a timely manner.
- 80.2. The Maximum duration of a temporary reallocation of Boat Classes will be twelve (12) months, to enable sufficient time to execute a new procurement of the scope contained within the terminated contract.
- 80.3. Should a contract be terminated within twenty four (24) months of the contract expiry date, the Authority will not carry out a new procurement activity.

81. Introduction of a new Boat Class

- 81.1. When new Boat Classes are introduced into this contract, they will be allocated by the Authority to the Contract that most closely fits the procured Boat's usage profile. The Authority's decision on the allocation of new Boat Classes to individual Contract will be final and binding.
- 81.2. Maintenance and Spares Prices for new boats will be agreed on a case-by-case basis between the Authority and the Contractor when the Boats are transitioned into this Contract. These prices will not form part of any assessment for this contract. If a price cannot be agreed, the Authority reserves the right to seek alternative contractual arrangement.
- 81.3. Weighted Average Hourly Rates (WAHR) will not be renegotiated as part of the introduction of a new Boat Class. The Contractor will continue to charge labour rates for new boats in accordance with existing WAHR as stated in Schedule 2A (Statement of Technical Requirement – Pricing).
- 81.4. The Authority may also wish to delete, amend, or add Tariffs to existing Boat Classes during the duration of the contract. Where a Tariff has been amended or added, any extant pricing will be deemed void, and a new price will be agreed on a case-by-case basis between the Authority and the relevant Contractor(s). Any decision to delete, amend or add Tariffs during the contract duration will be at the discretion of the Authority; however, the Contractor shall identify to the Authority where tasks without a Tariff associated with them are being regularly repeated, and therefore both Contractor and Authority may benefit from having a Firm Price associated with them.

82. Pricing of Alternative Transport Routes

- 82.1. Where transportation of goods are requested by the Authority, to be delivered to a destination, which has not been priced within the contract, the Contractor is required to provide a price proportionate in value and distance to those already priced within the Contract.

82.2. Should the cost of delivery deviate from the approach stated at 82.1, the Contractor is required to demonstrate its costs by providing the Authority with supporting information in support of its quotation.

82.3. The Authority reserves the right to query any delivery charge with the Contractor, which deviates with this approach and where proportionate costs cannot be demonstrated to the Authorities satisfaction, the Authority shall offer a fair and proportionate price in response, to ensure timely delivery of goods to its intended destination.

83. Specialist Sub-Contractors

83.1. The agreed list of Specialist Sub-Contractors is detailed in tab 'Annex A' to 'Tab 0' to Schedule 2A (Statement of Technical Requirements – Pricing).