

- 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 656B (Termination for Convenience (Contracts under £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 Summary of Requirements (Schedule 1);
 - 17.4.2. the Statement of Technical Requirement (Schedule 2);
 - 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 2020 (Non-Upkeep Record) to Schedule 5A (Multi-Task Authorisation Form / Work Request Form).
 - 17.4.5. MOD Boats Form 1020 (Work Request Form) to Schedule 5A (Multi-Task Authorisation Form / Work Request Form).
- 17.5. During the relevant Exit Period for Termination, the Parties shall comply with their respective obligations pursuant to Condition 53 (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 (Multi-Task Authorisation Form / Work Request Form) 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 (Multi-Task Authorisation Form / Work Request Form) 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

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: