

DATE: 18 OCTOBER 2024

DSCOM/CB/2255

between

The Secretary of State for Defence
as Authority

and

Foreland Shipping Limited
as Contractor

relating to

Provision of Interim Strategic Sealift (SSL-I)

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THIS AGREEMENT is dated [●] (the "Date of Contract") and made

BETWEEN:

- (1) **THE SECRETARY OF STATE FOR DEFENCE**, (the "Authority"), having its registered office at Redacted under FOIA Section 43, Commercial Interest
- (2) **FORELAND SHIPPING LIMITED**, (the "Contractor"), Redacted under FOIA Section 43, Commercial Interest

BACKGROUND:

- (A) The Authority requires the provision of a strategic sealift service for the Contract Term and for that purpose requires the management, maintenance, and operation of vessels to provide such service and their support.
- (B) The Authority has made known to the Contractor such requirements by means of Schedule A (*Statement of Requirement*).
- (C) The Authority and the Contractor (the "Parties") have now agreed the terms on which the Contractor will provide the Service and have agreed to enter into this Contract.

NOW IT IS AGREED as follows:

PART 1 : INTRODUCTION

1. **Definitions**

- 1.1 The following provisions shall have effect with respect to the interpretation of this Contract, except where the context otherwise requires:

"Aggregate Monthly Payment" has the meaning set out in paragraph 7 of Schedule E (*Performance and Payment*).

"Allowable Cost" shall have the meaning given to it in the SSCR.

"Annual Performance Incentive Adjustment" or "APIA" has the meaning given to it in paragraph 9 (*Performance Incentive Adjustment*) of Schedule E (*Performance and Payment*).

"APM" means a UK based chartered body for the project profession that sets standards and values that describe the benchmark for professional project management. For Earned Value Management and Project Controls, the APM guidelines are embodied in these publications:

- (A) Earned Value Management: APM Guidelines (2008);
- (B) the Earned Value Management Compass (APM,2010);
- (C) the Earned Value Management Handbook (APM, 2013);
- (D) a Guide to Conducting Integrated Baseline Reviews (IBR) (2016);
- (E) Interfacing Risk and Earned Value Management (2008); and
- (F) Planning, Scheduling, Monitoring and Control (APM 2015).

“Approved Broker” means any firm or firms of insurance brokers approved by the Authority which shall on the Effective Date include Redacted under FOIA Section 40, Personal Information

“Approved Panel” has the meaning given to it in paragraph 6 (*Insurance Premium Index*) of Schedule R (*Required Insurances*).

“ARP” means NATO Allied Reaction Plan or successor documented plan to be agreed at the Quarterly Contract Review Meetings.

“Asbestos” shall have the same meaning as “asbestos” defined in Regulation 2 of the Control of Asbestos Regulations 2012 (“CAR”).

“Associated Company” means:

- (A) any associated company of the Contractor from time to time within the meaning of Section 449 of the Corporate Tax Act 2010 or any subordinate legislation; and
- (B) any parent undertaking or subsidiary undertaking of the Contractor from time to time within the meaning of section 1162 Companies Act 2006 and it is further agreed that where the ownership of shares in any such undertaking have been pledged or transferred to a third party by way of security, the original parent shall still be considered a member of the subsidiary undertaking.

“Authority Data” means the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which:

- (A) are supplied to the Contractor by or on behalf of the Authority; and/or
- (B) the Contractor is expressly required to generate for the Authority pursuant to this Contract.

“Authority Permitted Purpose” means the purposes of:

- (A) receiving the Services; and
- (B) exercising the Authority’s rights and performing its obligations under this Contract.

“Authority Use” means the period during which a Vessel is providing Services to the Authority.

“Authority Notice of Change” shall be construed as references to the Authority’s notice issued pursuant to paragraph 2.1 of Schedule P (*Contract Change Control Procedure*).

“Authority’s Privacy Notice” means the Ministry of Defence’s privacy notice in relation to the collection, use and storage of a Sponsored Reservist personal information as may be amended or replaced from time to time.

“Availability Key Performance Indicator” means that the Contractor is carrying out all Services under and in accordance with the terms of the Contract as per Schedule E (*Performance and Payment*).

“Availability KPI Credit” means a KPI Credit in respect of KPI 1, accrued in accordance with paragraph 9 (*Performance Incentive Adjustment*) of Schedule E (*Performance and Payment*).

“Available” is defined as having Availability as per Schedule E (*Performance and Payment*) and KPI 1.

“Background Service IPR” has the meaning given to it in Clause 33.3 (*Service IPR*).

“Bank of England Rate” means the exchange rate published by the Bank of England (or such other bank as may be agreed between the Authority and the Contractor if no such rate is available) for converting a currency other than sterling into sterling.

“Base Date” means 27 March 2024.

“Baseline” means the reference levels (scope, cost, resources, timelines) against which a project, programme or portfolio is monitored and controlled.

“Baseline Change Control” means the process through which all requests to change the approved baseline of a project, programme or portfolio are captured, evaluated and then approved, rejected or deferred.

“Basis of Estimate” means the rationale for the estimates that underpin the budget and schedule data; a definition of how each estimate was derived and any associated assumptions.

“Basis of Schedule” means a record of the planning methodology and context for the schedule, highlighting overall duration, schedule reserve, key dates, critical path and assumptions and relationship with other schedules.

“BCWP” means what the amount of work achieved should have cost, according to the planned budget.

“BCWS” means the detail of the plan, what is being done, and includes the schedule for the expenditure of budgeted resources necessary to meet project scope and schedule objectives, forming the basis for both the time and cost assessment of the progress of a project.

“Call-Out” means call-out for Permanent Service under RFA96 section 43 and ‘Called-Out’ shall be interpreted accordingly.

“Capital Expenditure” means any expenditure which falls to be treated as capital expenditure in accordance with generally accepted accounting practices in the United Kingdom from time to time.

“Cargo” means all items on the Cargo Load List being shipped by a Vessel.

“Cargo Load List” means a list of cargo units to be loaded on a Vessel at each port including the following details: destination, consignor, consignee, identification mark(s), length, breadth, height, weight and if applicable IMDG class, UN Number, Net Explosive Quantity (NEQ) and any special remarks.

“Cargo Stowage Report” means a list of all cargo units on board a Vessel on departure from port including the following details; destination, consignor, consignee, identification mark(s), length, breadth, height, weight and if applicable IMDG class, UN Number, NEQ and any special remarks.

“Central Government Body” means any government departments and their arm’s length bodies, government executive agencies, government non-departmental public bodies, government non-ministerial departments and any other non-market governmental bodies controlled and mainly financed by them.

"Change Acceptance Form" means an unqualified acceptance notice issued by the Contractor in accordance with Clause 29.2.1.2 (*Formal Amendments to the Contract*), using DEFFORM 10B as appended at Annex 1 of Schedule P (*Contract Change Control Procedure*).

"Change Control" means a process for ensuring configuration control and obtaining appropriate approval, subject to Clause 29 (*Change*) of the Contract.

"Change of Law" means the coming into effect after the Base Date of:

- (A) any Law, other than any Law which on the Base Date has been published:
 - (1) in a draft Bill as part of a Government Departmental Consultation Paper;
 - (2) in a Bill; or
 - (3) in a draft statutory instrument;
- (B) any Required Consent; or
- (C) any code of conduct with which the Contractor is under a legal obligation to comply; or
- (D) any applicable judgment of a Relevant Authority which creates binding precedent, which is not the subject of appeal.

"Chief Officer" means the person appointed by the Contractor or on behalf of the Contractor to be the bona fide Mate of any one of the Vessels.

"Child Labour Legislation" means those International Labour Law Conventions concerning economic exploitation of children through the performance of work which is likely to be hazardous or to interfere with a child's health or development, including but not limited to slavery, trafficking, debt bondage or forced labour, which are ratified and enacted into domestic law and directly applicable to the Contractor in the jurisdiction(s) in which it performs the Contract.

"Claimant" shall have the meaning given in Clause 46 (*Conduct of Claims*).

"Classification Society" means Lloyds Register.

"CO2" means carbon dioxide.

"Confidential Information" means

- (A) Information, including all Personal Data, which (however it is conveyed) is provided by the Disclosing Party pursuant to or in anticipation of this Contract that relates to:
 - (1) the Disclosing Party Group; or
 - (2) the operations, business, affairs, developments, intellectual property rights, trade secrets, know-how and/or personnel of the Disclosing Party Group;
- (B) other Information provided by the Disclosing Party pursuant to or in anticipation of this Contract that is clearly designated as being confidential or equivalent or that ought reasonably to be considered to be confidential (whether or not it is so marked) which comes (or has come) to the Recipient's attention or into the Recipient's possession in connection with this Contract;

(C) discussions, negotiations, and correspondence between the Disclosing Party or any of its directors, officers, employees, consultants or professional advisers and the Recipient or any of its directors, officers, employees, consultants and professional advisers in connection with this Contract and all matters arising therefrom; and

(D) Information derived from any of the above,

but not including any Information which:

- (1) was in the possession of the Recipient without obligation of confidentiality prior to its disclosure by the Disclosing Party;
- (2) the Recipient obtained on a non-confidential basis from a third party who is not, to the Recipient's knowledge or belief, bound by a confidentiality agreement with the Disclosing Party or otherwise prohibited from disclosing the information to the Recipient;
- (3) was already generally available and in the public domain at the time of disclosure otherwise than by a breach of this Contract or breach of a duty of confidentiality;
- (4) was independently developed without access to the Confidential Information; or
- (5) relates to the Contractor's:
 - (a) performance under this Contract; or
 - (b) failure to pay any Subcontractor as required pursuant to Clause 23 (*Subcontracting*);

"Commercial Officer" means the authority so designated in the Contract.

"Commercial Use" means the use of a Vessel by an entity other than the Authority. For the avoidance of doubt, a Vessel remains in Authority Use even if in Commercial Use.

"Commercial Use Invoice" has the meaning given to it in paragraph 2.2.4 of Schedule E (*Performance and Payment*).

"Compensation Event" [REDACTED]
[REDACTED] Redacted under FOIA Section 43. Commercial Interest [REDACTED]

[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]
[REDACTED] [REDACTED]

[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]

■ [REDACTED]
[REDACTED]

"Compensation Sum" shall have the meaning given to it in Schedule U (*Compensation for Termination*).

"Compulsory Acquisition" means requisition for title or other compulsory acquisition, nationalisation, requisition, appropriation, expropriation, deprivation, forfeiture or confiscation for any reason of a Vessel by any Government Entity, whether de jure or de facto (but excluding requisition for use or hire by any Government Entity not involving requisition for title).

"consolidated version" means a version of the Contract which incorporates into the body of the Contract all amendments made to the Contract.

"consolidated version date" means:

- (A) where one or more consolidated versions have been issued, the date on which the latest consolidated version was issued; or
- (B) where a consolidated version has not been issued, the date on which the Contract was entered into.

"Contract" means this Contract as concluded between the Authority and the Contractor on the Date of Contract, comprising this document and includes the Schedules referred to herein and any written variations executed from time to time agreed by the Authority in accordance with Clause 29 (*Change*).

"Contract Milestones" means those points in time when the Contractor will achieve or expects to receive significant deliverables under and in accordance with the Contract.

"Contract Month" shall mean calendar month.

"Contract Performance Reports" or "CPR" means a set of reports used in an Earned Value Management System that complies with the APM requirements and EIA 748.

"Contract Price" means the amount specified in the Contractor Databook submitted within the bid proposal as payable by the Authority to the Contractor for fulfilment of its obligations described in Schedule A (*Statement of Requirement*), incorporating amendments agreed between the Parties in accordance with Clause 29.2 (*Formal Amendments to the Contract*).

"Contract Term" shall be, subject to any extension in accordance with Clause 28.2 (*Duration of contract*), the period from the Date of Contract until 31 December 2031, or the earlier termination of this Contract.

"Contract Work Breakdown Structure" or "CWBS" means that portion of the MOD Work Breakdown Structure which devolves the contractor's scope of work into manageable subordinate elements.

"Contract Work Breakdown Structure Dictionary" or "CWBS Dictionary" means the definition of the content of each element in a WBS that makes clear the scope, schedule and cost associated with each element.

"Contracting, Purchasing and Finance" or "CP&F" means a MOD software tool Contracting, Purchasing and Finance.

“Contractor” means the party to this Contract who undertakes to supply the Service to the Authority as provided by this Contract. The expression shall also include any person to whom the benefit of this Contract may lawfully be assigned or novated in accordance with the provisions of this Contract.

“Contractor Change Proposal” shall have the meaning given to it in paragraph 1.2 in Schedule P (*Contract Change Control Procedure*).

“Contractor Databook” means the cost model prepared by or on behalf of the Contractor, which as at the Date of Contract is contained in digital format as referenced in Schedule Z (*Contractor Databook*), as may be updated from time to time in accordance with Schedule C, Annex 1 (*Governance and Reporting*).

“Contractor Deliverables” means the works, goods and / or the services, including packaging (and Certificate(s) of Conformity and supplied in accordance with any QA requirements if specified) which the Contractor is required to provide under the Contract.

“Contractor Permitted Purpose” means the purposes of:

- (A) operation, upkeep, repair, refit, updating and modification of the Vessels and any parts thereof;
- (B) providing the Services; and
- (C) exercising the Contractor’s rights and performing its obligations under this Contract.

“Contractor’s Representative(s)” shall be deemed to include the Contractor’s directors, officers, employees, agents, consultants and subcontractors (including the Crew Employer) engaged in the performance of the Contractor’s obligations under this Contract.

“Contractor’s Schedules” shall have the meaning given in Clause 3.1 (*Responsibility for the documents*) of this Contract.

“Control Account” means an element of the Work Breakdown Structure (WBS) where control of scope, schedule and cost are assigned to a responsible person.

“Controller” means the individual or organisation which, alone or jointly with others, determines the purposes and means of the processing of Personal Data.

“Crew” means the personnel employed or engaged by or on behalf of the Contractor to carry out services on the Vessels, and shall include for the avoidance of doubt, the Master of the Vessel and such personnel when Called-Out in accordance with RFA96.

“Crew Employer” means the entity which employs the crew on behalf of the Contractor. Where the Contractor chooses to subcontract this function they shall inform the Authority and include them as a Principal Subcontractor in Schedule N (*Subcontract Plan*).

“Crew Manager” shall be the entity legally responsible for crewing the Vessels on behalf of the Contractor. Where the Contractor chooses to subcontract this function they shall inform the Authority and include them as a Principal Subcontractor in Schedule N (*Subcontract Plan*).

“Critical Path Analysis” or “CPA” refers to an activity-based scheduling technique that determines the overall duration of the identified work based on estimates and logical dependencies.

“Crown” includes the Authority, and all Ministers of the Crown, government departments and Crown agencies and authorities for the time being.

“Crown Body” means the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the Welsh Government), including government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf.

“CSM Risk Assessment Process” means the risk assessment process which forms part of the Cyber Security Model and is used to measure the Cyber Risk Profile for this Contract and any Principal Subcontract.

“CSM Supplier Assurance Questionnaire” means the supplier assessment questionnaire which forms part of the Cyber Security Model and is to be used by the Contractor to demonstrate compliance with Schedule M (*Cyber*).

“Cyber Implementation Plan” means the plan referred to in paragraph 3 of Schedule M (*Cyber*).

“Cyber Risk Profile” means the level of cyber risk relating to this Contract assessed by the Authority or in relation to any Principal Subcontract assessed by the Contractor, in each case in accordance with the Cyber Security Model.

“Cyber Security Incident” means an event, act or omission which gives rise or may give rise to:

- (A) unauthorised access to an information system or electronic communications network on which MOD Identifiable Information resides;
- (B) disruption or change of the operation (including but not limited to takeover of control) of an information system or electronic communications network on which MOD Identifiable Information resides;
- (C) unauthorised destruction, damage, deletion or the change of MOD Identifiable Information residing in an information system or electronic communications network;
- (D) unauthorised or unintentional removal or limiting the possibility to use MOD Identifiable Information residing in an information system or electronic communications network; or
- (E) the appropriation, publication, dissemination or any other use of non-public MOD Identifiable Information by persons unauthorised to do so.

“Cyber Security Instructions” means DEFSTAN 05-138, together with any relevant Industry Security Notices (ISN) and specific security instructions relating to this Contract issued by the Authority to the Contractor.

“Cyber Security Model” or “CSM” means the process by which the Authority ensures that MOD Identifiable Information is adequately protected from Cyber Security Incident and includes the CSM Risk Assessment Process, DEFSTAN 05-138 and the CSM Supplier Assurance Questionnaire conducted via the Supplier Cyber Protection Service.

“Daily Rate” means the daily rate amount payable by the Authority in respect of a Vessel in Authority Use, as set out in Annex 1 to Schedule E (*Performance and Payment*).

“Daily Reports” shall have the meaning as given in paragraph 6.1 of Schedule C (*Governance and Reporting*).

“Dangerous Goods” means goods, the carriage of which is governed by the International Maritime Dangerous Goods (IMDG) Code published by the International Maritime Organization.

“Data” means any data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media.

“Data Package” means the documents specified in Schedule V (*Data Package*).

“Data Protection Legislation” means all applicable law relating to the processing of Personal Data and privacy and any amendment or re-enactment of those laws and, where applicable, the guidance and codes of practice issued by applicable regulatory bodies by which the Parties are regulated and shall include the EU Data Protection Legislation and UK Data Protection Legislation (as applicable).

“DE&S” means Defence Equipment and Support.

“Default” means any breach of the obligations of the relevant Party (including fundamental breach or breach of a fundamental term) which is continuing 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 provided that where such circumstances are capable of remedy and are remedied within the time period prescribed for such circumstances (if any), such circumstances shall not be considered a Default.

“DefCARS” means the Defence Contract Analysis and Reporting System.

“Defence Reform Act” or “DRA” 2014 means the primary legislation applicable to single source procurement. In the context of DRA:

- (A) ‘Single Source Contract Regulations’ (“SSCR”) 2014, means the secondary legislation applicable to single source procurement;
- (B) ‘Qualifying Defence Contract’ (“QDC”) means a single source contract which has been assessed, and which meets the criteria for a contract to which the DRA and SSCR must apply;
- (C) ‘Single Source Regulations Office’ (“SSRO”) means the Non-Departmental Public Body acting as the independent expert for MOD single source procurement.

“Defence Sourcing Portal” means the Defence Sourcing Portal accessible at <https://www.contracts.mod.uk/> or any replacement thereof for the government procurement opportunities in the defence sector.

“Def Stan” means Defence Standard.

“DEFFORMS” means the Defence Forms.

“Delay Event” Redacted under FOIA Section 43. Commercial Interest

■ [REDACTED]

[REDACTED]
[REDACTED]
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“Direct Agreement” means an agreement between the Authority, the Contractor and a representative of a lender to the Contractor, in form and substance satisfactory to all parties to the agreement.

“Disclosing Party” has the meaning given in Clause 31.1 (*Disclosure of Information*).

"Disclosing Party Group" means

- (A) where the Disclosing Party is the Contractor, the Group; and
- (B) where the Disclosing Party is the Authority, the Authority and any Crown Body with which the Authority or the Contractor interacts in connection with this Contract.

"Dispute" shall have the meaning given in Clause 72.1 (*Dispute Resolution*).

"Dispute Referral Notice or "DRN" shall have the meaning given in Clause 73.4 (*Fast Track Resolution*).

"DSCOM" means the Defence Supply Chain Operations and Movements team.

"Duty" or "Period of Duty" means periods in which a Sponsored Reservist (SR) is acting as a member of the Armed Forces and as such is fully subject to the Service Discipline Act.

"EAC" means the Estimate at Completion.

"Earned Value Management Plan" or "EVMP" means a description of how the Earned Value Management System will be applied.

"Earned Value Management System" or "EVMS" means a sound management approach that provides all levels of management with early visibility into cost and schedule performance. An EVMS will:

- (A) relate time-phased budgets to specific contract tasks or statements of work;
- (B) provide the basis to capture work progress assessments against the baseline plan;
- (C) relate technical, schedule, and cost performance;
- (D) provide valid, timely and auditable data and information for proactive project management analysis and action;
- (E) supply managers with a practical level of summarisation for effective decision making.

"EEA" means the European Economic Area.

"Effective Date" means 1 January 2025 when the Contract becomes operative and the terms of the Contract are implemented by the Authority and Contractor.

"EIRs" means the Environmental Information Regulations 2004, together with any guidance and/or codes of practice issued by the Information Commissioner or any Crown Body in relation to such Regulations.

"Electronic Information" means all information generated, processed, transferred or otherwise dealt with under or in connection with the Contract, including but not limited to Data, recorded or preserved in electronic form and held on any information system or electronic communications network.

"Employee" shall include any person who is an employee or director of the Contractor or who occupies the position of a director of the Contractor, by whatever title given.

"Employee Agreement" has the meaning given in RFA96 section 38(2) and refers to the written agreement between the Secretary of State for Defence and the employee in which the employee agrees to become a SR.

"Employee Liability Information" has the same meaning as in Regulation 11(2) of the Transfer Regulations.

"Employer's Consent" refers to the written consent of an employer required by an employee under RFA96 section 39(2) before they enter into an Employee Agreement.

"Employing Principal Subcontractor" means any Principal Subcontractor who employs or engages any person in providing the Services.

"Environmental Case" means a structured argument, supported by a body of evidence that supports a project's environmental claims by providing a compelling, comprehensible and valid case that the negative environmental impact of a Product, System or Service is prevented or minimised as far as is reasonably practicable, whilst positive impacts are maximised, for a given application in a given operating environment.

"Environmental Condition" means any of the environmental conditions set out in paragraph 8 (*Incidents Attracting KPI Credits*) of Schedule E (*Performance and Payment*).

"Environmental Failure" has the meaning given in paragraph 11.1 (*KPI Credit Relief*) of Schedule E (*Performance and Payment*).

"Environmental KPI Credit" means a KPI Credit in respect of KPI 2, accrued in accordance with paragraph 9 (*Performance Incentive Adjustment*) of Schedule E (*Performance and Payment*).

"Environmental Management Plan" or "EMP" means the plan to be agreed by the Effective Date being measures which the Contractor shall put in place to reduce the Vessels' environmental impact in performance of its obligations under the Contract.

"Equipment Support Manager" means the person identified at Clause 29.4.1 (*Quality Assurance*).

"ETC" means the Estimate to Complete.

"EU Data Protection Legislation" means the GDPR, the Electronic Communications Data Protection Directive (2002/58/EC) and all Member State laws implementing or supplementing those laws and any guidance, regulations, ordinances, directions, determinations, codes of practice, circulars, orders, notices or demands issued by any competent supervisory authority thereunder.

"EU Standard Contractual Clauses" means the model clauses for the transfer of personal data in the EEA to third countries where the exporter is a controller and the importer is a processor as approved by the European Commission by its Implementing Decision (EU) 2021/914 of 04 June 2021 or any additional or replacement model clauses approved by the European Commission from time to time.

"Expert" shall have the meaning given in Clause 74.3 (*Expert Determination*).

"Financial Distress Event" means any of the following:

- (A) the Contractor or Holdco committing a material breach of covenant to its lenders;

- (B) a Principal Subcontractor notifying the Authority that the Contractor has not satisfied any material sums (being no less than [Redacted under FOIA Section 43] (indexed)) properly due under a specified invoice and not subject to a genuine dispute;
- (C) the Financial Risk Indicator for either of the Contractor or Holdco fails to satisfy the Financial Risk Requirement; and
- (D) any of the following:
- (1) Holdco makes a profit warning to the stock exchange or other public announcement about a material deterioration in its financial position or prospects;
 - (2) commencement of any litigation against the Contractor or Holdco with respect to financial indebtedness greater than [Redacted] or obligations under a service contract with a total contract value greater than [Redacted]; ***Redacted under FOIA Section 43, Commercial Interest***
 - (3) the cancellation or suspension by lenders of any financial indebtedness in respect of the Contractor or Holdco (excluding, for the avoidance of doubt, any cancellation or suspension arising as a result of any refinancing or rescheduling (but excluding any restructuring) by, or new loan being made available to, the Contractor or Holdco); or
 - (4) the external auditor of the Contractor or Holdco expressing a qualified opinion on, or including an emphasis of matter in, its opinion on the statutory accounts of that entity;

in each case, in respect to paragraphs (1) to (4) above, which the Authority reasonably believes (or would be likely reasonably to believe) could directly and materially adversely impact the affected entity's creditworthiness and ability to continue performing and delivering the Services in accordance with this Contract.

"Financial Risk Indicator" means a financial risk indicator (also called a risk rating) and being a number between 1 (low risk) and 4 (high risk) assigned by Dun & Bradstreet to a business based on probability of failure of the business.

"Financial Risk Requirement" means a Financial Risk Indicator of 1 or 2.

"Fixed & Flexible tasking" means routine tasks with task notice greater than the 72hrs and non-routine tasks that may have been tasked in less than 72hrs, respectively.

"Float" means a project management term used to describe the flexibility or 'slack' with which a project activity may be rescheduled to a later date without impacting the completion date of the project.

"Float Erosion" is a series of delays in project activity that has impacted the Float.

"FOIA" means the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time, together with any guidance and/or codes of practice issued by the Information Commissioner or any relevant Crown Body in relation to such Act.

"Force Majeure Event" means any event outside the reasonable control of either Party affecting its performance of its obligations under this Contract arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control and which are not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party, including riots, acts of terrorism, acts of government, local government or regulatory bodies, fire, flood, storm or earthquake, or other natural disaster but excluding any industrial

dispute relating to the Contractor, Employee, agent or Subcontractor or any other failure in the Contractor's or a Subcontractor's supply chain.

"Foreground Service IPR" has the meaning given to it in Clause 33.2 (*Intellectual Property Rights*).

"FP" means Force Protection.

"Fuel" means diesel fuel and supporting lubricants procured for and used by any of the Vessels.

"Full Service Vessel" means (A) any Vessel that complies with the Data Package [REDACTED] [REDACTED] Redacted under FOIA Section 43, Commercial Interest [REDACTED].

"General Anti-Abuse Rule" means:

- (A) the legislation in Part 5 of the Finance Act 2013; and
- (B) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions.

"GFA" means Government Furnished Assets including the Authority's funded or owned assets which are issued, or made available to the Contractor from the Effective Date in connection with the Contract. It also includes the following:

- (A) Government Furnished Equipment ("GFE"), which is the generic term for Materiel issued, supplied or made available to the Contractor in connection with the Contract by or on behalf of the Authority;
- (B) Government Furnished Resources ("GFR"), which relates to Authority personnel (most commonly Service Personnel on long-term loan or secondment) made available to the Contractor in connection with the Contract by or on behalf of the Authority;
- (C) Government Furnished Information ("GFI"), which is information or data, in any media format, issued, supplied or made available to the Contractor in connection with the Contract by or on behalf of the Authority; and
- (D) Government Furnished Facilities ("GFF"), which are buildings, parts of building, sites and other infrastructure issued or made available to the Contractor in connection with the Contract by or on behalf of the Authority.

"GFA Delivery Date" means, in respect of each item of GFA, the date agreed for delivery of such item by or on behalf of the Authority to the Contractor in accordance with Schedule F (*Issued Property*).

"Good Industry Practice" means the exercise of that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced contractor seeking in good faith to comply with its contractual obligations, complying with all applicable Law, and engaged in the same type of undertaking and under the same or similar circumstances and conditions as those envisaged by this Contract.

"Government" means the government of the United Kingdom.

"Government Baseline Personnel Security Standard" means the Government Baseline Personnel Security Standard (BPSS) which can be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/714002/HMG_Baseline_Personnel_Security_Standard_-_May_2018.pdf

“Government Entity” means and includes (whether having a distinct legal personality or not) any national or local government authority, board, commission, department, division, organ, instrumentality, court or agency and any association, organisation or institution of which any of the foregoing is a member or to whose jurisdiction any of the foregoing is subject or in whose activities any of the foregoing is a participant other than, in each such case, any such entity which forms part of the Authority or any Relevant Authority.

“Government Establishment” or **“site”** shall be deemed to include any of His Majesty’s Ships or Vessels and Service Stations.

“GovS 007: Security” means the Government Functional Standard GovS 007: Security relating to the government’s expectations for protecting:

- (A) the government’s people, information and assets;
- (B) visitors to government property, and third-party suppliers while engaged on government business; and
- (C) citizen data.

“Group” means the Contractor and Holdco together with any Holding Company or subsidiary of the Contractor or Holdco or any subsidiary of such Holding Company.

“group undertaking” has the meaning given by section 1161 of the Companies Act 2006.

“Guaranteed Fuel Consumption” means the fuel consumed in tonnes per twenty four (24) hours at a given constant Sea Speed in wind conditions below Beaufort Force 3 at MOD load draft. The Guaranteed Fuel Consumption Figures are given in Table 1 of Annex 2 (*Fuel Efficiency*) of Schedule E (*Performance and Payment*).

“Guarantor” means Holdco.

“Health and Safety Executive” means the UK independent regulator for work-related health, safety and illness.

“HGV” means Heavy Goods Vehicle.

“HMRC” means HM Revenue & Customs or such other government agency charged with the collection of VAT.

“HNS” means Home Nation Support.

“Holdco” [Redacted under FOIA Section 43. Commercial Interest]

“Holding Company” shall have the meaning given in Section 1159 of the Companies Act 2006. This definition shall not be changed in the event of an amendment to the definition of holding company contained in the Companies Act 2006, whether by any subordinate legislation or otherwise.

“IGMR” means International Guns, Missiles & Rockets.

“ILS” means Integrated Logistics Support.

"Indexation Date" means 01 July 2024, 01 January 2025 and each anniversary of 01 January during the Contract Term as the case may be.

"Information" means all information of whatever nature, however conveyed and in whatever form, including in writing, orally, by demonstration, electronically and in a tangible, visual or machine-readable medium (including CD-ROM, magnetic and digital form).

"Insurances" means, as the context requires, all or any of the insurances required to be maintained by the Contractor pursuant to Schedule R (*Required Insurance*) of this Contract.

"Intellectual Property Rights" or "IPR" include moral rights, performing rights, and rights relating to design, goodwill, patent, copyright, trademark (whether registered or unregistered), performance, data bases, registered or unregistered design, data, source codes, reports, drawings, specifications, know-how, software designs and/or other material, and any application for any of the foregoing.

"ISN" means Industry Security Notices issued by the Authority to the Contractor whether directly or by issue on the gov.uk website at: <https://www.gov.uk/government/publications/industry-security-notices-isns>.

"ISO" means International Standards Organisation.

"Issued Property" means the Authority's property as set out in Annex 1 of Schedule F (*Issued Property*).

"ITEAP" means Integrated Test Evaluation and Acceptance Plan.

"JSyCC WARP" means the Joint Security Co-ordination Centre MOD Defence Industry Warning, Advice and Reporting Point or any successor body notified by way of ISN.

"Key User Requirements" or "KUR" means the list of requirements detailed in Annex 3 to Schedule A (*Statement of Requirement*).

"Key Performance Indicator" or "KPI" means each of Key Performance Indicators 1 to 4 as set out in Schedule C (*Governance and Reporting*).

"KPI Credit" means a deduction for failure of the Contractor to achieve service levels in excess of the Authority's expectations as set out in paragraph 9.4 of Schedule E (*Performance and Payment*), which deduction is calculated in accordance with paragraph 9 (*Performance Incentive Adjustment*) of Schedule E (*Performance and Payment*).

"KPI Credit Grace Period" means, per Year for all Vessels in the aggregate and in no circumstances on a per Vessel or singular Vessel basis:

- (A) for the first Year of the Contract Term, ninety (90) days pro-rated over the number of days in the first Year the date of the Contract;
- (B) for each Year of the Contract Term other than the first Year and the last Year of the Contract Term, ninety (90) days; and
- (C) for the last year of the Contract Term, ninety (90) days pro-rated over the number of days in the last Year the date of the Contract,

Redacted under FOIA Section 43. Commercial Interest

“kts” means Knots.

“Law” refers to any:

- (A) law, statute, proclamation or any delegated or subordinate legislation;
- (B) guidance, direction or determination with which the person is bound to comply to the extent that the same are published and publicly available; and
- (C) 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 with which the person is bound to comply,

in the case of (A), (B) or (C), in the United Kingdom, any foreign country or internationally, to the extent applicable;

(D) exercise of the Royal Prerogative, to the extent applicable; and

(E) approvals by the Classification Society,

in the case of (D) or (E), in the United Kingdom, to the extent applicable.

“LCU” means Landing Craft Utility.

“LCVP” means Landing Craft Vehicle and Personnel.

“LiM” means a Linear Meter of cargo capacity defined as a box 2.8m wide and 1m deep, or equivalent, used for the stowage of amphibious materiel (BrD 9400 Amphibious Forces handbook). This includes Cargo, vehicles, shipping containers (which may be over stacked), or break-bulk transported by sea for purposes of this Contract.

“LMAA” means the London Maritime Arbitrators Association.

“Load” means generic term for Cargo being transported.

“Losses” means all reasonably incurred losses, liabilities, damages, costs and expenses (including legal fees on a solicitor/client basis) and disbursements and costs of investigation, litigation, settlement, judgment interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty or otherwise.

“LST” means Landing Ships Tank.

“Maintenance Plan” shall refer to the Classification Society approved PMS installed on the Vessels and available for inspection at the offices of the Technical Manager.

“Mandated Reviews” means required assessments.

“MARPOL” means International Convention for the Prevention of Pollution from Ships.

“Master” means the person appointed by the Contractor or on behalf of the Contractor to control any one of the Vessels, and legally holding the full responsibilities as Master of such Vessel under the applicable Laws.

“Materiel” is a generic term meaning equipment (including fixed assets), stores, supplies and spares, excluding Vessel-related spares and equipment.

"Material Single Source Subcontract" means a subcontract entered into by a Subcontractor where:

- (A) the subcontract is entered into at the same time as, or after, the date on which this Contract was entered into;
- (B) the subcontract is entered into for the purposes of the Contract;
- (C) the award of the subcontract is not the result of a "competitive process" as defined in the Single Source Contract Regulations 2014 (SSCR) for Qualifying Subcontracts (QSC);
- (D) at least 50% of the subcontract (by value) is required either to enable performance of the Subcontractor to enable the combined performance of the Contract and any other Qualifying Defence Contract (QDC) or QSC, or prospective QDC or QSC, to which the Subcontractor or any group undertaking of the Subcontractor is a party, or might become a party;
- (E) the value of the subcontract is of or above £1,000,000; and
- (F) the subcontract is not a QSC.

"Material Single Source Subcontract (Non-Qualifying)" means a subcontract entered into by the Contractor where:

- (A) the subcontract is entered into at the same time as, or after, the Contract was entered into;
- (B) the subcontract is entered into for the purposes of the Contract;
- (C) the award of the subcontract is not the result of a "competitive process" as defined in Regulation 59 of the Single Source Contract Regulations 2014 (SSCR) for Qualifying Subcontracts (QSC);
- (D) the value of the subcontract is of, or above £1,000,000;
- (E) at least 50% of the Subcontract (by value) is required either to enable performance of the Contract or to enable the combined performance of the Contract and any other Qualifying Defence Contract (QDC), or prospective contract, under the SSCR, to which the Contractor or any group undertaking of the Contractor is a party, or might become a party; and
- (F) the Subcontract is not a QSC as defined in the SSCR.

"MBT" means Military Battle Tank.

"MDAL" means Master Dependencies and Assumptions List contained within the Contractor Databook.

"MENA" means Middle East North Africa.

"MHE" means Mechanical Handling Equipment.

"Milestone Payment Plan" means each milestone payment in the form of table set out at Annex 5 (*Modification Milestone Payment Plan*) to Schedule E (*Performance and Payment*).

“Military Personnel” means those persons engaged by the Authority and authorised to carry out certain military tasks on the Vessels, but does not include any Crew, servants or agents, who are employed by, engaged by or represent the Contractor.

“Mitigation Event” has the meaning given to it in Clause 17.1 (*Mitigation*)

“Mixture” means a mixture or solution composed of two or more Substances.

“MoD” means Ministry of Defence.

“MOD Identifiable Information” means all Electronic Information which is attributed to or could identify an existing or proposed MOD capability, defence activities or personnel and which the MOD requires to be protected against loss, misuse, corruption, alteration and unauthorised disclosure.

“Modifications” means such modifications as required by the Modification Programme at the Effective Date as may be extended from time to time, as may be agreed between the Parties.

“Modification Milestone” means each milestone set out in the Modification Programme.

“Modification Milestone Amount” means each amount payable upon completion of a Modification Milestone as set out in the Modification Programme.

“Modification Milestone Certificate” shall have the meaning given to it in Clause 29.3.3 (*Ship Design Specification Modifications*).

“Modification Milestone Date” means the target date for the completion of each Modification Milestone, as set out in the Modification Programme.

“Modification Programme” shall have the meaning given to it in Clause 29.3.1 (*Ship Design Specification Modifications*).

“Month” means calendar month.

“Monthly Reporting” shall mean the reporting required by paragraph 8 (*Monthly Reporting*) of Schedule C (*Governance and Reporting*).

“Monthly Usage Payment” shall have the meaning given in paragraph 2.1.2 of Schedule E (*Performance & Payment*).

“Movement” means the process of ships transiting/travelling a certain route.

“NATO” means North Atlantic Treaty Organisation.

“New Provider” means any replacement service provider or providers engaged to provide the Services (or part thereof) or substantially similar services or the Authority itself where the Services or substantially similar services or part thereof continue to be provided by the Authority after partial termination, termination or expiry of this Contract.

“nm” means nautical miles.

“Notices” shall have the meaning given in Clause 63.1 (*Services of Notices*).

“NSA/DSA” means, as appropriate, the National or Designated Security Authority of the Contractor that is responsible for the oversight of the security requirements to be applied by the Contractor and for ensuring compliance with applicable national security regulations.

"Officer in Charge" shall be deemed to include Officers Commanding Service Stations, Ships' Masters, and Heads of Government Establishments.

"OMOP" means Objective Measure of Performance.

"OpDef" means Operational Defect.

"Operating Costs" refers to the costs related to service delivery.

"Parent Company Guarantee" means a guarantee from the Guarantor in the form set out in Schedule I (*Form of Parent Company Guarantee*).

"Parties" shall have the meaning given in Recital (C) hereto.

"Permanent Service" means service in Royal Naval Reserve Force during the period between acceptance into such service following Call-Out and release from that service.

"Permitted Purpose" means the operation, upkeep, repair, refit, updating and modification of the Vessels and any parts thereof and operating or receiving the Service.

"Permitted Security Interest" means:

- (A) any Security Interest created by this Contract;
- (B) any Security Interest which has been created with the prior written approval of the Authority;
- (C) any netting or set-off arrangement entered into by the Contractor in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances;
- (D) any liens for unpaid master's and crews' wages and salvage and liens incurred in the ordinary course of trading a Vessel;
- (E) any lien arising by operation of law or otherwise and in the ordinary course of the operation, repair or maintenance of any Vessel for a sum in aggregate at any time not exceeding [REDACTED] (or the equivalent in any other currency) and not as a result of any default or omission by the Contractor; or
- (F) any security interest created in favour of a claimant or defendant in any proceedings or arbitration as security for costs and expenses where the Contractor is actively prosecuting or defending such proceedings or arbitration in good faith.

***Redacted under FOIA
Section 43, Commercial
Interest***

"Person" includes any individual, firm, company, partnership, corporation, joint venture, association, trust, unincorporated association or agency (whether or not having separate legal personality).

"Personal Data" shall have the same meaning as in the Data Protection Act 2018 in which it is defined in Section 1 but used in lower-case letters.

"Personal Data Breach" means the accidental or unlawful destruction, loss, alteration, or unauthorised disclosure or use of, or access to, Personal Data transmitted, stored or otherwise processed.

"PI" means Performance Indicator.

"PJOB" means Permanent Joint Operating Bases.

“Planned Maintenance Period” means the period of maintenance to be carried out as planned and as described in the Maintenance Plan.

“Plastic Packaging Component(s)” shall have the same meaning as set out in Part 2 of the Finance Act 2021 together with any associated secondary legislation.

“PMS” means Planned Maintenance System.

“Power of Attorney” has the meaning given to it in Schedule Y (*Form of Transfer Deed*).

“PPT” means a tax called “plastic packaging tax” charged in accordance with Part 2 of the Finance Act 2021.

“PPT Legislation” means the legislative provisions set out in Part 2 and Schedules 9-15 of the Finance Act 2021 together with any secondary legislation made under powers contained in Part 2 of the Finance Act 2021. This includes, but is not limited to, The Plastic Packaging Tax (Descriptions of Products) Regulations 2021 and The Plastic Packaging Tax (General) Regulations 2022.

“Pre-Approved List” means a list of not more than twenty (20) potential candidates, approved by the Authority in accordance with Clause 23.10 (*Subcontracting*), to replace the Principal Subcontractors.

“Principal Cover Features and Extensions” means such features and extensions applicable to the Required Insurances as set out in Schedule R (*Required Insurance*).

“Principal Subcontract” means any contract between the Contractor and a Principal Subcontractor providing for the performance by the Principal Subcontractor of some or all of the obligations of the Contractor under this Contract.

“Principal Subcontractor” means:

- (A) those Subcontractors specified in paragraph 2.2 of Schedule N (*Subcontract Plan*);
- (B) any Subcontractor who may become a Principal Subcontractor and enter into a Principal Subcontract pursuant to the process set out in Clause 23 (*Subcontracting*);
- (C) or any Subcontractor:
 - (1) which, in the opinion of the Authority, performs (or would perform if appointed) a critical role in the provision of all or any part of the Services; and/or
 - (2) with a Subcontract with a contract value which at the time of appointment exceeds (or would exceed if appointed) 10% of the Contract Price (as set out in the Contractor Databook).

“Principal Subcontract Dispute” shall have the meaning given in Clause 76.1 (*Principal Subcontractor disputes*).

“Process”, “Processing”, “Processed” shall have the same meanings as in the Data Protection Act 2018 in which they are defined in Section 1 but used in lower-case letters.

“Project” is the provision and operation of the Service.

“Project Controls (PC)” means the organisation tasked with developing and implementing data gathering, management and analytical processes that predict, understand and constructively influence time and cost outcomes.

“Project Controls Management System” or “PCMS” means the application of processes and data systems/software to measure project performance against the project plan, to enable variances to be identified and corrected, so that project objectives are achieved.

“Project Evaluation” refers to a systematic and objective assessment of an ongoing or completed project where the aim is to determine the relevance and level of achievement of project objectives, development effectiveness, efficiency, impact, lessons learned and sustainability.

“Project Manager” means the person identified at Clause 29.4.1 (*Quality Assurance*).

“Publishable Performance Information” means any of the information in the Publishable Performance Information KPI Data Report as it relates to a Key Performance Indicator where it is expressed as publishable in the table in the KPI Data Report which shall not contain any information which is exempt from disclosure which shall be determined by the Authority; and which shall not constitute Sensitive Information.

“Publishable Performance Information KPI Data Report” means the Publishable Performance Information Key Performance Indicator Data Report, consistent with the content requirements of DEFFORM 539B.

“Purchase Agreement” means a purchase agreement between the Authority as buyer and the Contractor as seller, in the form set out in Schedule X (*Form of Purchase Agreement*) with such changes as are necessary to execute the agreement.

“Qualifying Defence Contract” or “QDC” shall have the same meaning as “Qualifying Defence Contract” defined in Regulation 14 of the Defence Reform Act 2014.

“Qualifying Subcontracts” or “QSC” shall have the meaning as defined in the Defence Reform Act 2014 and the Single Source Contract Regulations 2014.

“Register” shall have the meaning given in Schedule F (*Issued Property*).

“Regulations” means the Defence and Security Public Contracts Regulations (SI 2011/1848) as amended, extended, re-enacted or replaced from time to time and ‘Regulation’ means any one of them or (as the case may be) any specified provision of the Regulations.

“Reimbursable Expenses” means Allowable Costs of the Contractor not included in the Contract Price which are payable by the Authority under the terms of this Contract.

“Rejection Notice” shall have the meaning given in Clause 74.3 (*Expert Determination*).

“Relevant Authority” means any court within the United Kingdom and any local or national agency, inspectorate, minister, official or public or statutory person of the government of the United Kingdom.

“Relevant Records” means accounting and other records:

- (A) which the Subcontractor may reasonably be expected to keep; and
- (B) which are sufficiently up-to-date and accurate for use by the Authority for any of the purposes referred to in Schedule B (*QDC/SSCR Provisions*).

“Relevant Tax Authority” means HMRC, or, if applicable, a tax authority in the jurisdiction in which the Contractor is established.

information concerning the content of such matter and anything which contains or may reveal that matter.

"Security Aspects Letter" means the letter attached at Annex 2 to Schedule L (*Security Measures*).

"Security Interest" means any mortgage, charge, pledge, lien, assignment, hypothecation, right of set-off, or any agreement or arrangement having the effect of creating a security interest, or any right of ownership, possession, forfeiture or detention, or any statutory or other right in rem.

"Sensitive Information" means the information notified by the Contractor to the Authority on or prior to the Date of Contract in accordance with Clause 7.2 (*Provision of documents on or prior to the Date of Contract*), at the point at which the Contract is entered into or amended (as relevant) and remains sensitive information at the time of publication.

"Service" means all those services set out in Schedule A (*Statement of Requirement*).

"Service Discipline Act" means the Armed Forces Act 2006 as may be amended from time to time.

"Service Failure" shall have the meaning given in paragraph 8.1 (*Incidents Attracting KPI Credits*) of Schedule E (*Performance and Payment*).

"Service Regulations" means any condition, decision, decree, enactment, law, notice, order, regulation, rule or term applicable to a Sponsored Reservist by virtue of his being a member of the relevant Reserve Force.

"Service Requirement" shall have the meaning set out in Schedule A (*Statement of Requirement*).

"Sites" means any premises from which Contractor Deliverables are provided in connection with this Contract or from which the Contractor or any relevant Principal Subcontractor manages, organises or otherwise directs the provision or the use of the Contractor Deliverables and/or any sites from which the Contractor or any relevant Principal Subcontractor generates, processes, stores or transmits MOD Identifiable Information in relation to this Contract.

"SME" means Small and Medium-sized Enterprise, an enterprise falling within the category of micro, small and medium-sized enterprises defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises.

"SOMR" means Statement of Movement Requirement.

"Specified Event" means either a Compensation Event, a Relief Event, a Delay Event, or a Force Majeure Event or a combination of all or any of such events.

"Sponsored Reservist (SR)" means a person who is subject to the liabilities described in the RFA96 Section 40.

"SQEP" means the Suitably Qualified and Experienced Personnel.

"SR Training" means training as a member of one of the Reserve Forces.

"SR terms and conditions of service" refers to the terms and conditions of service applicable to Sponsored Reservists including legislation and regulations governing the Armed Forces.

“SRA” means a technique to connect the risk information of project activities to the baseline schedule, in order to provide sensitivity information of individual project activities to assess the potential impact of uncertainty on the final project duration and cost.

“SSAT” means Single Source Advisory Team.

“SSCR” means Single Source Contract Regulations 2014.

“SSCR Information” means any confidential information in any written or other tangible form, which relates to the contract disclosed by the Contractor to the Authority or obtained by the Authority, and being of a type specified in Regulation 56 (1) (but not including information described in Regulation 56 (3)(h) to (n)) of the Single Source Contract Regulations 2014 (SSCR), relating to the Contract. It shall not include information that:

- (A) is or becomes generally available to the public other than as a result of its disclosure by the Authority or a Central Government Body, or the professional advisors or consultants of the Authority, in breach of the provisions of the Contract, the Defence Reform Act 2014 (DRA), the SSCR or of any other obligation of confidence owed to the Party to whom the information relates;
- (B) was, is or becomes available to the Authority on a non-confidential basis from a person who, to the Authority's knowledge, is not bound by a confidentiality agreement with the Contractor or otherwise prohibited from disclosing the information to the Authority;
- (C) was lawfully in the possession of the Authority before the information was disclosed to it by the Contractor; or
- (D) the Parties agree in writing is not confidential or may be disclosed.

“SSL” means Strategic Sea Lift.

“SSL-I” means Strategic Sea Lift – Interim.

“SSRO” means Single Source Regulations Office.

“Statement of Requirement” or “SOR” as set out in Schedule A (*Statement of Requirement*).

“Stowage” means the act of placing and securing Cargo onboard the vessel.

“Subcontract” means any contract between the Contractor and a Subcontractor providing for the performance by the Subcontractor of some or all of the obligations of the Contractor under this Contract.

“Subcontract completion date” means:

- (A) the date described in the Subcontract as the contract completion date; or
- (B) if no such date is described in the Subcontract, the date on which the Subcontractor completes all obligations which entitle it to final payment under the contract;
- (C) if the Subcontract is terminated before the date described in (A) and (B) above, the date on which the Subcontract is terminated.

“Subcontractor” means:

- (A) any person who has contracted with the Contractor for the performance of any obligation under this Contract; and
- (B) any person who has contracted with a person described in (A) for the performance of any obligations under this Contract;
- (C) any person who has contracted with a person described in (B) for the performance of any obligation under this Contract; and
- (D) any other person who has contracted to perform any of the Contractor's obligations under this Contract directly or indirectly with a person described in (C),

and shall, for the avoidance of doubt, include each person named in Schedule N (*Subcontract Plan*).

"Subcontract Plan" means the plan attached at Schedule N (*Subcontract Plan*) indicating the identity of certain Subcontractors (the Principal Subcontractors) and their respective roles.

"Subsidiary" shall have the meaning given in Section 1159 of the Companies Act 2006. This definition shall not be changed in the event of an amendment to the definition of holding company contained in the Companies Act 2006, whether by any subordinate legislation or otherwise.

"Substance" means a chemical element and its compounds in the natural state or obtained by any manufacturing process, including any additive necessary to preserve its stability and any impurity deriving from the process used, but excluding any solvent which may be separated without affecting the stability of the substance or changing its composition.

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"Suitably Qualified and Experienced Personnel" means a person or persons with sufficient demonstrated experience and relevant qualifications to provide assurance that they will be able to accomplish the work assigned to them.

"Supervisory Authority" means any relevant legal and/ or regulatory independent public authority which is responsible for the enforcement of Data Protection Legislation in the relevant jurisdiction.

"Supplier Cyber Protection Service" means the tool incorporating the CSM Risk Assessment Process and CSM Supplier Assurance Questionnaire.

"SWL" means Safe Working Load.

"Take or Pay Guarantee" means the guaranteed payment to be made by the Authority, referred to in paragraph 2.1.1 (*Take or Pay Guarantee*) of Schedule E (*Performance and Payment*), as set out in paragraph 2 of Annex 1 of Schedule E (*Performance and Payment*).

"Take or Pay Regime" means the arrangement whereby the Contractor provides the Vessels referred to in paragraph 2.1.1 of Schedule E (*Performance and Payment*) to the Authority in consideration for the Take or Pay Guarantee.

"Task" means a distinct Voyage to be carried out by the Contractor to meet the Authority's requirements, and in accordance with the Authority's instructions, set out in a Task Entry.

"Task Completion" means the point in time at which a Vessel is alongside at the Task end location, as specified in a Task Entry with Cargo ready to unload.

"Task Entry" means the form provided within the Sealift Programme application in accordance with the provisions of Schedule J (*Tasking and Control*), containing at a minimum the information set out at Annex 1 of Schedule J (*Tasking and Control*). These define the tasks and, when agreed between both Parties, are entered into the Tasking Profile.

"Task Start Time" means the time at which a Vessel is alongside at the Task start location, as specified in a Task Entry, ready to load Cargo.

"Tasking Profile" means a six (6) month forward look of the Authority's potential tasking programme.

"Taxation", "Tax" or "Taxes" means any present or future tax, levy, impost, duty, charge, fee, deduction or withholding in the nature of tax whatever called, wherever imposed, levied, collected, withheld or assessed by a taxing authority pursuant to a regulation having the force of law.

"Technical Manager" shall be the entity legally responsible for compliance with the International Safety Management (ISM) Cod, which, if not the Contractor shall be included as a Principal Subcontractor in Schedule N (*Subcontract Plan*).

"Termination Date" means any date on which termination of this Contract takes effect in accordance with its terms.

"Termination Notice" means a written notice of termination given by one Party to the other, notifying the Party receiving the notice of the intention of the Party giving the notice to terminate this Contract (or any part thereof) on a specified date and setting out the grounds for termination.

"Tonnage Tax Regime" means the system as provided for in section 82 and Schedule 22 of the Finance Act 2000, the Tonnage Tax Regulations, the HMRC Statement of Practice 4/2000 and supplementary legislation thereto which sets out the method by which a company which has made an effective election brings into account its profits for the purposes of corporation tax and including without limitation the rules therein.

"Total Loss" [REDACTED]

[REDACTED] Redacted under FOIA Section 43. Commercial Interest [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]

[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]

“Training” means the following of training guidance from Schedule A (*Statement of Requirement*) section 2, ID 39 (*Training and Training Equipment*).

“Training Liability” means a SR’s liability for training established in either Service Regulations or in the SR’s Employee Agreement in accordance with RFA96 section 40(1)(b).

“Transfer Date” means the date on which the transfer of a Transferring Employee takes place under the Transfer Regulations.

“Transfer Deed” means a transfer deed between the Authority as buyer and the Contractor as seller, in the form set out in Schedule Y (*Form of Transfer Deed*) with such changes as are necessary to execute the agreement.

“Transfer Regulations” means the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended from time to time and/or the Service Provision Change (Protection of Employment) Regulations (Northern Ireland) 2006 (as amended from time to time), as appropriate.

“Transferring Employee” means an employee wholly or mainly employed or otherwise assigned to the Services (or in respect of partial termination, the relevant part of the Services) whose employment transfers under the Transfer Regulations from the Contractor or any Employing Principal Subcontractor to a New Provider.

“Transparency Information” means the content of the Contract in its entirety, including from time to time agreed changes to the Contract, except for (i) any information which is exempt from disclosure in accordance with the provisions of the FOIA or the EIRs, which shall be determined by the Authority, and (ii) any Sensitive Information.

“Transportation” means the process of moving stuff from location to location.

“UK” means the United Kingdom.

“UK Data Protection Legislation” means all applicable Law in the UK relating to the processing of personal data, including the UK GDPR and the Data Protection Act 2018.

“UK GDPR” means the General Data Protection Regulation as incorporated into UK law in accordance with the European Union (Withdrawal) Act 2018;

“UK Standard Contractual Clauses” means the EU Standard Contractual Clauses as amended by the UK Standard Contractual Clauses Addendum.

“UK Standard Contractual Clauses Addendum” means the addendum, published by the UK Information Commissioner’s Office or any additional or replacement addendum published by the UK Information Commissioner’s Office from time to time.

“V&V” means a body of evidence to demonstrate the System and Service Specification compliance with the verification and validation criteria defined within the Statement of Requirement.

“VCSE” means Voluntary, Community and Social Enterprise, a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives.

“Vessel Availability Days” means three hundred and fifty-five (355) days, being the minimum number of days for which each Vessel shall be available for tasking by the Authority, as specified in Schedule A (*Statement of Requirement*).

"Vessel(s)" or "Ship(s)" means any one or more vessels or ships being used by the Contractor to provide the Service.

"Voyage" for the purposes of Schedule E (*Performance and Payment*) means an open sea passage from one location to another as specified on the Tasking Profile, of any duration.

"War Zone or Warlike Zone" means an area designated by The Warlike Operations Area Committee (such committee comprising the Chamber of Shipping and the Maritime Trades Unions) or such other body as agreed between the Parties.

"War Zone Bonus" means a bonus payment determined by The Warlike Operations Area Committee (such committee comprising the Chamber of Shipping and the Maritime Trades Unions) or such other body as agreed between the Parties to determine such bonus payment payable to the crew where a Vessel enters a War Zone.

"Wilful" means, in relation to an act or omission, done intentionally and deliberately with the intention of causing harm or loss.

"Work Breakdown Structure" or "WBS" defines how the scope of work is subdivided to accomplish the Project objectives.

"Working Day" means every day excluding weekends and public or bank holidays in England and Wales.

"Year" means calendar year unless otherwise specified.

1.2 Interpretation

1.2.1 Save where the contrary is indicated, any reference in this Contract to this Contract or any other agreement, document or contract shall be construed as a reference to this Contract or, as the case may be, such other agreement or document as the same may have been, or may from time to time be, amended, varied, novated or supplemented.

1.2.2 The Schedules to this Contract are an integral part of this Contract and a reference to this Contract includes a reference to the Schedules.

1.2.3 In this Contract, except where the context otherwise requires:

1.2.3.1 the masculine includes the feminine and neuter genders, and vice versa and words importing the neuter include the masculine and the feminine;

1.2.3.2 the singular includes the plural, and vice versa;

1.2.3.3 all references to any statute or statutory provision include reference to any statutory provision which amends, extends, consolidates, or replaces the same or which has been amended, extended, consolidated or replaced by the same and shall include any orders, regulations, codes of practice, instruments, or other subordinate legislation made under the relevant statute or statutory provision;

1.2.3.4 the headings to the Clauses, subclauses, sections, paragraphs and subparagraphs and Schedules are for the convenience of the Parties and are not intended to affect the interpretation thereof;

- 1.2.3.5 any reference to the Authority acting “reasonably” or not acting “unreasonably” (or any similar or analogous expression or phrase) shall be construed as if the test of reasonableness were an objective test of the reasonableness (or otherwise) of the Authority, and the tests shall take into account (inter alia) the Authority’s use of the Service for military purposes, together with such questions of national security or defence which might reasonably and properly be expected to form part of the judgment of the Authority (acting in good faith at all times);
- 1.2.3.6 any reference to the Contractor using its “reasonable endeavours” (or any similar or analogous expression or phrase) shall be construed as requiring the Contractor to act in accordance with Good Industry Practice;
- 1.2.3.7 where this Contract provides for the Authority to give a decision, approval or agreement to any matter and does not specify a period of time within which such decision, approval or agreement must be given, the Authority shall give its decision, approval or agreement within a reasonable time;
- 1.2.3.8 references to “includes” or “including” are to be construed without limitation;
- 1.2.3.9 any reference to a person holding an office of the Authority shall mean the person holding from time to time such office or the officers appointed by the Authority to perform the duties of such office;
- 1.2.3.10 any references to a person includes firms, trusts, governments, governmental bodies, authorities, agencies, unincorporated bodies of persons or associations, partnerships and corporations and their successors and permitted assignees or transferees;
- 1.2.3.11 any reference to “Parties” means the parties to this Contract and references to “Party” mean one of the parties to this Contract;
- 1.2.3.12 any reference to a public organisation shall be deemed to include a reference to any successor to such public organisation or any organisation or entity which has taken over the functions or responsibilities of such public organisation;
- 1.2.3.13 any reference to “Schedules” shall mean the schedules to this Contract; and
- 1.2.3.14 any reference to “Clauses” shall mean the clauses of this Contract.

2. **Qualifying Defence Contract**

- 2.1 The Authority has notified the Contractor that the Contract is a Qualifying Defence Contract for the purposes of the Defence Reform Act 2014 and the Single Source Contract Regulations 2014. The Contractor shall comply with the provisions of Schedule B (*Provisions in respect of Qualifying Defence Contracts and The Single Source Contract Regulations 2014, relating to contractor reporting and drafting of (qualifying / non-qualifying) Subcontracts*) and Schedule C (*Governance and Reporting*).
- 2.2 The Authority has made a direction pursuant to Section 25(8) of the DRA such that:

2.2.1 this Contract shall not be taken into account in determining whether the ongoing contract condition (as defined in Section 25(5) of the DRA) is met in relation to any financial year during the Contract Term; and

2.2.2 the Guarantor is not required to comply with Part 6 of the Single Source Contract Regulations 2014 in relation to this Contract.

3. **Responsibility for documents**

3.1 The Contractor has prepared, and accepts sole responsibility for, the following Schedules:

3.1.1 Schedule N (*Subcontract Plan*);

3.1.2 Schedule H (*Contact Persons*); and

3.1.3 Schedule V (*Data Package*),

(the "Contractor's Schedules").

In particular, without limitation, the Contractor shall be solely responsible for any discrepancies, errors or omissions in the Contractor's Schedules, for any failure of the Contractor's Schedules or the Project to comply with the requirements of Schedule A (*Statement of Requirement*), notwithstanding that the Contractor's Schedules have been seen and accepted by the Authority. In the event of any discrepancy between Schedule A (*Statement of Requirement*) and any of the Contractor's Schedules or any other document forming part of this Contract, Schedule A (*Statement of Requirement*) shall prevail.

3.2 In the event of any discrepancy, inconsistency or divergence arising between the Clauses of this Contract and the Schedules, (save as expressly provided in this Contract) the order of precedence shall be as follows:

3.2.1 Clause 1 (*Definitions*) to Clause 82 (*Crew and Sponsored Reservists*);

3.2.2 Schedule A (*Statement of Requirements*);

3.2.3 Schedule E (*Performance and Payment*);

3.2.4 all remaining schedules other than Schedule N (*Subcontract Plan*), Schedule H (*Contact Persons*), and Schedule G (*Contractor's Personnel at Government Establishments*);

3.2.5 Schedule N (*Subcontract Plan*), Schedule H (*Contact Persons*), and Schedule G (*Contractor's Personnel at Government Establishments*);

3.2.6 any documentation the Contractor is required to produce as set out in and in accordance with Schedule N (*Subcontract Plan*) and Schedule G (*Contractor's Personnel at Government Establishments*); and

3.2.7 any other documentation referred to in Schedule N (*Subcontract Plan*) and Schedule G (*Contractor's Personnel at Government Establishments*).

3.3 If there is any inconsistency between any diagram and any text, the text shall take precedence.

3.4 In the event of any inconsistency between the schedules and the annexes or appendices thereto, the schedules shall prevail.

3.5 The Parties hereby acknowledge that as at the Date of Contract they have reviewed and agreed to the Contractor Databook and MDAL (including the costs and the principles set out therein).

4. **Contractor warranties**

4.1 The Contractor warrants that, as at the Date of Contract and the Effective Date, and, in the case of Clauses 4.1.1 – 4.1.3 only, at every day of the Contract Term:

4.1.1 it has the power to enter into this Contract and to perform all its obligations under this Contract;

4.1.2 its entering into, delivery and performance of this Contract has been validly authorised by all appropriate corporate and other action;

4.1.3 all its obligations under this Contract constitute legally valid and binding obligations on it;

4.1.4 no claim is presently being assessed and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of the Contractor's knowledge, pending or threatened against it or any of its assets or revenues which will or might have a material adverse effect on the ability of the Contractor to perform its obligations under this Contract;

4.1.5 the Vessels are free from all charges, encumbrances, liens or any debts whatsoever save for Permitted Security Interests; and

4.1.6 it is not subject to any other obligation compliance with which will or is likely to have a material adverse effect on the ability of the Contractor to perform its obligations under this Contract.

4.2 The Contractor represents and warrants that as at the Date of Contract that the Vessels are in compliance with the Data Package and the Safety Case.

5. **Authority warranties**

The Authority warrants, as at the Date of Contract and the Effective Date that:

5.1.1 no claim is presently being assessed and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of the Authority's knowledge, pending or threatened against it in relation to the Project or any of its assets or revenues which will or might have a material adverse effect on the ability of the Authority to perform its obligations under this Contract;

5.1.2 it is not subject to any other obligation, compliance which will, or is likely to have, a material adverse effect on the ability of the Authority to perform its obligations under this Contract; and

5.1.3 its entering into, delivery and performance of this Contract has been validly authorised.

6. **Provision and interpretation of information**

6.1 Except in respect of GFI, the Contractor is responsible for obtaining all information and data necessary for carrying out its obligations under this Contract.

- 6.2 Except where arising as a direct result of the Authority's failure to provide GFI required to enable a specific Tasking, the Authority shall not be liable for any costs arising from the Contractor's failure to perform its obligations under this Clause 6 (*Provision and interpretation of information*) or from any lack of information or knowledge which the Contractor is deemed to have under this Clause 6 (*Provision and interpretation of information*).
- 6.3 The Authority has made available to the Contractor prior to the Effective Date information, documents or data (other than GFI) which it deems relevant or necessary for the Contractor to fulfil its obligations under this Contract. The Authority gives no representations, warranty or undertaking that the information, documents or data so provided represent all the information, documents or data in its possession or power relevant or material to the Project or the obligations to be undertaken by the Contractor under this Contract.
- 6.4 The Authority shall not be liable to the Contractor (whether in contract, tort or otherwise howsoever, and whether or not arising out of any negligence on the part of the Authority or any agent or servant of it) in respect of any failure to disclose or make available (whether prior to the Effective Date or after the Effective Date) to the Contractor any information, documents or data (other than GFI) or to keep such information, documents or data (other than GFI) up to date, or to inform the Contractor (whether before the Effective Date or after the Effective Date) of any inaccuracy, error, omission, unfitness of purpose, defect or inadequacy of any kind whatsoever in the information, documents or data (other than GFI).
- 6.5 The Contractor shall be deemed to have conducted its own analysis and review of all such information, documents and data referred to in Clause 6.3 (*Provision and interpretation of information*) and satisfied itself as to the accuracy, completeness and fitness for purpose of such information, documents and data.
- 6.6 The Contractor acknowledges and confirms that it shall not be entitled to make any claim against the Authority, whether in damages or for an extension of time or additional payments under this Contract or howsoever on the grounds:
- 6.6.1 of any misunderstanding or misapprehension in respect of the information, documents or data referred to in Clause 6.3 (*Provision and interpretation of information*); or
- 6.6.2 that incorrect or insufficient information relating to the Project was given to it by any person, whether or not in the employ of the Authority.

7. **Provision of documents on or prior to the Date of Contract**

- 7.1 The Contractor shall execute and deliver to the Authority on or prior to the Date of Contract:
- 7.1.1 the Transfer Deed; and
- 7.1.2 the Power of Attorney
- 7.2 The Contractor shall agree and deliver to the Authority on or prior to the Date of Contract, the Sensitive Information.
- 7.3 The Contractor shall procure that HoldCo execute and deliver to the Authority on or prior to the Date of Contract, the Parent Company Guarantee.

PART 2 : PROVISION OF THE SERVICE

8. Provision of the Services

8.1 During the Contract Term, the Contractor shall provide the Services using:

8.1.1 the Full Service Vessels (as applicable) which shall comply with the requirements of Annex 1 of Schedule A (*Statement of Requirement*);

8.1.2 **Redacted under FOIA Section 43. Commercial Interest**

8.1.3 in accordance with the Environmental Management Plan.

8.2 Save as provided in Clause 6 (*Provision and Interpretation of Information*), the Authority shall have no responsibility for any discrepancies, errors or omissions in the Data Package and the Contractor shall be solely responsible for any failure of the Data Package to comply with the terms of this Contract and, in particular, the *Statement of Requirement*.

9. Authority Issued Property

The Authority shall issue the property ("Issued Property") listed in the table at Part 1 of Schedule F (*Issued Property*) to the Contractor at the place and time set out in the Schedule, and on the terms and conditions set out in the Schedule.

10. Representative's acts

Save as expressly provided to the contrary, nothing in this Contract, and no act or omission by or on behalf of the Authority, shall imply that the Authority makes any admission, concession, representation or warranty of whatsoever nature as to the value, maintenance, operations or fitness for purpose of the Vessel(s) or any part thereof or as to the accuracy or completeness or fitness for purpose of any information, or shall be deemed to prejudice or impair the Authority's rights in any way.

11. Compliance

11.1 In performing its obligations under this Contract, the Contractor shall and shall procure that Holdco shall, comply in all respects with all applicable Laws.

11.2 In performing its obligations under this Contract, the Authority shall comply in all respects with all applicable Laws.

12. Specified Events

12.1 Compensation Events

12.1.1 If as a result of the occurrence of a Compensation Event:

12.1.1.1 the Contractor is unable to comply with its obligations under the Contract; and/or

12.1.1.2 the Contractor incurs costs or loses revenue, and/or

12.1.1.3 Task Completion is delayed,

then the Contractor is entitled to apply for relief from its obligations and/or claim compensation under the Contract.

- 12.1.2 To obtain relief and/or claim compensation the Contractor must:
- 12.1.2.1 set out in the following Monthly Reporting, and in any event within twenty (20) Working Days after it became aware that the Compensation Event has caused or is likely to cause a breach of an obligation under this Contract and/or the Contractor to incur costs or lose revenue and/or a delay to Task Completion, a notice of its claim for:
 - 12.1.2.1.1 payment of compensation; and/or
 - 12.1.2.1.2 relief from its obligations under this Contract, including relief from the Authority's right to accrue KPI Credits under paragraph 11.4 of Schedule E (*Performance and Payment*),
 - 12.1.2.2 at the monthly meeting give the Authority full details of the Compensation Event and/or payment of compensation (for additional costs incurred or revenue lost), or relief from KPI Credits claimed; and
 - 12.1.2.3 at the monthly meeting demonstrate to the reasonable satisfaction of the Authority (acting reasonably) that:
 - 12.1.2.3.1 the Compensation Event was the cause of:
 - 12.1.2.3.1.1 the costs incurred or revenue lost; and/or
 - 12.1.2.3.1.2 the inability of the Contractor to comply with its obligations under this Contract and the cause of any delay to the completion of a Task; and
 - 12.1.2.3.2 the additional costs incurred, revenue or time lost as a result of the Compensation Event, and/or relief from the obligations under this Contract claimed, could not reasonably be expected to be mitigated or recovered by the Contractor acting in accordance with Good Industry Practice, including recovery under a policy of insurance referred to in Clause 47 (*Insurance cover*).
- 12.1.3 In the event that the Contractor has complied with its obligations under Clause 12.1.2 (*Specified Events*) then:
- 12.1.3.1 in the case of an additional Capital Expenditure being incurred by the Contractor, the Authority shall compensate the Contractor for the relevant additional costs consisting of Capital Expenditure and demonstrated as having been incurred in accordance with Clause 12.1.2.3 (*Specified Events*) within thirty (30) days of its receipt of a written demand by the Contractor supported by all relevant information; and/or
 - 12.1.3.2 in the case of a payment of compensation for:

- 12.1.3.2.1 additional costs that do not result in Capital Expenditure being incurred by the Contractor in accordance with Clause 12.1.2.3 but which reflects a change in the costs being incurred by the Contractor after the Base Date; and/or
- 12.1.3.2.2 revenue lost by the Contractor.
- 12.1.3.3 The Authority shall compensate the Contractor in accordance with Clause 12.1.4 (*Specified Events*) below; and/or
- 12.1.3.4 the Authority shall give the Contractor such relief from its obligations under this Contract, as is reasonable for such a Compensation Event including relief from the Authority's right to accrue KPI Credits to the extent permitted under paragraph 11.4 of Schedule E (*Performance and Payment*).
- 12.1.4 Any payment of compensation referred to in Clause 12.1.3 above shall (at the Contractor's discretion):
 - 12.1.4.1 result in a corresponding adjustment to the Daily Rate; or
 - 12.1.4.2 otherwise be included in the costs payable by the Authority in one or more subsequent Aggregate Monthly Payments in accordance with paragraph 7.1 of Schedule E (*Performance and Payment*).

12.2 Delay Events and Relief Events

- 12.2.1 If and to the extent that:
 - 12.2.1.1 a Delay Event adversely affects the ability of the Contractor to perform any of its obligations under this Contract;
 - 12.2.1.2 subparagraph (M) of the definition of Relief Event occurs and affects the ability of the Contractor to perform any of its obligations under this Contract; or
 - 12.2.1.3 a Relief Event causes a delay to Task Completion or a failure of an element of Service, which was in Authority Use at the time the Authority issued a Notice to Move, to meet ARP Readiness Requirements,

then, the Contractor is entitled to apply for relief from any rights of the Authority arising under Clause 35 (*Termination for Insolvency or Corrupt Gifts*), Clause 37 (*Termination for material breach by the Contractor*) and Clause 39 (*Termination for security Measures and Availability*); and, in the case of Relief Events, relief from the imposition of KPI Credits in accordance with paragraph 11.4 of Schedule E (*Performance and Payment*), *provided, however, that the Take or Pay Guarantee for any Vessel affected by such Relief Event shall not be reduced.*

12.3 To obtain relief under Clause 12.2 (*Specified Events*), the Contractor must:

- 12.3.1 set out in the following Monthly Reporting, and in any event within twenty (20) Working Days after it became aware that the Delay Event or Relief Event referred to in Clause 12.2 (*Specified Events*) has occurred or is likely to occur, a notice of its claim:

- 12.3.1.1 in respect of Delay Events or subparagraph (M) of the definition of Relief Event, for relief from its obligations under this Contract and (in the case of a Delay Event only) the likely duration of such Delay Event; or
- 12.3.1.2 in respect of Relief Events, for relief from the Authority's right to accrue KPI Credits to the extent permitted under paragraph 11.4 of Schedule E (*Performance and Payment*),

including full details of the nature of the event and the date of occurrence;
- 12.3.2 at the following Monthly Reporting, give full details of the relief claimed; and
- 12.3.3 demonstrate, acting in accordance with Good Industry Practice, that:
 - 12.3.3.1 the Contractor and its Subcontractors could not reasonably have foreseen the occurrence or consequences of the relevant Delay Event or Relief Event;
 - 12.3.3.2 the Delay Event or the Relief Event caused the need for relief from other obligations under this Contract;
 - 12.3.3.3 the delay to Task Completion and/or relief from the obligations under this Contract claimed could not reasonably be expected to be mitigated or recovered by the Contractor; and
 - 12.3.3.4 the Contractor is using reasonable endeavours to perform its obligations under this Contract.
- 12.4 In the event that the Contractor has complied with its obligations under Clause 12.3 (*Specified Events*), then:
 - 12.4.1 in respect of Delay Events and Relief Events, the Authority shall not be entitled to exercise its rights to terminate this Contract under Clause 35 (*Termination for Insolvency or Corrupt Gifts*), Clause 37 (*Termination for material breach*) and Clause 39 (*Termination for security measures and Availability*) in respect of such Delay Event or Relief Event;
 - 12.4.2 Redacted under FOIA Section 43. Commercial Interest
[REDACTED]
[REDACTED]
[REDACTED]
 - 12.4.3 in respect of Relief Events only, the Authority shall not be entitled to accrue KPI Credits that are set out in paragraph 9 of Schedule E (*Performance and Payment*), for any period of delay in Task Completion to the extent caused by the Relief Event; and
 - 12.4.4 in respect of Delay Events and subparagraph (M) of the definition of Relief Event, the Authority shall give the Contractor such relief from liability for failure to meet its obligations under this Contract for as long as and only to the extent that the performance of those obligations is directly affected by such Specified Event and as is reasonable for such Specified Event.
- 12.5 The Contractor shall notify the Authority if at any time it receives or becomes aware of any further information relating to the Delay Event or the Relief Event, giving details of that

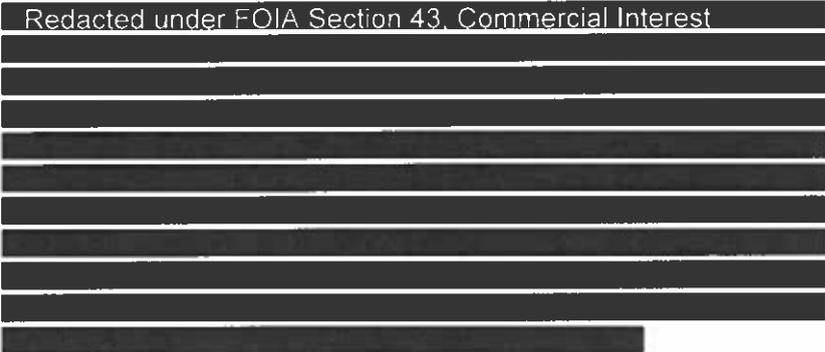
information to the extent that such information is new or renders information previously submitted materially inaccurate or misleading.

12.6 Without prejudice to Clause 12.4 (*Specified Events*), during any period during which a Delay Event causes the Contractor to be unable to comply with any of its obligations:

12.6.1 due to the Total Loss of a Vessel, the Take or Pay Guarantee applicable to the affected Vessel shall be reduced such that the Authority is not required to make any payment in respect of that Vessel, and the Authority is not entitled to impose KPI Credits, in respect of that Vessel; or

12.6.2 for reasons other than a Total Loss of a Vessel:

12.6.2.1 the Take or Pay Guarantee for any Vessel affected by a Delay Event shall not be reduced; and

12.6.2.2  Redacted under FOIA Section 43, Commercial Interest

12.7 Force Majeure Events

12.7.1 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 incurred by that other Party because a Force Majeure Event occurs and it is prevented from carrying out its obligations by that Force Majeure Event or its consequences.

12.7.2 For any period during which a Force Majeure Event causes the Contractor to be unable to comply with all or a material part of its obligations:

12.7.2.1 due to the Total Loss of a Vessel, the Take or Pay Guarantee shall be reduced such that the Authority is not required to make any payment, and the Authority is not entitled to impose KPI Credits, in respect of that element of Service; or

12.7.2.2 for reasons other than a Total Loss of a Vessel:

12.7.2.2.1 the Take or Pay Guarantee for any element of Service affected by a Force Majeure Event shall not be reduced; and

12.7.2.2.2 [Redacted under FOIA Section 43, Commercial Interest]

and the Authority shall not be entitled to exercise its rights under Clause 3939.2 (*Termination for security measures and Availability*).

12.8 On the occurrence of a Force Majeure Event, the affected Party shall notify the other Party as soon as practicable. The notification shall include details of the Force Majeure Event, including evidence of its effect on the obligations of the affected Party and any action proposed to mitigate its effect.

12.9 As soon as practicable following such notification, 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.

12.10 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 or interruption to the Service and the Contractor shall at all times during which a Force Majeure Event is subsisting take all steps in accordance with Good Industry Practice to overcome or minimise the consequences of the Force Majeure Event.

12.11 The affected Party shall notify the other Party as soon as 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.

12.12 General

12.12.1 In the event that information required by this Clause 12 (*Specified Events*) is provided to the Authority after the specified timescales then the Contractor shall not be entitled to any extension of time, relief from its obligations under this Contract or compensation in respect of the period for which the information is delayed.

12.12.2 The following matters shall be determined in the first instance by the Authority, in its reasonable opinion:

12.12.2.1 whether a delay notice and any subsequent information provided demonstrates that the cause of the delay or failure by the Contractor to comply with its obligations is a Specified Event;

- 12.12.2.2 whether any part of the period of delay is caused by the Specified Event and, if so, the length of such delay; and
 - 12.12.2.3 whether any expenses claimed by the Contractor under Clause 12.1.2.1 are reasonable and properly incurred as a result of the delay caused by the Compensation Event.
 - 12.12.3 If the Contractor disputes any decision by the Authority on matters referred to in Clause 12.12.2 (*Specified Events*), then the Parties shall attempt themselves in good faith to resolve such dispute by negotiation. If the Parties are unable to reach agreement on any of such matters within a reasonable time (given all the circumstances) and in any event within thirty (30) days of the notice of such dispute by the Contractor to the Authority then such dispute shall be resolved in accordance with the provisions of Clause 72 (*Dispute Resolution*).
 - 12.12.4 Save as expressly provided, the provisions of Clause 12 (*Specified Events*) are without prejudice to the provisions of Clauses 35 (*Termination for insolvency or Corrupt Gifts*), 36 (*Termination for Convenience*), 37 (*Termination for Material Breach*), 39 (*Termination for security measures and Availability*), 40 (*Termination for Mitigation Event*), 41 (*Termination for Force Majeure*) or 42 (*Termination for Delay Event, Relief Event or Compensation Event*) and the procedures set out in Clause 12 shall apply notwithstanding any discussions or negotiations relating to the continued performance of this Contract following a Force Majeure Event.
 - 12.12.5 Where a delay is caused partly by a Specified Event (including a combination of Specified Events) and partly by some other event, the Contractor shall be entitled to be given an extension of time equal to the length of the Specified Event(s) only if the Specified Event(s) caused the period of delay to be longer than it would have been in the absence of the Specified Event(s).
13. **Interests in Vessels**
- 13.1 Each Vessel shall be the property of the Contractor absolutely, free and clear of any interest of any third party, whether by way of right of retention, security charge, or otherwise, other than Permitted Security Interests, provided that:
 - 13.1.1 in the case of a financing created with the prior written approval of the Authority, not to be unreasonably withheld or delayed, the Contractor and financier in respect of a Vessel or a component part thereof, are party to, or bound by the provisions of a Direct Agreement and thereby agree to comply with the provisions of Clauses 44.2, 44.3 and 44.4 (*Cooperation on Expiry or Termination of Contract*); and
 - 13.1.2 the Contractor ensures that the holding by any third party of a Security Interest in respect of a Vessel or a component part thereof, does not inhibit the Authority's rights under Schedule L (*Security Measures*) or the Authority's right to Call-Out the Vessels, or a component part thereof, which it may have at law and independently of its rights under this Agreement.
 - 13.2 The Contractor must not:
 - 13.2.1 assign, transfer or otherwise dispose of any of its interests, including disposal of any interest by way of a trust, in the Vessels; or
 - 13.2.2 create or allow to exist any Security Interest (including any Security Interests which were created before the date of the Contract), other than any Permitted Security Interest over any Vessel,

without in each case obtaining the Authority's prior written consent, which it may withhold (but not delay) in its absolute discretion.

- 13.3 Upon the Authority's written request, the Contractor shall promptly provide the Authority with documentary or other evidence, as the Authority may reasonably require, that the Vessels are held by the Contractor in accordance with Clauses 13.1 and 13.2 (*Interests in Vessels*).

14. **Redundant Materiel**

- 14.1 Where requested by the Authority, all redundant Materiel resulting from work carried out under, or procured for the purposes of the Contract, the costs of which have been paid by the Authority under the Contract, or which is otherwise owned by the Authority, shall be disposed of as follows:

- 14.1.1 On completion of the Contract or earlier if appropriate, the Contractor shall prepare:

14.1.1.1 a list of those items of the Materiel referred to above which are considered to be serviceable or repairable. The list shall record the condition of each item, its actual cost or estimated value and, in the case of repairable items, the estimated price of repair; and

14.1.1.2 a list of those items of the Materiel which are considered to be unserviceable and which cannot be economically repaired or are otherwise considered to be scrap.

- 14.1.2 The Contractor shall send the lists referred to in Clause 14.1.1.1 and 14.1.1.2 (*Redundant Materiel*) above to the Commercial Officer named in Schedule H (*Contact Persons*).

- 14.1.3 Within three months of the date of receipt of the lists, the Authority shall issue disposal instructions to the Contractor. Such disposal instructions shall require that the items of materiel are either:

14.1.3.1 transferred to other subsisting contracts; or

14.1.3.2 subject to contract, retained by the Contractor for use in the performance of future contracts placed with the Contractor; or

14.1.3.3 subject to contract, repaired by the Contractor; or

14.1.3.4 at the direction of the Authority, sold by the Contractor, acting on behalf of the Authority, for the best price reasonably obtainable.

- 14.2 Materiel designated in accordance with Clause 14.1.1.2 (*Redundant Materiel*) above shall be dismantled and disposed of in such a manner as to preclude the possibility of resale in its existing form.

- 14.3 The proceeds of the sale of items of Materiel sold pursuant to Clause 14.1.3.4 (*Redundant Materiel*) above shall be credited to the Authority in accordance with arrangements made between the Contractor and the Authority. The reasonable costs incurred by the Contractor in selling such items of redundant Materiel shall be Allowable Costs.

- 14.4 A list of the items sold by the Contractor shall be sent to the Commercial Officer named in Schedule H (*Contact Persons*) together with a statement of the proceeds of sale.

14.5 For the avoidance of doubt this Clause shall only apply to Materiel which is procured or supplied as a result of this Contract.

15. **Contractor obligations**

15.1 The Contractor:

15.1.1 without prejudice to any other obligation of the Contractor under this Contract, shall be responsible for ensuring that reasonable skill, care and diligence are exercised in carrying out its obligations under this Contract, in accordance with Good Industry Practice;

15.1.2 is responsible for the operation and maintenance of the Vessels in accordance with this Contract and Good Industry Practice;

15.1.3 shall operate, maintain and administer the Project in accordance with all Law;

15.1.4 shall provide the Service to the Authority throughout the Contract Term in accordance with this Contract and, in particular, to meet the requirements set out in Schedule A (*Statement of Requirement*);

15.1.5 shall carry out Tasks notified to it by the Authority in accordance with the procedures set out in Schedule J (*Tasking and Control*); and

15.1.6 shall be responsible for the observance by itself, and use reasonable endeavours to procure observance by its Principal Subcontractors and their respective staff, of all applicable rules, regulations and requirements of statutory or regulatory authorities and environmental protection concerning shipping and fire prevention.

15.2 The Contractor shall participate in a joint Project Evaluation with the Authority. The scope of this evaluation will be informed by the Authority processes at the time of review. The review shall focus on aspects of the contract performance including: timely delivery, cost performance, quality, performance indicators, governance.

15.3 A copy of all monthly reports shall be provided by the Contractor, covering the final month of the contract, even if this is not a full month.

15.4 The Contractor shall obtain and maintain all Required Consents.

16. **Defect Investigation and Liability**

The Contractor shall have an ongoing responsibility during the Contract Term for investigation of OpDefs and shall report on them in line with the reporting requirements of Schedule C (*Governance and Reporting*).

17. **Mitigation**

Redacted under FOIA Section 43, Commercial Interest
[Redacted]

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18. **Governance and Reporting**

For the Contract Term, the Contractor shall comply with the requirements in Schedule C¹ (*Governance and Reporting*).

18.1 **Progress Meetings**

The Contractor shall attend progress meetings at the frequency and times specified in the Contract. Any additional meetings shall be at no cost to the Authority.

18.1.1 The Authority's Project Manager and acquisition team members shall attend each meeting and will advise the Contractor in advance of the expertise of its supporting team.

18.1.2 The Contractor's Project Manager shall be required to attend each meeting supported by personnel suitably qualified to respond to the areas of expertise notified by the Authority.

18.2 All meetings will be held at a location to be agreed between the Contractor and the Project or Equipment Support Manager.

18.3 Unless stated otherwise the Contractor shall be responsible for making a record of the discussions and decisions of the meeting. These will be forwarded within two weeks of the meeting, in draft form, to the Commercial Officer at the address given in boxes 1 and 2 of the DEFFORM 111 in Schedule H (*Contact Persons*), for agreement prior to the final version being issued.

18.4 **Social Value**

For the Contract Term, the Contractor shall submit reporting on social value in line with Schedule C (*Governance and Reporting*).

19. **Management procedure**

19.1 The Authority and the Contractor shall comply with Schedule C (*Governance and Reporting*).

19.2 The Contractor and, where applicable, the Principal Subcontractors shall maintain all records specified in this Contract, and make them available to the Authority when requested on reasonable notice.

19.3 The Contractor and, where applicable, the Principal Subcontractors shall also permit access to Relevant Records that relate to the contractual obligations to supply goods or services under the Contract, held by or controlled by them and reasonably required by the Comptroller and Auditor General, their staff and any appointed representative of the National Audit Office, and provide such explanations and information as reasonably necessary for the following purposes:

¹ In the majority of cases reporting will be from the Effective Date but for the SSRO (i.e. reporting to the single source regulations office), the reporting obligation would commence immediately from the Date of Contract.

- 19.3.1 to enable the National Audit Office to carry out the Authority's statutory audits and to examine and/or certify the Authority's annual and interim report and accounts; and
 - 19.3.2 to enable the National Audit Office to carry out an examination pursuant to Part II of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources.
- 19.4 With regard to the records made available to the Authority under Clause 19.2 (*Management Procedure*), and subject to the provisions of Clause 31 (*Disclosure of Information*), the Contractor shall permit records to be examined and if necessary copied, by the Authority, or Representative of the Authority, as the Authority may reasonably require.
- 19.5 Unless the Contract specifies otherwise the records referred to in this Clause shall be retained for a period of at least six (6) years from:
- 19.5.1 the end of the Contract Term;
 - 19.5.2 the termination of the Contract; or
 - 19.5.3 the final payment,
- whichever occurs latest.

20. **Health and safety**

- 20.1 The Contractor shall ensure that:
- 20.1.1 the specified requirements for the safety of the Vessel(s) and the Crew are met;
 - 20.1.2 the requirements for safety management and standards set out in Schedule A (*Statement of Requirement*) and Schedule C (*Governance and Reporting*) are implemented in accordance with the terms of this Contract;
 - 20.1.3 in performance of this Contract it complies with all applicable statutory obligations and applicable statutory duties relating to safety; and
 - 20.1.4 in performance of this Contract it, and the Contractor's Personnel shall comply with the provisions of Schedule G (*Contractor's Personnel at Government Establishments*).
- 20.2 If it appears that Schedule A (*Statement of Requirement*) and Schedule C (*Governance and Reporting*) are in breach of any statutory duty or statutory obligation relating to safety, the Contractor shall as soon as reasonably practicable draw that fact to the Authority's attention.
- 20.3 The Contractor shall be responsible for the observance by itself, Contractor's Representatives and each of their staff of all current health and safety precautions necessary for the protection of itself and its staff including all precautions required to be taken by or under Law PROVIDED THAT, without limiting Clause 45 (*Indemnity and Limits of Liability*) nothing in this Clause 20 (*Health & Safety*) shall require the Contractor to ensure that the Authority, its staff, its consultants, its agents or any of its visitors observe current health and safety precautions.
- 20.4 Without limiting Clause 20.3 (*Health & Safety*) or 45 (*Indemnity and Limits of Liability*), the Contractor shall use its reasonable endeavours to procure that each relevant Principal Subcontract contains provisions that the Principal Subcontractor shall be responsible for the observance by itself, its staff of all current health and safety precautions necessary for the

protection of itself and its staff including all precautions required to be taken by or under any applicable Law.

- 20.5 The Contractor acknowledges and agrees that the provisions of Schedule G (*Contractor's Personnel at Government Establishments*) apply to it, as applicable.

21. **Use of Asbestos**

21.1 **Prohibition of Asbestos**

The Contractor acknowledges and agrees that subject to Clauses 21.3.1 and 21.3.2 (*Use of Asbestos*) below, no asbestos of any type has been used intentionally, or will be added to, any of the Vessels (including the Modifications) used to supply the Services under the Contract in default of which, the Contractor will have been in material breach of the Contract pursuant to Clause 37 (*Termination for material breach by the Contractors*).

21.2 **Notification**

The Contractor shall notify the Authority in writing as soon as they become aware that Asbestos may be (or was) incorporated in the Vessels (including the Modifications) or other materials to be supplied or processed during performance of the Services.

21.3 **Exemption**

21.3.1 The Secretary of State may issue a Defence Exemption Certificate under the UK REACH Regulation (the "Reach Regulations") exempting the Contractor from parts of the Regulations (a "Defence Exemption Certificate"). The Contractor may incorporate Asbestos into the Vessels or other materials supplied, or use or process it in the performance of Services under the Contract in accordance with the conditions set out in the Defence Exemption Certificate.

21.3.2 If at any stage during the lifetime of the Contract, an alternative substance becomes available, the Contractor shall bring this to the attention of the Authority as soon as it becomes aware of the same (having used its reasonable endeavours to make due and careful enquiries), by notice in writing. The Authority shall then determine, in consultation with the Contractor and the Health and Safety Executive where appropriate, whether the substance would be suitable for incorporation into any of the Vessels (including the Modifications) or material supplied under the Contract. The Authority may require the Contractor to suspend any further production of such Vessels or material or delivery of Services, pending such determination, thereby relieving the Contractor (for the time being) of any contractual obligations to provide such Vessels, material or Services. In the event that the Authority determines that the alternative substance would be suitable for incorporation into such Vessels or material or in the performance of Services in lieu of Asbestos, the Authority may vary its requirements in the light of any such determination.

21.3.3 If, at any stage during the lifetime of the Contract, the Secretary of State issues a further certificate which varies or revokes any Defence Exemption Certificate granted in accordance with the Reach Regulations, the effect of which is that any further supply of the Vessels or delivery of Services under the Contract would be prohibited by the Reach Regulations, the Contractor shall, on becoming aware of the further Defence Exemption Certificate, immediately refrain from incorporating Asbestos into any such Vessel or performing the Service and shall provide the Authority with written confirmation of this within forty-eight (48) hours. The Authority reserves the right to vary its requirements in the light of any such decision.

21.3.4 Since the Contract is for the provision of a Service, the Contractor shall obtain from the Health and Safety Executive or the Secretary of State for Defence as appropriate, an exemption from the requirements of the CAR under Regulation 29 or 30 where an exemption is necessary for performance of the Contract.

22. **Risk assessments**

22.1 The Contractor acknowledges that any risk assessment which has been, or may be, undertaken by the Authority in connection with this Contract has been, or will continue to be, regarded as a review activity only. Such risk assessment does not and shall not subsequently be construed as affecting the legal relationship between the Parties, nor shall such risk assessment constitute a Change to this Contract. All risk assessments shall be reported and logged in accordance with Schedule C (*Governance and Reporting*).

22.2 The Parties agree that the process of risk assessment, including without limitation the identification of (or failure to identify):

22.2.1 particular risks and their impact; or

22.2.2 risk reduction measures, contingency plans and remedial actions,

shall not in any way limit or exclude the Authority's and/or Contractor's obligations under this Contract and shall be entirely without prejudice to any of the Authority's and/or Contractor's rights, privileges and powers under this Contract.

23. **Subcontracting**

23.1 The Contractor shall implement any obligation under this Contract, which it elects to subcontract, in accordance with Schedule N (*Subcontract Plan*). The Contractor agrees that where applicable, it shall procure, implement and manage its Subcontracts and Subcontractors in accordance with the relevant provisions of Schedule B (*Provisions in respect of Qualifying Defence Contracts and The Single Source Contract Regulations 2014, relating to contractor reporting and drafting of (qualifying / non-qualifying) Subcontracts*), including incorporating and complying with the mandatory provisions set out in that Schedule into its Subcontracts, as applicable.

23.2 The Contractor shall be responsible for the management and supervision of all Subcontractors, and the subcontracting of any obligation, duty or liability under this Contract shall not relieve or excuse the Contractor from any of its obligations, duties or liabilities to the Authority under this Contract.

23.3 The Contractor shall be responsible to the Authority for acts or omissions of any Subcontractor in relation to such Subcontractor's performance of this Contract, including in respect of any obligation undertaken directly by such Subcontractor to the Authority in connection with this Contract, and to this end any act or omission of that Subcontractor in relation to such Subcontractor's performance of this Contract shall be regarded for the purposes of this Contract as an act or omission of the Contractor.

23.4 Where the Contractor enters into a Principal Subcontract with a Principal Subcontractor for the purpose of performing any obligation of the Contractor under this Contract, it shall cause a term to be included in such Principal Subcontract which requires payment by the Contractor to the Principal Subcontractor within a specified period not exceeding thirty (30) days from receipt of a valid and undisputed invoice as required by the terms of the Principal Subcontract.

23.5 Except where the Authority has given its prior written consent, such consent not to be unreasonably withheld or delayed, the Contractor shall ensure that each Principal

Subcontract shall include, and shall procure an acknowledgment from each Principal Subcontractor, confirming that each Principal Subcontract includes:

- 23.5.1 provisions which enable the Contractor to comply with its obligations, and protect the rights of the Authority, under this Contract;
- 23.5.2 a provision enabling the Contractor, on the Authority exercising its option to purchase the Vessels pursuant to Clause 44.2 (*Cooperation on Expiry or Termination of Contract*), to assign, novate or otherwise transfer any of its rights and/or obligations under the Principal Subcontract to the Authority or any other person nominated by the Authority without restriction (including any need to obtain any consent or approval) or payment by the Authority and including a requirement to execute, and provide to the Authority, a deed of novation, substantially in the form appended at Annex 1 of Schedule W (*Principal Subcontractor Notice*);
- 23.5.3 obligations no less onerous on the Principal Subcontractor than those imposed on the Contractor under this Contract in respect of confidentiality, data protection and FOIA requirements set out in Clause 31 (*Disclosure of Information*) and Clause 65 (*Data Protection*); and
- 23.5.4 obligations to facilitate, on the Authority exercising its option to purchase the Vessels pursuant to Clause 44.2 (*Cooperation on Expiry or Termination of Contract*), the transfer of the Services (in whole or in part) from the Contractor to the Authority or a third party nominated by the Authority and to provide, on expiry or termination of the Contract, exit assistance to the Authority or a third party nominated by the Authority to facilitate exit and or transfer in accordance with Clause 44 (*Cooperation on Expiry or Termination of Contract*),

such provisions of this Clause 23.5 to be enforceable by the Authority pursuant to a third party rights clause and acknowledged by the Principal Subcontractor to the Authority substantially in the form set out in Schedule W (*Principal Subcontractor Notice*) on or before the Date of Contract or, if later, on the same date the Principal Subcontract is entered into.

- 23.6 Subject to Clause 23.12 (*Subcontracting*), the Contractor shall not make any change to any Principal Subcontractor without the prior written consent of the Authority, save where such Subcontractor is a Principal Subcontractor or identified within the Pre-Approved List or is as at the Date of Contract either a Shareholder of the Contractor or Holdco or an Affiliate of a Shareholder of either the Contractor or Holdco, where consent will be deemed to be given in accordance with Clause 23.13 (*Subcontracting*).
- 23.7 The Contractor shall not, and shall procure that appropriate wording is included in its Principal Subcontracts to ensure each Principal Subcontractor shall not, enter into any contract after the Effective Date in connection with the Project where such work or goods to be procured pursuant to a subcontract:

- 23.7.1 are in the opinion of the Authority, critical in the provision of all or any part of the Services; and/or
- 23.7.2 have a value which at the time of appointment exceeds (or would exceed if appointed) 10% of the contract value of the Principal Subcontract,

without the Contractor notifying the Authority in advance of entering into such subcontract, save where such Subcontractor is a Principal Subcontractor or identified within the Pre-Approved List or is as at the Date of Contract either a Shareholder of the Contractor or Holdco or an Affiliate of a Shareholder of either the Contractor or Holdco.

- 23.8 Other than any subcontractor listed in the Pre-Approved List with whom the Contractor may enter into Principal Subcontracts without requiring the Authority's prior written consent, the Contractor shall not enter into any Principal Subcontract without the Authority's prior written consent.
- 23.9 The Contractor may propose a new party to be a Principal Subcontractor or listed in the Pre-Approved List ("Proposed New Principal Subcontractor") if such party will be able to perform satisfactorily the obligations to be placed upon it whilst maintaining the quality reliability and through-life support of the Service. In respect of each Proposed New Principal Subcontractor, the Contractor shall provide satisfactory supporting information on the Proposed New Principal Subcontractor to enable the Authority to make its assessment on suitability.
- 23.10 Subject to Clause 23.12 (*Subcontracting*), the Authority shall, within fifteen (15) Working Days of a request from the Contractor to approve a Proposed New Principal Subcontractor pursuant to Clause 23.9 (*Subcontracting*) confirm to the Contractor its approval, or not, (such approval not to be unreasonably withheld or delayed) of such Proposed New Principal Subcontractor.
- 23.11 Subject to Clause 23.12 (*Subcontracting*), at any time, the Authority shall have the right to ask the Contractor for reasonable information relating to its proposed subcontractors on the Pre-Approved List and to notify the Contractor of any persons on the Pre-Approved List who are no longer approved by the Authority, in which case such persons shall be removed from the Pre-Approved List.
- 23.12 The consent of the Authority under Clauses 23.6, 23.8 and 23.10 (*Subcontracting*) may only be withheld if a Senior Authority Representative notifies the Contractor in writing within the time limits prescribed in this Clause 23 (*Subcontracting*) that the Authority's consent is being withheld because either:
 - 23.12.1 the Authority, acting in the national interest, considers it is inappropriate for the Proposed New Principal Subcontractor to participate in the Project, or be involved with the Contractor; or
 - 23.12.2 in the opinion of the Authority (acting reasonably) it is inappropriate for the Proposed New Principal Subcontractor to act as a Principal Subcontractor because the Authority has received specific information from: (i) a regulatory authority with powers in relation to banking, financial or investment markets and with whose instructions or regulations the Proposed New Principal Subcontractor is bound to, or accustomed to, comply, or (ii) from The Serious Fraud Office or (iii) The Crown Prosecution Service, or (iv) any successor to either such body, in response to a specific question placed by a Senior Authority Representative that raises reasonable and genuine concerns about the suitability of the Proposed New Principal Subcontractor to act in such capacity in relation to the Project or the Contractor.

- 23.13 The Authority shall not be entitled to withhold its consent in accordance with Clause 23.12 (*Subcontracting*) and consent will be deemed to be given if the Proposed New Principal Subcontractor is on the Pre-Approved List or has not been objected to by the Authority on reasonable grounds within fifteen (15) Working Days of a request for the Authority to approve any such potential Proposed New Principal Subcontractor pursuant to this Clause 23.13 (*Subcontracting*) provided that the Authority has received from the Contractor at its request sufficient satisfactory information on such Proposed New Principal Subcontractor to enable it to make its assessment.
- 23.14 The Contractor shall manage all Principal Subcontractors at an appropriate level commensurate with the risk value and complexity of scope being delivered. The Contractor shall report to the Authority progress against placement of those Subcontracts set out in the Subcontract Plan.
- 23.15 Unless otherwise agreed by the Authority, the Contractor shall include in its Principal Subcontracts a requirement on each Principal Subcontractor to implement and maintain a Project Control Management System (PCMS) where such Principal Subcontract is for a period in excess of 12 months and the Principal Subcontract price exceeds [REDACTED].
- 23.16 For the avoidance of doubt, no such consent pursuant to this Clause 23 (*Subcontracting*) shall relieve the Contractor from any of its obligations under this Contract.

24. **Transfer**

- 24.1 The provisions of DEFCON 518 shall apply *mutatis mutandis* and are deemed incorporated into this Contract by reference.

PART 3 : PAYMENT

25. **Payments**

- 25.1 Subject to the provisions of this Agreement, the Authority shall pay (in accordance with Clause 27 (*Payment and Recovery of Sums Due*)) to the Contractor the Aggregate Monthly Payments, which shall be calculated under and in accordance with Schedule E (*Performance and Payment*) subject to Clause 26 (*Indexation*).
- 25.2 In respect of Fuel, the Contractor shall purchase sufficient quantities at competitive market rates in order to provide the Service and the cost of such Fuel shall be reimbursed by the Authority upon the production of reasonably satisfactory evidence (of such purchase and market rates) in accordance with Clause 27 (*Payment and Recovery of Sums Due*) provided always that:
- 25.2.1 the Authority shall only pay to the Contractor the cost of Fuel for the Guaranteed Fuel Consumption under and in accordance with Annex 2 (*Fuel Efficiency*) of Schedule E (*Performance and Payment*); and
- 25.2.2 and for the avoidance of doubt, the obligations of the Authority to pay the Contractor for Fuel shall strictly be limited to, and not exceed, those set out in this Clause 25 (*Payments*), and the Authority shall strictly not be liable for paying any amounts to the Contractor for Fuel other than as set out in this Clause 25 (*Payments*).

26. **Indexation**

The Parties agree that any payments made or amounts or sums expressed under this Contract to be "indexed", "subject to indexation" or "index linked" shall be adjusted in

accordance with the provisions of Annex 4 (*Indexation*) of Schedule E (*Performance and Payment*).

27. **Payment and Recovery of Sums Due**

- 27.1 In consideration of the Contractor performing the Service, each month the Authority shall pay the Aggregate Monthly Payment for that month to the Contractor on the terms provided in this Contract in accordance with this Clause 27 (*Payment and Recovery of Sums Due*) and Schedule E (*Performance and Payment*).
- 27.2 Payment for Contractor Deliverables will be made by electronic transfer and prior to submitting any claims for payment under Clause 27.3 (*Payment and Recovery of Sums Due*) the Contractor will be required to register their details (Supplier on-boarding) on the Contracting, Purchasing and Finance (CP&F) electronic procurement tool.
- 27.3 Where the Contractor submits an invoice to the Authority in accordance with Clause 27.2 (*Payment and Recovery of Sums Due*), the Authority will consider and verify that invoice in a timely fashion.
- 27.4 The Authority shall pay the Contractor any sums due under such an invoice no later than a period of thirty (30) days from the date on which the Authority has determined that the invoice is valid and undisputed.
- 27.5 Where the Authority fails to comply with Clause 27.3 (*Payment and Recovery of Sums Due*) and there is an undue delay in considering and verifying the invoice, the invoice shall be regarded as valid and undisputed for the purposes of Clause 27.4 (*Payment and Recovery of Sums Due*) after a reasonable time has passed.
- 27.6 The approval for payment of a valid and undisputed claim for payment by the Authority shall not be construed as acceptance by the Authority of the performance of the Contractor's obligations nor as a waiver of its rights and remedies under the Contract.
- 27.7 Without prejudice to any other right or remedy, the Authority reserves the right to set off any amount owing at any time from the Contractor to the Authority against any amount payable by the Authority to the Contractor under the Contract.
- 27.8 If the Authority fails to pay any undisputed sums properly invoiced under this Contract, the Contractor shall have the right to charge interest on the overdue amount at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment.

PART 4 : PROCEDURAL

28. **Duration of contract**

- 28.1 Subject to extensions granted pursuant to this Contract, the Contract Term is as stated in Clause 1.1 (*Definitions*) of this Contract.
- 28.2 The Authority may, at its sole option, give (not less than three months prior written) notice to the Contractor to extend the Contract Term by one (1) calendar year, such option to extend being exercisable three (3) times by the Authority.

29. **Change**

29.1 **Change of Law**

The Authority and Contractor shall comply with their respective obligations in Schedule T (*Change of Law*).

29.2 **Formal Amendments to the Contract**

29.2.1 Subject to Clause 29.2.3 (*Formal Amendments to the Contract*), the Contract may only be amended by the written agreement of the Parties (or their duly authorised representatives acting on their behalf). Such written agreement shall consist of:

29.2.1.1 the Authority Notice of Change under Schedule P (*Contract Change Control Procedure*); and

29.2.1.2 the Contractors unqualified acceptance of such offer as evidenced by an acceptance notice duly signed by the Contractor, using DEFFORM 10B as appended at Annex 1 of Schedule P (*Contract Change Control Procedure*) (the "Change Acceptance Form").

29.2.2 Where required by the Authority in connection with any such amendment, the Contractor shall (as so required) confirm that any existing Parent Company Guarantee is sufficiently comprehensive so as to cover and support all of the Contractors liabilities and obligations under and in connection with the Contract (as amended by such amendment) or provide a revised Parent Company Guarantee to achieve the same purposes.

29.2.3 Where the Authority wishes to amend the Contract to incorporate any work that is unpriced at the time of amendment, on the basis that the Contract is a Qualifying Defence Contract, any change to the Monthly Usage Payment shall be redetermined on amendment in accordance with the Defence Reform Act 2014 and Single Source Contract Regulations 2014 (each as amended from time to time).

29.3 **Ship Design Specification Modifications**

29.3.1 The Contractor shall comply with the time schedule provided by the Authority to the Contractor prior to the Effective Date for procuring and implementing the Environmental Management Plan (the "Modification Programme"). Each Modification Programme shall, once approved by the Authority (in its sole discretion) contain a Milestone Payment Plan. Each Milestone Payment plan shall be prepared by the Contractor for the Authority's review, and the Contractor shall prepare all financial information as stipulated in each Milestone Payment Plan for the Authority's review. No Milestone Payment Plan shall be incorporated into a Modification Programme until the Authority has (in its sole discretion) approved it.

29.3.2 The Representative of the Contractor shall notify the Authority if at any time the actual progress of the Modifications pursuant to this Contract is such that the Contractor anticipates that any Modification Milestone will be earlier or later than the relevant Modification Milestone Date. In such cases, the Contractor shall, if requested by Authority, submit a report showing the manner and periods in which the Modification Milestone will be provided pursuant to this Contract and what the actual completion date of the Modification Milestone would be. The Authority shall be under no obligation to accept any early delivery of the Modification Milestone.

- 29.3.3 Within five (5) Working Days of achieving a Modification Milestone the Contractor shall issue to the Authority a certificate of completion of the relevant Modification Milestone setting out the relevant Modification Milestone Amount and attaching evidence of completion as set out in the Modification Programme (the "Modification Milestone Certificate").
- 29.3.4 Within twenty (20) Working Days of receipt of the Modification Milestone Certificate the Authority shall notify the Contractor whether the Authority agrees that the Modification Milestone has been completed. Should the Authority so agree, the Contractor shall be entitled to include the relevant Modification Milestone Amount in the subsequent calendar month's monthly report and invoice, in accordance with Clause 27 (*Payment and Recovery of Sums Due*) and the applicable Milestone Payment Plan. Disputes relating to Modification Milestones and their completion, or lack of, shall be referred for resolution under Clause 72 (*Dispute Resolution*). Completion of a Modification Milestone shall be deemed to occur on the date that all evidential requirements for that Modification Milestone are fulfilled, provided that the Authority has subsequently approved the relevant Modification Milestone Certificate (or approval has been determined in accordance with Clause 72 (*Dispute Resolution*)). Until completion, the risk of loss or damage to Modifications shall be with the Contractor.
- 29.3.5 The Contractor not completing a Modification Milestone by the relevant Modification Milestone Date, provided always that a Relief Event does not apply shall be a Service Failure for the purposes of paragraph 8.1 of Schedule E (*Payment and Performance*).
- 29.3.6 KPI Credits in accordance with Schedule E (*Payment and Performance*) shall accrue in respect of any Modification Milestone from the Modification Milestone Date up to the date on which the Modification Milestone is achieved, inclusive.
- 29.3.7 For the avoidance of doubt, once each Modification has been completed, it shall form part of a Vessel for the purposes of this Contract and shall be the property of the Contractor.

29.4 Quality Assurance – Requirement for a Certificate of Conformity

- 29.4.1 The Contractor shall provide a Certificate of Conformity ("CofC") in accordance with the Statement of Requirements and any applicable Quality Plan. One copy of the CofC shall be sent to the Authority using the details below and one copy shall be provided with the Modifications:

Project Manager, Equipment Support Manager or FP Leader

Name: [REDACTED]

Address: [Redacted under FOIA Section 40, Personal Information]

Email: [REDACTED]

Phone: [REDACTED]

- 29.4.2 Each CofC should include the wording "Certificate of Conformity" in the title of the document to allow for easy identification. One CofC is to be used per NSN/part number; a CofC must not cover multiple line items.
- 29.4.3 The CofC shall be considered by the Contractor as a record and provisions under Clause 19 (*Management Procedure*) shall apply.

- 29.4.4 The information provided on the CofC shall include:
- 29.4.4.1 Contractor name and address;
 - 29.4.4.2 Contractor unique CofC reference number;
 - 29.4.4.3 Contract number and where applicable Contract Amendment number;
 - 29.4.4.4 Details of any approved concessions;
 - 29.4.4.5 Acquirer name and organisation;
 - 29.4.4.6 Delivery address;
 - 29.4.4.7 Contract Item Number from the Statement of Requirements;
 - 29.4.4.8 Description of the modification including part number, Specification and configuration status;
 - 29.4.4.9 NATO Stock Number (NSN) (where allocated);
 - 29.4.4.10 Identification marks, batch and serial number(s) in accordance with the Specification;
 - 29.4.4.11 Quantities;
 - 29.4.4.12 A signed and dated statement by the Contractor that the Modifications undertaken comply with the requirements of the Contract, and approved concessions.
 - 29.4.4.13 Exceptions or additions to the above are to be documented.
- 29.4.5 Where the Statement of Requirements and any applicable Quality Plan requires demonstration of traceability and design provenance through the supply chain, the Contractor shall include in any relevant Subcontract the requirement for the information called for at Clause 29.4.4 (*Quality Assurance*). The Contractor shall ensure that this information is available to the Authority through the supply chain, upon request in accordance with Clause 19 (*Management Procedure*).

30. **Representatives**

- 30.1 Each commercial Representative of the Authority shall be deemed authorised to act generally for the Authority in relation to this Contract.
- 30.2 Save as otherwise expressly stated in this Contract, only a commercial Representative of the Authority shall have the authority to take any decision on behalf of and to commit the Authority contractually and the Contractor shall be entitled to rely on its communications with the commercial Representative of the Authority as satisfying its obligations to communicate with the Authority under this Contract.
- 30.3 The Contractor shall not be obliged to, and shall not be in breach of this Contract for failure to, comply with any decision or other communication of the Authority nor shall it be entitled to place reliance on any such decision, or other communication unless it is endorsed in writing by a commercial Representative of the Authority.

- 30.4 In the event of any change in the Representatives of the Authority, the Authority shall give written notice of the change to the Contractor.
- 30.5 The Parties agree that a change in the Representatives of the Authority does not constitute a Change to this Contract.
- 30.6 In the event of any change in the Representatives of the Contractor, the Contractor shall give written notice of the change to the Authority within ten (10) Working Days of such a change.
31. **Disclosure of information**
- 31.1 For the purposes of this Clause 31, the term “Disclosing Party” shall mean a Party which discloses or makes available directly or indirectly its Confidential Information and “Recipient” shall mean the Party which receives or obtains directly or indirectly Confidential Information.
- 31.2 Except to the extent set out in this Clause 31 or where disclosure is expressly permitted elsewhere in this Contract, the Recipient shall:
- 31.2.1 treat the Disclosing Party’s Confidential Information as confidential and keep it in secure custody (which is appropriate depending upon the form in which such materials are stored and the nature of the Confidential Information contained in those materials);
 - 31.2.2 not disclose the Disclosing Party’s Confidential Information to any other person except as expressly set out in this Contract or without obtaining the owner’s prior written consent;
 - 31.2.3 not use or exploit the Disclosing Party’s Confidential Information in any way except for the purposes anticipated under this Contract; and
 - 31.2.4 immediately notify the Disclosing Party if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Disclosing Party’s Confidential Information.
- 31.3 The Recipient shall be entitled to disclose the Confidential Information of the Disclosing Party where:
- 31.3.1 the Recipient is required to disclose the Confidential Information by Law, provided that Clause 65 (*Data protection*) shall apply to disclosures required under the FOIA or the EIRs;
 - 31.3.2 the need for such disclosure arises out of or in connection with:
 - 31.3.2.1 any legal challenge or potential legal challenge against the Authority arising out of or in connection with this Contract;
 - 31.3.2.2 the examination and certification of the Authority’s accounts (provided that the disclosure is made on a confidential basis) or for any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority is making use of any Services provided under this Contract; or
 - 31.3.2.3 the conduct of a Crown Body review in respect of this Contract; or

31.3.2.4 the Recipient has reasonable grounds to believe that the Disclosing Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010 and the disclosure is being made to the Serious Fraud Office.

31.4 If the Recipient is required by Law to make a disclosure of Confidential Information, the Recipient shall as soon as reasonably practicable and to the extent permitted by Law notify the Disclosing Party of the full circumstances of the required disclosure including the relevant Law and/or regulatory body requiring such disclosure and the Confidential Information to which such disclosure would apply.

31.5 The Contractor may disclose the Confidential Information of the Authority on a confidential basis only to:

31.5.1 Contractor's Representatives or the Contractor's subcontractors on the Pre-Approved List who are directly involved in the provision of the Services and need to know the Confidential Information to enable performance of the Contractor's obligations under this Contract or for any purpose relating to or connected with this Contract; its auditors;

31.5.2 a potential financier in connection with a proposed financing and any actual financier in accordance with this Contract and with the prior written approval of the Authority; and

31.5.3 its professional advisers for the purposes of obtaining advice in relation to this Contract.

Where the Contractor discloses Confidential Information of the Authority pursuant to this Clause 31.5, it shall remain responsible at all times for compliance with the confidentiality obligations set out in this Contract by the persons to whom disclosure has been made.

31.6 The Authority may disclose the Confidential Information of the Contractor:

31.6.1 on a confidential basis to any Crown Body for any proper purpose of the Authority or of the relevant Crown Body;

31.6.2 to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;

31.6.3 to the extent that the Authority (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;

31.6.4 on a confidential basis to a professional adviser, consultant or other person engaged by any of the entities described in Clause 31.6.1 (including any benchmarking organisation) for any purpose relating to or connected with this Contract;

31.6.5 on a confidential basis for the purpose of the exercise of its rights under this Contract, including the audit rights, its step-in rights pursuant to Clause 23.5.2 (*Subcontracting*), and exit management rights; or

31.6.6 on a confidential basis to a proposed transferee in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under this Contract,

and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Authority under this Clause 31.

31.7 Nothing in this Clause 31 shall prevent a Recipient from using any techniques, ideas or know-how gained during the performance of this Contract in the course of its normal business to the extent that this use does not result in a disclosure of the Disclosing Party's Confidential Information or an infringement of Intellectual Property Rights.

32. **Security**

32.1 The Authority and the Contractor shall comply with Schedule L (*Security Measures*) and Schedule M (*Cyber*).

32.2 The Contractor shall note and comply with the provisions of the Official Secrets Acts 1911-1989 and take all reasonable steps by the display of notices or other appropriate means to ensure that all persons employed on any work in connection with this Contract have notice that the Official Secrets Acts 1911 to 1989 apply to them and will continue so to apply after the completion or earlier determination of this Contract. The Contractor shall ensure that a similar condition is included in any contracts it enters into with Subcontractors where the provisions of the said Acts apply.

32.3 If and when so directed by the Authority, the Contractor shall secure that any person employed or engaged by it or by a Subcontractor shall sign a statement stating that he understands that the Official Secrets Acts 1911 to 1989 apply to him both during the term of and after the expiry or termination of this Contract.

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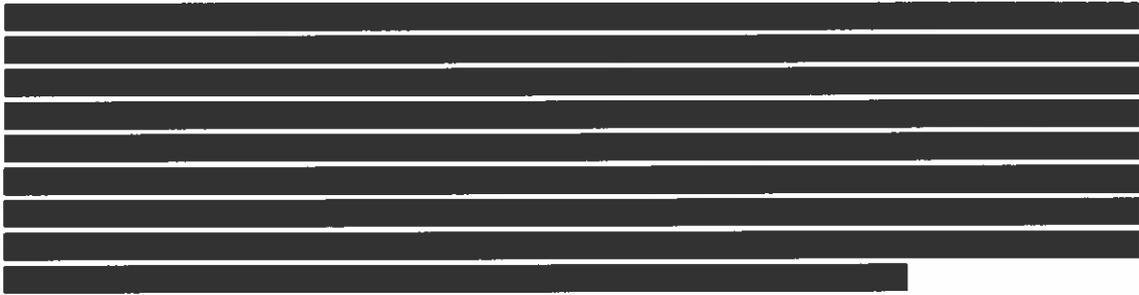
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34. **Authorisation and Indemnity**

- 34.1 Neither Party shall be liable, one to the other, for any consequential loss or damage arising as a result, indirectly, of a claim for infringement or alleged infringement of any Patent or other Intellectual Property Right owned by a third party.
- 34.2 A Party against whom a claim is made or action brought, shall promptly notify the other Party in writing if such claim or action appears to relate to an infringement which is the subject of an indemnity or authorisation given under this Clause by such other Party. The notification shall include particulars of the demands, damages and liabilities claimed or made of which the notifying Party has notice.
- 34.3 The Party benefiting from the indemnity or authorisation shall allow the other Party, at their own expense, to conduct any negotiations for the settlement of the same, and any litigation that may arise therefrom and shall provide such information as the other Party may reasonably require. The indemnified Party shall not make any statement which may be prejudicial to the settlement or defence of such claim without first obtaining the indemnifying Party's written consent.
- 34.4 Following a notification under sub-Clause 34.2 (*Authorisation and Indemnity*), the Party notified shall advise the other Party in writing within (thirty) 30 days whether or not they are assuming conduct of the negotiations or litigation. In that case the Party against whom a claim is made or action brought shall not make any statement which might be prejudicial to the settlement or defence of such a claim without the written consent of the other Party.
- 34.5 The Party conducting negotiations for the settlement of a claim or any related litigation shall, if requested, keep the other Party fully informed of the conduct and progress of such negotiations.
- 34.6 If at any time a claim or allegation of infringement arises in respect of copyright, database right, design right or breach of confidence as a result of the provision of any item by the Contractor to the Authority, the Contractor may at their own expense replace the item with an item of equivalent functionality and performance so as to avoid infringement or breach.
- 34.7 The Parties will co-operate with one another to mitigate any claim or damage which may arise from use of third party Intellectual Property Rights.
- 34.8 Nothing in this Clause 34 (*Authorisation and Indemnity*) shall be taken as an authorisation or promise of an authorisation under Section 240 of the Copyright, Designs and Patents Act 1988.
- 34.9 Notwithstanding any other provisions of the Contract and for the avoidance of doubt, 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 Rights involved.

35. **Termination for Insolvency or Corrupt Gifts**

35.1 **Insolvency**

35.1.1 The Authority may terminate the Contract with immediate effect, without paying any Compensation Sum to the Contractor, by giving a written notice to the Contractor at any time after any of the following events:

35.1.1.1 the presentation of a petition for the appointment of an administrator; unless it is frivolous or vexatious and is discharged, stayed or dismissed within [REDACTED] from the date on which the Contractor is notified of the presentation; or

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35.1.1.2 the court making an administration order in relation to the company; or

35.1.1.3 the presentation of a petition for the winding-up of the company unless it is frivolous or vexatious and is discharged, stayed or dismissed within [REDACTED] from the date on which the Contractor is notified of the presentation; or

35.1.1.4 the company passing a resolution that the company shall be wound-up; or

35.1.1.5 the court making an order that the company shall be wound-up; or

35.1.1.6 the appointment of a receiver or manager or administrative receiver.

35.1.2 Such termination shall be without prejudice to and shall not affect any right of action or remedy which shall have accrued or shall accrue thereafter to the Authority and the Contractor.

35.2 **Corrupt Gifts**

35.2.1 The Contractor shall not do, and warrants that in entering the Contract they have not done any of the following (hereafter referred to as "Prohibited Acts"):

35.2.1.1 offer, promise or give to any Crown servant any gift or financial or other advantage of any kind as an inducement or reward:

35.2.1.1.1 for doing or not doing (or for having done or not having done) any act in relation to the obtaining or execution of this or any other Contract with the Crown; or

35.2.1.1.2 for showing or not showing favour or disfavour to any person in relation to this or any other Contract with the Crown; or

35.2.1.2 enter into this or any other Contract with the Crown in connection with which commission has been paid or has been agreed to be paid by them or on their behalf, or to their knowledge, unless before the Contract is made particulars of any such commission and of

the terms and conditions of any such agreement for the payment thereof have been disclosed in writing to the Authority.

- 35.2.2 If the Contractor, their employees, agents or any Subcontractor (or anyone acting on their behalf or any of their employees) does any of the Prohibited Acts or commits any offence under the Bribery Act 2010 with or without the knowledge or authority of the Contractor in relation to this Contract or any other contract with the Crown, the Contractor shall notify the Authority of the occurrence and details of any such Prohibited Act immediately upon the Contractor becoming aware and, the Authority shall be entitled:
- 35.2.2.1 if a Prohibited Act is committed by the Contractor or by an employee, agent or representative (or anyone acting on behalf of such person) of the Contractor or Holdco not acting independently and with the knowledge of the Contractor or Holdco, then the Authority shall be entitled to terminate this Contract, without paying any Compensation Sum to the Contractor;
 - 35.2.2.2 if the Contractor demonstrates to the Authority's satisfaction that the Prohibited Act was committed by an employee or agent, representative (or anyone acting on behalf of such person) of the Contractor or Holdco acting independently of and without the knowledge of the Contractor or Holdco, then the Authority shall be entitled to terminate this Contract, without paying any Compensation Sum to the Contractor, unless (i) the employment of the employee, agent, or representative (or anyone acting on behalf of such person) is terminated within five (5) Working Days of the later of the date of such Prohibited Act and the date on which the Contractor became aware of it or such other time period as may be agreed with the Authority; and (ii) if necessary, the Contractor procures the performance of such part of the Services as was being performed by such person by another person as soon as reasonably practicable and within thirty (30) Working Days of the date of termination of such person's employment;
 - 35.2.2.3 if the Contractor demonstrates to the Authority's satisfaction that the Prohibited Act was committed by a Subcontractor or by an employee, agent or representative (or anyone acting on behalf of such person) of any Subcontractor not acting independently, then the Authority shall be entitled to terminate this Contract, without paying any Compensation Sum to the Contractor, unless (i) the Contractor terminates the relevant Subcontract within five (5) Working Days of such Prohibited Act and the date on which the Contractor became aware of it, or such other time period as may be agreed with the Authority; and (ii) if applicable, the Contractor procures the performance of such part of the Services as was being performed by such Subcontractor by another person as soon as reasonably practicable and within thirty (30) Working Days of the date of termination of such Subcontract; and
 - 35.2.2.4 if the Contractor demonstrates to the Authority's satisfaction that the Prohibited Act was committed by an employee, agent or representative (or anyone acting on behalf of such person) of any Subcontractor acting independently of and without the knowledge of the Contractor or Holdco, then the Authority shall be entitled to terminate all or any part of this Contract, without paying any Compensation Sum to the Contractor, unless (i) the employment

of the employee, agent, representative (or anyone acting on behalf of such person) is terminated within five (5) Working Days of the Prohibited Act and (ii) if applicable, the Contractor procures the performance of such part of the Services as was being performed by such person by another person as soon as reasonably practicable and within thirty (30) Working Days of the date of termination of such person's employment.

35.2.3 In exercising its rights or remedies under this Clause 35.2, the Authority shall:

35.2.3.1 act in a reasonable and proportionate manner having regard to such matters as the gravity of, and the identity of the person performing, the Prohibited Act;

35.2.3.2 give all due consideration, where appropriate, to action other than termination of the Contract, including (without being limited to):

35.2.3.2.1 requiring the Contractor to procure the termination of a Subcontract where the Prohibited Act is that of a Principal Subcontractor or anyone acting on their behalf;

35.2.3.2.2 requiring the Contractor to procure the dismissal of an employee (whether their own or that of a Subcontractor or anyone acting on their behalf) where the Prohibited Act is that of such employee.

35.2.4 Recovery action taken against any person in His Majesty's service shall be without prejudice to any recovery action taken against the Contractor pursuant to this Clause 35.2.

36. **Termination for Convenience**

36.1 The Authority shall have the right to terminate the Contract at any time by giving the Contractor:

36.1.1 following the occurrence of a Financial Distress Event, at least twenty (20) Working Days'; or

36.1.2 in any other case, at least three (3) months',

written notice. Upon expiry of the notice period the Contract, or relevant part thereof, shall terminate without prejudice to the rights of the Parties already accrued up to the date of termination.

36.2 Following the above notification the Authority shall be entitled to exercise any of the following rights in relation to the Contract (or part being terminated) to direct the Contractor to:

36.2.1 not start Task or any other part of the Service not yet started;

36.2.2 complete in accordance with the Contract the provision of any element of a Task or any other part of the Service; and

36.2.3 terminate on the best possible terms any Subcontracts, taking into account any direction given under Clauses 36.2.1 and 36.2.2 (*Termination for Convenience*) of this Clause.

- 36.3 Where this Clause 36 (*Termination for Convenience*) applies (and subject always to the Contractor's compliance with any direction given by the Authority under Clause 36.2 (*Termination for Convenience*)):
- 36.3.1 the Contractor shall return to the Authority within a period specified by the Authority the Issued Property; and
 - 36.3.2 in respect of Services, the Authority shall pay the Contractor fair and reasonable prices for Services performed, or partially performed, in accordance with the Contract.
- 36.4 The Authority shall (subject to Clause 36.5 (*Termination for Convenience*) below and to the Contractor's compliance with any direction given by the Authority in Clause 36.2 above) indemnify the Contractor against any commitments, liabilities or expenditure which would otherwise represent an unavoidable loss by the Contractor by reason of the termination of the Contract, subject to:
- 36.4.1 the Contractor taking all reasonable steps to mitigate such loss; and
 - 36.4.2 the Contractor submitting a fully itemized and costed list of such loss, with supporting evidence, reasonably and actually incurred by the Contractor as a result of the termination of the Contract or relevant part.
- 36.5 Save as otherwise agreed in this Agreement, including Schedule U (*Compensation for Termination*), the Authority's total liability under the provisions of this Clause shall be limited to the amount determined in accordance with Clause 45.15 (*Indemnity and Limits on Liability*).
- 36.6 The Contractor shall include in any Principal Subcontract which it may enter into for the purpose of the Contract, the right to terminate such Principal Subcontract under the terms of Clause 36 (*Termination for Convenience*) except that:
- 36.6.1 the name of the Contractor shall be substituted for the Authority except in Clause 36.3.1 (*Termination for Convenience*); and
 - 36.6.2 the notice period for termination shall be as specified in such Principal Subcontract, or if no period is specified three (3) months.
- 36.7 Claims for payment under this Clause 36 (*Termination for Convenience*) shall be submitted in accordance with the Authority's direction.
37. **Termination for material breach by the Contractor**
- 37.1 The Contractor shall notify the Authority, if it is or becomes aware that it is reasonably likely to be, in material breach of its obligations under the Contract.
- 37.2 In addition to any other rights and remedies, subject to the provisions of Clause 37.4 the Authority shall have the right to terminate the Contract, without paying any Compensation Sum to the Contractor, with immediate effect by giving written Notice to the Contractor where the Contractor is in material breach of their obligations under the Contract.
- 37.3 Where the Authority has terminated the Contract under Clause 37.1 the Authority shall have the right to claim such Losses as may have been sustained as a result of the Contractor's material breach of the Contract, including but not limited to any costs and expenses incurred by the Authority in carrying out any work that may be required to complete any outstanding Task, or part thereof, or another part of the Service.

- 37.4 The Authority shall not terminate this Contract in accordance with Clause 37.2, for a material breach by the Contractor of their obligations under the Contract which the Authority considers (acting reasonably) is remediable, before complying with this Clause 37.4.
- 37.4.1 Where the Authority believes (acting reasonably) the Contractor is in material breach of its obligations under this Contract which the Authority considers (acting reasonably) is remediable, the Authority shall give notice in writing (a "Rectification Notice") to the Contractor of such breach, requiring the Contractor to provide a draft rectification plan within fifteen (15) Working Days of the date of the Rectification Notice (or such longer period as is agreed by the Authority).
- 37.4.2 If no such draft rectification plan is received by the Authority within fifteen (15) Working Days of the date of the Rectification Notice (or such longer period as is agreed by the Authority) the Authority may proceed to terminate this Contract in accordance with Clause 37.2.
- 37.4.3 Where a draft rectification plan is received from the Contractor by the Authority, the Authority shall notify the Contractor within fifteen (15) Working Days of its receipt of the draft plan (or such longer period as is agreed) as to whether such draft plan is approved by the Authority. If the Authority fails to notify the Contractor within fifteen (15) Working Days, the Authority shall be deemed to accept such draft rectification plan.
- 37.4.4 The Contractor shall ensure that the draft rectification plan:
- 37.4.4.1 specifies the steps that the Contractor proposes to take to remedy and avoid any recurrence of the material breach (including actions and timings); and
- 37.4.4.2 is in sufficient detail for it to be properly evaluated by the Authority.
- 37.4.5 If the Authority, acting reasonably, considers that the draft rectification plan provided by the Contractor under Clause 37.4.1 is unacceptable in that:
- 37.4.5.1 it is insufficiently detailed to be properly evaluated;
- 37.4.5.2 the programme and timescales proposed in it are not acceptable; and/or
- 37.4.5.3 it is unlikely to provide a sufficient remedy for the material breach,
- the Authority shall as it considers appropriate, specify a period of time for the Contractor to revise the draft rectification plan.
- 37.4.6 Where, in accordance with Clause 37.4.3, the Authority specifies a period of time for the Contractor to revise the rectification plan:
- 37.4.6.1 the Contractor shall within that period produce such revised drafts of the rectification plan as the Authority may require and shall take into account in such revised drafts any comments by the Authority so as to address the issues referred to in Clause 37.4.5; and
- 37.4.6.2 if at the end of the specified period the Authority, acting reasonably, considers that the revised rectification plan is unacceptable as described in Clause 37.4.5, it may reject the proposed rectification plan and, as it considers appropriate, and serve a termination

notice in accordance with Clause 37.2 (*Termination for material breach by the Contractor*).

- 37.4.7 Where a rectification plan is approved by the Authority, or deemed to be approved by the Authority pursuant to Clause 37.4.3, such plan being the "Contractor's Rectification Plan", the Contractor shall carry it out in accordance with its provisions including any timescales specified in it (or, where no timescales are so specified, in accordance with such timescales as the Authority may require).
- 37.4.8 If the Contractor rectifies the breach within the period stated in the Contractor's Rectification Plan (or such other period as is agreed by the Authority) the Rectification Notice shall be deemed to be revoked and this Contract shall continue.
- 37.4.9 If the Contractor fails to implement the Contractor's Rectification Plan in accordance with its terms or, despite its implementation, the Contractor's Rectification Plan fails to remedy the material default, the Authority may, as it considers appropriate:
 - 37.4.9.1 give the Contractor a further opportunity to implement a revised Contractor's Rectification Plan (to be agreed with the Authority), in accordance with such timescales as the Authority may require; or
 - 37.4.9.2 serve a termination notice in accordance with Clause 37.2.

38. **Termination for material breach by the Authority**

38.1 This Clause 38 sets out the only grounds on which the Contractor may terminate this Agreement or otherwise treat itself as discharged from its obligations under this Agreement. Subject to Clause 38.2 the Contractor shall have the right to terminate this Contract if the Authority fails to pay any undisputed sums due and payable under this Contract within thirty (30) days of such sum becoming due and payable and after the Contractor has given the Authority thirty (30) days' notice of such failure to pay and of its intention to issue a Contractor Rectification Notice (as defined below) PROVIDED THAT the Contractor shall not be entitled to serve such notice UNLESS:

- 38.1.1 the undisputed sums due and payable have previously been correctly set out in the monthly invoice drawn up in accordance with Clause 27 (*Payment and Recovery of Sums Due*) or agreed with the Authority or determined in accordance with Clause 73 (*Fast Track Resolution*); and
- 38.1.2 the undisputed sums due and payable exceed [REDACTED]; and
- 38.1.3 if the payment of such sum is disputed by the Authority, until the relevant dispute resolution process has been concluded,

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(an "Authority Material Breach").

38.2 Upon termination pursuant to this Clause 38, the Authority shall pay the Contractor compensation in accordance with Clause 43 (*Consequences of Termination*) and paragraph 2 of Schedule U (*Compensation for Termination*).

39. **Termination for security measures and Availability**

39.1 The Authority may terminate this Contract pursuant to and in accordance with the provisions of paragraph 6 of Schedule L (*Security Measures*).

39.2 The Authority shall have the right to terminate the Contract with immediate effect by giving written Notice to the Contractor if the Availability is less than three hundred and fifty-five (355) days in aggregate across all Vessels per year, except where such failure to provide Availability has been relieved in accordance with the applicable provisions of this Contract regarding Specified Events or where this Clause 39.2 has been expressly disapplied.

40. **Termination for Mitigation Event**

40.1 If a Mitigation Event causes the Contractor to be substantially unable to comply with its obligations under this Contract, which for the avoidance of doubt, means it must affect [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] then the Authority may terminate this Contract by serving a Termination Notice on the Contractor and upon serving this notice this Contract shall immediately terminate save for the provisions of Clause 43 (*Consequences of Termination*) and Schedule U (*Compensation for Termination*) and Clause 79 (*Survival*) (as provided therein) which shall apply.

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41. **Termination for Force Majeure**

41.1 In the event that:

41.1.1 terms are not agreed between the Parties to mitigate the effects of the Force Majeure Event pursuant to Clause 12.9 (*Specified Events*) within [REDACTED] [REDACTED] of the commencement of the Force Majeure Event; and

41.1.2 such event is continuing or its effects are such that the Contractor is substantially unable to comply with its obligations under this Contract, which, for avoidance of doubt, means [REDACTED] [REDACTED] [REDACTED].

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then subject to Clause 41.2, either Party may serve a Termination Notice on the other Party terminating this Contract for Force Majeure and this Contract shall immediately terminate save for the provisions of Clause 43 (*Consequences of Termination*) and Schedule U (*Compensation for Termination*) and Clause 79 (*Survival*) (as provided therein) which shall apply. If the Authority will require the Contract to continue beyond [REDACTED] [REDACTED] of the commencement of the Force Majeure Event (under the terms set out in Clause 41.3) it shall notify the Contractor in writing of such requirement ("Continuation Notice") no later than [REDACTED] following the commencement of the Force Majeure Event.

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- 41.2 The Contractor shall not be entitled to serve a Termination Notice under Clause 41.1 during such time as the Authority is making payments under Clause 41.3.
- 41.3 If the Contractor serves a Termination Notice on the Authority under Clause 40.1, then the Authority shall either accept such notice or, if it has given a Continuation Notice referred to in Clause 41.1, respond in writing on or before the date falling fourteen (14) days after the date of its receipt confirming that it requires the Contract to continue. If the Authority gives the Contractor such notice, then:
- 41.3.1 the Authority shall pay to the Contractor, during the period from the day after the date on which the Contract would have terminated under Clause 41.1 until notice is given by either Party under Clause 12.11, in respect of each element of Service that is affected by the Force Majeure Event, the Contractor's reasonable ongoing Operating Costs, payable monthly in arrears, PROVIDED THAT any such amounts claimed by the Contractor are evidenced in writing and the Contractor has used its reasonable endeavours to mitigate any such Operating Costs and amounts claimed; and
- 41.3.2 the Contract will not terminate until expiry of written notice (of at least thirty (30) days) from the Authority to the Contractor that it wishes the Contract to terminate.
- 41.4 If the Contract is terminated under Clause 41.1 or 41.3, compensation shall be payable by the Authority in accordance with Clause 43 (*Consequences of Termination*).

42. **Termination for Delay Event, Relief Event or Compensation Event**

If a Delay Event, Relief Event or Compensation Event causes the Contractor to be substantially unable to comply with its obligations under this Contract, which for the avoidance of doubt, [REDACTED] then the Authority may terminate this Contract by serving a Termination Notice on the Contractor and upon serving this notice this Contract shall immediately terminate save for the provisions of Clause 43 (*Consequences of Termination*) and Schedule U (*Compensation for Termination*) and Clause 79 (*Survival*) (as provided therein) which shall apply.

43. **Consequences of Termination**

- 43.1 The termination of the Contract, however arising, shall be without prejudice to the rights and duties of either Party accrued prior to termination. The Clauses of this Contract that expressly or by implication have effect after termination shall continue to be enforceable even after termination.
- 43.2 Where this Contract is terminated in accordance with Clauses 36 (*Termination for Convenience*), 38 (*Termination for material breach by the Authority*), 40.1 (*Termination for Mitigation Event*), 41 Termination for Force Majeure (*Termination for Force Majeure*) for a Force Majeure Event declared by the Authority or 42 (*Termination for Delay Event, Relief Event or Compensation Event*) the Authority shall pay the relevant Compensation Sum calculated in accordance with Schedule U (*Compensation for Termination*) by making payment to the Contractor within thirty (30) days of the Termination Date.
- 43.3 The Authority and the Contractor shall each use all reasonable endeavours to mitigate all costs and expenses and other sums claimed as part of or as deductions from any termination sums due pursuant to Schedule U (*Compensation for Termination*).
- 43.4 All sums payable by the Authority to the Contractor under Clause 43.2 and Schedule U (*Compensation for Termination*) (the "Termination Payment") shall be increased in the event that the Contractor shall incur any liability for Taxation (or would have incurred such a liability

had the assumptions in Clause 43.7 been correct) in respect of any Termination Payment so as to ensure that the net amount realised by the Contractor, (after account is taken of all liabilities for Taxation) is equal to the full amount which would have been realised by the Contractor had no such liability for Taxation occurred.

- 43.5 In this Clause 43, references to a “liability for Taxation” and cognate expressions include the utilisation of any loss, relief, allowance, exemption, set-off or deduction in computing, or against, profits, income or gains for Tax purposes (a “Relief”) to the extent provided in Clause 43.7.
- 43.6 The Contractor shall keep the Authority fully informed of all negotiations with HMRC or other relevant Tax authority relating to any liability for Taxation in respect of a Termination Payment. The Contractor shall not agree, accept or compromise any claim or issue or dispute relating to such liability without the prior written consent of the Authority, not to be unreasonably withheld or delayed. The Authority may, if it considers that such action is justified having regard to the likely costs and benefits, direct the Contractor to resist, appeal, defend or otherwise dispute any assessment relating to its liability for Taxation in respect of the Termination Payment, PROVIDED THAT the Authority shall indemnify the Contractor on an after tax basis in respect of the costs of any such dispute and any interest, penalty or other liability of the Contractor which are direct, proven and reasonably incurred. Where a dispute is prosecuted and results in a diminution of the Contractor’s liability for Taxation, an adjustment shall be made between the Parties to reflect the outcome of the dispute.
- 43.7 Any increased amount which is payable by the Authority under Clause 43.4 shall be determined upon the following assumptions and bases:
- 43.7.1 other than permitted Commercial Use of the Full Service Vessels, the Project comprises the sole trade and business of the Contractor with respect to the Vessels;
- 43.7.2 the assets and equipment held, owned, hired, leased or otherwise used by the Contractor for the purposes of the Project and permitted Commercial Use comprise the sole assets and equipment of the Contractor with respect to the Vessels;
- 43.7.3 that credit shall be allowed in favour of the Authority for any unrelieved trading losses or other Reliefs derived from the Project which can be set off against, or against Taxation in respect of, the Termination Payment not being losses or Reliefs (“Contractor’s Reliefs”) (a) already taken into account in computing amounts payable to the Contractor by the Authority; or (b) which would otherwise be available to offset profit or gains of the Contractor in connection with the Project or to reduce Taxation on such profits or gains including profits or gains from investment income or sinking funds or other moneys held in connection with the Project or derived from it; and
- 43.7.4 that to the extent that any Contractor’s Reliefs are or will be utilised, the Contractor shall be deemed to incur a liability for Taxation.
- 43.8 Each and every additional payment to be made by the Authority under this Clause 43 shall be made five (5) Working Days before the Contractor’s first liability for Taxation in respect of the Termination Payment is due and payable or, if later, five (5) days after the Contractor notifies the Authority of such liability and provides evidence of such liability, and, for the avoidance of doubt, (a) to the extent that a payment is made or not made pursuant to Clause 43.4 and it subsequently becomes apparent that such payment should not or should have been made or that amount was insufficient or excessive (as the case may be), appropriate repayments or payments shall be made and (b) the references to the time of the Contractor’s

first liability for Taxation is due and payable includes a reference to the time when such liability would be due and payable but for losses or other Reliefs available to the Contractor.

43.9 Withholding and deductions

43.9.1 Subject to Clause 43.9.2, if the Authority is obliged by law to make any deduction or withholding from a Termination Payment, the amount payable by the Authority shall be increased to such amount as will secure that after the Authority has made the withholding or deduction required by law the Contractor receives the amount which it would have been entitled to receive had no such deduction or withholding been required.

43.9.2 If the Authority makes a payment pursuant to Clause 43.9.2 and the Contractor receives or obtains a credit against or relief from any Tax which is attributable to such payment, then at the time when the Contractor does not have to pay Tax which it would have had to pay but for such credit or relief, the Contractor shall forthwith pay to the Authority such proportion of that credit or relief as will leave the Contractor after that payment in no better nor worse a position in respect of its Tax position than it would have been in if there had been no deduction or withholding in respect of which a payment was made under Clause 43.9.2.

43.10 Neither Party shall have any right to terminate this Contract for breach of contract save as expressly set out in this Contract.

43.11 Without limiting the rights of the Authority under Clause 37 (*Termination for material breach by the Contractor*), the Authority shall not be entitled to any contractual, common law or equitable rights including (but not limited to) rights to damages or any other rights under contract, tort or any other basis whatsoever in relation to any breach of this Contract by the Contractor to the extent that such breach is of a type which directly leads or could directly lead to the imposition of KPI Credits being made under Schedule E (*Performance and Payment*) and where such breach is of a type which directly leads or could directly lead to the imposition of KPI Credits, the Authority's sole remedy in respect of such breach shall be the imposition of KPI Credits under Schedule E (*Performance and Payment*).

44. Cooperation on Expiry or Termination of Contract

44.1 Upon the expiry or termination of the Contract (the "Trigger Event"), the Contractor agrees to co-operate with the Authority to such extent as they may be reasonably required to do so for a period of up to [REDACTED] from the date of the Trigger Event, such period to be determined by the Authority (the "Co-operation Period"), to ensure an orderly and efficient transition from the management by the Contractor to management by the Authority or some other person of the Service, and the Authority shall reimburse the Contractor, its Subcontractors and the Crew Employer for all Allowable Costs reasonably incurred in complying with this Clause 44.1.

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[REDACTED] [REDACTED] [REDACTED]
Redacted under FOIA Section 43, Commercial Interest
[REDACTED]
[REDACTED]

[REDACTED] [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] [REDACTED]
[REDACTED]

45.1.3 any weapon of war employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter.

45.2 The Authority shall indemnify the Contractor in respect of all Losses suffered or incurred by the Contractor as a result of:

45.2.1 loss or contamination of, or damage to, any property belonging to or otherwise in the control, custody or possession of the Contractor (including, without limitation, the Vessels) and any loss of use thereby suffered by the Contractor and any reasonable expenses unavoidably incurred as a direct result of such loss, contamination or damage which are not otherwise recoverable from the Authority; or

45.2.2 any action, claim or proceedings brought by a third party (including the Crew, employees of the Principal Subcontractor or Crew Employer and employees of the Authority) in respect of death, illness or personal injury or of loss or contamination of, or damage to, any property which belongs to such third party,

to the extent that such Losses referred to in Clauses 45.2.1 and 45.2.2 shall arise out of or result from any Nuclear or Radioactive Matter which is part of the Cargo or chemical or biological contamination caused by the Cargo that is handled or carried by the Contractor in the performance of the Service.

45.3 The Authority shall indemnify the Contractor in respect of all Losses suffered or incurred by the Contractor as a result of:

45.3.1 contamination of, or damage to, the Vessels in Authority Use or property on the Vessels in Authority Use and any loss of use thereby suffered by the Contractor and any reasonable expenses unavoidably incurred as a direct result of such contamination or damage of the Vessels in Authority Use which are not otherwise recoverable from the Authority; or

45.3.2 any action, claim or proceedings brought by a third party (including the Crew, employees of the Contractor, agents or Subcontractors and employees of the Authority) in respect of death, illness or personal injury or contamination of, or damage to, any property on the Vessels in Authority Use which belongs to such third party,

to the extent that the Losses referred to in Clauses 45.3.1 and 45.3.2 shall arise out of or result from:

- 45.3.2.1 the detonation of any weapon of war by a nation or hostile power during a Task being carried out by the Contractor at the time such Losses occur; or
 - 45.3.2.2 the Vessel in Authority Use entering or being in, at the express direction of the Authority to do so, an area which is contaminated by Nuclear or Radioactive Matter or is subject to other chemical and/or biological contamination; or
 - 45.3.2.3 without limiting any other indemnity given by the Authority under this Clause 45.3.2.3, the occurrence of a risk which would have been, but is not required by the Authority to be, covered by the War Risks insurance referred to in paragraph 4.22.2 of Schedule R (*Required Insurance*), on the assumption that the Vessels engaged in Authority Use were required to be subject to such insurance at the time such risk occurred, PROVIDED THAT the Losses referred to in Clauses 45.3.1 and 45.3.2:
 - 45.3.2.3.1 are not recoverable under any other provision of this Contract, and in particular this Clause 45.1, Clause 48.10 or 48.11 (*Maintenance of Insurance Cover*);
 - 45.3.2.3.2 are not recoverable under any of the Required Insurances; and
 - 45.3.2.3.3 are limited to the amount which would have been recoverable under the War Risks insurances referred to in paragraph 2.2 of Schedule R (*Required Insurance*) on the assumption that the Contractor had been required to effect such insurance in respect of the Vessels in Authority Use at the time the risk occurs.
- 45.4 In addition to the indemnities under Clause 45.3, the Authority shall indemnify the Contractor against:
- 45.4.1 the cost of the deductibles payable by the Contractor under any insurance policy effected by the Contractor where the claim in relation to which such deductibles have been made results directly from the negligence of the Authority or its agents, employees or contractors (where such contractors are carrying out the Authority's obligations under this Contract), other than the Contractor or Subcontractors; and
 - 45.4.2 Losses (including, for the avoidance of doubt, Losses related to the carriage of Cargo on deck on Vessels in Authority use) suffered or incurred by the Contractor, its servants, agents or Subcontractors as a result of:
 - 45.4.2.1 negligence or a Wilful act or omission on the part of the Authority or its agents, employees or contractors (where such contractors are carrying out the Authority's obligations under this Contract), other than the Contractor or Subcontractors; or
 - 45.4.2.2 the Master acting on an express instruction of the Authority to operate a Vessel in a particular manner,
- save to the extent such Losses are contributed to by the negligence or Wilful act or omission of the Contractor or any Principal Subcontractor or Crew Employer.

45.5 In addition to the exclusions set out in Clause 45.6, the scope of the Losses recoverable under the indemnities given by the Authority under Clause 45.2 shall be as follows:

45.5.1 Losses (where such Losses arise from the circumstances set out in Clause 45.2) which arise out of or result from the acts or omission of the Contractor or any servant, employee, agent or Subcontractor of the Contractor which are recoverable by the Contractor under Clause 45.2, but the Authority shall NOT be liable to indemnify the Contractor under Clause 45.2 to the extent such Losses:

45.5.1.1 arise out of or result from a deliberate and malicious act or omission or a want of due diligence on the part of a director, company secretary, or officer of similar standing of the Contractor; or

45.5.1.2 consist of Losses of a Subcontractor and arise out of or result from a deliberate and malicious act or omission or a want of due diligence on the part of a director, company secretary, or officer of similar standing of the Subcontractor.

45.6 The indemnities given by the Authority under Clause 45.2 and Clause 45.3 shall NOT oblige the Authority to indemnify the Contractor in respect of any Losses:

45.6.1 to the extent to which the Contractor is indemnified under any other provision of the Contract; or

45.6.2 to the extent to which the Contractor recovers such Losses, using reasonable endeavours to do so, under a policy of insurance or from a third party, or would have recovered any of the Losses under a policy of insurance or from a third party, save for the act or omission of the Contractor in making such recovery or its failure to use reasonable endeavours in making such recovery.

45.7 In establishing or alleging a right to be indemnified in accordance with this Contract, the Contractor shall take all reasonable measures to mitigate the Loss which has occurred, provided that it can do so without unreasonable inconvenience, delay or unreasonable cost.

45.8 For the avoidance of doubt, if Losses occur as a result of the occurrence of a risk for which the Authority has agreed or is required to indemnify the Contractor under Clause 45.2, 45.3, 45.4 (*Authority's Indemnity*), 48.10 or 48.11 (*Maintenance of Insurance Cover*), the Authority shall not be entitled to terminate this Contract under Clause 37 (*Termination for material breach by the Contractor*) where the Contractor's Default is caused by the occurrence of such risk.

45.9 For the avoidance of doubt, if Losses occur as a result of the occurrence of a risk for which the Authority has agreed or is required to indemnify the Contractor under this Clause 45, 48.10 or 48.11 (*Maintenance of Insurance Cover*), the Authority shall not be entitled to terminate this Contract under Clause 37 (*Termination for material breach by the Contractor*) where the Contractor's Default is caused by the occurrence of such risk.

Unlimited liabilities

45.10 Neither Party limits its liability for:

45.10.1 death or personal injury caused by its negligence, or that of its employees, agents or Subcontractors (as applicable); or

45.10.2 any liability to the extent it cannot be limited or excluded by a matter of law,

and neither Party's liability shall be reduced by amounts which are received under any insurance policy required to be effected and maintained in accordance with this Contract.

45.11 For the avoidance of doubt any payments due from either of the Parties to the other in accordance with 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 45 (*Indemnity and Limits of Liability*).

Financial limits

45.12 Subject to Clause 45.10 and to the maximum extent permitted by Law:

45.12.1 Throughout the Contract Term, the Contractor's total liability in respect of Defaults of the Contractor shall in no event exceed:

45.12.1.1 [Redacted under FOIA Section 43, Commercial Interest]

45.12.1.2 [Redacted]

without limiting Clause 45.12.1 (*Indemnity and Limits of Liability*) and subject always to Clauses 45.10 and 45.12.2 (*Indemnity and Limits of Liability*), the Contractor's total liability throughout the Contract Term in respect of all other liabilities (but excluding any KPI Credits and Environmental Credits paid or payable in accordance with Schedule E (*Performance and Payment*), whether in contract, in tort (including negligence), arising under warranty, under statute or otherwise under or in connection with this Contract shall be, in each and any calendar year, [Redacted under FOIA Section 43, Commercial Interest] at the time at which such liability arises as specified in the SOMR;

45.12.2 on the exercise of any and, where more than one, each agreed extension to the Contract Term, the limitation of the Contractor's total liability (in aggregate) set out in Clauses 45.12.1 (*Indemnity and Limits of Liability*) above shall be fully replenished such that on and from each such exercise or extension of the Contract Term, the Authority shall be able to claim up to the full value of the limitation set out in Clauses 45.12.1 (*Indemnity and Limits of Liability*) of this Contract.

45.13 Subject to Clauses 45.10, 45.11 and 45.14 (*Indemnity and Limits of Liability*), 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, in each and any calendar year, [Redacted] at the time such liability arises as specified in the SOMR.

45.14 Clause 45.13 (*Indemnity and Limits of Liability*) shall not exclude or limit the Contractor's right under this Contract to claim for the Aggregate Monthly Payment and/or for the sums referred to in Schedule U (*Compensation for Termination*).

Consequential loss

45.15 Subject to Clauses 45.10 or 45.12 (*Unlimited Liabilities*) and as may be otherwise agreed in this Contract, neither Party shall be liable to the other Party for:

- 45.15.1 indirect loss or damage;
- 45.15.2 special loss or damage;
- 45.15.3 indirect consequential loss or damage;
- 45.15.4 loss of profits (whether direct or indirect);
- 45.15.5 loss of turnover (whether direct or indirect);
- 45.15.6 loss of business opportunities (whether direct or indirect); or
- 45.15.7 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.

45.16 Invalidity

Notwithstanding Clause 67 (*Severability*), if any limitation or provision contained or expressly referred to in this Clause 45 (*Indemnity and Limitation of Liability*) 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 Clause 45 (*Indemnity and Limits of Liability*).

45.17 No double recovery

- 45.17.1 Neither Party shall be entitled to employ such rights and remedies available to it so as to seek to recover 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 the Guarantor.
- 45.17.2 The Contractor shall not be obliged to indemnify the Authority for any Losses which are recovered under any insurances.

46. Conduct of claims

If any matter or circumstance which may give rise to a claim by a Party to this Contract (the "Claimant") against the other Party to this Contract (the "Recipient"), and arises out of a third party claim, comes to the attention of the Claimant it shall:

- 46.1.1 as soon as is reasonably practicable, give notice to the Recipient setting out the particulars known to it;
- 46.1.2 ensure that no admission of liability or agreement or compromise in relation to the matter or circumstance is made in relation to any third party without the written consent of the Recipient (such consent not to be unreasonably withheld or delayed); and
- 46.1.3 give the professional advisers of the Recipient, the Recipient's insurers and its and their legal advisers such reasonable access to the premises and personnel of the Claimant as they may reasonably request and afford them any opportunity they reasonably request to examine any relevant accounts, documents and records in the possession or control of the Claimant. In the case of access by the

Contractor's professional advisers the Authority shall not be obliged (without its consent) to give access to classified information or to the Authority's premises.

47. Insurance cover

- 47.1 Without prejudice to its liability to indemnify or otherwise be liable to the Authority under this Contract, the Contractor shall for the periods specified in Schedule R (*Required Insurances*) take out and maintain or procure the taking out and maintenance of the insurances as set out under Clauses 47 (*Insurance cover*), 48 (*Maintenance of Insurance cover*) and Schedule R (*Required Insurances*) and any other insurances as may be required by law, together the Required Insurances. The Contractor shall ensure that each of these Required Insurances are effective in each case not later than the date on which the relevant risk commences.
- 47.2 The Required Insurances shall be taken out and maintained with insurers who are of good financial standing and of good repute in the international insurance market.
- 47.3 Where specified in Schedule R (*Required Insurances*) the Contractor shall ensure that the relevant policy of insurance shall contain an indemnity to principals clause or additional insureds equivalent, under which the Authority shall be indemnified in respect of claims made against the Authority arising from death or bodily injury or third party property damage, and for which the Contractor is legally liable in respect of this Contract.
- 47.4 Where any Required Insurance requires payment of a premium, other than the additional premium referred to in Clause 48 (*Maintenance of Insurance cover*), the Contractor shall be liable for such premium.

48. Maintenance of Insurance Cover

- 48.1 Where the minimum limit of indemnity required in relation to any of the Required Insurances is provided as being "in the aggregate" and the level of insurance cover available falls below that minimum because a claim or claims which do not relate to this Contract, the Contractor shall ensure that the insurance cover is reinstated to maintain at all times the minimum limit of indemnity specified in Schedule R (*Required Insurances*).
- 48.2 The Contractor shall not take any action or fail to take any action or (insofar as is reasonably within its power) permit anything to occur in relation to it which would entitle any insurer to refuse to pay any claim under any of the Required Insurances.

Trading Warranties and Off Insurance

- 48.3 It is understood and agreed by the Contractor and the Authority that:
- 48.3.1 some or all of the Required Insurances may contain terms (herein referred to as "Trading Warranties") that limit, prohibit or restrict the Vessels (i) operating in certain places, ports, waters and/or locations ("Excluded Areas"); or (ii) carrying certain cargo ("Excluded Cargo");
- 48.3.2 the insurers may vary the Trading Warranties, Excluded Areas and/or Excluded Cargo from time to time, either at the renewal or review of the insurance, or by giving notice as provided in the policy concerned;
- 48.3.3 the insurers may "hold covered" any breach or breaches of the Trading Warranties subject to the payment of an additional premium and/or the application of special terms, conditions, deductibles and/or warranties ("Special Conditions");
- 48.3.4 such additional premiums and Special Conditions may be pre-agreed at the inception of the policy or may vary from time to time (even daily or hourly);

- 48.3.5 some breaches of Trading Warranties may only be “held covered” subject to prior specific advice of an actual Voyage and/or operation, herein referred to as “SAHC Breaches”;
- 48.3.6 the Contractor will procure that its insurance broker will:
- 48.3.6.1 provide to the Contractor, who shall in turn provide to the Authority, details of:
 - 48.3.6.1.1 the Trading Warranties applicable to each of the Required Insurances; and
 - 48.3.6.1.2 any pre-agreed scale of additional premiums and any Special Conditions for breaches thereof; immediately following the placing of the Required Insurances and at each renewal thereof;
 - 48.3.6.2 forward to the Contractor, who shall in turn provide to the Authority, each and every notice of cancellation or amendment to any of the Trading Warranties, any such scale of additional premiums and/or any Special Conditions; and
 - 48.3.6.3 obtain from the insurers indications of additional premiums and details of Special Conditions for breaches of Trading Warranties which the Contractor shall provide to the Authority; and
- 48.3.7 in each case such information shall be provided to the Authority, as frequently as required to enable the Authority to monitor such changes.
- 48.4 Where the Authority directs any Vessel to any Excluded Area or to carry any Excluded Cargo, and a Vessel entering or being in such an area or carrying such cargo may cause a breach of the Trading Warranties, whether or not designated as a SAHC Breach, the Authority shall advise the Contractor in writing not less than 48 hours before the Vessel sails from its port or place of call (within the Trading Warranties) whether it will:
- 48.4.1 reimburse the Contractor the additional premium due for such breach; or
 - 48.4.2 treat the Vessel as being covered by the Authority’s indemnity under Clause 48.10 (*Off Insurance*).
- 48.5 Where the Authority fails to notify the Contractor within the forty-eight (48) hour time limit provided in Clause 48.4 the Authority shall be deemed to have agreed to reimburse the Contractor the additional premium (as provided in Clause 48.4.1).
- 48.6 Where compliance with a direction under Clause 48.4 may cause any breach of the Trading Warranties and such breach is designated as a SAHC Breach, the Authority shall advise the Contractor not less than four (4) complete Working Days before the Vessel sails from its port or place of call or such cargo is to be loaded on to the Vessel (within the Trading Warranties) whether the Contractor shall provide the requisite specific advice to the Approved Broker (and thus to the insurers) to enable the Approved Broker to obtain the insurers’ terms for such breach. The Approved Broker shall be required to use its reasonable endeavours to revert to the Contractor with insurers’ terms within two (2) Working Days. It is understood and agreed that the said period of four (4) Working Days is intended to include within it the period of forty-eight (48) hours referred to in Clauses 48.4 and 48.5. Where the Approved Broker is unable to revert to the Contractor with insurers’ terms within three (3) Working Days, the Authority may either instruct the Contractor to

proceed with the Voyage, in which case Clause 48.10 will apply, or instruct the Contractor to cancel the Voyage.

- 48.7 Where the Authority fails to provide timely advice to the Contractor in respect of any breach of the Trading Warranties the Vessel shall be treated as being Off Insurance as specified in Clause 48.10 below.
- 48.8 Where the Approved Broker obtains the insurers' terms as referred to in Clause 48.6 for a SAHC Breach, Clauses 48.4 and 48.5 shall apply.
- 48.9 Where any Vessel becomes Off Insurance as provided in Clauses 48.4 and 48.5, such period of Off Insurance shall terminate upon the Vessel returning to its Trading Warranties or unloading the Excluded Cargo, unless the Vessel has sustained loss or damage whilst Off Insurance, in which event the Vessel shall remain Off Insurance:
- 48.9.1 until it has reached the first safe port outside the Excluded Area or unloading the Excluded Cargo; and
 - 48.9.2 the Vessel shall undergo a survey to determine the extent of the loss or damage; and
 - 48.9.3 if the damage results in the Vessel being unseaworthy and/or having its Class suspended or withdrawn, until it has been repaired and its Class has been restored; and
 - 48.9.4 the period of Off Insurance shall terminate upon the completion of such survey and if Clause 48.9.3 applies, upon completion of such repairs and the restoration of the Vessel's Class.

Off Insurance

- 48.10 In the event that a Vessel is Off Insurance, the Authority undertakes to indemnify the Contractor (and its subcontractors, employees, Crew and agents who would have been covered by the relevant insurances) in respect of any Losses suffered by the Contractor or caused during the performance of this Contract by the occurrence of a risk which would have been covered by the Required Insurances, had a Vessel in Authority Use not proceeded to an Excluded Area, or to an additional premium area or area attracting the imposition of Special Conditions (as defined in the Clause 48.3.3), or had the Vessel in Authority Use not been in such an area when the area was so designated, or had the Vessel in Authority Use not carried Excluded Cargo.

War Risks

- 48.11 This Clause 48.11 (*War Risks*) covers outbreak of war between any of the United Kingdom, the United States of America, France, the Russian Federation or the Peoples' Republic of China ("Major Powers' War"). If, during the performance of this Contract, due to a Major Powers' War, general war risks insurance in respect of Vessels in Authority Use:
- 48.11.1 terminates, where the Contractor is required by the Authority to take out such war risk insurance for Vessels in Authority Use in accordance with Schedule R (*Required Insurance*); or
 - 48.11.2 would have terminated, if the Contractor were required by the Authority to be take out such war risks insurance for Vessels in Authority Use,

the Authority undertakes to indemnify the Contractor in respect of, and to hold it harmless against, all Losses suffered during the performance of the Contract, and for which cover would have been given, but for such termination, under the Contractor's war risks insurance.

Uninsurable Risks

48.12 For the purposes of this Clause 48.12, "Uninsurable" means, in relation to a risk either that:

48.12.1 insurance is not available to the Contractor with a reputable insurer of good standing, acceptable to the Authority in accordance with Schedule R (*Required Insurances*), in respect of that risk; or

48.12.2 the insurance premium for insuring that risk, as quoted by the Approved Panel (the "Average Component Cost", as set out in Schedule R), is at such a level that the risk is not generally being insured against or being included in policies of insurance and for the purposes of this Contract:

Redacted under FOIA Section 43, Commercial Interest

48.12.2.1 in respect of risks other than Loss of Hire, such a level is one that is [REDACTED] more than the Average Component Cost that had been quoted by the Approved Panel twelve months earlier in respect of such risk; or

48.12.2.2 in respect of Loss of Hire insurance only, such a level is one that is [REDACTED] more than the Average Component Cost that had been quoted by the Approved Panel twelve months earlier in respect of such risk.

48.12.3 Each level specified in Clauses above shall be referred to as the relevant "Uninsurable Level".

48.13 If the Contractor determines on reasonable grounds from time to time that any risk covered under the Required Insurance has become Uninsurable (and is not being covered by an indemnity from the Authority under any of the other provisions of this Contract) then:

48.13.1 the Contractor shall promptly, and in any event not later than ten (10) Working Days prior to the relevant insurance policy lapsing, notify the Authority in writing, setting out the reasons for such determination; and

48.13.2 the Parties shall meet as soon as is reasonably practicable and if both Parties agree or it is determined pursuant to Clause 72 (*Dispute Resolution*) that the risk is Uninsurable and that the risk being Uninsurable is not caused by the actions or omissions of the Contractor or a Principal Subcontractor (where the Principal Subcontractor is carrying out the Contractor's obligations under this Contract),

then the Parties shall discuss, considering the Vessels to be Off Insurance.

49. **Contractor Notification**

49.1 The Contractor shall notify the Authority in writing at least ten (10) days prior to the cancellation, suspension, termination or non-renewal of any of the Required Insurances. This Clause 49.1 shall not apply where the termination of any Required Insurances occurs purely as a result of a change of insurer in respect of any of the Required Insurances required to be taken out and maintained in accordance with this Clause 49.1.

49.2 The Contractor shall promptly notify to insurers any matter arising from, or in relation to this Contract for which it may be entitled to claim under any of the Required Insurances. In the event that the Authority receives a claim relating to this Contract, the Contractor shall co-

operate with the Authority and assist it in dealing with such claims including providing information and documentation in a timely manner.

- 49.3 Except where the Authority is the claimant Party, the Contractor shall give the Authority notice within twenty (20) Working Days after any insurance claim in excess of [Redacted under FOIA Section 43, Commercial Interest] relating to this Contract on any of the Required Insurances or which, but for the application of the applicable policy excess, would be made on any of the Required Insurances and (if required by the Authority) full details of the incident giving rise to the claim.

50. **Carbon Intensity Rating**

- 50.1 For the purposes of this Clause 50, the Parties agree that:

“CII” means Carbon Intensity Indicator, as provided for in the MARPOL Carbon Intensity Regulations.

“CII Rating” means a Vessel’s attained operational carbon intensity rating, expressed as a rating from A-E, in a calendar year, as calculated in accordance with the MARPOL Carbon Intensity Regulations.

“MARPOL Carbon Intensity Regulations” means the regulations contained in Chapters 1, 2 and 4 of Revised MARPOL Annex VI which relate to “Regulations on the Carbon Intensity of International Shipping” and Resolution MEPC.328(76) implementing the CII and any associated guidelines and/or subsequent amendments, including the Ship Energy Efficiency Management Plan (SEEMP).

- 50.2 [Redacted under FOIA Section 43, Commercial Interest]

[Redacted]

51. **Authority’s right to insure**

Except where Clause 47 (*Insurance cover*) otherwise requires, the Authority may elect (but shall not be obliged) where notice has been provided to the Contractor to purchase any insurance which the Contractor is required to maintain pursuant to this Contract but has failed to maintain in full force and effect, the Authority shall be entitled to recover the reasonable premium and other reasonable costs incurred in connection therewith as a debt due from the Contractor.

52. **Evidence of Insurance**

- 52.1 The Contractor shall from the Effective Date and within fifteen (15) Working Days after the renewal of each of the Required Insurances, provide evidence, in a form satisfactory to the Authority, that the Required Insurances are in full force and effect and meet in full the requirements of Clause 47 (*Insurance cover*) and Schedule R (*Required Insurances*). Receipt of such evidence by the Authority shall not in itself constitute acceptance by the Authority or relieve the Contactor of its liabilities and obligations under this Contract.

- 52.2 Where any insurance referred to in Schedule R (*Required Insurances*) is subject to an excess or deductible below which the indemnity from insurers is excluded, the Contractor

shall be liable for such excess or deductible. The Contactor shall not be entitled to recover from the Authority any sum paid by way of excess or deductible under the Required Insurances whether under the terms of this Contract or otherwise.

53. **Cargo Clauses**

Hague-Visby Clause

53.1 All Cargo carried by the Contractor for the Authority under this Contract on board any of the Vessels in Authority Use shall be carried subject to the provisions of The Hague-Visby Rules as enacted in English law pursuant to the *Carriage of Goods by Sea Act 1971* ("the Rules") as if a bill of lading had been issued for such cargo, and which Rules shall be deemed to be incorporated herein, provided that:

53.1.1 the definition of "Contract of carriage" in Article 1(b) of the Schedule to the Rules shall be deemed to include all Cargo, including Cargo on deck, carried by the Contractor on Vessels in Authority Use; and

53.1.2 the Contractor shall not be liable for any loss and/or damage to Cargo carried on deck, with the Authority's prior written consent, and Article III(8) of the Rules shall not apply insofar as it would contradict the express exclusion of liability for Losses caused to Cargo carried on deck contained in Clause 53; and

53.1.3 in the event of any conflict between the Rules and the express terms of any provision of this Contract, the express terms of this Contract shall prevail.

For the purposes of Clause 53.1.2, the Authority shall be deemed to give its prior consent to its Cargo being carried on deck of a Vessel where it either approves a Task load plan which indicates that specific Cargo will be carried on deck or where the Authority itself loads its Cargo on the deck.

53.2 The Contractor's liability under Clause 45 (*Indemnity and Limits of Liability*) for Losses shall also be limited as follows:

53.2.1 in accordance with the following statutory provisions, where applicable to the Losses incurred:

53.2.1.1 Section 186 of the Merchant Shipping Act 1995 ("the Act");

53.2.1.2 *The Convention Relating to the Carriage of Passengers and their Luggage by Sea 1974* as incorporated by sections 183 and 184 and Schedule 6 to the Act, and the Contractor shall be deemed to be a carrier and any person accompanying the Cargo is a passenger for the purposes of the said provisions; and

53.2.1.3 *The Convention on Limitation of Liability for Maritime Claims 1976* as incorporated by section 185 and Schedule 7 of the Act, and the Contractor is deemed to be a shipowner for the purposes of the said provisions; and

53.2.2 for all Losses other than those subject to the Rules referred to in Clause 53.1 or the statutory provisions referred to in Clause 53.2.1:

53.2.2.1 subject to Clause 53.2.2.2, to the indemnity limit under the General Liability insurance (referred to in Schedule R (*Required Insurance*)) or [REDACTED] whichever is greater, per occurrence (or series of related incidents); or

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Section 43, Commercial
Interest***

53.2.2.2 where the Losses consist of damage to property only, to the indemnity limit under the General Liability insurance (referred to in Schedule R (*Required Insurance*)) or [REDACTED], whichever is greater, LESS the sum of Finally Adjusted Claims resulting from the relevant occurrence, provided always that the resulting limit for property damage claims per occurrence (or series of related incidents) shall not be less than [REDACTED] of such indemnity limit or [REDACTED] whichever is greater;

“Finally Adjusted Claims” means the amount of payments made, excluding any expenses and legal costs (unless such legal costs reduce the indemnity limit), under the General Liability insurance policy in respect of claims for personal injury or damage to property of third parties (other than of the Contractor or of the Subcontractors) arising out of the same occurrence, within a period of two (2) years from the date of the relevant occurrence,

PROVIDED THAT nothing in Clause 53.1 or 53.2 or elsewhere in this Contract shall affect or restrict the right of the Authority (whether in its own right or jointly with any other party, including the Contractor) to limit its liability to any third party pursuant to any statutory provision, convention or otherwise by operation of law.

53.3 The respective amounts indemnified in this Clause 53 (other than in Clause 53.1 and 53.2.1) shall be increased as provided in Clause 26 (*Indexation*) and any amount payable under this Clause 53 shall be similarly indexed from the date of its payment.

“Himalaya” Clause

53.4 For the purposes of this Clause 53, the term “Servant” shall include the owners, managers, and operators of any Vessel (other than the Contractor); underlying carriers; stevedores and terminal operators; and any direct or indirect servant, agent, or subcontractor (including their own subcontractors), or any other party employed by or on behalf of the Contractor, or whose services or equipment have been used to perform this Contract whether in direct contractual privity with the Contractor or not.

53.5 It is hereby expressly agreed that no Servant shall in any circumstances whatsoever be under any liability whatsoever to the Authority for any loss, damage or delay of whatsoever kind arising or resulting directly or indirectly from any act, neglect or default on the Servant’s part while acting in the course of or in connection with the performance of this Contract.

53.6 Without prejudice to the generality of the foregoing provisions in this Clause, every exemption, limitation, condition and liberty contained herein (other than Art III Rule 8 of the Hague/Hague-Visby Rules if incorporated herein) and every right, exemption from liability, defence and immunity of whatsoever nature applicable to the Contractor or to which the Contractor is entitled hereunder including the right to enforce any jurisdiction or arbitration provision contained herein shall also be available and shall extend to every such Servant of the Contractor, who shall be entitled to enforce the same against the Authority.

53.7 The Authority undertakes that;

53.7.1 no claim or allegation whether arising in contract, bailment, tort or otherwise shall be made against any Servant which imposes or attempts to impose upon any of them or any vessel owned or chartered by any of them any liability whatsoever in connection with this Contract whether or not arising out of negligence on the part of such Servant. The Servant shall also be entitled to enforce the foregoing covenant against the Authority; and

53.7.2 if any such claim or allegation should nevertheless be made, he will indemnify the Contractor against all consequences thereof.

53.8 For the purpose of sub-paragraphs 53.1 to 53.7 (inclusive) of this Clause the Contractor is or shall be deemed to be acting as agent or trustee on behalf of and for the benefit of all persons mentioned in sub-clause 53.1 above who are his Servant and all such persons shall to this extent be or be deemed to be parties to this contract.

53.9 Subject to Clause 45 (*Indemnity and Limits of Liability*), if a Vessel comes into collision with another ship as a result of both (i) any act, omission, negligence or default of the owners or operators/managers of that other ship and (ii) any act, omission, negligence or default of the owners or operators/managers of that Vessel, the Authority will indemnify the Contractor against all loss or liability to that other ship or the owners or operators/managers of that other ship in so far as such loss or liability represents loss of, or liability to, the Authority, paid or payable by that other ship or the owners or operators/managers of that other ship to the Authority and set-off, recouped or recovered by that other ship or her owners or operators/managers as part of their claim against the Vessel or the Contractor. The foregoing provisions shall also apply where the owners, operators/managers, or those in charge of any ship or ships or objects other than, or in addition to, the colliding ships or objects are at fault in respect of a collision or contact.

54. **Emission Trading Scheme Allowances**

54.1 Notwithstanding any other provision in this Contract, the Contractor and the Authority (the "Parties") and each individually a "Party") agree as follows:

54.1.1 "Emission Allowances" means an allowance, credit, quota, permit or equivalent, representing a right of a vessel to emit a specified quantity of greenhouse gas emissions recognised by the Emission Scheme.

54.1.2 "Emission Scheme" means a greenhouse gas emissions trading scheme which for the purposes of this Clause shall include the European Union Emissions Trading System and any other similar systems imposed by applicable lawful authorities that regulate the issuance, allocation, trading or surrendering of Emission Allowances.

54.2 [REDACTED]

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54.3 The Contractor and the Authority shall co-operate and exchange all relevant data and information in a timely manner to facilitate compliance with any applicable Emission Scheme and enable the Parties to calculate the amount of Emission Allowances in respect of the Vessels that must be surrendered to the authorities of the applicable Emission Scheme for the period of the Contract.

54.4 The Contractor shall monitor and report the relevant greenhouse gas emissions of the Vessels for verification by an independent verifier in accordance with the applicable Emission Scheme.

54.5 Throughout the Contract Term the Authority shall provide and pay for the Emission Allowances corresponding to the Vessels' emissions under the scope of the applicable Emission Scheme:

54.5.1 Within the first seven (7) days of each month, the Contractor shall notify the Authority in writing of the quantity of Emission Allowances for the previous month; and

- 54.5.2 No later than fourteen (14) days prior to the expiry of the Contract Term the Contractor shall notify the Authority in writing of the estimated quantity of Emission Allowances for the final month or part thereof.
- 54.6 The Contractor's notifications in subclauses 54.5.1 and 54.5.2 shall include the relevant calculations and the data used to establish the quantities.
- 54.7 Within seven (7) days of notification under subclauses 54.5.1 and 54.5.2, the quantity of Emission Allowances notified by the Contractor above shall be transferred by the Authority and received into the Contractor's nominated Emission Scheme account. If the estimated quantity of Emission Allowances for the final month or part thereof is higher or lower than the actual quantity calculated by the Contractor as at the time and date of expiry of the Contract Term, any difference in Emission Allowances shall be transferred by the Authority or returned by the Contractor, as the case may be, and received into the nominated account of the receiving Party within seven (7) days of written notification from that Party.
- 54.8 During any period during which a Vessel is not in Authority Use as a result of a Relief Event, the Authority shall have the right to offset against any Emission Allowances due or require the Contractor to return a quantity of Emission Allowances equivalent to the emissions that the Authority would otherwise have been responsible for, had such Vessel remained in Service.
- 54.9 If the Authority fails to transfer any of the Emission Allowances in accordance with Clause 54.7, the Contractor shall, by giving the Authority five (5) days' notice, have the right to suspend the performance of any or all of their obligations under this Contract until such time as the Emission Allowances are received in full by the Contractor. Throughout any period of suspended performance under this subclause, the relevant Vessel shall be deemed to remain in Service and the Contractor shall have no responsibility whatsoever for any consequences arising out of the valid exercise of this right. The Contractor's right to suspend performance under this Clause shall be without prejudice to any other rights or claims they may have against the Authority under this Contract.
55. **Plastic Packaging Tax**
- 55.1 The Contractor shall ensure that any PPT due in relation to this Contract is paid in accordance with the PPT Legislation.
- 55.2 The Contract Price includes any PPT that may be payable by the Contractor in relation to the Contract.
- 55.3 On reasonable notice being provided by the Authority, the Contractor shall provide and make available to the Authority details of any PPT they have paid that relates to the Contract.
- 55.4 The Contractor shall notify the Authority, in writing, in the event that there is any adjustment required to the Contract Price in accordance with section 70 of the Finance Act 2021 and, on reasonable notice being provided by the Authority, the Contractor shall provide any such information that the Authority requires in relation to any such adjustment.
- 55.5 In accordance with Clause 19 (*Management Procedure*) the Contractor (and the Principal Subcontractors) shall maintain all records relating to PPT and make them available to the Authority when requested on reasonable notice for reasons related to the Contract.
- 55.6 Where the Contractor manufactures, purchases or imports into the UK any Plastic Packaging Component in relation to the Contract the Contractor shall, on reasonable notice being given, provide the Authority with such information and documentation that it requires to enable the Authority to carry out due diligence checks and satisfy itself that the Contractor

has complied with the requirements of the PPT Legislation. This shall include, but is not limited to the Contractor providing:

- 55.6.1 confirmation of the tax status of any Plastic Packaging Component;
 - 55.6.2 documents to confirm that PPT has been properly accounted for;
 - 55.6.3 product specifications for the packaging components, including, but not limited to, the weight and composition of the products and any other product specifications that may be required; and
 - 55.6.4 copies of any certifications or audits that have been obtained or conducted in relation to the provision of Plastic Packaging Components.
- 55.7 The Authority shall have the right, on providing reasonable notice, to physically inspect or conduct an audit on the Contractor, to ensure any information that has been provided in accordance with Clause 55.6 above is accurate.
- 55.8 In the event the Contractor is not required to register for PPT they (and to the extent applicable, the Principal Subcontractors) shall provide the Authority with a statement to this effect and, to the extent reasonably required by the Authority on reasonable notice, supporting evidence for that statement.
- 55.9 The Contractor shall provide, on the Authority providing reasonable notice, any information that the Authority may require from the Contractor for the Authority to comply with any obligations it may have under the PPT Legislation.

56. Value Added Tax and Other Taxes

- 56.1 The Aggregate Monthly Payments together with any other payments due from the Authority to the Contractor hereunder excludes any UK output Value Added Tax (VAT) and any similar EU (or non-EU) taxes chargeable on the supply of the Services by the Contractor to the Authority.
- 56.2 If the Contractor is required by UK VAT law to be registered for UK VAT (or has registered voluntarily) in respect of their business activities at the time of any supply, and the circumstances of any supply are such that the Contractor is liable to pay the tax due to HMRC, the Authority shall pay to the Contractor in addition to the Aggregate Monthly Payments (or any other sum due to the Contractor) a sum equal to the output VAT chargeable at the zero rate on the tax value of the Services, and all other payments under the Contract according to the law at the relevant tax point.
- 56.3 The Contractor is responsible for the determination of their VAT liability and the payment of such. The Contractor shall consult their Customer Compliance Manager or the HMRC Enquiries Desk (and not the Commercial Officer) in cases of doubt. The Contractor shall notify the Authority's Commercial Officer of the Authority's VAT liability under the Contract, and any changes to it, within twenty (20) Working Days of becoming aware the liability is other than at the standard rate of VAT. In the event of any doubt about the applicability of the tax in such cases, the Authority may require the Contractor to obtain, and pass to the Authority, a formal opinion from HMRC. The Contractor shall comply promptly with any such requirement. Where the Contractor obtains an opinion from HMRC, they shall supply a copy to the Authority within three (3) Working Days of receiving that ruling unless they propose to challenge the opinion. Where the Contractor challenges the opinion it shall supply to the Authority a copy of any final decisions issued by HMRC on completion of the challenge within three (3) Working Days of receiving the opinion.

- 56.4 Where supply of Contractor Deliverables comes within the scope of UK VAT, but the Contractor is not required by UK VAT law to be registered for UK VAT (and has not registered voluntarily), the Authority shall be responsible for assessing and paying over directly to HMRC any UK output VAT due in respect of the Services. The Contractor shall be responsible for ensuring they take into account any changes in VAT law regarding registration.
- 56.5 Where the Services are deemed to be supplied to the Authority outside the UK, the Contractor may be required by the laws of the country where the supply takes place to register there for EU (or non- EU) turnover or similar tax. In that event, the Authority shall pay to the Contractor in addition to the Aggregate Monthly Payments (and any other sum due to the Contractor under the Contract) a sum equal to the tax the Contractor is liable to pay to the tax authorities of the country in question in relation to the Services within thirty (30) calendar days of a written request for payment of any such sum by the Contractor, subject to Clause 29.1 (*Change*).
- 56.6 In relation to the Contractor Deliverables supplied under the Contract the Authority shall not be required to pay any sum in respect of the Contractor's input VAT (or similar EU or non-EU or both input taxes). However, these input taxes will be allowed where it is established that, despite the Contractor having taken all reasonable steps to recover them, it has not been possible to do so. Where there is any doubt that the Contractor has complied with this requirement the matter shall be resolved under the dispute resolution procedures set out in Clause 72 (*Dispute Resolution*).
- 56.7 Should HMRC assess that the Contractor has incorrectly determined the VAT liability, in accordance with this Clause 56 (*Value Added Tax and Other Taxes*), the Authority will pay the VAT assessed by HMRC or the contractor shall credit any VAT paid by the Authority over and above the HMRC assessment (as applicable). In the event that HMRC so determines, the Contractor shall pay any interest charged on any assessment or penalties or both directly to HMRC. Such interest or penalties or both shall not be recoverable from the Authority under this Contract or any other contract. The Contractor shall supply the Authority with a copy of all correspondence between HMRC and the Contractor's advisors regarding the VAT assessment within three (3) Working Days of a written request from the Authority for such correspondence.
- 56.8 Where the Contractor is a qualifying company or qualifying partnership for the purposes of any UK tax legislation the Contractor shall notify the Authority's Commercial Officer, in writing, where it has notified HMRC that a return it has delivered to HMRC includes an uncertain amount that relates to a contract it has entered into with the Authority. The Contractor shall notify the Authority within twenty (20) Working Days of the notification it has provided to HMRC and provide the Authority with a copy of the notification. The Contractor shall continue to keep the Authority informed of any correspondence and/or discussions with HMRC in relation to the uncertain tax treatment within a reasonable time frame or upon request by the Authority.
- 56.9 In the event that HMRC notifies the Contractor of any change to the tax treatment of a previously notified uncertain amount, the Contractor shall notify the Authority and provide a copy of HMRC's notification and assessment within twenty (20) Working Days of receiving such notification and assessment.
- 56.10 The Authority shall not be liable for any interest and/or penalty that the Contractor is required to pay to HMRC for a failure to notify HMRC of an uncertain amount.

57. **Financial Distress**

- 57.1 The Parties shall comply with the provisions of Schedule D (*Financial Distress*) in relation to the assessment of the financial strength of the Contractor and Holdco and the consequences of a change to that financial strength.

PART 5 : MISCELLANEOUS58. **Visitors**

During the Contract Term, the Contractor shall have no responsibility (save for compliance with any applicable statutory requirements) for the safety and protection of any visitors to the Vessels, when the Authority's visitors are given access onto the Vessels for whatever purpose.

59. **Exit Management Plan**

The Parties shall comply with Schedule S (*Exit Management Plan: Crewing and Sponsored Reserves*).

60. **Change of Control**

- 60.1 The Contractor shall notify the Representative of the Authority at the address given in this Clause 60 (*Change of Control*), as soon as practicable, in writing of any intended, planned or actual change of control of the Contractor. The Contractor shall not be required to submit any notice which is unlawful or is in breach of either any pre-existing non-disclosure agreement or any regulations governing the conduct of the Contractor in the UK or other jurisdictions where the Contractor may be subject to legal sanction arising from issuing such a notice.
- 60.2 In this Clause "change of control" means a change of the persons who hold beneficially (whether directly or indirectly and in aggregate (where applicable) more than 50 per cent (50%) of the issued share capital of the Contractor excluding any part of that issued capital that carries no rights (including voting rights) other than rights to participate in a specified amount in a distribution of profits and capital.
- 60.3 Each notice of change of control shall be taken to apply to all contracts with the Authority. Notices shall be submitted to the MOD Commercial Officer listed in Schedule H (*Contact Persons*).
- 60.4 The relevant Representative of the Authority shall consider the notice of change of control and advise the Contractor in writing of any concerns the Authority may have. Such concerns may include but are not limited to potential threats to national security, the ability of the Authority to comply with its statutory obligations or matters covered by the declarations made by the Contractor prior to contract award.
- 60.5 The Authority may terminate the Contract (with immediate effect or on a date specified by the Authority) by giving written notice to the Contractor within six months of the Authority being notified in accordance with Clause 60.1. The Authority shall act reasonably in exercising its right of termination under this Clause 60 (*Change of Control*). Notification by the Contractor of any intended, planned or actual change of control shall not prejudice the existing rights of the Authority or the Contractor under the Contract nor create or imply any rights of either the Contractor or the Authority additional to the Authority's rights set out in this Condition.

61. **Public Relations and Publicity**

61.1 The Contractor shall not by itself, or through its employees, agents or, Subcontractors, communicate with representatives of the press, television, radio or other communications media on any matter concerning this Contract without the prior written approval of the Authority provided that nothing shall prevent the Contractor or its Subcontractors disclosing their involvement in the Project for the sole purpose of marketing.

61.2 The provisions of this Clause 61 (*Public Relations and Publicity*) are without prejudice to the provisions of Clause 31 (*Disclosure of Information*).

62. **Agency/Independent Contractor**

62.1 **No Delegation**

No provision of this Contract shall be construed as a delegation by the Authority of any of its statutory authority to the Contractor.

62.2 **No Agency**

Save as otherwise provided in this Contract, the Contractor shall not be or be deemed to be an agent of the Authority, and the Contractor shall not hold itself out as having authority or power to bind the Authority in any way.

62.3 **Independent Contractor**

The Contractor shall at all times be an independent contractor and nothing in this Contract shall be construed as creating or constituting any partnership, joint venture, representative, agency or employer and employee relationship between the Authority and the Contractor or any of the Contractor's or any Subcontractor's employees. Neither the Contractor nor any of its or its Subcontractor's employees shall at any time hold itself or themselves out to be the employee of the Authority, and neither the Contractor nor any of the Contractor's or any Subcontractor's employees shall be entitled to any of the benefits provided by the Authority to its established or unestablished officers and staff.

63. **Service of Notices**

63.1 All notices, orders, or other forms of communication required to be given in writing ("Notices") under or in connection with this Contract shall:

63.1.1 be given in writing;

63.1.2 be authenticated by signature or by such other method as agreed between the Parties;

63.1.3 be marked for the attention of the appropriate department or officer; and

63.1.4 be marked in a prominent position with the relevant Contract number.

63.2 Notices should be delivered by:

63.2.1 hand;

63.2.2 first-class prepaid post (or airmail, in the case of Notices to or from overseas); or

63.2.3 electronic mail (including, the Sealift Programme application and ancillary Authority equipment and software (MODNET) as described in Schedule J (*Tasking and Control*)).

63.3 Notices shall be deemed to have been received:

63.3.1 if delivered by hand, on the day of delivery if it is the recipient's Working Day and otherwise on the first Working Day of the recipient immediately following the day of delivery;

63.3.2 if sent by first-class prepaid post (or airmail, if appropriate), on the third Working Day (or on the tenth Working Day, in the case of airmail) after the day of posting;

63.3.3 if received by the other Party by electronic means between 09.00 and 17:00 hours on a Working Day.

63.4 The addresses (including electronic addresses) to which all Notices shall be sent are, subject to Clause 63.5:

63.4.1 For the Authority:

Address:

[Redacted address block]

Redacted under FOIA Section 43, Commercial Interest

Email: [Redacted email address]

63.4.2 For the Contractor:

Address:

[Redacted address block]

Redacted under FOIA Section 43, Commercial Interest

Email: [Redacted email address]

[REDACTED]

[REDACTED]

FAO: [REDACTED] Redacted under FOIA Section 40, Personal Information

63.5 Any Party to this Contract may notify the other Party of any change to the address or any of the other details specified in Clause 63.4, provided that such notification shall only be effective on the date specified in such notice or five (5) Working Days after the notice is given, whichever is later, and provided also that any new address shall be in the United Kingdom.

63.6 Where either Party requests written confirmation of any communication which does not constitute a Notice such request shall not unreasonably be refused.

63.7 Where no timeline is expressed in this Contract for the acceptance or rejection of any communication, such timeline shall be deemed to be twenty (20) Working Days from the receipt of such communication.

64. Equality and Child Labour Legislation

64.1 The Contractor shall not unlawfully discriminate either directly or indirectly on the grounds of age, disability, gender (including re-assignment), sex or sexual orientation, marital status (including civil partnerships), pregnancy and maternity, race, or religion or belief.

64.2 Without prejudice to the generality of the obligation in Clause 64.1 (*Equity and Child Labour Legislation*) above, the Contractor shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010 (or any statutory modification or re-enactment thereof) or other relevant or equivalent legislation in the country where the Contract is being performed.

64.3 The Contractor agrees to take reasonable efforts to secure the observance of the provisions of this Clause by any of its employees, agents or other persons acting under its direction or control who are engaged in the performance of the Contract.

64.4 The Contractor agrees to take reasonable efforts to reflect this Clause in any Principal Subcontract that it enters into to satisfy the requirements of the Contract and to require its Principal Subcontractors to reflect this Clause in their subcontracts that they enter into to satisfy the requirements of the Contract.

64.5 The Contractor shall comply in all material respects with IMO and ILO regulations, Child Labour Legislation and applicable employment legislation of those jurisdiction(s) where the Contract is being performed.

65. Data protection

65.1 The Contractor shall comply with the obligations contained in Schedule K (*Protection of Personal Data*).

65.2 Transparency Information

65.2.1 Notwithstanding any other term of the Contract, including Clause 31 (*Disclosure of Information*) where applicable, the Contractor understands that the Authority may publish the Publishable Performance Information and the Transparency Information to the general public.

65.2.2 Subject to Clause 65.2.3 the Authority shall publish and maintain an up-to-date version of the Transparency Information and Publishable Performance

Information in a format readily accessible and reusable by the general public under an open licence where applicable.

65.2.3 If, the Authority believes that publication of any element of the Transparency Information and Publishable Performance Information would be contrary to the public interest, the Authority shall be entitled to exclude such information from publication. The Authority acknowledges that it would expect the public interest by default to be best served by publication of the Transparency Information and Publishable Performance Information in its entirety. Accordingly, the Authority acknowledges that it shall only exclude Transparency Information and Publishable Performance Information from publication in exceptional circumstances and agrees that where it decides to exclude information from publication on that basis, it will provide a clear statement to the general public explaining the categories of information that have been excluded from publication and reasons for withholding that information.

65.2.4 The Contractor shall assist and co-operate with the Authority as reasonably required to enable the Authority to publish the Transparency Information and Publishable Performance Information, in accordance with the principles set out above, including through compliance with the requirements relating to the preparation of Publishable Performance Information set out in the Annex to this Condition. Where the Authority publishes Transparency Information, it shall:

65.2.4.1 before publishing, redact any information that would be exempt from disclosure if it was the subject of a request for information under the FOIA and/or the EIR, for the avoidance of doubt, including Sensitive Information;

65.2.4.2 taking into account the Sensitive Information, consult with the Contractor where the Authority intends to publish information which has been identified as Sensitive Information. For the avoidance of doubt the Authority, acting reasonably, shall have absolute discretion to decide what information shall be published or be exempt from disclosure in accordance with the FOIA and/or the EIR; and

65.2.4.3 present information in a format that assists the general public in understanding the relevance and completeness of the information being published to ensure the public obtain a fair view on how the Contract is being performed.

65.3 Publishable Performance Information

65.3.1 Within three (3) months of the Effective Date the Contractor shall provide to the Authority for its approval (such approval shall not be unreasonably withheld or delayed) a draft Publishable Performance Information KPI Data Report consistent with the content requirements of the Publishable Performance Information KPI Data Report.

65.3.2 If the Authority rejects any draft Publishable Performance Information the Contractor shall submit a revised version of the relevant KPI Data Report for further approval by the Authority with five (5) Working Days of receipt of any notice or rejection, taking account of any recommendations for revision and improvement to the report provided by the Authority. This process shall be repeated until the Parties have an agreed version of the Publishable Performance Information.

65.3.3 The Contractor shall provide an accurate and up-to-date version of the KPI Data Report to the Authority for each quarter at the frequency referred to in the Publishable Performance Information KPI Data Report.

65.3.4 Any dispute in connection with the preparation and/or approval of Publishable Performance Information, other than under Clause 65.3.2 (*Publishable Performance Information*), shall be resolved in accordance with the dispute resolution procedure provided for in the Contract.

65.3.5 The requirements of this Clause are in addition to any other reporting requirements in the Contract.

66. **Waiver (DEFCON 527)**

66.1 No act or omission of either Party shall by itself amount to a waiver of any right or remedy unless expressly stated by that Party in writing. In particular, no reasonable delay in exercising any right or remedy, shall by itself constitute a waiver of that right or remedy.

66.2 No waiver in respect of any right or remedy shall operate as a waiver in respect of any other right or remedy.

67. **Severability (DEFCON 538)**

If any provision of the Contract is held to be invalid, illegal or unenforceable to any extent then:

67.1.1 such provision shall (to the extent it is invalid, illegal or unenforceable) be given no effect and shall be deemed not to be included in the Contract but without invalidating any of the remaining provisions of the Contract; and

67.1.2 the Parties shall use all reasonable endeavours to replace the invalid, illegal or unenforceable provision by a valid, legal and enforceable substitute provision the effect of which is as close as possible to the intended effect of the invalid, illegal or unenforceable provision.

68. **Counterparts**

This Contract may be executed in any number of counterparts, all of which when taken together will constitute one and the same instrument.

69. **Entire agreement**

Unless otherwise stated, this Contract constitutes the entire agreement between the Parties in connection with its subject matter and supersede all prior representations, communications, negotiations and understandings concerning the subject matter of this Contract. No Party has relied on any representation except as expressly set out.

70. **Secretary of State's powers and duties**

Nothing in this Contract shall restrict or otherwise affect the rights powers and obligations of the Secretary of State for Defence when acting in such capacity and not when acting as a Party to this Contract.

71. **Law of the contract**

71.1 This Contract, including the arbitration agreement at Clause 75 (*Arbitration*), shall be governed by the laws of England.

- 71.2 The laws of other jurisdictions may apply solely for the purpose of giving effect to this Clause and for the enforcement of any judgement, order or award given under English jurisdiction.
72. **Dispute Resolution**
- 72.1 The Parties agree that in the event of any, difference, dispute, claim, issue or question arising out of or relating to this Contract including any question regarding its existence, validity or termination ("Dispute") then, except as expressly provided in this Contract, the Parties shall (subject to Clause 73.5 (*Fast Track Resolution*)):
- 72.1.1 follow the fast track dispute resolution procedure set out in Clause 73 (*Fast Track Resolution*);
- 72.1.2 refer any Dispute which they are unable to resolve via Fast Track Resolution (and is not excluded by Clause 72.2 (*Dispute Resolution*)) to either Expert Determination or Arbitration in accordance with Clauses 74 (*Expert Determination*) and 75 (*Arbitration*).
- 72.2 The following matters or things are excluded from the jurisdiction of Expert Determination and/or Arbitration:
- 72.2.1 a matter or thing as to which the decision of the Authority under this Contract is said to be final and conclusive by an express term of this Contract; and
- 72.2.2 a matter or thing as to which the decision of the Contractor under this Contract is said to be final and conclusive by an express term of this Contract; and
- 72.2.3 a matter on which the Single Source Regulations Office has jurisdiction to provide a determination pursuant to provisions in the Defence Reform Act 2014 and/or the Single Source Contract Regulations 2014 provided that any Dispute relating to the Contractor Databook, the MDAL and/or any amounts payable pursuant to Schedule U (Compensation for Termination) are accepted by both Parties and not therefore referable to the Single Source Regulations Office or other adjudication on the matter of quantum.
- 72.3 If Expert Determination and/or Arbitration proceedings are issued by either Party, the Parties agree that, with the exception of the without prejudice communication referred to in Clause 73.3 (*Fast Track Resolution*), the Tribunal or Expert may open up, review or revise any opinion, decision, certificate, account, requirement or notice given pursuant to this Contract and/or any of the documents entered into between the Parties pursuant to it to determine all matters in dispute which shall be submitted to the Tribunal or the Expert in the same manner as if no opinion, decision, certificate, account, requirement or notice had been given.
- 72.4 The Parties shall continue to comply with, observe and perform all of their obligations under this Contract regardless of the nature of the Dispute and notwithstanding the referral of the Dispute for resolution to Expert Determination or Arbitration. The Parties shall give effect forthwith to the decisions delivered by the Representatives, Arbitrator or Expert.
- 72.5 If the Parties cannot agree on whether the Dispute should be resolved by Expert Determination or Arbitration, then the Dispute shall be referred to Arbitration in accordance with Clause 75 (*Arbitration*).
- 72.6 The provisions of Clause 72 (*Dispute Resolution*) to Clause 75 (*Arbitration*) shall be without prejudice to Clause 27 (*Payment and Recovery of Sums Due*) of this Contract whereby the Party disputing any amount is required to pay such amount as is not in dispute to the other in accordance with the procedure set out in Clause 27 (*Payment and Recovery of Sums Due*) and shall be entitled only to withhold the balance pending resolution of the Dispute.

73. **Fast Track Resolution**

- 73.1 Either Party may serve a Fast Track Notice ("FTN") referring any Dispute to Fast Track Resolution by senior representatives ("Representatives") of each of the Parties. Such Representatives will attempt in good faith to resolve such Dispute through negotiations, each Representative having legal authority to settle the Dispute (evidence of such authority being available to either Representative on request from the other).
- 73.2 Any costs incurred by the Parties or the Representatives for participating in the Fast Track Resolution procedure shall, unless expressly stated otherwise, be for their own account.
- 73.3 Unless the Parties otherwise agree in writing, any concessions, waivers or agreements (other than a settlement agreement) made by either Party in the course of discussions between the Representatives (whether made in writing or orally, or in correspondence, emails or formal agreement) shall be without prejudice in relation to any subsequent reference to Expert Determination under Clause 74 (*Expert Determination*), Arbitration conducted pursuant to Clause 75 (*Arbitration*), or any appeal from the decision of an Arbitration (regardless of whether such correspondence or agreements have been labelled "without prejudice" or not).
- 73.4 If the Parties' Representatives fail to resolve the Dispute within twenty (20) Working Days of the Dispute being referred to the Representatives under Clause 73.1 (*Fast Track Resolution*), either Party may serve on the other Party a Dispute Referral Notice ("DRN"), referring the matter to either Expert Determination pursuant to Clause 74 (*Expert Determination*) or Arbitration pursuant to Clause 75 (*Arbitration*), as appropriate.
- 73.5 While the Parties are encouraged to engage in Fast Track Resolution, and their failure to do so may be taken into account by an arbitration Tribunal when awarding costs, failure to engage in Fast Track Resolution is not a prerequisite to the commencement of Expert Determination or Arbitration by either Party by service of a DRN.

74. **Expert Determination**

- 74.1 Subject to Clause 72.2 and Clause 75.1, the Parties will refer to Expert Determination (in accordance with this Clause) any Dispute arising out of any Clause or Schedule of this Contract.
- 74.2 The Party serving the DRN initiating the referral of the Dispute to Expert Determination shall be required to nominate in such notice an expert who shall be independent of both Parties and a member of one of the following organisations:
- 74.2.1 the Institute of Chartered Shipbrokers;
 - 74.2.2 the Baltic Exchange;
 - 74.2.3 the Royal Institute of Naval Architects;
 - 74.2.4 the Institute of Chartered Accountants; or
 - 74.2.5 a Charter Member of the Chartered Insurance Institute.
- 74.3 The Party served will be deemed to accept the expert nominated in the DRN (the "Expert") unless that Party serves notice to the contrary which contains suggestions of an alternative nominated expert (a "Rejection Notice") within five (5) Working Days from receipt of the DRN.

- 74.4 In the event of service of a Rejection Notice and if any alternative nominated expert is not agreed within five (5) Working Days of the Rejection Notice, the Parties shall forthwith request as appropriate either:
- 74.4.1 the Secretary for the time being of the Institute of Chartered Shipbrokers;
 - 74.4.2 the Chairman for the time being of the Baltic Exchange where the Party;
 - 74.4.3 the President for the time being of the Royal Institute of Naval Architects;
 - 74.4.4 the President for the time being of the Institute of Chartered Accountants; or
 - 74.4.5 the Director General for the time being of the Chartered Insurance Institute in relation to insurance disputes,
- to appoint one of their members to act as an Expert for the purposes of this Clause.
- 74.5 Any Expert so appointed pursuant to Clause 74.4 (*Expert Determination*) shall be independent of both Parties and shall be deemed accepted by both Parties.
- 74.6 If the Parties cannot agree which organisation should nominate an Expert or the nature of the Dispute is unclear or the body nominated by the Parties fails to respond within three (3) Working Days of the request made under Clause 74.4 (*Expert Determination*), then the Chairman of the Baltic Exchange shall nominate an Expert for the purposes of determining the nature of the Dispute.
- 74.7 The Expert shall be deemed not to be an arbitrator but shall render his decision as an expert and the provisions of the Arbitration Act 1996 and the law relating to arbitration shall not apply to the Expert or his determination or the procedure by which he reaches his determination.
- 74.8 The Expert shall meet with the Representatives as soon as possible, but in any event within a period of no more than five (5) Working Days following his appointment. Prior to such meeting, the Representatives shall submit written summaries of the Dispute, limited to such length as determined by the Expert.
- 74.9 The Expert shall, in his discretion, make such procedural directions as he considers necessary such as ordering the Parties to provide written submissions within such time period as he considers appropriate and/or to attend such hearings, as he deems necessary and/or require further meetings with the Representatives. The Parties agree to provide such statements, documents and information as may be reasonably requested by the Expert.
- 74.10 The Expert shall act fairly and impartially and shall be required to consult in good faith with both the Parties and the Representatives in an attempt to come to an agreement in relation to the Dispute.
- 74.11 The Expert shall be requested to deliver to the Parties a written decision, together with concise reasons for reaching such decision, on the Dispute referred to him pursuant to a DRN within twenty (20) Working Days of his appointment (or such other period as the Parties may agree after the date of the DRN).
- 74.12 The Parties agree that, save for manifest error, the decision of the Expert shall be final and binding on both Parties. If either of the Parties reasonably believes that the Expert has committed a manifest error in determining the Dispute, that Party may request the Expert, and submit a written statement within five (5) Working Days specifying the reasons for such belief, to reconsider its determination. If either the Expert or the other Party disagrees that

there is a manifest error in the Expert's determination, the Parties shall refer the Dispute to Arbitration in accordance with Clause 75 (*Arbitration*).

- 74.13 Any costs (including but not limited to legal fees and expenses) incurred by the Parties or the Representatives in participating in the referral to the Expert and meetings with the Expert shall be for their own account. The reasonable costs of the Expert shall be borne by the Party against whom the decision is made, when determined, or otherwise at the Experts' discretion.
- 74.14 If within the period required by Clause 74.11 (*Expert Determination*), the Expert has not made known his decision then, at the request of either Party, another Expert may be appointed and on acceptance of the appointment, the appointment of the previous Expert will cease unless prior to the day on which the new Expert is appointed the existing Expert has made known its decision in which case the decision will be binding on the Parties in accordance with Clause 74.12 (*Expert Determination*). The reasonable costs of the first Expert shall be borne by the Party against whom the new Expert makes its decision, when determined, or otherwise at the new Expert's discretion.
- 74.15 The Expert Determination process and anything said, done or produced in or in relation to it (including any awards) shall be confidential between the Parties and the Expert, except as may be lawfully required in judicial proceedings relating to the Expert Determination or otherwise. No report relating to anything said, done or produced in or in relation to the Expert Determination process may be made beyond the Expert, the Parties, their legal representatives and any person necessary to the conduct of the proceedings, without the concurrence of all Parties to the process.

75. **Arbitration**

75.1 The Parties will refer to Arbitration (in accordance with this Clause):

- 75.1.1 any Dispute not solely concerning matters covered by Clause 74.1 (*Expert Determination*); and
- 75.1.2 any Dispute concerning the quantum of any price or specification of any of the figures specified in Annex 1 (*Payments*) to Schedule E (*Performance and Payment*),

unless the Authority, prior to the commencement of Arbitration proceedings, waives its right to exclude the Dispute from Expert Determination.

- 75.2 Any reference by the Parties to Arbitration in accordance with Clause 75 (*Arbitration*) does not exclude the Parties relying on the supportive powers of the English courts to arbitral proceedings (including but not limited to powers in relation to injunctive relief and evidence set out in Section 44 of the Arbitration Act 1996).
- 75.3 A reference to arbitration under this Clause shall be to three arbitrators, one to be appointed by each Party and the third, subject to the provisions of the London Maritime Arbitrators Association ("LMAA") Terms current at the time when the arbitration proceedings are commenced, by the two so appointed.
- 75.4 The Party initiating the arbitration pursuant to Clause 75.1 (*Arbitration*) shall appoint an arbitrator and serve a DRN, which shall state:
- 75.4.1 that the Dispute is referred to Arbitration;
- 75.4.2 the particular Clause or Clauses of this Contract out of or in relation to which the Dispute arises;

- 75.4.3 the identity of the referring Party's arbitrator so appointed; and
- 75.4.4 that the other Party is to appoint its own arbitrator and give notice that it has done so within fourteen (14) days of receipt of the DRN.
- 75.5 If the other Party does not appoint its own arbitrator and give notice that it has done so within the fourteen (14) days as required by Clause 75.4.4 (*Arbitration*), the Party referring a dispute to arbitration may, without the requirement of any further prior notice to the other Party, appoint its arbitrator as sole arbitrator and shall advise the other Party accordingly. The award of a sole arbitrator shall be binding on both Parties as if the arbitrator had been appointed by agreement.
- 75.6 The arbitration shall be conducted in English and have its seat in London and, unless otherwise agreed in writing by the Parties, the arbitration and this Clause 75 (*Arbitration*) shall be governed by the provisions of the Arbitration Act 1996 or any statutory modification or re-enactment thereof, as amended by the provisions of the LMAA Terms current at the time when the arbitration proceedings are commenced, save to the extent necessary to give effect to the provisions of this Clause 75 (*Arbitration*).
- 75.7 Nothing herein shall prevent the Parties agreeing in writing to vary these provisions to provide for the appointment of a sole arbitrator.
- 75.8 In cases where neither the claim nor any counterclaim exceeds the sum of US\$100,000 (or such other sum as the Parties may agree) the arbitration shall be conducted in accordance with the LMAA Small Claims Procedure current at the time when the arbitration proceedings are commenced.
- 75.9 In cases where the claim or any counterclaim exceeds the sum agreed for the LMAA Small Claims Procedure and neither the claim nor any counterclaim exceeds the sum of US\$400,000 (or such other sum as the Parties may agree) the Parties may further agree that the arbitration shall be conducted in accordance with the LMAA Intermediate Claims Procedure current at the time when the arbitration proceedings are commenced. Where the reference is to three arbitrators the procedure for making appointments shall be in accordance with the procedure for full arbitration stated above.
- 75.10 It is agreed between the Parties that the arbitration process and anything said, done or produced in or in relation to the arbitration process (including any awards) shall be confidential as between the Parties, except as may be lawfully required in judicial proceedings relating to the arbitration or otherwise. No report relating to anything said, done or produced in or in relation to the arbitration process may be made beyond the tribunal, the Parties, their legal representatives and any person necessary to the conduct of the proceedings, without the concurrence of all Parties to the arbitration.
- 75.11 The Parties agree that there will be no obligation to disclose any document or piece of information, however so stored or recorded, that if it was to be disclosed would harm national security.
76. **Principal Subcontractor disputes**
- 76.1 If any dispute arising under this Contract raises issues which relate to any dispute between the Contractor and a Principal Subcontractor or Crew Employer arising under the relevant Subcontract or otherwise affects the relationship or rights of the Contractor and/or the Principal Subcontractor or Crew Employer under the relevant Subcontract (the "Principal Subcontract Dispute"), then the Contractor may include as part of its submissions made to the Expert under Clause 74 (*Expert Determination*) or to the arbitrator under Clause 75 (*Arbitration*), where the dispute is referred to Expert determination or arbitration, submissions made by the Principal Subcontractor or Crew Employer.

- 76.2 The Expert or the Arbitrator, as appropriate, shall not have jurisdiction to determine the Principal Subcontract Dispute but the decision of the Expert or the Arbitrator shall, be binding on the Contractor and the Principal Subcontractor or Crew Employer insofar as it determines the issues relating to the Principal Subcontract Dispute.
- 76.3 Any submissions made by the Principal Subcontractor or Crew Employer shall:
- 76.3.1 be made within the time limits applicable to the delivery of submissions by the Contractor under Clauses 72 (*Dispute Resolution*) and 73 (*Fast Track Resolution*); and
 - 76.3.2 concern only those matters which relate to the dispute between the Authority and the Contractor under this Contract.
- 76.4 Where the Principal Subcontractor or Crew Employer makes submissions in any reference before:
- 76.4.1 the Expert, the Expert's costs of such reference shall be borne as the Expert shall specify, or in default, one-third by the Authority and two-thirds by the Contractor; and
 - 76.4.2 the Arbitrator, the costs of the arbitration shall be in the discretion of the Arbitrator.
- 76.5 The Authority shall have no liability to the Principal Subcontractor or Crew Employer arising out of or in connection with any decision of the Expert or Arbitrator or in respect of the costs of the Principal Subcontractor or Crew Employer in participating in the resolution of any dispute under this Contract.
- 76.6 The Contractor shall not allow the Principal Subcontractor or Crew Employer access to any document relevant to the issues in dispute between the Authority and the Contractor save where:
- 76.6.1 the document is relevant also to the issues relating to the Principal Subcontract Dispute as the case may be; and
 - 76.6.2 the Contractor has first delivered to the Authority a written undertaking from the Principal Subcontractor or Crew Employer addressed to the Authority that they shall not use any such document otherwise than for the purpose of the dispute resolution proceedings under this Contract and that they shall not disclose such documents or any information contained therein to any third party other than the Expert or Arbitrator or any professional adviser engaged by the Principal Subcontractor or Crew Employer to advise in connection with the dispute.

77. **Subcontracting with the Crown**

If the Contractor shall enter into any other contract with the Crown relating in any way to the subject matter of the Contract, then, no breach by the Crown of that other contract nor any other act or omission nor any written or oral statement nor any representation whatsoever of or by the Crown its servants or agents or other contractors relating to or connected with any other contracts as aforesaid shall, regardless of any negligence on its part or their part:

- 77.1.1 give the Contractor any right under the Contract to an extension of time or additional payment or damages or any other relief or remedy whatsoever against the Authority; or
- 77.1.2 affect, modify, reduce or extinguish either the obligations of the Contractor or the rights or remedies of the Authority; or

77.1.3 be taken to amend, add to, delete or waive any term or condition of the Contract.

78. Access to Contractor's Premises

78.1 Representatives of the Authority shall be granted access to the Vessels and Contractor's and Principal Subcontractors' premises upon providing no less than five (5) Working Days' notice PROVIDED ALWAYS that such representatives of the Authority:

78.1.1 must be accompanied by the Contractor; and

78.1.2 enter the Vessels or Contractor's and/or Principal Subcontractors' premises at their own risk; and

78.1.3 do not in anyway interfere with the use, operation, schedule and/or maintenance of any Vessel.

78.2 The Contractor shall ensure that the provisions of Clause 78.1 are secured in the terms and conditions of all Principal Subcontracts.

The Contractor and the Authority shall each comply with their respective obligations under Schedule Q (*Transfer Regulations Employee Transfer Arrangements on Exit*). The Contractor acknowledges the rights of the Authority under Schedule Q (*Transfer Regulations Employee Transfer Arrangements on Exit*).

79. Survival

Clauses 1 (*Definitions*), 13 (*Interests in Vessels*), 19 Management procedure (*Management Procedure*), 27 (*Payment and Recovery of Sums Due*), 31 (*Disclosure of Information*), 32 (*Security*), 33 (*Intellectual Property Rights*), 45 (*Indemnity and Limits of Liability*), 61 (*Public Relations and Publicity*), 72 (*Dispute Resolution*), 73 (*Fast Track Resolution*) and such other provisions as are expressed to survive termination of this Contract shall survive the termination of this Contract.

80. General duty to mitigate

80.1 Subject to Clause 80.2 (*General duty to mitigate*) both Parties shall use all reasonable endeavours to mitigate all losses, costs and expenses incurred as a result of a breach of the other Party of any of its obligations under this Contract including using all reasonable endeavours to exhaust any rights to receive Insurance proceeds in respect of such losses, costs and expenses.

80.2 In respect of indemnities, the Contractor is required to use all reasonable endeavours to exhaust any right to receive Insurance proceeds.

81. Rights of Third Parties

Notwithstanding anything to the contrary elsewhere in the Contract, no right is granted to any person who is not a Party to the Contract to enforce any term of the Contract in their own right and the Parties to the Contract declare that they have no intention to grant any such right.

82. Crew and Sponsored Reservists

The Authority and Contractor shall comply with their respective obligations contained in Schedule O (*Crew and Sponsored Reserves*).

IN WITNESS WHEREOF the Parties have executed this Contract on the date first before written.

Signed for and on behalf of
THE SECRETARY OF STATE FOR DEFENCE
by

)
) ****Redacted under FOIA**
) **Section 40, Personal**
) **Information****

.....
Authorised Signatory

Witness (Signature) (Signature)

Witness (Full Name)

Witness (Full Address)

Signed for and on behalf of
FORELAND SHIPPING LIMITED
by

)
)
)

.....
Director

Director/~~Secretary~~

Witness (Signature)

Witness (Full Name)

Witness (Full Address)

SCHEDULE A : STATEMENT OF REQUIREMENT (SOR)

INTERIM STRATEGIC SEALIFT (SSL-I)

1. **Aim & objectives**

1.1 **Definition**

- 1.1.1 This Statement of (Technical) Requirement (SOR) aims to define the service outputs that are required to be provided to the Authority from the Contractor.
- 1.1.2 The terms and conditions of this Schedule A (*Statement of Requirement*) shall continue to apply to the same extent in the event of any option to extend the Contract Term in accordance with Clause 28 (*Duration of Contract*) of the Contract.
- 1.1.3 Capitalised terms in this Schedule A (*Statement of Requirement*) shall, unless otherwise expressly stated, have the same meaning as given to those terms in Clause 1.1 (*Definitions*) of the Contract.
- 1.1.4 As per item 8.3 in the SOR, movement of animals shall be in accordance with the DEFRA exemption.
- 1.1.5 ISO9001 Certification is required across all aspects of the SOR.
- 1.1.6 Any contractor working parties shall be provided in accordance with Def Stan 05-061 Part 4, Issue 4 – Quality Assurance Procedural Requirements – Contractor Working Parties.

1.2 **Single Statement of Need (SSoN)**

The User (“Authority”) requires a capability that is optimised for strategic lift in the maritime environment. It must provide flexible military logistic delivery and sustainment of operations. It must be globally deployable within strict lead times. It must be able to operate safely across all mission parameters, providing high availability and reliability throughout the Contract Term.

1.3 **Vessel specification**

1.3.1 **Overview**

These Vessels have been designed and built specifically for use by the Authority.

1.3.2 **Requirements include:**

1.3.2.1 **Range/Speed**

These Vessels are built and operated to commercial standards for fast and economical RoRo Vessels to provide Strategic Sealift Capability in support of UK Operations, deployments and exercises. They are also configured for extended range at economical speed (c14knots) allowing support to UK British Forces Stationed Abroad (UKBFSA) with minimal Home Nation Support (HNS).

1.3.2.2 **Structure**

These Vessels have strengthened hulls and decks to enable transportation of military equipment such as Main Battle Tank (MBT),

Armoured Fighting Vehicle (AFV), and Heavy Equipment Transporter (HET), with weight, height and width constraints.

1.3.2.3 Ice Class 1A

This is the criteria for determining a ships ability to navigate through sea ice. These Vessels are 'all weather' and has the critical capability for providing Sealift service in Baltic Operations.

1.3.2.4 Survivability

Enhanced survivability is required to mitigate against physical loss of a Vessel. A 'double hull' arrangement is required around the main deck. The engine room is required to be fitted with twice the commercial fixed fire extinguishing (CO2) capability, plus a MOD Fire Foam system.

1.3.2.5 Protection

These Vessels are required to be able to defend themselves from sea bound aggressors and in port areas and should be equipped to accept weapons and protection systems.

1.3.2.6 Ramps

These Vessels have a self-supporting main ramp, which is essential for offloading armoured vehicles in ports with limited or damaged infrastructure as well as for offloading to Mexeflote. The system includes both Stern and Side Ramps for efficiency and resilience.

1.3.2.7 Mexeflote Operations

These Vessels are equipped with an internal ballast system capable of altering the trim outside normal parameters to permit roll-on roll-off transfers direct to Mexeflote as per Statement of Requirement S.12 (*Transfer Loads*).

1.3.2.8 Cranes

Ro Ro Vessels typically do not have cranes, whereas, the Vessels have cranes to enable rapid deployment and operational flexibility.

1.3.2.9 Cargo Access

Contrary to commercial design and practice, these Vessels allow access to all containers at sea while they are fully secured to the ship.

1.4 Integration of other systems

Each Vessel is required to host the following:

1.4.1 OSPREY NACIS or successor Integrated Communications system.

1.4.2 Ballistic protection, weapon & ammunition stowage and weapon mounts.

1.5 Operating Environment

The ability of the Vessel to perform safely and effectively in a wide range of contexts is a key requirement. Therefore, it should be capable of functioning under the full range of environmental conditions (such as hot, cold, humid, wet) in all seasons, and in the littoral, from arctic to tropical as well as the open sea. The Vessels are expected to operate at sea worldwide, with the exceptions of the Antarctic and Arctic regions.

1.6 Acceptance Strategy

- 1.6.1 The MOD will transfer the ownership of the Integrated Test Evaluation Acceptance Plan (ITEAP) to the Contractor and thus the responsibility for planning, performing, reporting V&V activities are required to be carried out by them. The MOD requires oversight and will agree acceptance criteria, in accordance with the Acceptance Log criteria in paragraph 9.1 of Schedule C (*Governance and Reporting*).
- 1.6.2 The Contractor is required to demonstrate to the MoD that it has met and delivered and achieved all the elements within the SOR via a Statement of Work (SOW).
- 1.6.3 Pragmatically, the V&V effort required should focus on those elements that have changed or have been introduced as part of this new SSL-I contract.
- 1.6.4 The acceptance process shall be managed in accordance with the applied Quality Management System.

2. Statement of Requirement – List of all requirements

ID	Topic	Requirement Statement	Measures
1	Deployability	The Authority requires the provision of an Interim Strategic Sealift (SSL-I) shipping service capable of supporting operations worldwide.	<ul style="list-style-type: none"> a) Able to transit the routes and access the ports as defined in Annex 1. b) Able to provide both Fixed and Flexible Tasking. c) Able to deliver cargo, to the right place, for the right time, without damage or degradation. d) Exploit the most expedient transit routes, including Panama and Suez canals.
2	Capacity	The SSL-I shipping service shall provide the use of Roll-On, Roll-Off ("RoRo") Point Class Vessels capable of transporting Authority Equipment, Cargo, Goods.	Providing a Minimum of 4 Vessels (Anvil Point, Hartland Point, Hurst Point, Eddystone) providing over 9600 Lanes in Meters (LiM).
3	Vessel Availability	The SSL-I shipping service shall provide a fleet of Vessels available for Authority use.	<ul style="list-style-type: none"> a) Each Vessel shall be available, for tasking, by the Authority exclusively for a minimum of 355 days a year. b) Repositioning time for maintenance will be included within the planned maintenance period.
Redacted under FOIA Section 43, Commercial Interest			
4	Tasking Response	The SSL-I shipping service shall be quick to deploy.	<ul style="list-style-type: none"> a) A Vessel shall be ready to be operated within 72hrs from receipt of tasking instruction. <ul style="list-style-type: none"> i) Starting state = untasked Vessel. ii) End state = ready and crewed to begin task. b) IAW Schedule J (Tasking).

ID	Topic	Requirement Statement	Measures
5	Reliability & Maintainability	<p>The SSL-I shipping service shall provide Vessels that are highly reliable and maintainable.</p> <p>***Redacted under FOIA Section 43, Commercial Interest***</p>	<p>Each Vessel shall be reliable with the objective of reducing or mitigating:</p> <ul style="list-style-type: none"> a) Operational Defects of category A1 and A2 (as defined in BRd 3001 - The King's regulations for the Royal Navy, Fleet Engineering Orders, forms part of the operational sea training guide), b) Operational Defects of Category B that fetter tasking response and/or schedules (as defined in BRd 3001), c) Maintenance tasks that impact availability and /or the tasking response and/or delivery of operational tasking, d) The Vessels should be able to undertake as much maintenance as practicable whilst on operational deployment whilst not conflicting with a), b), & c), and e) Excluding the [REDACTED] per year / major overhaul pre-authorised by the Authority.
6	Vessel Commonality	<p>The SSL-I shipping service shall ensure each Vessel is maintained to the same specification (to maintain commonality) across the fleet.</p>	<p>The following items shall be of, and maintain, the same specification per Vessel;</p> <ul style="list-style-type: none"> a) Vessels dimensions & specification e.g. < 200m in length and <8m draught, b) Ramps, c) Cranes, d) Stability, e) Deck strength, and f) Ice Class.
7	Configuration Management	<p>The SSL-I shipping service shall ensure each Vessel configuration is managed throughout its life.</p>	<p>The Contractor shall manage and maintain the configuration of each Vessel in accordance with the Commercial Classification of the Vessel, which shall be independently reviewed and monitored by a UK member of the International Association of Classification Societies (IACS).</p> <ul style="list-style-type: none"> a) The configuration or classification of each Vessel shall be presented to the Authority when requested in the form of a Data Package submission. b) Any Changes to the configuration or Classification that effect this SoR shall be reported to the Authority.

ID	Topic	Requirement Statement	Measures
8	Cargo	The SSL-I shipping service shall be able to transport Cargo, Materiel, Goods, Equipment.	<p>Each Vessel shall enable the Safe transportation, without damage or degradation of the following:</p> <p>1) NATO</p> <ul style="list-style-type: none"> a) Class I: Food and forage b) Class II: Supplies / Equipment (established) c) Class III: fuel / oils / lubes etc d) Class IV: non established supplies (construction material etc) e) Class V: Ammo, explosives and chemical agents <p>2) Cargo such as, but not limited to:</p> <ul style="list-style-type: none"> a) Heavy Armoured Vehicles (e.g. HET, MBT, Wheeled Tanker), b) Military Systems, c) ISO Containers, d) Cold chain storage/reefers, and e) Dangerous Goods. <p>3) Pets:</p> <ul style="list-style-type: none"> a) Dogs and Cats including Military Working Dogs may be carried on the Vessels if agreed by all Parties, animals are accompanied and carried in suitable containers provided by the Authority. b) For FIRS sailings it is agreed that animals may be carried unaccompanied, however, all other requirements remain applicable.
9	Cargo Protection	The SSL-I shipping service shall provide the ways and means to protect the cargo during transportation.	Subject to the approved Cargo Securing Manual and the IMDG Code, each Vessel shall have the capacity and ability to safely stow vulnerable cargo below deck to protect them from the harsh maritime environment.

ID	Topic	Requirement Statement	Measures
10	Technical Ship Management	The SSL-I shipping service shall include a Technical Ship Management that is approved by the UK Marine and Coastguard Agency for the purpose that manages the technical and operational needs of each Vessel.	The Contractor shall ensure that the Vessels are maintained and operated in accordance with all national and international Safety & Environment rules and regulations. This shall include the provision of a Safety Management System (SMS) to manage implementing and monitoring compliance and ensuring Vessels are fully certified including a Planned Maintenance System (PMS). The PMS shall include but not be limited to, planned maintenance, critical spares, the planning and execution of refit and planned maintenance, and the management of obsolescence. The overarching SMS shall be approved by the UK Marine and Coastguard Agency and the PMS shall be approved by the Classification Society.
11	Loading/Unloading	The SSL-I shipping service shall provide Vessels capable of being loaded/unloaded where appropriate.	Each Vessel shall be capable of being loaded/unloaded at the following: a) Ports as listed in Annex 1 within this Schedule A (<i>Statement of Requirement</i>), b) PJOB as listed in Annex 1 within this Schedule A (<i>Statement of Requirement</i>), c) using civilians/stevedores, d) at anchor/at buoy in any suitable location and environment, and e) any suitably appropriate location.
12	Transfer loads	The SSL-I shipping service shall provide Vessels that are able to work alongside Mexeflotes to facilitate the transfer of cargo.	Each Vessel shall be capable of being loaded/unloaded direct to/from Mexeflote, without the use of port infrastructure, all under the Merchant Shipping (Carriage of Cargoes) Regulations 1999 and the Code of Safe Practice for Cargo Stowage and Securing.

ID	Topic	Requirement Statement	Measures
13	Ramps	The SSL-I shipping service shall provide Vessels that are equipped with suitable ramps to enable vehicle loading and unloading.	<p>Each Vessel shall be equipped with;</p> <ul style="list-style-type: none"> a) Side Ramp (supported SWL of 75mT) and Stern Ramp (supported SWL 150mT / self-supported 75mT), b) Capable of transiting the following assets from ship to shore and shore to ship; <ul style="list-style-type: none"> i) Heavy Armoured Vehicles (e.g. HET, MBT, Wheeled Tanker), ii) Military Systems, iii) ISO Containers, iv) Cold chain storage/reefers, and v) Dangerous Goods.
14	Crane	The SSL-I shipping service shall provide Vessels that are equipped with crane(s) to enable the expedient loading/unloading of cargo and GFA.	<p>Each Vessel shall be equipped with;</p> <ul style="list-style-type: none"> a) 1 crane, b) Able to move 20/40 ft ISO containers and cargo, c) Able to transfer cargo to/from Mexeflote and CSB, and d) Appropriate lifting accessories and equipment, <p>All lifting and slinging to be carried out under the Merchant Shipping (Carriage of Cargoes) Regulations 1999 and the Code of Safe Practice for Cargo Stowage and Securing, or successor UK legislation.</p>
15	Interoperate	The SSL-I shipping service shall provide Vessels that are able to work alongside and in collaboration with measures 1-8, (as detailed in Annex 2 within this Schedule A (Statement of Requirement));	<ul style="list-style-type: none"> a) Combat Support Boat (CSB) b) Army Work Boat c) Landing Craft Utility (LCU) d) Land Craft Vehicle and Personnel (LCVP) e) MHE (on deck) Hyster H44 f) Mexeflote g) Appropriate Commercial Vessels (Tugs) h) Appropriate Pontoon or Barge.

ID	Topic	Requirement Statement	Measures
16	Energy Efficiency	The SSL-I Service shall be Energy Efficient.	<p>The SSL-I Service shall endeavor to reduce its carbon emissions year on year, via an Environmental Management Plan.</p> <ul style="list-style-type: none"> a) The Authority and Contractor will work together to reduce CO2 emissions. b) The Contractor shall publish carbon emissions for the Service on behalf of the Authority and Contractor (law HM Govt Procurement Policy Note 06/21, or successor). c) The Contractor shall comply with all required national and international regulations regarding carbon emissions, where applicable exemption certificates to be held by the Authority. d) The Contractor shall comply with the IMO principles on CO2 reduction for international shipping, in addition to the Contract, or UK Government Regulation.
17	Performance Management	The SSL-I Service shall provide KPIs and management information on a regular basis.	The Contractor shall measure, monitor, manage, record & report the performance of the service, including KPI and Cabinet Office Reports IAW Schedule C (<i>Governance and Reporting</i>).
18	Accommodation	Each Vessel shall provide storage & accommodation facilities for the passengers and their equipment onboard.	<p>Each Vessel shall provide storage and accommodation facilities for 12 personnel with weapons, ammunition, communication and personal equipment.</p> <p>Able to protect the passengers from the effects of the internal and external environment.</p>
19	Welfare facilities	The SSL-I shipping service shall provide Vessels that are equipped with welfare facilities suitable for the use by the passengers and Sponsored Reserves onboard.	<p>Each Vessel shall be equipped with living spaces, gym, toilets, showers, rest, laundry, recreational & exercise areas, suitable and sufficient for continued operation whilst in transit, at sea.</p> <p>Provide access to the internet, TV, books, films, games, entertainment for all on board.</p> <p>Welfare equipment and facilities shall be of good quality and suitably maintained.</p>

ID	Topic	Requirement Statement	Measures
20	Gymnasium	The SSL-I shipping service shall provide Vessels that are equipped with a gymnasium for use by the passengers and Sponsored Reserves onboard.	<p>Each Vessel shall be equipped with a gymnasium suitable for continued operation by the crew and passengers throughout the voyage. Subject to the availability of space equipped with, but not limited to the following apparatus;</p> <ul style="list-style-type: none"> a) Running machine, b) Rowing machine, c) Weight lifting apparatus and stowage equipment, d) Soft matting, and e) Adequate Heating, Ventilation and Air Conditioning (HVAC) performance whilst being used at full capacity. <p>Welfare equipment and facilities shall be of good quality and suitably maintained.</p>
21	Geographical locations	The SSL-I shipping service shall operate at Sea in the following locations.	<p>Capable of operating in the Maritime and Littoral environments; including but not limited to the following geographical locations;</p> <ul style="list-style-type: none"> North Atlantic, South Atlantic, Norwegian Sea, Baltic Sea, Gulf of Bothnia, South Atlantic, Mediterranean Sea, and Indian Ocean.

ID	Topic	Requirement Statement	Measures
22	Operational Environment	The SSL-I shipping service shall operate in the climatic conditions commensurate with its intended operational environment.	<ol style="list-style-type: none"> 1) Able to operate (without loss of function) in the following climates in accordance with the appropriate sections/parts of Def Stan 00-035: Environmental Handbook for Defence Material, Part 4. <ol style="list-style-type: none"> a) M1 (Marine Hot) b) M2 (Marine Intermediate) c) M3 (Marine Cold) 2) Routes IAW Annex 1 within this Schedule A (<i>Statement of Requirement</i>). 3) Operable Day and Night. 4) In all sea states IAW World Meteorological Organisation or Douglas Scale.
23	Natural Weather Environment	The SSL-I shipping service shall operate in the following natural weather environments commensurate with its intended operational environment.	<ol style="list-style-type: none"> 1) Able to operate (without loss of function) in the following conditions in accordance with the appropriate sections/parts of Def Stan 00-035: Environmental Handbook for Defence Material, Part 4. <ol style="list-style-type: none"> a) Ice, Snow & Hail b) Rain c) Salt Water d) Freeze Thaw e) Snow loading f) Corrosion g) Solar radiation h) Chemical & Biological Hazards i) Wind 2) Routes IAW Annex 1. 3) Operable Day and Night. 4) In all sea states IAW World Meteorological Organisation or Douglas Scale.
24	Structure	The SSL-I shipping service shall provide Vessels equipped with suitably strong deck to	Each Vessel deck loading capacity: (Tank Deck and Main Deck) shall be a Min 5T/m ² .

ID	Topic	Requirement Statement	Measures
		enable all cargo, equipment to be shipped.	
25	Cargo Access	The SSL-I shipping service shall enable appropriate personnel access to the containers whilst at sea, during transportation.	Each Vessel shall enable personnel to access the containers whilst at sea.
Redacted under FOIA Section 43, Commercial Interest			

ID	Topic	Requirement Statement	Measures
31	Spare capacity	The SSL-I shipping service shall be able to generate income from the exploitation & utilisation of spare capacity.	[REDACTED]
32	Re-fuelling	The SSL-I shipping service shall enable Vessel to be capable of being fuelled at any suitable location.	Mechanisms in place in accordance with Schedule E. Each Vessel shall be capable of being fuelled at any suitable location. The Vessels shall not be required to refuel while underway (UNREP). Fuel sourcing should not be limited to commercial mechanisms only. Grade and quality of fuel shall be reviewed and deemed acceptable by the Contractor IAW (<i>Governance and Reporting</i>).
33	Operational Independence	The SSL-I Service shall be able to operate (transit to & from location) without Authority Support (excluding Force Protection). ***Redacted under FOIA Section 43, Commercial Interest***	Each Vessel shall be capable of providing maritime transportation. 1) Including options for: a. Load/unload at specific locations, b. Conduct Refuelling, and c. Superintendency. 2) Through life Supportability of the service and Vessels (as defined as elements under The International Safety Management (ISM) Code), with additional factors mentioned below; a. Vessel Maintenance and Upkeep, b. Access and use of Global Supply Chain, c. Training (excluding Sponsored Reserves training), and d. Obsolescence. 3) Excluding: a. Specific Force Protection kit or equipment, and b. [REDACTED]

ID	Topic	Requirement Statement	Measures
34	Supportability	The SSL-I Service shall enable the Vessels to be supportable throughout life, commensurate with their intended use and operation.	<ul style="list-style-type: none"> a) The Contractor shall ensure that the service system, equipment and Vessels are supportable throughout life IAW The International Safety Management (ISM) Code b) The Contractor shall put in place the necessary management procedures. c) The Contractor shall interface the planning with other functions, including and not limited to safety, engineering, risk, and finance.
35	Flagged & Owned & Operated	The SSL-I shipping service shall be British.	<p>Each Vessel shall:</p> <ul style="list-style-type: none"> a) Be registered in the UK, b) Be British Owned, c) Be crewed by Sponsored Reserves in accordance with the RFA1996 (SR's), and d) Classed by a full IACS member which is headquartered in the UK.
36	Legal & Legislative	The SSL-I Service shall conform to the appropriate and applicable certification standards.	<p>The Contractor shall ensure each Vessel achieves and adheres to the following certification standards:</p> <p>LR +100A1 RoRo Cargo Ship: Ice Class 1A, +LMC,PSMR, SCM, IBS, NAV1, ICC, UMS.</p> <p>The International Safety Management (ISM) Code Maritime and Coastguard Agency (MCA) Class VII RoRo Cargo Ship Certification.</p>

ID	Topic	Requirement Statement	Measures
37	Firefighting	The SSL-I service shall provide Vessels equipped with Firefighting equipment sufficient to protect military assets/cargo.	<p>The Contractor shall ensure each Vessel is equipped with (and maintains) the appropriate firefighting equipment – IAW SI 2003 No.2951 Merchant Shipping (Fire Protection) Regulations.</p> <p>Additional MoD Firefighting requirements are as follows:</p> <ul style="list-style-type: none"> a) The Vessel complies with the MOD requirement that the fixed CO2 extinguishing system has sufficient CO2 to allow for a second release of extinguishing medium. b) There is a lockable cross connection for the cargo space drenching system (main and upper decks) located adjacent to the safety control room. c) The engines room CO2 system is supplemented by an AFFF fixed system covering main engines, diesel alternator and purifier room. d) VERTREP and winch spot areas are protected by a manually operated fixed AFFF monitor mounted on the starboard side of aft end of whaleback. Two additional AFFF monitors are provided on the upper deck, aft of the VERTREP area.
38	Survivability	The SSL-I service shall provide Vessels that maintain stability in the event of damage occurring.	<p>In addition to MCA Certification the following is required:</p> <p>MSN 1715(M) where survivability index SI =1 for all service conditions, when subject to a damage located anywhere on the bottom and/or side shell, leading to the opening of one or two compartments in a longitudinal direction where a single compartment is not less than 3m+0.03L. All possible transverse and vertical damage extents up to and including full transverse and full vertical penetration are to be considered.</p>

ID	Topic	Requirement Statement	Measures
39	Training and Training Equipment	The SSL-I service shall ensure all personnel are appropriately trained commensurate with their roles and responsibilities.	<p>a) The Contractor shall be responsible for ensuring that their SR are trained, equipped and medically fit to deliver the contracted support service in peacetime and, where necessary, to deploy when called* into permanent service in support of operations or exercise* in accordance with agreed readiness states, and with the contractual requirements.</p> <p><i>*to 'exercise' the Call-Out Procedure (for Sponsored Reserves) so that both Contractor and the Authority are aware of the process to activate into Service effectively.</i></p> <p>b) All personnel shall be made available to undertake SR training delivered by the Authority prior to deployment.</p> <p>c) Role specific training, material, equipment shall be managed by the Contractor (excluding the material for the role of Sponsored Reserves).</p>
40	Safety	The SSL-I shipping service shall be safe for its intended use within the scope of the System Safety Case.	<p>The Contractor shall ensure that the Service System is safe to operate and operates safely in accordance with its intended use.</p> <p>All risks reduced to Tolerable and [ALARP] in accordance with the International Safety Management (ISM) Code in order to support DSA02-DMR - Defence Maritime Regulations for Health, Safety and Environmental Protection.</p>
41	Environmental	The SSL-I shipping service shall be environmentally sound for its intended use within the scope of the System Environmental Case.	<p>The Contractor shall ensure that the Environmental impacts are assessed as the Best Practicable Environmental Option (BPEO) in accordance with;</p> <p>a) The International Safety Management (ISM) Code, and</p> <p>b) International Convention for the Prevention of Pollution from Ships (MARPOL).</p>

ID	Topic	Requirement Statement	Measures
42	Security	The SSL-I shipping service shall be secure.	<p>The Contractor shall ensure that service system, Vessels and supply chain are accredited.</p> <p>It will be the responsibility of the Contractor to seek and achieve such accreditation as is required to allow the full, unrestricted operation of the system.</p> <p>Accreditation requirements will be agreed with the accreditor, but is likely to include, but not limited to the following:</p> <p>FSL Cyber Essentials Cyber Essentials Plus</p> <p>Redacted under FOIA Section 43, Commercial Interest</p> <p>Security Manager</p> <p>[Redacted]</p> <p>ISO9001:2015</p> <p>[Redacted]</p>

ID	Topic	Requirement Statement	Measures
43	Security of Information MoD	The SSL-I shipping service shall comply with all applicable Information Security legislation.	<p>The Contractor shall ensure compliance with (as a minimum):</p> <ul style="list-style-type: none"> a) The Data Protection Act 1998. b) Official Secrets Act 1989. c) Public Records Act 1958 and 1967. d) Freedom of Information Act 2000. e) Computer Misuse Act 1990. <p>All crew and FSL employees to be Security Cleared to SC level.</p>
44	Global Supply Chain	The SSL-I shipping service shall have access to and use of a robust, resilient, safe, secure, global supply chain (including reverse) that demonstrates value for money.	<p>The Contractor shall demonstrate collaboration throughout the supply chain, and a fair and responsible approach to working with supply chain partners in delivery of the contract. In addition:</p> <ul style="list-style-type: none"> a) Adequate management of the supply chain, including procedures, reporting and processes. This includes tax and customs compliance for stores and spares. b) Secure and accessible information systems including consignment / fulfillment tracking, performance metrics, and stock levels / locations. c) Provision of technical documentation for upkeep / update / upgrades to be accessible to the crew and Superintendent at all times. d) Processes and controls for the avoidance of counterfeit material shall be established and applied in accordance with ISO 9001:2015 Quality Management Systems and the ISM code.

ID	Topic	Requirement Statement	Measures
45	Disposal and Termination of Equipment	The SSL-I shipping service shall manage all elements of disposal and termination throughout the life of the service.	<p>1) The Contractor shall manage the disposal streams for classes of supply used to sustain the service through-life. These shall be considered in a hierarchy of preferred options;</p> <ul style="list-style-type: none"> a) Prevention [Most Preferred], b) Reduce, c) Reuse, d) Recycle, e) Energy Recovery, and f) Dispose / Landfill [Least Preferred] <p>2) It will be the Contractors responsibility to dispose of all elements of the service system and equipment (excl GFA).</p> <p>3) IAW International Convention for the Prevention of Pollution from Ships (MARPOL).</p>
46	Support and Test Equipment (S&TE)	The SSL-I shipping service shall manage all Support and Test Equipment.	<p>1) All S&TE shall be managed and maintained in accordance with MGN 619 (LOLER and PUWER) regulations 2006 typically including;</p> <ul style="list-style-type: none"> a) MHE b) Lifting equipment and accessories <p>2) Excluding all GFA not in scope.</p>

ANNEX 1 : TRANSIT ROUTES, PJOB & PORTS

SSL-I is intended to operate worldwide, exclude Antarctic.

SSL-I port of embarkment is Marchwood, UK.

Typical transits would include Permanent Joint Operating Bases (PJOB) and ports within Baltic and Mediterranean areas, Atlantic Ocean and Indian Ocean transiting via Sues Canal.

Permanent Joint Operating Bases (PJOB):

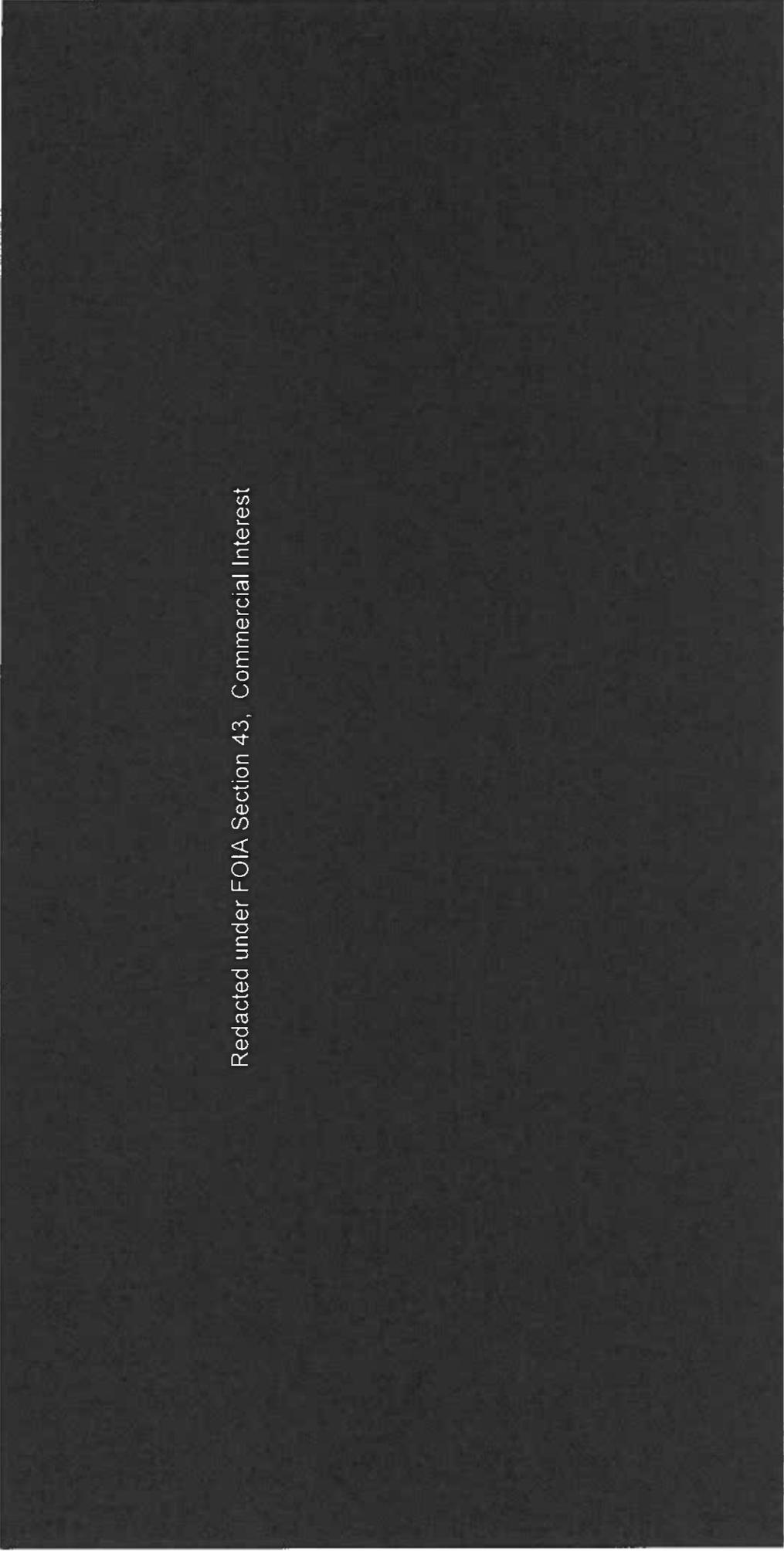
- British Forces Cyprus
- British Forces Gibraltar
- British Forces South Atlantic Islands
- British Forces British Indian Ocean Territory
- British Defence Singapore Support Unit

Redacted under FOIA Section 43, Commercial Interest

Redacted under FOIA Section 43, Commercial Interest



Redacted under FOIA Section 43, Commercial Interest



Redacted under FOIA Section 43, Commercial Interest

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SCHEDULE B :
PROVISIONS IN RESPECT OF QUALIFYING DEFENCE CONTRACTS AND THE SINGLE
SOURCE CONTRACT REGULATIONS 2014, RELATING TO CONTRACTOR REPORTING
AND DRAFTING OF (QUALIFYING / NON-QUALIFYING) SUBCONTRACTS

INTERIM STRATEGIC SEALIFT (SSL-I)

PREAMBLE:

- (A) The Contractor acknowledges this is a Qualifying Defence Contract for the purposes of the Defence Reform Act 2014 and the Single Source Contract Regulations 2014 ("QDC"). As such, there are certain reporting requirements which the Contractor shall comply with. This Schedule sets out other obligations and requirements that relate to QDC, such as the issuance of an updated and consolidated contract.
- (B) The Contractor acknowledges this is a QDC for the purposes of the Defence Reform Act 2014 and the Single Source Contract Regulations 2014. As such, where there are Qualifying Subcontracts as defined in the Defence Reform Act 2014 ("QSC") and the Single Source Contract Regulations 2014, there are certain reporting requirements which the Contractor shall comply with. This Schedule sets out other obligations and requirements which relate to QSCs and other Subcontracts, such as advertising the letting of those Subcontracts correctly.
- (C) The Contractor further acknowledges and agrees that certain reporting requirements and other obligations are imposed upon it and its subcontractors, notwithstanding whether they are QSCs or not. Those requirements are set out in this Schedule.
- (D) Part 2 paragraph 1 of this Schedule B relates to confidentiality of SSCR information only. The general confidentiality provision (Clause 31, *Disclosure of Information*) in the Contract extends to cover all provisions in this Schedule B, and therefore will also cover these provisions outside the scope of Part 2, paragraph 1.
- (E) Capitalised terms in this Schedule B shall, unless otherwise expressly stated, have the same meaning as given to those terms in Clause 1.1 (*Definitions*) of the Contract.

PART 1 : QUALIFYING DEFENCE CONTRACTS

1. Amendments to Qualifying Defence Contracts – Consolidated Versions – DEFCON 801

1.1 Where the Contract is amended in accordance with Clause 29.2 (*Formal Amendments to the Contract*)

1.1.1 on five (5) occasions since the consolidated version date;

1.1.2 so as to change by more than 5% the Contract Price from the Contract Price at the consolidated version date, whether by one or more amendment; or

1.1.3 otherwise in a way which the Authority considers to be a significant change to the Contract,

the Authority shall issue to the Contractor, within 28 calendar days of agreeing the relevant amendment, a consolidated version.

1.2 The consolidated version issued in accordance with paragraph 1.1 (above) of Part 1 of this Schedule B shall incorporate only amendments previously agreed between the Parties in accordance with Clause 29.2 (*Formal Amendments to the Contract*) and shall be signed on behalf of the Authority.

1.3 The Contractor shall, within 14 calendar days of receiving it:

1.3.1 sign and return to the Authority a copy of the consolidated version issued in accordance with paragraph 1.1 (above) of Part 1 of this Schedule B, to confirm that it properly incorporates all amendments made to the Contract; or

1.3.2 notify the Authority in writing as to why it believes that the consolidated version does not properly incorporate all amendments made to the Contract.

1.4 Following any notification made by the Contractor under paragraph 1.3.2 (above) of Part 1 of this Schedule B, the Authority and the Contractor shall seek to reach agreement on the content of the consolidated version, in the absence of which the matter may be resolved through the appropriate dispute resolution procedure.

1.5 Within 14 calendar days of the Parties reaching agreement or the matter being determined through a dispute resolution procedure, the Authority shall reissue a signed consolidated version which accords with that agreement or determination and which the Contractor shall sign and return to the Authority within 14 calendar days of receiving it.

PART 2 : SINGLE SOURCE CONTRACT REGULATIONS

1. Confidentiality of Single Source Contract Regulations (“SSCR”) Information

1.1 The Authority shall keep SSCR Information confidential and, except with the prior written consent of the Contractor, shall not disclose or make available the SSCR Information in whole or in part to any person, except as expressly permitted by this Part 2 paragraph 1.

- 1.2 The Authority may disclose the SSCR Information in all circumstances which would be permitted disclosures under section 5 (1) of Schedule 5 of the DRA.
- 1.3 Where the Authority discloses SSCR Information to any Central Government Body under paragraph 1.2 (above) of this Part 2 paragraph 1, the Authority shall ensure that the recipient of the SSCR Information is made aware of and asked to respect its confidentiality.
- 1.4 Where the Authority discloses SSCR Information to its professional advisors or consultants under paragraph 1.2 (above) of this Part 2 paragraph 1, the Authority shall inform them of the confidential nature of the SSCR Information before disclosure and shall obtain from them enforceable obligations to keep the SSCR Information confidential in terms at least as extensive and binding on them as the terms of this Part 2 paragraph 1 are on the Authority.
- 1.5 To the extent permitted by the time for compliance under the Freedom Of Information Act (FOIA), the Authority shall consult the Contractor where the Authority is considering the disclosure of SSCR Information under the FOIA, and, in any event, shall provide prior notification to the Contractor of any decision to disclose the SSCR Information. The Contractor acknowledges and accepts that its representations on disclosure during consultation may not be determinative and that the decision whether to disclose SSCR Information in order to comply with the FOIA is a matter in which the Authority shall exercise its own discretion, subject always to the provisions of the FOIA. For the avoidance of doubt, nothing in this Part 2 paragraph 1 shall affect the Contractor's rights at law.
- 1.6 If, for the purposes of this Contract, the Contractor enters into a subcontract which it has assessed to be a QSC for the purpose of the DRA and SSCR, it shall include in that Subcontract the terms set out in Annex D1 to this Part 2 paragraph 1 (inserting relevant party names and / or definitions where appropriate).
- 1.7 The obligations set out in this Part 2 paragraph 1 shall be the Authority's sole contractual obligations of confidentiality regarding the SSCR Information. Any other provision of the Contract relating to the confidentiality of information provided under or in connection with the Contract, including but not limited to Clause 31, shall be construed in such a way as to exclude the SSCR Information from their application.
- 1.8 Nothing in this Part 2 paragraph 1 shall affect the Authority's obligations of confidentiality where information is disclosed orally in confidence.
2. **Annex D1 to Part 2 paragraph 1: Provisions To Be Included In Qualifying Subcontracts**
- 2.1 The Authority shall keep SSCR Information confidential and, except with the prior written consent of the Subcontractor, shall not disclose or make available the SSCR Information in whole or in part to any person, except as expressly permitted by this Annex D1 to Part 2 paragraph 1 of this Schedule B.
- 2.2 The Authority may disclose the SSCR Information in all circumstances which would be permitted disclosures under section 5 (1) of Schedule 5 of the DRA.
- 2.3 Where the Authority discloses SSCR Information to any Central Government Body under paragraph 2.2 (above) of this Annex D1 to Part 2 paragraph 1, the Authority shall ensure that the recipient of the SSCR Information is made aware of and asked to respect its confidentiality.
- 2.4 Where the Authority discloses SSCR Information to its professional advisors or consultants under paragraph 2.2 of this Annex D1 to Part 2 paragraph 1, the Authority shall inform them of the confidential nature of the SSCR Information before disclosure and shall obtain from

them enforceable obligations to keep the SSCR Information confidential in terms at least as extensive and binding on them as the terms of this Annex D1 to Part 2 paragraph 1 are on the Authority.

- 2.5 To the extent permitted by the time for compliance under the Freedom Of Information Act (FOIA), the Authority shall consult the Subcontractor where the Authority is considering the disclosure of SSCR Information under the FOIA, and, in any event, shall provide prior notification to the Subcontractor of any decision to disclose the SSCR Information. The Subcontractor's representations on disclosure during consultation may not be determinative and the decision whether to disclose SSCR Information in order to comply with the FOIA is a matter in which the Authority shall exercise its own discretion, subject always to the provisions of the FOIA. For the avoidance of doubt, nothing in this Annex D1 to Part 2 paragraph 1 shall affect the Subcontractor's rights at law.
- 2.6 Except where the Authority notifies the Subcontractor in writing that it is not required, the Subcontractor shall include in any Subcontract which it enters into for the purposes of this Subcontract and which it has assessed to be a QSC for the purpose of the DRA and the SSCR, equivalent terms to those specified in this Annex D1 to Part 2 paragraph 1.
- 2.7 Nothing in this Annex D1 to Part 2 paragraph 1 shall affect the Authority's obligations of confidentiality where information is disclosed orally in confidence.

SCHEDULE C : GOVERNANCE AND REPORTING

INTERIM STRATEGIC SEALIFT (SSL-I)

INTERPRETATION

Capitalised terms in this Schedule C (*Governance and Reporting*) shall, unless otherwise expressly stated, have the same meaning as given to those terms in Clause 1.1 (*Definitions*) of the Contract.

In addition, the following provisions shall have effect with respect to the interpretation of this Schedule C (*Governance and Reporting*), except where the context requires otherwise.

Section 1 - Service Delivery Requirements in support of Contract Governance and Reporting

1. Flow Down to Subcontractors

1.1 The Contractor shall implement and manage all Subcontracts under and in accordance with Clause 23 (*Subcontracting*) of the Contract.

1.2 **Service Delivery Requirements - Contract Reporting** The Contractor shall implement and maintain a Service Delivery Reporting System for this Contract, which the Contractor shall deliver at the Effective Date. The Contractor shall conduct reporting in accordance with Table 1 until end of Contract Term or earlier termination, such approval to have been obtained from the Authority within one (1) month of the Effective Date. The Contractor shall develop, deliver and update reports as needed over the term of the contract, which meets the requirements described in Annex 8 (*Project Reporting Requirements for Cost Plus Projects in Support of Contract Governance and Reporting*) of this Schedule C (*Governance and Reporting*).

1.3 Service Delivery Breakdown Structure

1.3.1 The full service in the Business as Usual (BAU) state will be delivered on the Effective Date in accordance with the Tendered Structure reproduced in the list below:

Tender Item	Description
12	Organisational Breakdown Structure
13	Make or buy plan
18	Exit management plan
21	Statement of Work
22	Integrated Support Plan
23	Maintenance Plan
24	Environmental Management
28	Acceptance Log
29	Configuration Management Plan
30	Quality Plan
31	Safety Management Plan

1.3.2 This will be provided on a Fixed Cost basis which, according to the SSRO, ensures the "Risk is mostly with the contractor". An SSL-I Tasking Risk Register will be submitted to support the scope of the project (performance, cost and time) to establish a mutually agreed risk appetite (agreed tolerances) that enables the Contractor to develop their scoring criteria for cost, time and performance.

- 1.3.3 SSL-I Tasking Risk Register will define risk, mitigation, methodology (process), tools and techniques specific to the service and how threats and opportunities are to be managed through life of the Contract.
- 1.3.4 This structure will represent a proper, legally compliant, management system IAW best practice and appropriate for the commercial levels of availability and service delivery that are required under SSL-I BAU state.

2. **Cost-Plus Projects (CPP)**

- 2.1 For a specific Cost-Plus² project, relating to the Contractors Service provision through the life of Contract, reporting requirements and procedures are fully described in Annex 8 (*Project Reporting Requirements for Cost Plus Projects in Support of Contract Governance and Reporting*) of this Schedule C. The Contractor shall develop, deliver at The Effective Date and update as detailed. The Contractor shall use the Authority approved reporting structure as the primary schedule for managing the Cost-Plus project, such approval to have been obtained from the Authority within one (1) month of The Effective Date. The requirement for CPP is fully described in in Annex 8 (*Project Reporting Requirements for Cost Plus Projects in Support of Contract Governance and Reporting*) of this Schedule C and will be accepted and agreed in line with Annex 8 Table 1.
- 2.2 **Applicability.** The Authority recognises that design and manufacture activities are more appropriate to be measured via the application of a project management schedule, therefore sections as described in in Annex 8 (*Project Reporting Requirements for Cost Plus Projects in Support of Contract Governance and Reporting*) of this Schedule C refer to schedule management and project schedule reporting and shall only apply to the agreed modification activities in support of KPI delivery as per Schedule E (*Performance and Payment*).

² Cost Plus Projects are by definition any modification or addition applied to the Vessels in relation to the Single Source Contract resulting in a change of operation.

Section 2 – Contract Reporting

The Contractor shall provide templates to the Authority covering all reporting outlined in this Section 2 (*Contract Reporting*) of Schedule C within the bid proposal and adjust them within the first three (3) months following the Effective Date based on Authority's feedback.

Service Delivery Reporting in accordance with Section 1 **Service Delivery Controls** see Annex 8 Table 1.

3. Qualifying Defence Contract Reports

3.1 The Authority has notified the Contractor that the Contract is a QDC for the purposes of and as defined by the Defence Reform Act 2014 and the Single Source Contract Regulations 2014.

3.2 The Contractor agrees to submit the following reports on DefCARS:

Report	Date
Contract Initiation Report ('CIR') including but not limited to: <ul style="list-style-type: none"> • Contract Pricing Statement ('CPS') - including an initiation report and a critical report (further requirements listed in Annex 1) • Contract Reporting Plan ('CRP') (requirements for this listed in Annex 2) • Contract Notification Report ('CNR') (requirements for this listed in Annex 3) 	No more than 30 days after Contract Award
Quarterly Contract Report (requirements listed in Annex 4)	Within one month of the end of each calendar quarter and every calendar quarter thereafter throughout the life of the QDC. No report is required for the calendar quarter in which the initial reporting date falls or the final quarter where contract completion takes place.
Interim Contract Report (requirements listed in Annex 5)	Agreed date with the contractor no more than three years from the time of contract placement, with subsequent reports before the expected contract completion date but no more than at the end of each three year period following the date of the first report.
Contract Completion Report	Six (6) months after completion date
Contract Costs Statement	Twelve (12) months after completion date
On demand contract report	As per regulation 30 of the Single Source Contract Regulations 2014 (varies according to report requested by the Authority).

3.3 The Authority must review all QDC reports submitted on DefCARS within fifteen (15) working days from when the report is uploaded to DefCARS.

- 3.4 Under regulation 30 of the Single Source Contract Regulations 2014, the Authority has the right to request the following as 'On Demand' reports from the Contractor:
- 3.4.1 Contract Pricing Statement;
 - 3.4.2 Contract Reporting Plan;
 - 3.4.3 Interim Contract Report Higher; and
 - 3.4.4 Contract Costs Statement.
- 3.5 Requests for On Demand reports must be submitted to the Contractor in writing, using the template set out in Annex 9. Where the Authority requests an On Demand ICRH or CCS an On Demand CRP must also be requested.
- 3.6 Pursuant to regulation 30(5) of the Single Source Contract Regulations 2014, where the Authority's request under paragraph 3.4 relates to the Contract Pricing Statement or Contract Reporting Plan, the period for delivery of the same to the Authority may be agreed between the Parties (acting reasonably) provided such date is no later than three (3) months after the Authority's written direction and, where no such agreement is reached (each Party acting reasonably) shall be within one month of the Contractor receiving a written direction from the Authority.
- 3.7 Pursuant to regulation 30(6) of the Single Source Contract Regulations 2014, where the Authority's request under paragraph 3.4 relates to the Interim Contract Report, the period for delivery of the same to the Authority may be agreed between the Parties (acting reasonably) provided such date is no later than six (6) months after the Authority's written direction and, where no such agreement is reached (each Party acting reasonably) shall be within two (2) months of the Contractor receiving a written direction from the Authority.
- 3.8 Pursuant to regulation 30(7) of the Single Source Contract Regulations 2014, where the Authority's request under paragraph 3.4 relates to the Contract Costs Statement, the period for delivery of the same to the Authority may be agreed between the Parties (acting reasonably) provided such date is no later than eighteen (18) months after the Authority's written direction and, where no such agreement is reached (each Party acting reasonably) shall be within six (6) months of the Contractor receiving a written direction from the Authority.
- 3.9 Pursuant to regulation 30(5)(b) of the Single Source Contract Regulations 2014, On Demand reports must be submitted by the Contractor within one month of the Contractor receiving a written direction from the Authority. The On Demand reports must contain the information required as from the Effective Date.

4. **Qualifying Sub-Contractor Obligations**

- 4.1 Where a QDC has a QSC, that QSC is subject to the same contract reporting obligations as the QDC except for the (i) Contract Notification Report (Annex 3 of this Schedule C (*Governance and Reporting*)), (ii) Interim Contract Report (Annex 5 of this Schedule C (*Governance and Reporting*)), and (iii) Contract Completion Report Annex 6 of this Schedule C (*Governance and Reporting*)), which shall exclude the following information:

- 4.1.1 payments exceeding £100K or 1% of the contract value (whichever is the largest) to be made by the MOD to the prime contractor; and
 - 4.1.2 an annual profile of all payments, (to be made in sterling, or where in another currency an annual profile for each currency), to be made by the MOD to the prime contractor.
- 4.2 When a QSC is required to submit a report, they must use DefCARS and the same process for checking and distributing the reports applies as for reports submitted by the prime contractor.
5. **Compliance and Remedies**
- 5.1 The Defence Reform Act (DRA) and Single Source Contracts Regulations (SSCR) provide both Parties with a range of remedies to ensure compliance with applicable legislation.
- 5.2 In relation to the reports on QDCs, the SSAT may issue a compliance notice to the Contractor which may lead to a civil penalty if the Contractor:
- 5.2.1 fails to provide a report within the relevant timescale;
 - 5.2.2 provides an incomplete report; or
 - 5.2.3 knowingly provides a report that contains misleading information.

The above applies equally to the provision of On Demand reports.

Contract reporting and Technical reporting (in relation to Schedule A (*Statement of Requirements*) of the Contract)

6. **Daily reporting**

- 6.1 The Contractor shall provide a status report for every Vessel to the Authority electronically every twenty-four (24) hours (the "Daily Report") via email or such other format agreed between the Contractor and the Authority. This shall include, at a minimum, the location, any operational issues and any defects (giving rise to an OpDef as per paragraph 6.8 of this Schedule C (*OpDef Reporting*)). In each Daily Report the Contractor will report the useable fuel on board status and any bunkering in the last 24 hours.
- 6.2 Port reporting: within seventy two (72) hours of a Vessel departing from a port, the Contractor shall report such departure to the Authority (applicable to all Vessels). This port report shall include: the services received at the port, the quality of berths, any lack of or issues with expected services, and any damage caused to the Vessels or to facilities as a result of the two systems interacting, bunkers loaded and any issues arising, and services signed for by the Master on behalf of the Authority. This will allow the Authority to engage with port agencies to discuss any issues as required.
- 6.3 The Contractor shall forward to the Authority the legal Bunker Delivery Notice (BDN) within twenty-four (24) hours of the delivery. If there is a dispute in amount or quality this shall be advised on the Port Report. No bunkers are to be consumed before receiving an independent bunker test result confirming that the bunkers are acceptable for use. If the bunkers are deemed to be out of specification by the independent test, the Contractor is to advise the Authority immediately with proposed actions.

- 6.4 Digital infrastructure issues (Authority software (MODNET) access, information systems, comms networks): the Contractor shall report any issues with Authority provided digital equipment used by the Contractor within twenty-four (24) hours of such issue occurring and in accordance with the current reporting processes in place with the Authority in order to address any issues in a timely manner.
- 6.5 The Contractor shall report any details of a major security and/or cyber incident to the Authority within three (3) hours of becoming aware of such major security and/or cyber incident. The Contractor shall also provide a report detailing remedial action taken and estimated time to recover a secure state to the Authority within twenty-four (24) hours of becoming aware of the major security and/or cyber incident. The Contractor will then raise the appropriate OpDef Report as per 6.8.
- 6.6 The Contractor shall report any details of a major safety and/or environmental incident to the Authority within three (3) hours of becoming aware of such major safety and/or environmental incident. The Contractor shall also provide a report detailing remedial action taken and estimated time to recover a secure state to the Authority within twenty-four (24) hours of becoming aware of the major safety and/or environmental incident. The Contractor will then raise the appropriate OpDef Report as per 6.8. The Contractor shall advise any statutory report made to the Marine and Coastguard Agency and/or Marine Accident Investigation Branch (MAIB) to the Authority within twenty-four (24) hours of such contact.
- 6.7 GFA: any GFA issues, faults and maintenance which cannot be resolved by the Contractor shall be reported to the Authority without delay, such that the Authority is able to replace the GFA under Schedule F (*Issued Property*).
- 6.8 OpDef reporting: If any Category A and B OpDefs (as expanded on at paragraph 7.1 (Weekly reporting and OpDef reporting) of this (Governance and Reporting)) are identified, the Contractor shall report the incident to the Authority within twelve (12) hours of becoming aware of the incident and provide a prognosis on defect rectification. The Contractor shall report to the Authority, by a defect signal, every occurrence of an incident which may give rise to a Category A or B OpDef as soon as reasonably practicable, and in any event within six (6) hours of the occurrence of the incident. Such report prepared by the Contractor shall include the details of the incident, estimated duration of the incident and the operational effect that such incident is reasonably likely to have on the Service.

7. Weekly reporting and OpDef reporting

- 7.1 Where the Contractor has raised an OpDef in accordance with paragraph 6 (*Daily reporting*), the Contractor shall notify the Authority of the rectification of such OpDef by a rectification signal as soon as is reasonably practical following such rectification and shall confirm to the Authority (in the Contractor's reasonable opinion) the effect that such OpDef had on the Service. A summary weekly report shall be provided by the Contractor to the Authority on the status of OpDefs.

OpDef Category	Capability	Output	Redacted under FOIA Section 43, Commercial Interest
Category A1	Major Capability Inoperative	Service Not Carried Out	

OpDef Category	Capability	Output	
Category A2	Major Capability Inoperative	Service Not Carried Out	
Category B	Major Capability Inoperative	Service Incomplete	
Category C3	All other OpDefs not comprising OpDef Categories A1, A2, B or C4	Service Restrictions	
Category C4	All other OpDefs not comprising OpDef Categories A1, A2, B or C3	Service Restrictions	

8. Monthly reporting

8.1 KPI 1: Availability:

8.1.1 The Contractor shall provide a summary report to the Authority on the fifth Working Day of each month, to reflect the previous month on availability related to conditions of availability as set out in Schedule A (*Statement of Requirements*) and in Schedule E (*Performance and Payment*) of the Contract. The report shall include (i) all reports required by Remediation Reporting Plans, and (ii) the category(ies)/areas of the KPI not being fully met.

8.1.2 In this report, the Contractor shall in addition report against the Cabinet Office KPI table below, highlighting the percentage availability achieved overall:

KPI Number	1
KPI Description	Availability – Service Carried Out (as per Schedule E (<i>Performance and Payment</i>) of the Contract).

<p>Incident Measure</p>	<p>The Contractor meets the Availability Key Performance Indicator based on a contracted Availability of 355 days per annum pro rata over the previous quarter.</p> <p>One/first whole day starts to apply as soon as any of the conditions of the KPI (including any OpDef Category A1 and A2) are not met.</p> <p>This KPI refers to 'Service Not Carried Out' output in relation to the Availability Key Performance Indicator as set out in Paragraph 8 of Schedule E (<i>Performance and Payment</i>) of the Contract.</p> <p>The 100% baseline is set as follows:</p> <p>Number of days Availability in the year (355) x Number of months (3) / months in the year (12) x the number of vessels in the services (4). E.g. a four-vessel service would equate to $355 \times 3 / 12 \times 4 = 355$.</p>
<p>Who?</p>	<p>Contractor</p>
<p>Monitoring Frequency</p>	<p>Monthly, to cover the previous three months</p>
<p>Reporting Frequency</p>	<p>Monthly</p>
<p>Performance bands</p>	
<p>Good (95% and above)</p>	<p>$95\% \times 355 = 337$ Vessel Availability Days per quarter.</p>
<p>Approaching Target (91-94.9%)</p>	<p>$91\% \times 355 = 323$ Vessel Availability Days per quarter.</p>
<p>Requires Improvement (87-90.9%)</p>	<p>$87\% \times 355 = 309$ Vessel Availability Days per quarter.</p>
<p>Inadequate (86.9% and under)</p>	<p>Less than 309 Vessel Availability Days per quarter.</p>

8.2 KPI 2: Environmental Efficiency:

8.2.1 The Contractor shall provide an update to the Authority on the fifth Working Day of each month, to reflect the previous month on progress against delivery of the EMP first submitted within the bid proposal (in accordance with Schedule E (*Performance and Payment*) of the Contract)). Activities reported on should cover Vessel operation but also land based / office operations of the Contractor. All reports shall be measured against the baseline at the Effective Date which shall be provided within one (1) month of the Effective Date.

8.2.2 The Contractor shall provide further reporting against the Environmental Conditions as defined in Schedule E (*Performance and Payment*) of the Contract:

- (a) Environmental Condition 1 performance targets;
- (b) Progress against activities covered by plans under Environmental Condition 3, 4, 7, 8, 9 and 10; and

- (c) The status of certificates covered by Environmental Conditions 4, 5, and 6.

8.2.3 In this report, the Contractor shall in addition report against the Cabinet Office KPI table below, highlighting the percentage Availability achieved overall:

KPI Number	2
KPI Description	Environmental Efficiency (as per Schedule E (<i>Performance and Payment</i>) of the Contract).
Incident Measure	The Contractor meets the Environmental Efficiency KPI if the Environmental Conditions described in Schedule E (<i>Performance and Payment</i>) of the Contract are met. This includes, compliance with the Environmental Management Plan and MARPOL annexes 1 and 4-6, and various planning, reporting and certification requirements.
Who?	Contractor
Monitoring Frequency	Monthly on the previous three months
Reporting Frequency	Monthly
Performance bands	
Good (95% and above)	Environmental Conditions Schedule E (<i>Performance and Payment</i>) of the Contract) fully met.
Approaching Target (91-94.9%)	Any single breach of Environmental Conditions 1-7 in the previous 3 months per ship.
Requires Improvement (87-90.9%)	More than one breach in Environmental Conditions 1-7 in the previous 3 months per ship.
Inadequate (86.9% and under)	Any breach of Environmental Conditions 8 and 9 in the previous 3 months.

8.2.4 Emissions and consumption of fuel: the Contractor shall on a monthly basis on the fifth Working Day of each month (to cover a period from first (1st) to the last day of the previous month), provide to the Authority, at a minimum: the distance travelled, the amount of fuel consumed, the fuel quality and the emissions produced for each Vessel separately. The emissions produced shall also be provided by the Contractor for European water sailings, or any other geographical regions subject to an Emissions Trading Scheme (ETS) or equivalent as a separate read out (for each Vessel separately).

8.2.5 Maintenance reporting: the Contractor shall provide to the Authority on a monthly basis on the fifth Working Day of each month, a report to include at a minimum the following:

- (a) summary of OpDefs or KPI breaches and rectification status;

- (b) summary of emergent or unplanned maintenance or repair work, which may affect Tasking and its status;
- (c) status on full compliance with legalisation and certification requirements; and
- (d) a summary report for each Vessel in advance of planned maintenance schedules. Notwithstanding that any significant delays to work being carried out that may impact the availability to the programme must be issued by the Contractor to Authority immediately.

8.2.6 Each month the Contractor shall provide the Authority with a forecast of bunker requirements for the following three months. The Authority and Contractor shall liaise to agree the most efficient and effective bunkering regime for the period.

8.3 **KPI 3: Service Performance:**

8.3.1 The Contractor shall report on Service Performance on the Contract as follows:

KPI Number	3
KPI Description	Service Performance (as per Schedule E (<i>Performance and Payment</i>) of the Contract).
Incident Measure	<p>The Contractor meets the Service Performance Key Performance Indicator at 355 days per annum or higher, pro rata in any given month of the Contract.</p> <p>One/First whole day starts to apply as soon as any of the conditions of the KPI are not met.</p> <p>This KPI refers to 'Service Incomplete' and OpDef Category B outputs in relation to the Availability Key Performance Indicator as set out in Paragraph 98 of Schedule E (<i>Performance and Payment</i>) of the Contract.</p> <p>The 100% baseline is set as follows:</p> <p>Number of days unfettered in the year (355) x Number of months (3) / months in the year (12) x the number of vessels in the services (4). E.g. a four-vessel service would equate to $355 \times 3 / 12 \times 4 = 355$.</p>
Who?	Contractor
Monitoring Frequency	Monthly on the previous three months
Reporting Frequency	Monthly
Performance bands	
Good (95% and above)	$95\% \times 355 = 337$ Vessel Availability Days per quarter
Approaching Target (91-94.9%)	$91\% \times 355 = 323$ Vessel Availability Days per quarter

Requires Improvement (87-90.9%)	87% x 355 = 309 Vessel Availability Days per quarter.
Inadequate (86.9% and under)	Less than 309 Vessel Availability Days per quarter.

8.4 KPI 4: Governance and Reporting:

8.4.1 The Contractor is required to make contractual and statutory reports to the Authority and Single Source Regulation Office. For the purposes of Governance the Contractor is required to make the following KPI report.

8.4.2 The Contractor shall report on Service Performance of the Contract as follows:

KPI Number	4
KPI Description	Governance and Reporting
Incident Measure	The Contractor meets the requirements of Schedule C (<i>Reporting and Governance</i>)
Who?	Contractor
Monitoring Frequency	Monthly on the previous three months
Reporting Frequency	Monthly
Performance bands	
Good (95% and above)	All reports made on time, with the correct format and content.
Approaching Target (91-94.9%)	All reports made withing one week of the required submission, in an acceptable format and content.
Requires Improvement (87-90.9%)	All reports made within two weeks of the required submission date, and/or Reports made with unacceptable format or inadequate content.
Inadequate (86.9% and under)	Failure to make the QDC reports by the required date.

8.5 Remediation, Reporting and Plans:

The purpose of a KPI is to inform the Contractor and Authority of the current Service Performance, so that it may be properly monitored, measured, maintained and improved.

8.6 Approaching Target Report:

For any KPI report with a performance band of Approaching Target, the Contractor will be required to supplement the report with a description of the event(s) and immediate remedial action.

8.7 Requires Improvement Analysis:

For any KPI report with a performance band of “Requires Improvement”, the Contractor is required to:

- 8.7.1 Provide a report with the same content as the Approach Target Report
- 8.7.2 Provide improvement analysis identifying root cause, appropriate mitigations and target completion dates.
- 8.7.3 Provide a close out report to the Authority prior to the completion date.

8.8 Inadequate Rectification Plan:

For any KPI report with a performance band of “Inadequate” the Contractor is required to:

- 8.8.1 Provide a report with the same content as the Approach Target Report
- 8.8.2 Provide improvement analysis identifying root cause, appropriate mitigations, proposed actions and target completion dates.
- 8.8.3 Arrange a meeting (either separately or a schedule meeting) to discuss the mitigations and proposed actions with the Authority.
- 8.8.4 Update the Authority at each monthly meeting with progress updates until closed out.

9. Quarterly reporting: In addition to any other reports referenced in this Schedule C (*Governance and Reporting*) which are required to be provided on a quarterly basis, the Contractor shall provide the following reports to the Authority on a quarterly basis (at a minimum):

- 9.1 The Acceptance Log, which shall be supplied by exception should any Change to Vessels be actioned, either to comply with Law or to meet the Environmental Management Plan as per Schedule E (*Performance and Payment*) of the Contract. The log shall capture a body of evidence to demonstrate the system specification compliance with the verification and validation criteria defined within Schedule A (*Statement of Requirements*) of the Contract (where applicable), in support of system acceptance. As a minimum, the Acceptance Log shall capture the following detail associated with each test:
 - 9.1.1 the system elements for acceptance;
 - 9.1.2 the method of showing compliance;
 - 9.1.3 pass/fail/waver;
 - 9.1.4 non-conformances and corrective action taken; and
 - 9.1.5 evidence, test data and independent confirmation etc..
- 9.2 A summary report of all cyber and security incidents or issues and resolution status, including a plan to address the issue or incident and information on how to minimise the risk of re-occurrence.
- 9.3 A summary report of all safety incidents and risks, including mitigations, and a resolution status and plan for issues, to also include any changes of processes to improve safety.

- 9.4 Demographic data and skills profile of the crew, supporting contractor and major sub-contractor staff. The Contractor shall also provide: statistics pertaining to the demographic profile of the crew per Vessel and in totality, profile skills levels against demographic groups, a plan to address any skills shortages and a plan to retain/replace skills on a long-term basis for the duration of the Contract.
- 9.5 A summary of any issues pertaining to human factors integration and welfare facilities. This shall include any issues raised by the Force Protection team concerning vessel facilities or capabilities, including welfare facilities. The Contractor shall also raise any issues that negatively affect a person's role arising from design and/or requirements that could have been prevented or could be addressed.
- 9.6 GFA reporting shall be subject to management under Schedule F (*Issued Property*), summary information shall be provided by the Authority to Contractor for each GFA Item under the Contract. GFA generic term includes but is not limited to:
- 9.6.1 Government Furnished Equipment, for example issued property.
- 9.6.2 Government Furnished Information, for example technical info, media format, software.
- 9.7 The Contractor shall monitor the performance of its Principal Subcontractors via regular meetings and audits and provide a summary of any issues pertaining to Corrupt Gifts, Modern Slavery, Health and Safety and any other relevant policies for compliance with the terms of this Contract.
10. **Annual Reporting:** The Contractor shall provide the following reports to the Authority on a quarterly basis (at a minimum):
- 10.1 **Financial Risk Indicator:**
- 10.1.1 A report on the Financial Risk Indicator for itself and Holdco against the applicable Financial Risk Requirement each Year, no later than 120 days after the Accounting Reference Date.
- 10.1.2 Each report submitted by the Contractor pursuant to Paragraph 10.1.1 shall:
- (a) be a single report with separate sections for each of the Contractor and Holdco;
 - (b) include a copy of each of the Contractor and Holdco's audited financial statements as separate annexes; and
 - (c) include a history of the Financial Risk Indicators reported by the Contractor to enable the Authority to easily analyse and assess the trends in financial risk.
11. **Ad-hoc Reporting**
- 11.1 **Dry docking:** the Contractor shall provide certificates to the Authority on completion of any drydocking, within a reasonable time of such completion.
- 11.2 **Claims:** the Contractor shall notify the Authority promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings which are current, threatened or pending against it or any of its assets or revenues which will or might have a

material adverse effect on the ability of the Contractor to perform its obligations under this Contract.

- 11.3 Security Interests: the Contractor shall notify the Authority promptly upon becoming aware of them, the details of any Security Interests over any Vessel or any part thereof.
- 11.4 Material adverse effect: the Contractor shall notify the Authority promptly upon becoming aware of the same, any obligation compliance with which will or is likely to have a material adverse effect on the ability of the Contractor to perform its obligations under this Contract.
- 11.5 Financial statements: the Contractor shall provide the Authority with a copy of its audited financial statements (accompanied by its Policy Statements for Corrupt Gifts, Modern Slavery and Safety) and any liquidity forecasts promptly after they are available.
- 11.6 Financial Distress Event: the Contractor shall notify the Authority (or procure that its auditors notify) promptly upon becoming aware of them, the details of any Financial Distress Event which will or might have a material adverse effect on the ability of the Contractor to perform its obligations under this Contract (and in any event, ensure that such notification is made within 10 Working Days of the date on which the Contractor first becomes aware of the Financial Distress Event or the fact, circumstance or matter which might cause a Financial Distress Event).
- 11.7 Following any notification by the Contractor relating to paragraph 11.2 (*Claims*), 11.3 (*Security Interests*), 11.4 (*Material Adverse Effect*) or 11.6 (*Financial Distress Event*):
 - 11.7.1 the Contractor and the Authority shall, at the Authority's request, meet to discuss and review the effect of subject of the notification on the continued performance and delivery of the Services, including details of any remedial action or mitigation strategy;
 - 11.7.2 the Contractor shall provide any further information as the Authority may reasonably require; and
 - 11.7.3 the Contractor shall notify the Authority if at any time it receives or becomes aware of any further information relating to the subject of the notification, giving details of that information, to the extent that such information is new or renders information previously submitted materially inaccurate or misleading.

12. **Emergency Reporting**

- 12.1 The Contractor shall notify the Authority as soon as they consider that damage is occurring, or is likely to occur, to the cargo or any incident or emergency related to the Vessel during a Tasking. The Contractor acknowledges that it is imperative that early notification is given to the Authority of any potential salvage requirement.
- 12.2 The Contractor must notify the Authority as soon as reasonably practicable if a Vessel deviates, or is required to deviate, for the purpose of saving or attempting to save life at sea or responding to any distress call received while at sea.

Section 3 – Contract Governance

13. Weekly Ops Meeting

13.1 The Authority Ops Team and the Contractor Ops Team shall meet virtually to formally discuss the programme on a weekly basis.

14. Quarterly Contract Review Meetings (QCRM):

14.1 During the QCRM, the Authority shall have the opportunity to discuss in detail with the Contractor the information provided in all reporting required under this Contract which is supplied by the Contractor to the Authority.

14.2 The Contractor shall propose as part of the first QCRM under this Contract an agenda which shall cover the following topics as a minimum:

14.2.1 MOD team update.

14.2.2 Key Performance Indicators.

14.2.3 Project / Modifications.

14.2.4 Principal Subcontractor status.

14.2.5 SR Update including demographic update a security status.

14.2.6 Welfare

14.2.7 Safety.

14.2.8 Legislative Compliance and Certification.

14.2.9 Security and Cyber.

14.2.10 Drydock update Surveys Maintenance Report and Schedule (where applicable).

14.2.11 Action List

14.2.12 Minutes

14.3 Invoices for the relevant quarter which have been submitted by the Contractor to the Authority and the amounts of such invoices that were calculated in accordance with Schedule E (*Performance and Payment*) of the Contract.

14.4 The Contractor shall lead on all aspects of the agenda apart from the MOD update and Tasking.

14.5 The Contractor shall maintain, update and issue the agenda at least five (5) Working Days prior to the QCRM throughout the Contract.

14.6 The Contractor shall propose as part of the first QCRM under this Contract, a slide pack and a dashboard covering the agenda items and supporting material for the approval of the Authority to be used for the duration of the Contract. The Contractor shall maintain and update the templates throughout the Contract.

- 14.7 The Contractor shall issue the slide pack and dashboard at least five (5) Working Days prior to the QCRM throughout the Contract.
- 14.8 The Contractor shall capture and issue the minutes of each QCRM and distribute them to the attendees no later than ten (10) Working Days after each meeting.
- 14.9 The Contractor shall upload all meeting material to a digital repository of Authority's choice. The Authority will control access to the repository to ensure relevant MOD stakeholders are given appropriate access.
- 14.10 The Contractor shall call and organise the QCRM and host the meeting at their premises or such other premises as agreed between the Authority and the Contractor.
- 14.11 All decisions made and actions allocated to the Contractor or Authority shall be carried out within the timelines agreed during the QCRM.
- 14.12 Should the Contractor not be able to fulfil its actions, it shall inform the Authority without delay.
15. **Lessons From Experience (LFE) review**
- 15.1 The Contractor shall participate in a joint session every two (2) years between the Contractor and the Authority. Actions which are the responsibility of the Contractor or Authority shall be implemented within timelines agreed at the LFE review. Any change that may be required as an output of the LFE review shall be subject to the provisions of Schedule P (*Contract Change Control Procedure*). The scope shall be agreed upfront in accordance with paragraph 15.2 below and acceptance of this deliverable by the Authority driven by the pre-agreed scope.
- 15.2 The Contractor shall propose the agenda (which shall at a minimum reflect the QCRM agenda, as applicable), the Terms of Reference, the slide pack and the supporting material no later than twenty (20) Working Days prior to the LFE review for the Authority's input and approval. The Contractor shall incorporate all reasonable comments from the Authority in the LFE review.
- 15.3 The Contractor shall organise and host the meeting at their premises or such other premises as agreed between the Authority and the Contractor. This organisation includes issue of the material captured at paragraph 15.2 to the attendees in advance.
- 15.4 The Contractor shall capture and issue the minutes of each LFE review and distribute them to the attendees no later than twenty (20) Working Days after each review.
- 15.5 The agenda shall at minimum reflect the QCRM agenda.
16. **Contract Start Up Meeting**
- 16.1 The Contractor shall participate in a Contract Start Up Meeting between the Contractor and the Authority within three (3) months of Effective Date. The aim of the meeting shall be confirmation and reassurance of the ability to discharge Contract roles and responsibilities.
- 16.2 The Contractor shall propose the agenda, the Terms of Reference, the slide pack and the supporting material no later than twenty (20) Working Days prior to the meeting for the Authority's input and approval.

- 16.3 The Contractor shall organise and host the meeting at their premises or such other premises as agreed between the Authority and the Contractor. This organisation includes issue of the material captured at paragraph 16.2 to the attendees in advance. The Authority will select the attendees of both the Authority and the Contractor.
- 16.4 The Contractor shall capture and issue the minutes the meeting and distribute them to the attendees no later than twenty (20) Working Days after each review.

ANNEX 1 : CONTRACT PRICING STATEMENT

Contents Summary:

Section	Data Includes
<p>1. Report Submission Admin</p>	<p>The name, position and contact details of:</p> <ul style="list-style-type: none"> (a) the person submitting the report; (b) a person to be notified if any compliance / penalty notice is issued in relation to the Contract to which the report relates; (c) the MOD Commercial Officer responsible for managing the QDC; and (d) the date the report is due and submitted.
<p>2. Supplier Basic Reference Data</p>	<p>Where the contractor is a registered company:</p> <ul style="list-style-type: none"> (a) the contractor trading name if applicable; (b) registered name, office address and company number of contractor; (c) whether the contractor is an SME; and (d) the registered name, office address and company number of the immediate parent company of the contractor
<p>3. Contract Basic Reference Data (latest)</p>	<p>Basic parameters:</p> <ul style="list-style-type: none"> (a) any Allowable Costs and the contract profit rate used to determine the Contract Price; (b) the date and version of any statutory guidance made under section 18(1) or 20(1) of the SSCR in force at the time of the Contract; (c) describe any known deviation from that statutory guidance made in determining the Contract Price; (d) describe the calculation that was made under regulation 11 to determine the contract profit rate, including all adjustments that were made under steps 1 to 6; (e) describe the Contractor's facts, assumptions and calculations relevant to each element of the Allowable Costs (including those relevant to any risk or contingency included in the Allowable Costs) and any facts or assumptions provided by the Secretary of State and used by the Contractor in those calculations; and (f) describe any other information which was material to the pricing of the Contract.

ANNEX 2 : CONTRACT REPORTING PLAN (CRP)

Contents Summary:

Section	Data Includes
<p>1. Report Submission Admin</p>	<p>The name, position and contact details of:</p> <ul style="list-style-type: none"> (a) the person submitting the report; (b) a person to be notified if any compliance / penalty notice is issued in relation to the Contract to which the report relates; (c) the MOD Commercial Officer responsible for managing the QDC and (d) the date the report is due and submitted.
<p>2. Contract Report Plan</p>	<p>A list of every report required below and due dates:</p> <ul style="list-style-type: none"> (a) Quarterly Contract Report; (b) Interim Contract Report; (c) Contract Completion Report; and (d) Contract Costs Statement
<p>3. Supplier Basic Reference Data</p>	<p>Where the contractor is a registered company:</p> <ul style="list-style-type: none"> (a) the contractor trading name if applicable; (b) registered name, office address and company number of the contractor; (c) whether the contractor is an SME; and (d) registered name, office address and company number of the immediate parent company of the contractor.
<p>4. Contract Basic Reference Data (latest)</p>	<p>Basic parameters:</p> <ul style="list-style-type: none"> (a) the Contractor and MOD's contact number; (b) latest pricing amendment reference and date; (c) Contract title, start and end dates, and brief description of the goods, works or services to be provided under the Contract; and (d) a list of the output metrics that will be used to describe deliverables used in the reports. <p>Pricing Analysis:</p> <ul style="list-style-type: none"> (a) Contract value;

Section	Data Includes
	<p>(b) the type of pricing used (firm / fixed / TCIF / cost-plus) and value resulting from each method; and</p> <p>(c) any business unit in relation to which a cost recovery rate has been used for the purposes of pricing the Contract.</p>

ANNEX 3 : CONTRACT NOTIFICATION REPORT (CNR)**Contents Summary:**

Section	Data Includes
1. Report Submission Admin	<p>The name, position and contact details of:</p> <ul style="list-style-type: none"> (a) the person submitting the report; (b) a person to be notified if any compliance / penalty notice is issued in relation to the Contract to which the report relates; and (c) the MOD Commercial Officer responsible for managing the QDC; and (d) the date the report is due and submitted.
2. Supplier Basic Reference Data	<p>Where the contractor is a registered company:</p> <ul style="list-style-type: none"> (a) the contractor trading name if applicable; (b) registered name, office address and company number of contractor; (c) whether the contractor is an SME; and (d) registered name, office address and company number of the immediate parent company of the contractor.
3. Contract Basic Reference Data (latest)	<p>Basic parameters:</p> <ul style="list-style-type: none"> (a) the Contractor and MOD's contact number; (b) latest pricing amendment reference and date; and (c) Contract title, start and end dates, and brief description of the goods, works or services to be provided under the Contract. <p>Pricing Analysis:</p> <ul style="list-style-type: none"> (a) the type of pricing used (firm / fixed / TCIF / cost-plus) and value resulting from each method; (b) any business unit in relation to which a cost recovery rate has been used for the purposes of pricing the Contract.
4. Key Deliverables	A list of the key items to be provided under the Contract, together with a brief description.
5. Metrics	The estimated number of deliverables expressed using the output metrics set out in the CRP.
6. Price breakdown	<ul style="list-style-type: none"> (a) an annual profile of the estimated costs at the initial reporting date; (b) an annual profile for risk contingency element included in the Allowable Costs and planned amounts of profit excluding any POCO adjustment

Section	Data Includes
	<p>amount and maximum amount of profit resulting from an adjustment determined under POCO that underpin the Contract price;</p> <p>(c) the total amount of Allowable Costs that are non-recurring; and</p> <p>(d) the annual profile of the estimated amount of each cost recovery base set out in the Contract reporting plan</p>
7. Payments Analysis	<p>A list of all payments exceeding £100K or 1% of the Contract value (whichever is the larger) due under the Contract including:</p> <p>(a) amount;</p> <p>(b) date payment is due;</p> <p>(c) currency (if not pounds sterling); and</p> <p>(d) an annual profile of all payments to be made under the Contract, specifying the currencies applicable.</p>
8. Contract Delivery Milestones	<p>A list of all delivery milestones set out in the Contract, for example related to payments, KPIs, performance etc. For each milestone the information required will include the target date.</p>
9. Subcontracts	<p>A description of any actual or intended Subcontracts including the total proportion of the QDC the Contractor expects to Subcontract. For the top 20 by value any Subcontract (or potential Subcontract) with a value of more than £1M:</p> <p>(a) name, office address and company number of the Subcontractor if a registered company (or company name if not registered);</p> <p>(b) whether the Subcontractor is associated with the prime contractor;</p> <p>(c) whether the Subcontractor is an SME;</p> <p>(d) actual / expected start and end dates of the Subcontract;</p> <p>(e) brief description of the goods, works or services to be provided under the Subcontract;</p> <p>(f) actual / estimated price of the Subcontract; and</p> <p>(g) in respect of Subcontracts with a value of £25m or over only, the outcome of any assessment that the (proposed) Subcontract meets the criteria of SSCR for a QSC.</p>

ANNEX 4 : QUARTERLY CONTRACT REPORT (QCR)**Contents Summary:**

Section	Data Includes
1. Report Submission Admin	<p>The name, position and contact details of:</p> <ul style="list-style-type: none"> (a) the person submitting the report; (b) a person to be notified if any compliance / penalty notice is issued in relation to the contract to which the report relates; (c) the MOD Commercial Officer responsible for managing the QDC; and (d) the date the report is due and submitted.
2. Supplier Basic Reference Data	<p>Where the contractor is a registered company:</p> <ul style="list-style-type: none"> (a) the contractor trading name if applicable; (b) registered name, office address and company number of contractor; (c) whether the contractor is an SME; and (d) registered name, office address and company number of the immediate parent company of the contractor.
3. Contract Basic Reference Data (latest)	<p>Basic parameters:</p> <ul style="list-style-type: none"> (a) the Contractor and MOD's contact number; (b) latest pricing amendment reference and date; (c) Contract title, start and end dates, and brief description of the goods, works or services to be provided under the Contract. <p>Pricing Analysis:</p> <ul style="list-style-type: none"> (a) the type of pricing used (firm / fixed / TCIF / cost-plus) and value resulting from each method; and (b) any business unit in relation to which a cost recovery rate has been used for the purposes of pricing the Contract.
4. Price Breakdown	<ul style="list-style-type: none"> (a) an annual profile of the estimated costs (split by Contractor reporting structure) at the time of agreement; (b) an annual profile for risk contingency element included in the Allowable Costs and planned amounts of profit excluding any POCO adjustment amount and maximum amount of profit resulting from an adjustment determined under POCO that underpin the Contract Price; (c) an annual profile for risk contingency and planned amounts of profit excluding any POCO adjustment amount and maximum amount of

Section	Data Includes
	<p>profit resulting from an adjustment determined under POCO that reflect the actual and forecast costs indicating for each year if the values are actual, forecast or both; and</p> <p>(d) an annual profile of actual and forecast costs split by Contractor reporting structure indicating for each year whether the values are actual or forecast or both.</p>
5. Actual & forecast costs to completion	<p>A breakdown of the actual and forecast costs by reference to calendar quarters of:</p> <p>(a) the financial year in which the calendar quarter relates;</p> <p>(b) the previous financial year; and</p> <p>(c) the next financial year split by contractor reporting structure.</p>
6. Variance analysis and commentary	<p>A quantified analysis of any variances (explaining not less than 90% of the total variance) between any estimated costs used to determine the Contract Price and the total actual and forecast costs.</p> <p>Forecast final payments: a forecast of any TCIF or final price adjustment to the Contract Price which the Contractor expects to be paid.</p>
7. Analysis of risk / opportunity outturn	<p>A description of any event that has occurred or circumstances that has arisen since the Effective Date likely to have, or has had, a material effect in relation to the Contract:</p> <p>(a) the date the Contractor became aware of the event or circumstances;</p> <p>(b) the effect the event / circumstance had on costs already incurred;</p> <p>(c) the forecast effect the event / circumstance had on forecast costs; and</p> <p>(d) if the event / circumstance is covered by any contingency element of the Contract Price.</p>
8. Contract Delivery Milestones	<p>A list of all delivery milestones set out in the Contract, for example related to payments, KPIs, performance etc. For each milestone the information required will include the target and actual or expected delivery date.</p>
9. Subcontracts	<p>A description of any actual or intended Subcontracts including the total proportion of the QDC the Contractor expects to Subcontract. For each Subcontract which falls in the period of the report, or into the calendar quarter following the period of the report and which will have a value of >£1M (if more than 20 Subcontractors, only those 20 with the highest value):</p> <p>(a) registered name, office address and company number of the Subcontractor if a registered company (or company name if not registered);</p>

Section	Data Includes
	<p>(b) whether the Subcontractor is associated with the prime contractor;</p> <p>(c) whether the Subcontractor is an SME;</p> <p>(d) actual / expected start and end dates of the subcontract;</p> <p>(e) brief description of the goods, works or services to be provided under the Subcontract; o actual / estimated price of the Subcontract; and</p> <p>(f) in respect of Subcontracts with a value of £25m or over only, the outcome of any assessment that the (proposed) contract meets the criteria of SSCR for a QSC.</p>

ANNEX 5 : INTERIM CONTRACT REPORT (ICR)

Contents Summary:

Section	Data
1. Report Submission Admin	<p>The name, position and contact details of:</p> <p>(a) the person submitting the report;</p> <p>(b) a person to be notified if any compliance / penalty notice is issued in relation to the contract to which the report relates;</p> <p>(c) the MOD Commercial Officer responsible for managing the QDC; and</p> <p>(d) the date the report is due and submitted.</p>
2. Supplier Basic Reference Data	<p>Where the contractor is a registered company:</p> <p>(a) the contractor trading name if applicable;</p> <p>(b) registered name, office address and company number of contractor;</p> <p>(c) whether the contractor is an SME; and</p> <p>(d) registered name, office address and company number of the immediate parent company of the contractor.</p>
3. Contract Basic Reference Data (latest)	<p>Basic parameters:</p> <p>(a) the Contractor and MOD's contact number;</p> <p>(b) latest pricing amendment reference and date;</p> <p>(c) Contract title, start and end dates, and brief description of the goods, works or services to be provided under the Contract.</p> <p>Pricing Analysis:</p> <p>(a) the type of pricing used (firm / fixed / TCIF / cost-plus) and value resulting from each method;</p> <p>(b) any business unit in relation to which a cost recovery rate has been used for the purposes of pricing the Contract.</p>
4. Key Deliverables	A list of the key deliverables to be provided under the Contract, together with a brief description.
5. Metrics	The expected value of all deliverables expressed using the output metrics set out in the most recent CRP.
6. Price breakdown	<p>(a) an annual profile of the estimated costs at the time of agreement;</p> <p>(b) an annual profile for risk contingency element included in the Allowable Costs and planned amounts of profit excluding any POCO adjustment</p>

Section	Data
	<p>amount and maximum amount of profit resulting from an adjustment determined under POCO that underpin the Contract Price;</p> <p>(c) an annual profile for risk contingency and planned amounts of profit excluding any POCO adjustment amount and maximum amount of profit resulting from an adjustment determined under POCO that reflect the actual and forecast costs indicating for each year if the values are actual, forecast or both;</p> <p>(d) the total amount of Allowable Costs that are non-recurring; and an annual profile of actual and forecast costs and indicating for each year if the costs are actual, forecast or both;</p> <p>(e) the amount of each cost recovery base set out in the CRP; and</p> <p>(f) an annual profile of estimated amount of each cost recovery base set out in the CRP.</p>
7. Variance analysis and commentary	A quantified analysis of any variances (explaining not less than 90% of the total variance) between any estimated costs used to determine the Contract Price and total actual and forecast costs.
8. Payments Analysis	<p>(a) a list of all payments exceeding £100K or 1% of the contract value (whichever is the larger) due under the Contract including amount, date payment is due and currency (if not pounds sterling); and</p> <p>(b) an annual profile of all payments to be made under the Contract, specifying the currencies applicable.</p>

ANNEX 6 : CONTRACT COMPLETION REPORT (CCR)

Contents Summary:

Section	Data Includes
1. Report Submission Admin	<p>The name, position and contact details of:</p> <ul style="list-style-type: none"> (a) the person submitting the report; (b) a person to be notified if any compliance / penalty notice is issued in relation to the contract to which the report relates; (c) the Commercial Officer responsible for managing the Contract; and (d) the date the report is due and date submitted.
2. Supplier Basic Reference Data	<p>Where the contractor is a registered company:</p> <ul style="list-style-type: none"> (a) the contractor trading name if applicable; (b) registered name, office address and company number of contractor; (c) whether the contractor is an SME; and (d) registered name, office address and company number of the immediate parent company of the contractor.
3. Contract Basic Reference Data	<p>Basic parameters:</p> <ul style="list-style-type: none"> (a) the Contractor's and MOD's contact number; (b) latest pricing amendment reference and date; (c) contract title, start and end dates; and (d) brief description of the goods, works or services to be provided under the Contract. <p>Pricing analysis:</p> <ul style="list-style-type: none"> (a) the type of pricing used (firm / fixed / TCIF / cost-plus) and value resulting from each method; and (b) any relevant business units used in determining the Contract Price.
4. Key Deliverables	A list of the key items provided under the Contract with a brief description.
5. Metrics	The actual amount of deliverables expressed using output metrics set out in the most recent Contract reporting plan.
6. Price Breakdown	<ul style="list-style-type: none"> (a) an annual profile of any estimated costs at the time of agreement; (b) an annual profile for risk contingency included in the Allowable Costs, including the maximum amount of profit that could have resulted from

Section	Data Includes
	<p>the incentive adjustment at the time of the agreement, the actual incentive adjustment and any planned and actual profit excluding the incentive adjustment;</p> <p>(c) the total amount of Allowable Costs that are nonrecurring;</p> <p>(d) an annual profile of the estimated amount of each cost recovery base (for example, direct labour hours, machine hours) described in the CRP at time of contract placement;</p> <p>(e) an annual profile of the actual costs;</p> <p>(f) an annual profile of the actual amount of each cost recovery base (for example, direct labour hours, machine hours) described in the CRP; and</p> <p>(g) a forecast of any TCIF / final price adjustment which the contractor expects to be paid.</p>
<p>7. Payments and analysis</p>	<p>(a) a list of all payments exceeding £100K or 1% of the contract value (whichever is the larger) that have been paid, or are due under the Contract including amount, date payment is due and currency (if not pounds sterling);</p> <p>(b) an annual profile of all payments to be made under the Contract, specifying the currencies applicable; and</p> <p>(c) a forecast of any TCIF / final price adjustment which the Contractor expects to be paid.</p>
<p>8. Variance Analysis</p>	<p>A quantified analysis of any variances (explaining not less than 90% of the total variance) between any estimated costs used to determine the Contract Price and total actual and forecast costs.</p>
<p>9. Risk / Opportunity</p>	<p>A description of an event that has occurred or circumstances that have arisen since the Effective Date likely to have a material effect in relation to the Contract:</p> <p>(a) the date the contractor became aware of the event / circumstances;</p> <p>(b) the effect the event / circumstances had on costs already incurred;</p> <p>(c) the effect the event / circumstances will have on forecast costs; and</p> <p>(d) if the event / circumstance is covered by any contingency element of the Contract Price.</p>
<p>10. Contract Delivery Milestones</p>	<p>(a) a list of all delivery milestones set out in the Contract, for example related to payments, KPIs, performance etc. For each milestone the information required will include the target and actual or expected delivery date.</p>

Section	Data Includes
	(b) a description of the causes of variance between the expected delivery date in the Contract and actual or expected completion date.
11. Subcontracts	<p>A description of any Subcontracts the prime contractor has entered into which has, or is expected to have, a value of £1M. For each Subcontract (if more than 20 Subcontractors, only those 20 with the highest value):</p> <p>(a) registered name, office address and company number of the Subcontractor if a registered company (or company name if not registered);</p> <p>(b) whether the Subcontractor is associated with the prime contractor;</p> <p>(c) whether the Subcontractor is an SME;</p> <p>(d) actual / expected start and end dates of the Subcontract;</p> <p>(e) brief description of the goods, works or services to be delivered under the Subcontract; and</p> <p>(f) actual / estimated price of the Subcontract; and the outcome of any assessment that the (proposed) contract meets the criteria of SSCR for a QSC.</p>

ANNEX 7 : CONTRACT COSTS STATEMENT (CCS)

Contents Summary:

Section	Data Includes
1. Report Submission Admin	<p>The name, position and contact details of:</p> <ul style="list-style-type: none"> (a) the person submitting the report; (b) a person to be notified if any compliance / penalty notice is issued in relation to the contract to which the report relates; (c) the Commercial Officer responsible for managing the Contract; (d) the date the report is due and date submitted; and (e) the start and end dates of the Contractor's accounting period.
2. Supplier Basic Reference Data	<p>Where the contractor is a registered company:</p> <ul style="list-style-type: none"> (a) the contractor trading name if applicable; (b) registered name, office address and company number of contractor; (c) whether the contractor is an SME; and (d) registered name, office address and company number of the immediate parent company of the contractor.
3. Contract Basic Reference Data	<p>Basic parameters:</p> <ul style="list-style-type: none"> (a) the Contractor's and MOD's contact number; (b) latest pricing amendment reference and date; (c) Contract title, start and end dates; and <p>brief description of the goods, works or services to be provided under the Contract.</p> <p>Pricing analysis:</p> <ul style="list-style-type: none"> (a) the type of pricing used (firm / fixed / TCIF / cost-plus) and value resulting from each method; (b) any relevant business units used in determining the Contract Price.
4. Cost Allocation	<p>Details of any agreement between the MOD and the Contractor as to the cost allocation and apportionment methodology used in the CCS and a description of any deviations from the methodology.</p>
5. Costs Incurred	<p>An annual profile of the actual Allowable Costs showing:</p>

Section	Data Includes
	<p>all items purchased, services and expenses (including payments to Subcontractors) which are direct costs²;</p> <p>(a) any other direct costs;</p> <p>(b) all indirect costs³ showing each cost recovery rate charged and the total of corresponding cost recovery base;</p> <p>(c) the total actual costs which the contractor claims are Allowable Costs⁴;</p> <p>(d) an explanation to any variation in the total actual costs and allocated costs described above;</p> <p>(e) an explanation for any variation between a cost recorded in the most recent information provided and the amount reported for the same allocated costs listed above; and</p> <p>(f) the percentage of the Allowable Costs included in the statement which are still estimates rather than actual, including (to the extent such costs excess 2% of the total actual Allowable Costs) any explanation as necessary.</p>

² Direct costs are costs the Contractor claims are allowable under the Contract and not been calculated using a cost recovery rate.

³ Indirect costs are costs the Contractor claims are allowable under the Contract and have been calculated using a cost recovery rate.

⁴ Up to 2% of actual Allowable Costs may without explanation be estimates, more than 2% may be estimates with explanation of why the actual costs are not available at the time of the report and when they will be available.

ANNEX 8 : PROJECT REPORTING REQUIREMENTS FOR COST PLUS PROJECTS IN SUPPORT OF CONTRACT GOVERNANCE AND REPORTING

1. In the event of a Costs Plus Project (CPP) being undertaken during the life of the Contract, the Contractor shall deliver mutually agreed Reporting Requirements at the to the Authority who shall review, feedback and approve within an agreed timeframe prior to the CPP commencement date. The Contractor reserves the right to appropriately scale the CPP Reporting, in agreement with the Authority, to suit its scale at the outset of the CPP process. Additionally, at commencement of CPP an agreement will be made to establish the frequency of reporting throughout CPP lifetime, based on key CPP milestones, and cessation of reporting requirements at an agreed end date or project milestone for long term projects. At a minimum or unless otherwise agreed, the CPP Reports will form part of the QCRM. The CPP Reports will include (but is not limited to):
 - 1.1 CPP Risk Register.
 - 1.2 CPP Schedule
 - 1.3 CPP Costs Report
2. **Cost-Plus Project Risk Register**
 - 2.1 The CPP Risk Register will identify and define risks, mitigation, methodology (if applicable), tools and techniques specific to the CPP and how threats and opportunities are to be managed through life of the project.
 - 2.2 The CPP Risk Register will include a risk and opportunity process log: this shall include, but is not limited to, the total number of risks, risks added, closed and updated, review planned risks, review overdue risks, risks with updated scoring (increased, decreased, escalated or de-escalated), plan added and updated risks.
3. **Cost-Plus Project Schedule**
 - 3.1 The CPP Schedule shall define roles, responsibilities, deliverables, project timeframes, forecast key dates and project milestones. The CPP schedule shall be updated to reflect progress and shall be provided to the Authority. The level of detail required for CPP Schedule shall be mutually agreed at the commencement date of the CPP by the Authority and the Contractor based upon the size and scope. The format of the CPP Schedule will be mutually agreed by the Authority and the Contractor at the Effective Date.
 - 3.2 The CPP Schedule shall be capable of comparing planned and current forecast data such as the following:
 - 3.2.1 A listing of all tasks, together with planned (baseline and current progress including forecast) and actual start and finish dates. All activity durations within the schedule shall be in days unless otherwise agreed by the Authority.
 - 3.2.2 Earliest and latest start and finish dates for all activities and associated milestones.
 - 3.2.3 Total float and free float of the overall schedule (if required).

- 3.2.4 A listing of project milestones (with reference to Contract milestones if applicable or necessary), payment milestones and significant project events together with original, rescheduled, forecast and actual completion dates.
- 3.2.5 The relationships and dependencies of activities and associated milestones that are to be completed within the scope of CPP.
- 3.2.6 Resource Profiles, depicting manpower, materials and equipment. All resource units within the schedule shall be in hours unless otherwise agreed by the Authority.

4. **CPP Costs Report.**

- 4.1 The CPP Costs Report shall include Cost Profiles, depicting manpower, materials, and equipment. All Costs detailed within the Cost Breakdown shall be in Great British Pounds Sterling unless otherwise agreed by the Authority.

Table 1: Project Reporting Requirements

Item	Report	Schedule C Paragraph	Requirement	Template / Comments	Submission Details
Daily Direct from Vessel					
1	Daily Report	6.1	The Contractor shall provide a status report for every Vessel to the Authority every twenty-four (24) hours (the "Daily Report") via suitable electronic media. This shall include, at a minimum, the location, any operational issues and any defects giving rise to an OpDef as per 17 (OpDef Reporting).	Daily Report Template Sent from the Master direct to a list provided by the Authority and relevant stakeholders.	Daily
2	Port Report	6.2	Port reporting: within seventy-two (72) hours of a Vessel departing from a port, the Contractor shall report such departure to the Authority (applicable to all Vessels). This port report shall include: the services received at the port, the quality of berths, any lack of or issues with expected services, and any damage caused to the Vessels or to facilities as a result of the two systems interacting, bunkers loaded and any issues arising, and services signed for by the Master on behalf of the Authority.	Port Report Template Departure report with basic details, time of departure and ETA next port. Wider report including photos, damage reports and third-party documentation (not all of which is immediately available) compiled by the Master and sent forty-eight to seventy-two (48-72) hours after departure from each Port.	Departure issued within twelve (12) hours to enable Ops Planning. Wider issued and compiled by the Master and sent forty-eight to seventy-two (48-72) hours after departure.

Item	Report	Schedule C Paragraph	Requirement	Template / Comments	Submission Details
3	Bunker Report	6.3	No specific Bunker 'report' is required. No template required due to the independent test in line with legal requirement.	Independent Test The commercial supply of bunkers is constrained by international regulation and statute. Contractor has an agreed protocol for the supply of bunkers with the Authority that complies with legal requirements and best practice.	
4	Authority Digital Infrastructure	6.4	Included in and as part of the Daily Report.	Daily Report Template	Daily
Daily Direct from Contractor					
5	Major Security	6.5	The Contractor shall report any details of a major security and/or cyber incident to the Authority within three (3) hours of becoming aware of such major security and/or cyber incident.	See Incident Report Template All to be reviewed under the Safety section of the Quarterly CRM.	Initial notification within twenty-four (24) hours, appropriate updates through the process and a report on completion.

Item	Report	Schedule C Paragraph	Requirement	Template / Comments	Submission Details
6	Major Environmental / Safety	6.6	The Contractor shall report any details of a major safety and/or environmental incident to the Authority within three (3) hours of becoming aware of such major safety and/or environmental incident. The Contractor shall also provide a report detailing remedial action taken and estimated time to recover a secure state to the Authority within twenty-four (24) hours of becoming aware of the major safety and/or environmental incident. The Contractor will then raise the appropriate OpDef Report as per paragraph 6.8. The Contractor shall advise any statutory report made to the Marine Coastguard Agency and/or Marine Accident Investigation Branch (MAIB) to the Authority within twenty-four (24) hours of such contact.	Incident Report Template All to be reviewed under the Safety section of the Quarterly CRM.	Initial notification within twenty-four (24) hours, appropriate updates through the process and a report on completion.
7	Availability	6.1	Part of the Daily Report	Daily Report Template	Daily
8	GFA	6.7	For GFA – itemised list for receipt/returns etc, not a responsibility of FSL and is Authority equipment.	See GFA Record Template, Daily Report	Daily
9	OpDef event and rectification	6.8	When appropriate, Contractor to Sealift Ops, OpDef Category A1, A2 or B, with prognosis and status.	Weekly OpDef Report	
Weekly					
10	OpDef Report	7		Weekly OpDef Report	
Monthly					
11	KPI1	Schedule E (Performance and Payment)	KPIs 1-4 Submitted monthly to cover the previous three months on a rolling basis. Approaching Target Report	Monthly KPI report	5th working day of the following month
12	KPI2			Monthly KPI report - Items are only required if the	

Item	Report	Schedule C Paragraph	Requirement	Template / Comments	Submission Details
13	KPI3		Requires Improvement Analysis	Monthly KPI report - Items are only required if the KPI is less than "Good"	
14	KPI4		Inadequate Rectification Plan	Monthly KPI report - Items are only required if the KPI is less than "Good"	
Governance Quarterly					
15	Acceptance Log	9.1	The Acceptance Log, which shall be supplied by exception should any Change to Vessels be actioned, either to comply with Law or to meet the Environmental Management Plan as per Schedule E (<i>Performance and Payment</i>) of the Contract.		
16	Principal Subcontractor Reports	QCRM		Incident Report Template	Initial notification within twenty-four (24) hours, appropriate updates through the process and a report on completion.
17	GFA	9.6	GFA reporting shall be subject to management under Schedule F (<i>Issued Property</i>), summary information shall be provided by the Authority to Contractor for each GFA Item under the Contract.	See GFA Record Template, Daily	Schedule F Guidance

Item	Report	Schedule C Paragraph	Requirement	Template / Comments	Submission Details
18	QCRM	9	<p>Summary of all Incident, Weekly and Monthly Reporting. Items to include:</p> <ul style="list-style-type: none"> a. Agenda b. KPI – Quarterly (Continuous Performance Reporting) c. Projects / Modifications d. Subcontractor status e. SR Update including demographic update an security status. f. Welfare g. Safety h. Legislative Compliance and Certification i. Security and Cyber j. Dry dock, Surveys, Maintenance Report and Maintenance Schedule k. Action List l. Minutes <p>QCRM governance and oversight - additional points to include:</p> <ul style="list-style-type: none"> i. Single Source Reporting. ii. FSL Risk Register for SSL-I (as submitted with the Tender and periodically updated). 	Report & Schedule F IAW	
Adhoc					
19	Project Reporting	10	Specific Cost-Plus projects within SSL-I will require appropriate PM and reporting to be undertaken on behalf of the Authority.	Project Report Template	
20	Dry Docking	11.1	Dry docking: the Contractor shall provide certificates to the Authority on completion of any drydocking, within a reasonable time of such completion.	Part of the Daily Report	
Emergency					
21	Damage	12.1	The Contractor shall ensure that the Master of the Vessel notifies the Authority as soon as he considers that damage is occurring, or is likely to	Daily Report Template	

Item	Report	Schedule C Paragraph	Requirement	Template / Comments	Submission Details
22	Deviations/Diversion	12.2	occur, to the cargo or any incident or emergency related to the Vessel during a Tasking.	Daily Report Template	Daily
Biannual					
23	LFE	15	The Contractor shall participate in a joint session every bi-annually between the Contractor and the Authority. Actions which are the responsibility of the Contractor or Authority shall be implemented within timelines agreed at the LFE review. Any Change that may be required as an output of the LFE review shall be subject to the provisions of Schedule P (<i>Contract Change Control Procedure</i>).	LFE Record Template	
Statutory					
24	SSCR Statutory Reporting	3.4-3.9	As per regulation 30 of the Single Source Contract Regulations 2014 the Statutory Reporting arising from the Single Source Contract Regulations 2014 (SSCR), in Schedule C, Annex 1 to Annex 7 inclusive Annex 1 to Annex 7 are Statutory Legal Requirements. For Governance and Compliance refer to the Contract whereby Governance and Reporting shall be made by the Contractor in accordance with SSCR PART 5 (Reports on Qualifying Defence Contracts). Exemption granted, as provide by S25 of the Act, for Regulation 40-44 from Strategic Capacity Reporting, and is stated within the Contract.	Contract Pricing Statement Legal - Requirement Templates required. Contract Reporting Plan	

Item	Report	Schedule C Paragraph	Requirement	Template / Comments	Submission Details
Safety					
25	Safety and Maintenance Reporting	8.2.5	<p>Maintenance reporting: the Contractor shall provide to the Authority on a monthly basis on the last Working Day of each month, a report to include at a minimum the following:</p> <ul style="list-style-type: none"> (a) summary of OpDefs or KPI breaches and rectification status ; (b) summary of emergent or unplanned maintenance or repair work, which may affect tasking and its status; (c) status on full compliance with legalisation and certification requirements; and (d) a summary report for each Vessel in advance of planned maintenance schedules. Notwithstanding that any significant delays to work being carried out that may impact the availability to the programme must be issued by the Contractor to Authority immediately. 	<p>Additionally, two new reports required (Maintenance Reporting and Maintenance Schedule) contents to be agreed during Contract Start Up phase.</p>	
Annual					
26	CII Reporting	8.2.4	Measurement of Carbon Emissions and Volume of Fuel used.	Contents to be agreed for Contract Start.	Publish Date TBC

**ANNEX 9 : ON DEMAND CONTRACT REPORT (ODCR)
REQUEST LETTER TEMPLATE**



Strategic Command
Defence Support

(Name)

(Job title)

(Insert Address)

(Insert Company Name)

(Insert Company Address)

FAO: XXXXXX

Date: DD MM YYYY

Dear XXXX,

Reference: QDC On Demand Contract Report

As you will be aware, under section 14 of the Defence Reform Act 2014, Contract (insert contract number) (insert contract title) is a Qualifying Defence Contract (QDC) and therefore covered by the Single Source Contract Regulations 2014.

Under Regulation 30 of the Single Source Contract Regulations 2014, the Secretary of State for Defence has the power to require suppliers which have signed a QDC with the Department to provide on-demand contract reports.

The MOD is exercising the power under regulation 30(3) to direct your company to provide the information described in regulation 23(2) (contract pricing statement), including the provision of the Amendment Spreadsheet as set out in the SSRO's contract reporting guidance at paragraph 9.14, and regulation 24(2) (contract reporting plan) for Contract (insert contract number).

Pursuant to regulation 30(5)(b), we require you to submit the reports within one month of receiving this written direction. The reports must contain the information required as from contract entered into date.

This letter is being forwarded to the MOD Single Source Advisory Team who will forward onto the external Single Source Regulations Office, for compliance monitoring purposes.

Yours sincerely,

(Insert Name)

(Insert Job Title)

OFFICIAL-SENSITIVE - COMMERCIAL

SCHEDULE D : FINANCIAL DISTRESS

INTERIM STRATEGIC SEALIFT (SSL-I)

1. **Warranties and Duty to Notify**

- 1.1 The Contractor warrants and represents to the Authority for the benefit of the Authority that as at the Effective Date the Financial Risk Indicator of each of the Contractor and Holdco satisfies the Financial Risk Requirement.
- 1.2 The Contractor shall monitor and report on the Financial Risk Indicator as set out in Schedule C (*Governance and Reporting*).

2. **Consequences of Financial Distress Events**

2.1 Immediately upon notification by the Contractor of a Financial Distress Event (or if the Authority becomes aware of a Financial Distress Event without notification and brings the event to the attention of the Contractor), the Contractor shall have the obligations and the Authority shall have the rights and remedies as set out in Paragraphs 2.3 to 2.5.

2.2 In the event of a late or non-payment of a Principal Subcontractor pursuant to Paragraph (B) of the definition of Financial Distress Event, the Authority shall not exercise any of its rights or remedies under Paragraph 2.3 without first giving the Contractor [REDACTED] to:

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- 2.2.1 rectify such late or non-payment; or
- 2.2.2 demonstrate to the Authority's reasonable satisfaction that there is a valid reason for late or non-payment.

2.3 The Contractor shall (and shall procure that Holdco shall):

2.3.1 at the request of the Authority, meet the Authority as soon as reasonably practicable (and in any event within [REDACTED] of the initial notification (or awareness) of the Financial Distress Event or such other period as the Authority may permit and notify to the Contractor in writing) to review, and make representations in respect of, the effect of the Financial Distress Event on the continued performance and delivery of the Services in accordance with this Contract; and

2.3.2 where the Authority reasonably believes (taking into account the discussions and any representations made under Paragraph 2.3.1 that the Financial Distress Event could impact on the continued performance and delivery of the Services in accordance with this Contract:

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2.3.2.1 submit to the Authority for its approval, a draft Financial Distress Remediation Plan as soon as reasonably practicable (and in any event, within [REDACTED] of the initial notification (or awareness) of the Financial Distress Event or such other period as the Authority may permit and notify to the Contractor in writing); and

2.3.2.2 to the extent that it is legally permitted to do so and subject to Paragraph 2.7, provide such information relating to the Contractor and/or Holdco as the Authority may reasonably require in order to understand the risk to the Services, which may include forecasts in relation to cash flow, orders and profits and details of financial measures being considered to mitigate the impact of the Financial Distress Event.

2.4 The Authority shall not withhold its approval of a draft Financial Distress Remediation Plan unreasonably. If the Authority does not approve the draft Financial Distress Remediation Plan, it shall inform the Contractor of its reasons and the Contractor shall take those reasons into account in the preparation of a further draft Financial Distress Remediation Plan, which shall be resubmitted to the Authority within [REDACTED] of the rejection of the first draft. This process shall be repeated until the Financial Distress Remediation Plan is either:

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2.4.1 approved by the Authority;

2.4.2 referred, by notice sent by either Party to the other Party explaining why it thinks the Financial Distress Remediation Plan has not been approved, to commercial negotiation led by senior representatives who have authority to agree the Financial Distress Remediation Plan to be held within [REDACTED] of the date of the notice; or

2.4.3 finally rejected by the Authority (which the Authority shall not be entitled to do until it has rejected a draft of the Financial Distress Remediation Plan at least 3 times, having acted in accordance with this paragraph 2.4).

2.5 Following approval of the Financial Distress Remediation Plan by the Authority, the Contractor shall:

2.5.1 on a regular basis (which shall not be less than [REDACTED] unless otherwise agreed):

2.5.1.1 review and make any updates to the Financial Distress Remediation Plan as the Contractor may deem reasonably necessary and/or as may be reasonably requested by the Authority, so that the plan remains adequate, up to date and ensures the continued performance and delivery of the Services in accordance with this Contract; and

2.5.1.2 provide a written report to the Authority setting out its progress against the Financial Distress Remediation Plan, the reasons for any changes made to the Financial Distress Remediation Plan by the Contractor and/or the reasons why the Contractor may have decided not to make any changes;

2.5.2 where updates are made to the Financial Distress Remediation Plan in accordance with Paragraph 2.5.1, submit an updated Financial Distress Remediation Plan to the Authority for its approval, and the provisions of Paragraphs 2.4 and 2.5.1 shall apply to the review and approval process for the updated Financial Distress Remediation Plan; and

2.5.3 comply with the Financial Distress Remediation Plan (including any updated Financial Distress Remediation Plan) and ensure that it achieves the financial and performance requirements set out in the Financial Distress Remediation Plan.

2.6 Where the Contractor reasonably believes that the relevant Financial Distress Event under Paragraph 2.1 (or the circumstance or matter which has caused or otherwise led to it) no longer exists, it shall notify the Authority and the Parties may agree that the Contractor shall be relieved of its obligations under Paragraph 2.5.

2.7 The Contractor shall use reasonable endeavours to put in place the necessary measures to ensure that the information specified at Paragraph 2.3.2.2 is available when required and

on request from the Authority and within reasonable timescales. Such measures may include:

- 2.7.1 obtaining in advance written authority from Holdco authorising the disclosure of the information to the Authority and/or entering into confidentiality agreements which permit disclosure;
- 2.7.2 agreeing in advance with the Authority, and/or Holdco a form of confidentiality agreement to be entered by the relevant parties to enable the disclosure of the information to the Authority;
- 2.7.3 putting in place any other reasonable arrangements to enable the information to be lawfully disclosed to the Authority; and
- 2.7.4 disclosing the information to the fullest extent that it is lawfully entitled to do so, including through the use of redaction, anonymisation and any other techniques to permit disclosure of the information without breaching a duty of confidentiality.

3. **Termination Rights**

3.1 Without prejudice to Clause 36.1.1 (*Termination for Convenience*), the Authority shall be entitled to terminate this Contract under Clause 37 (*Termination for material breach by the Contractor*) if:

- 3.1.1 the Contractor fails to notify the Authority of a Financial Distress Event in accordance with Paragraph 1;
- 3.1.2 the Contractor fails to comply with any part of Paragraph 2.3 and has not rectified such failure within [REDACTED] of being notified by the Authority of the same;
- 3.1.3 the Authority finally rejects a Financial Distress Remediation Plan (or any updated Financial Distress Remediation Plan) in accordance with Paragraph 2.4.3; and/or
- 3.1.4 the Contractor fails to comply with any material term of the Financial Distress Remediation Plan (or any updated Financial Distress Remediation Plan) in accordance with Paragraph 2.5.3.

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SCHEDULE E : PERFORMANCE AND PAYMENT

INTERIM STRATEGIC SEALIFT (SSL-I)

1. Definitions and Interpretation

1.1 Capitalised terms in this Schedule E (*Performance and Payment*) shall, unless otherwise expressly stated, have the same meaning as given to those terms in Clause 1.1 (*Definitions*) of the Contract.

2. Payment

2.1 Take or Pay Guarantee

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2.2 Commercial Use of Vessels within the Take or Pay Regime

2.2.1 If the Authority does not require the full or partial use of a Vessel for Authority Use for one or more of the Vessel Availability Days, the Authority may (in its sole discretion) enter into arrangements for Commercial Use of any such Vessels in respect of the full area, or partial area, of the applicable Vessel that is not in Authority Use. The Contractor shall, at the Authority's cost, use all reasonable endeavours to comply with any requests made by the Authority of the Contractor in respect of the Commercial Use of a Vessel (provided this shall not include the Contractor seeking out or appointing a third party to take up such Commercial Use). Any such requests shall be made by the Authority in accordance with Clause 63 (*Service of Notices*) of the Contract and the standard tasking procedure in accordance with Schedule J (*Tasking and Control*) of the Contract.

2.2.2 Notwithstanding that a Vessel is fully or partially in Commercial Use, the Authority shall continue to pay the Monthly Usage Payment in respect of such Full Service Vessel.

2.2.3 The terms of any sub-charter relating to a Vessel which is to be utilised by the Authority in Commercial Use (in particular, but not limited to, the identity of the sub-charterer or user of the Vessel, responsibility for fuel and port costs, and the terms of the sub-charter as they relate to crewing and the presence of the charterer and its employees, contractors and agents on board the Vessel) will, subject to the Contractor's approval (not to be unreasonably withheld or delayed) be agreed between the Authority and the applicable charterparty prior to any such sub-charter both being entered into by the Authority and the applicable sub-charterparty. The Contractor shall, at the Authority's cost, enter into such documentation that is reasonably required by the Authority and provide all such reasonable assistance that is required of it by the Authority for the purposes of any charter relating to a Vessel which is to be utilised by the Authority in Commercial Use.

2.2.4 The Authority shall provide the Contractor with copies of all invoices that the Authority produces for third parties that have used Vessels for Commercial Use (any such invoice being a "Commercial Use Invoice", provided always that, in

certain circumstances, similar such invoices may be issued directly from the Contractor to the relevant third party and such invoices will also be included within the definition of "Commercial Use Invoice"). The Contractor shall, within one (1) Working Day of being provided with a Commercial Use Invoice: (i) if the Commercial Use Invoice has been issued in a currency other than sterling, convert the Commercial Use Invoice into sterling at the Bank of England Rate; and (ii) issue the Commercial Use Invoice (first converted into sterling at the Bank of England Rate in accordance with the foregoing paragraph (i) if required) to the applicable third party under the Commercial Use Invoice and use its reasonable endeavours to procure that the applicable third party pays the Commercial Use Invoice within the time period stated therein. If the applicable third party does not pay the applicable Commercial Use Invoice within the time period stated therein, the Contractor shall follow the Authority's instructions in respect of the applicable third party paying the applicable Commercial Use Invoice in full.

2.2.5 Where the Contractor is required to issue the Commercial Use Invoice in accordance with paragraph 2.2.4 and SSCR, the Contractor shall be entitled to recover its costs (on a time and materials basis, including overhead and profit) incurred in performing any activity under paragraph 2.2.4 above.

3. Port Dues and Agents' Fees

- 3.1 The Authority shall be responsible for, and shall pay, all port costs, agents' fees and canal transit costs for the Vessels.
- 3.2 Failure by the Authority to pay any of the costs referred to in paragraph 3.1 (*Port Dues and Agents' Fees*) of this Schedule E (*Performance and Payment*) shall be a Relief Event and the Contractor shall be entitled to claim relief in accordance with Clause 12 (*Specified Events*) of the Contract. The Contractor shall not be entitled to claim any relief or damages in addition to that claimed under Clause 11.

4. Crewing

- 4.1 Subject to paragraph 4.2 (below) (*Crewing*), Crew travel and standby costs quoted by the Contractor in relation to the Vessels are based on the Crew being supplied at and repatriated to Marchwood or such other sea mounting centre within the United Kingdom as the Authority may nominate from time to time.
- 4.2 If, through no fault of the Contractor, the Crew supply or repatriation has to be carried out elsewhere, any increased costs reasonably incurred by the Contractor shall be for the Authority's account. The Contractor shall use its reasonable endeavours to minimise any such costs and shall provide the Authority with supporting information to evidence such costs as reasonably requested by the Authority.
- 4.3 The Authority may elect (at its own cost and in its sole discretion) to provide the Contractor with space on military aircraft or charter flights arranged by the DSCOM in order to supply or repatriate the Crew in circumstances contemplated in paragraph 4.2 (above) (*Crewing*). If the Authority elects to do so, the Contractor shall ensure that the Crew are repatriated in accordance with the Authority's arrangements and the Authority shall not be liable for any costs referred to under paragraph 4.2 (above) (*Crewing*).
- 4.4 When engaged on JRRF Exercise or when the Crew have been called out (in accordance with Schedule O (*Crewing and Sponsored Reserves*) as Sponsored Reservists), the crew serving onboard the Vessels will qualify for a salary uplift of [REDACTED]. Such sums shall be paid to the Sponsored Reservists by the Contractor and reimbursed by the Authority to the Contractor in accordance with Annex 1 of this Schedule.

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4.5 If an element of Service is required to enter a War Zone, the Contractor shall pay a War Zone Bonus to the Crew serving onboard the Vessel will qualify for a salary uplift of [REDACTED] [REDACTED] during the period that the Vessel remains in such War Zone. In the event that an element of Service in Authority Use is required to enter a War Zone, the Contractor shall be entitled to be reimbursed by the Authority in accordance with Annex 1 of this Schedule for payments of any War Zone Bonus made to the Crew of an element of Service in Authority Use of any War Zone Bonus. For the avoidance of doubt, any such War Zone Bonus paid by the Contractor to the Crew of a Vessel, which forms part of the element of Service in Authority Use, and reimbursed by the Authority shall replace any salary uplift payable in accordance with paragraph 4.4.

5. **Subsistence**

5.1 The Authority shall pay to the Contractor a daily provisions allowance calculated in accordance with the terms of Annex 3 (*Summary of Payment Terms*) to this Schedule E (*Performance and Payment*) for subsistence for each of the Authority Visitors and for Military Personnel carried on each Vessel forming part of the Service.

6. **Reimbursable Expenses**

6.1 The Authority shall pay to the Contractor all Reimbursable Expenses supported by reasonable supporting evidence.

7. **Aggregate Monthly Payment**

7.1 Each Contract Month, the "**Aggregate Monthly Payment**" shall be calculated by aggregating the Monthly Usage Payment in that Contract Month and all other amounts payable (including reimbursable) by the Authority to the Contractor under paragraphs 2 (*Payment*) to 6 (*Reimbursable Expenses*) (inclusive) of this Schedule E (*Performance and Payment*) or under Clause 12.1.4 in respect of Compensation Events.

7.2 Each Aggregate Monthly Payment shall be paid by the Authority to the Contractor in accordance with Clauses 25 (*Payments*), 26 (*Indexation*) and 27 (*Payment and Recovery of Sums Due*) of the Contract.

8. **Incidents Attracting KPI Credits**

8.1 The Authority is entitled to accrue Availability KPI Credits in accordance with the provisions of this Schedule E (*Performance and Payment*) if the Contractor does not meet the Availability Key Performance Indicator at three hundred and fifty-five (355) days per vessel, per year (pro-rated for each Contract Quarter). The Contractor shall be deemed not to have met the Availability Key Performance Indicator on any day during the Contract Term if, on that day, any of the events specified in paragraphs 8.2 to 8.5 (inclusive) below occur (any such instances of failure being a "**Service Failure**").

8.2 For the purposes of KPI 1 a Category A1 or A2 Opdef, arises as a result of:

8.2.1 failure to carry out a Task in accordance with a Task Entry;

8.2.2 the Contractor not meeting any one or more of the Key User Requirements under Schedule A (*Statement of Requirements*), such that the Service cannot be carried out

8.2.3 the Contractor not commencing a Task within 72 hours from the time and/or date stipulated in the applicable Task Entry;

8.2.4 the Contractor not completing a Task by the time and/or date stipulated in the applicable Task Entry; or

8.2.5 the Contractor failing to maintain any Required Consents (including in relation to requirements 35 and 36 of Schedule A (*Statement of Requirement*) of the Contract;

8.3 For the purposes of KPI 2, the Authority is entitled to accrue Environmental KPI Credits in accordance with the provisions of this Schedule E (*Performance and Payment*) based on the Contractor's compliance or otherwise with the following Environmental Conditions:

Environmental Condition	Requirement/Amplification/Impact
Environmental Condition 1	The Contractor shall propose, and take steps within its control as set out in the EMP to achieve, a reduction in carbon emissions over the Contract Term. The measures for achieving this will be defined within the Environmental Management Plan.
Environmental Condition 2	The Contractor shall deliver the Modification Programme as required by Clause 29.3.
Environmental Condition 3	<div style="background-color: black; width: 100%; height: 1em; margin-bottom: 2px;"></div> <div style="background-color: black; width: 100%; height: 1em; margin-bottom: 2px;"></div> <div style="background-color: black; width: 100%; height: 1em;"></div>
Environmental Condition 4	<p>The Contractor shall provide certification and management plans to cover MARPOL Annex I and IV-VI as following, within [REDACTED] of the Effective Date and then [REDACTED] or as required by Law, each to be acceptable to the Authority (acting reasonably):</p> <ul style="list-style-type: none"> (a) Annex I: International Oil Pollution Prevention Certificate and Ship Oil Pollution Emergency Plan; (b) Annex IV: International Sewage Pollution Prevention Certificate, Sewage record and test book; (c) Annex V: Garbage Management Plan (GMP), Garbage Record Book (GRB); These shall include plans for: <ul style="list-style-type: none"> (i) Reduction in use of paper; (ii) Promotion of Eco-friendly activities; (iii) Packaging reduction (e.g plastics); and (iv) Disposal or treatment of hazardous materials; and (d) Annex VI: Sulphur record book, Engine International Air Pollution Prevention Certificate, Ship Energy Efficiency Management Plan (SEEMP) Part I, II & III.
Environmental Condition 5	The Contractor shall provide an International ballast water management certificate and a Ballast water record book within [REDACTED] of the Effective

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	Date and then [REDACTED] or as required by Law, with each such document being acceptable to the Authority (acting reasonably).
Environmental Condition 6	The Contractor shall provide an International anti-fouling system certificate within [REDACTED] of the Effective Date and then [REDACTED] or as required by Law, with each such certificate being acceptable to the Authority (acting reasonably).
Environmental Condition 7	The Contractor shall provide an underwater noise management plan within [REDACTED] of the Effective Date and then [REDACTED] or more frequently if required by Law, with each such plan being acceptable to the Authority (acting reasonably) and the Contractor to take steps within its control as set out in the plan to achieve the reductions specified therein.
Environmental Condition 8	The Contractor shall achieve zero MARPOL related violations for the duration of each Quarterly Reporting Period.
Environmental Condition 9	The Contractor shall provide to the Authority the CII data annually.
Environmental Condition 10	The Contractor shall provide the Authority with their Carbon Reduction Plan and publish the Carbon Reduction Plan on their website annually.

8.4 For the purposes of KPI 3 any Category B Opdef arises as a result of:

- 8.4.1 the Contractor fails to carry out, or is delayed in carrying out, any maintenance or dry docking that it is required to under and in accordance with the Contract;
- 8.4.2 any Vessel does not meet any one or more of the Key User Requirements;
- 8.4.3 the Contractor fails to comply with any of its obligations under Schedule O (*Crewing and Sponsored Reserves*) of the Contract; or

8.5 For the purposes of KPI 4:

- 8.5.1 the Contractor fails to comply with any of its obligations under Schedule C (*Governance & Reporting*) of the Contract.

8.6 For the avoidance of doubt:

[REDACTED] Redacted under FOIA Section 43, Commercial Interest
 [REDACTED]
 [REDACTED]
 [REDACTED]

9. **Performance Incentive Adjustment**

9.1 The Contractor will be entitled to an Annual Performance Incentive Adjustment (APIA) in accordance with this paragraph 9, calculated by the accrual of the Performance Incentive Adjustment in each Year in accordance with paragraph 9.4 and the accrual of KPI Credits each Year in accordance with paragraph 9 ("Annual Performance Incentive Adjustment").

- 9.2 The purpose of the APIA is to encourage the Contractor to provide service levels in excess of the Authority's contracted expectations, while providing a system of KPI Credits for the Authority to restrict the level of APIA when the service levels achieved by the Contractor fall below contracted expectations. The limits of the APIA (and thus the PIA and KPI Credits) are as set out in Regulation 11(6) of the SSCR and accompanying guidance.
- 9.3 The calculation of the APIA, PIA and KPI Credits shall be based on the KPI report submitted in advance of each Quarterly Contract Review Meeting for agreement between the Authority and Contractor, as set out in Schedule C (*Governance and Reporting*).

Contractor accrual of Performance Incentive Adjustment

- 9.4 The Contractor is encouraged to provide service levels in excess of the Authority's expectations by:

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- 9.4.1 achieving an Availability (KPI 1) of [REDACTED] or higher on the quarterly KPI 1 report (ie [REDACTED] higher than Good); and
- 9.4.2 achieving Good in KPI 2 in the same quarterly period.

- 9.5 For each quarter that the Contractor achieves such expectations or achieves in excess of such expectations, the Contractor shall be entitled to accrue a Performance Incentive Adjustment of [REDACTED] per quarter in a Year ("PIA"), accruing up to a maximum PIA per Year of [REDACTED] for the relevant Year.

Authority accrual of KPI Credits

- 9.6 The Authority is entitled to accrue KPI Credits each quarter in a Year in accordance with the table below in respect of the performance band the Contractor achieved in respect of all KPIs, up to a maximum of [REDACTED] for the Year:

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Annual reconciliation and calculation of APIA

- 9.7 Within one month of the QCRM following each Year, the Contractor will present to the Authority a fully reconciled and justified account of the APIA for the previous Year (an "APIA Statement"). The APIA Statement shall contain:
- 9.7.1 The aggregate sum of the agreed quarterly PIAs for the Year (being the total percentage for that Year), calculated pursuant to paragraph 9.5.

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- 9.7.2 The aggregate sum of the agreed quarterly KPI Credits for the Year (being the total percentage for that Year), calculated pursuant to paragraph 9.6.
- 9.7.3 The APIA percentage for the Year, consisting of the total PIA in sub-paragraph 9.7.1 above minus the total KPI Credits in sub-paragraph 9.7.2 above (which percentage may not be more than [REDACTED] or less than [REDACTED]).
- 9.7.4 The total Allowable Costs for the relevant Year (comprising the total of the Allowable Costs included in Quarterly Contract Reports or similar reports for the Year), consistent with SSCR statutory reporting in accordance with Schedule C (*Governance and Reporting*).
- 9.7.5 The APIA amount being the sum of the APIA percentage for the Year (calculated pursuant to sub-paragraph 9.7.3), multiplied by the total Allowable Costs for the same Year (calculated pursuant to sub-paragraph 9.7.4).
- 9.8 The first annual reconciliation and calculation of APIA will cover the period commencing on the Effective Date and ending on the last day of the same Year, and each subsequent annual recollection and calculation of APIA will cover each Year thereafter. There shall be no partial or quarterly reconciliation other than in the case of termination of this Contract for any reason.
- 9.9 If the Contract is terminated for any reason, a reconciliation of the APIA (and the APIA Statement) shall only include the completed Quarters of the Year in which the Contract is terminated and shall apply to the Allowable Costs for the Year until the Termination Date. The Contractor may request a delay in the submission of the reconciliation to ensure all costs up to the Termination Date are included. Such request shall not be unreasonably denied by the Authority.
- 9.10 The Authority shall notify the Contractor within [REDACTED] of receipt of the relevant APIA Statement whether the APIA Statement is approved by the Authority. If the Authority fails to notify the Contractor within such [REDACTED], the Authority shall be deemed to accept such APIA Statement. If the Authority notifies the Contractor within such [REDACTED] that the relevant APIA Statement is not approved, the Parties agree to engage in discussions in order to resolve any disputed matters. If, following such discussions, the Authority notifies the Contractor that the relevant APIA Statement is not approved, the Parties agree to submit the disputed matters to dispute resolution pursuant to Clause 72 (*Dispute Resolution*) of the Contract.
- 9.11 Following approval or deemed approval of the APIA Statement, the Contractor shall submit an invoice under this Schedule E for the APIA. For the avoidance of doubt the invoice for the APIA shall not contain an additional Contract Profit Rate element.

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10. **Defect Mitigation**

- 10.1 Where Vessels are in Authority Use, the Contractor may (at 'its' cost and, for the avoidance of doubt, the Authority shall not be responsible for any such costs) at all times be entitled to attempt to mitigate the effects of any Service Failure.
- 10.2 Where the Contractor does so mitigate the effects of any Service Failure, the accrual of Availability KPI Credits shall be adjusted from the time at which the mitigation of the Service Failure takes effect. Such adjustment shall result in: (i) the output to which the Service Failure relates as set out in paragraph 9 (*Amount of Availability KPI Credits*) of this Schedule E (*Performance and Payment*) or (ii) the Service Failure and the associated Availability KPI Credits ceasing to continue from the date of successful mitigation.

11. **KPI Credit Relief**

- 11.1 Subject to paragraphs 11.2 (*KPI Credit Relief*) and 11.3 (*KPI Credit Relief*) below and without prejudice to paragraph 11.4, the Authority shall not be entitled to accrue Availability KPI Credits under paragraph 9 (*Performance Incentive Adjustment*), if: (i) in the case of Availability Credits, the Service Failure to which such Availability KPI Credits relates; or (ii) in the case of Environmental KPI Credits, failure by the Contractor to meet the Environmental Condition to which such Environmental KPI Credits relates (any such failure being an "Environmental Failure") was caused by any act or omission of the Authority in breach of its obligations under the Contract.
- 11.2 If a Service Failure or Environmental Failure is triggered by any act or omission of the Authority in breach of its obligations under the Contract, but the Authority remedies the applicable act or omission and the applicable Service Failure or Environmental Failure continues due to any act or omission of the Contractor which has led to the Contractor not meeting the applicable Availability Key Performance Indicator or Environmental Condition, then: (i) the Service Failure and the associated Availability KPI Credits, or (ii) the Environmental Failure and the associated Environmental KPI Credits (as applicable, shall accrue from the date of such act or omission of the Contractor.
- 11.3 If a Service Failure or the Environmental Failure is triggered by the Contractor in breach of its obligations under this Contract but, due to any act or omission of the Authority in breach of its obligations under the Contract the output to which such Service Failure relates as set out in paragraph 9 (*Performance Incentive Adjustment*), worsens such that the associated KPI Credits would otherwise increase, there shall be no change in the amount of associated KPI Credits which accrue from the associated KPI Credits which have accrued following the initial Service Failure or Environmental Failure (as applicable) for so long as the foregoing worsening is attributable to any act or omission of the Authority in breach of its obligations under the Contract and not any act or omission of the Contractor which has led to the Contractor not meeting the Availability Key Performance Indicator or the Environmental Key Performance Indicator (as applicable).
- 11.4 If and to the extent that a Specified Event is the cause of a Service Failure or an Environmental Failure, then in accordance with the provisions of Clause 12 (*Specified Events*) of the Contract, the Contractor is entitled to relief from the Authority's right to accrue Availability KPI Credits or Environmental KPI Credits (as applicable) for that period of delay caused by the Relief Event in accordance with Clause 12 (*Specified Events*) of the Contract.
- 11.5 To obtain relief under paragraph 11 (above) (*KPI Credit Relief*), the Contractor must demonstrate and evidence compliance with the provisions of Clause 12 (*Specified Events*) of the Contract.
- 11.6 Notwithstanding anything to the contrary in this Schedule E (*Performance and Payment*), if in any Year during the Contract Term [REDACTED], and strictly only if the KPI Credit Grace Period for that Year has not yet expired, then the Authority shall not be entitled to accrue Availability KPI Credits in respect of the Vessel [REDACTED], until the date that falls one day after the expiry of the KPI Credit Grace Period in that Year whereupon the Authority shall be entitled to accrue Availability KPI Credits in accordance with this Schedule E (*Performance and Payment*). Upon the expiry of the KPI Credit Grace Period in any year during the Contract Term, this paragraph 11.6 shall: (i) cease to apply; and (ii) cease to be of any effect, in each case until the following year.

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ANNEX 1 : PAYMENTS

1. Daily Rate per Vessel

- 1.1 From the Effective Date, the Daily Rate per Vessel in Authority Use shall be in accordance with the Contractor Databook.
- 1.2 The Daily Rate per Vessel from the Effective Date shall be subject to Annex 4 (*Indexation*).

2. Take or Pay Guarantee

Period	Days per Annum at the Daily Rate
Effective Date up to and including the date falling on the end of the Contract Term.	355

- 2.1 The monthly Take or Pay amount shall be calculated for each Vessel as follows:

$$\text{Daily Rate per Vessel in Authority Use} \times \text{Days per Year (355)} / \text{Months in Year (12)}$$

= Monthly Usage Payment per Vessel.

3. Subsistence

Any subsistence payments made by the Authority to the Contractor under this Schedule E (*Performance and Payment*) shall be

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* Subject to indexation as per Annex 4 of this Schedule

4. Indexation

All sums and amounts under the Contract shall be indexed in accordance with Annex 4 (*Indexation*).

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ANNEX 3 : SUMMARY OF PAYMENT TERMS

1. **General**

The procedure for payments by the Authority to the Contractor for the Service shall be governed by Clause 27 (*Payment and Recovery of Sums Due*) of the Contract.

2. **Monthly Payments**

The procedure for payments by the Authority to the Contractor for the Monthly Usage Payments shall be governed by Clauses 25 (*Payments*), 26 (*Indexation*) and 27 (*Payment and Recovery of Sums Due*) of the Contract.

3. **Variations to be Paid in Arrears**

The variations shown in the table below shall be determined in accordance with the relevant provision of this Annex 3 and included on the Invoice in the Contract Month following the month in which the cost behind such variation was incurred by the Contractor. The procedure for payments by the Authority to the Contractor for such Invoices shall be governed by Clauses 25 (*Payments*), 26 (*Indexation*) and 27 (*Payment and Recovery of Sums Due*) of the Contract.

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ANNEX 5 : MODIFICATION MILESTONE PAYMENT PLAN

Payment	Interim Payment Value (£K)	Cumulative Interim Payment (£K)	Cumulative Value of Delivery (£K)	Cumulative o/s Interim Payment (£K)	Net Payment (£K)
Total					

SCHEDULE F : ISSUED PROPERTY

INTERIM STRATEGIC SEALIFT (SSL-I)

1. **General**

- 1.1 The Authority shall provide, free of charge, to the Contractor the GFA specified in Part 1 of this Schedule F (*Issued Property*), including the Issued Property required for the Contractor to meet its obligations in Schedule A (*Statement of Requirement*).
- 1.2 If the Authority intends to add, amend or update any GFA supplied under this Contract, such addition, amendment or update shall be dealt with as a Change in accordance with the Change Control procedure.
- 1.3 If GFA is not delivered by the GFA Delivery Date to enable a specific Tasking, the Contractor shall be entitled to a Relief Event, subject to complying with Clause 12 (*Specified Events*).
- 1.4 If the Authority is aware that it will not be able to provide GFA by the GFA Delivery Date, the Authority may notify the Contractor a reasonable period of time in advance of the GFA Delivery Date. Without prejudice to paragraph 1.3 above, within 10 (ten) Working Days of receipt of such a notice, the Parties shall meet and in good faith seek to agree measures to mitigate the impact of such late or non-delivery of GFA (the costs of such measures to the Contractor to be Allowable Costs).
- 1.5 All GFA, including the Issued Property, shall remain the property of the Authority. It shall be used in the execution of the Contract and for no other purpose, without the prior approval in writing of the Authority.
- 1.6 Neither the Contractor, nor any subcontractor, nor any other person, shall have a lien on Issued Property, for any sum due to the Contractor, subcontractor or other person, and the Contractor shall take all such steps as may be necessary to ensure that the title of the Authority, and the exclusion of any such lien, are brought to the notice of all subcontractors and other persons dealing with any Issued Property.

2. **Receipt**

- 2.1 Subject to paragraphs 2.2 and 3.1 (*Custody*) of this Schedule F (*Issued Property*), within fourteen (14) days of receipt of Issued Property, the Contractor shall:
 - 2.1.1 check the Issued Property to verify that the part number or description corresponds with the Issued Property specified in the table at Part 1 of this Schedule F (*Issued Property*); and
 - 2.1.2 conduct a reasonable visual inspection;

and notify the Authority of any defects, deficiencies or discrepancies discovered.
- 2.2 Where Issued Property is packaged it shall not be unpacked earlier than is necessary. The period identified at paragraph 2.1 (*Receipt*) of this Schedule F (*Issued Property*), above shall count from the date on which packages are opened.
- 2.3 The Authority shall within a reasonable time after receipt of any notice under paragraph 2.1 (*Receipt*) of this Schedule replace, re-issue or authorise repair of Issued Property agreed to be defective or deficient, the Contractor shall be entitled to a Relief Event, subject to complying with the provisions of Clause 12 (*Specified Events*) and, if appropriate, the Authority shall revise the Contract Price, delivery schedule or both. If appropriate, it shall also issue written instructions for the return or disposal of the defective or deficient Issued Property.

- 2.4 In the event that the Authority fails to provide, replace, or authorise repair of defective or deficient Issued Property within a reasonable time of receipt of a notice in accordance with paragraph 2.1 (*Receipt*), a Relief Event shall be deemed to have occurred and fair and reasonable revisions of the Contract Price, delivery schedule or both shall be made as may be appropriate provided that the Contractor has taken all reasonable measures to mitigate the consequences of any such delay.
- 2.5 Paragraphs 2.1 to 2.3 (*Receipt*) of this Schedule F (*Issued Property*), do not apply in the following circumstances:
- 2.5.1 where Issued Property is issued for the purpose of repair, overhaul, conversion or other work to be performed on the Issued Property, in which case inspection of such property shall be as specified in paragraph 2.1.1 of Schedule F (*Issued Property*);
- 2.5.2 where the Contractor can show that the Issued Property cannot be fully tested until it has been integrated with other items, in which case inspection of such property shall be as specified in paragraph 2.1.1 of this Schedule F only

3. **Custody**

- 3.1 Subject to paragraph 3.3 of this Schedule F (*Issued Property*), and any limitation or exclusion of liability as may be specified in the Contract in Clause 45 (*Indemnity and Limits of Liability*), the Contractor shall be responsible for the safe custody and due return of Issued Property, and shall be responsible for all loss or damage thereto, until re-delivered in accordance with the Authority's instructions or until the expiry of the period specified in paragraph 5.4 (*Accounting For Property of the Authority (DEFCON 694)*) of this Schedule F (*Issued Property*).
- 3.2 If requested, the Authority, within a reasonable time, and where practicable before delivery of the Issued Property, shall notify the Contractor of the value of the Issued Property.
- 3.3 The Contractor shall not be liable in respect of:
- 3.3.1 defects or deficiencies notified to the Authority in accordance with paragraph 2.1 (*Receipt*) of this Schedule F (*Issued Property*), or latent defects which the Contractor can show could not reasonably have been discovered by means of the activities described at paragraph 2.1 (*Receipt*) of this Schedule F (*Issued Property*);
- 3.3.2 fair wear and tear in Issued Property resulting from its normal and proper use in the execution of the Contract (except insofar as the deterioration is contributed to by any misuse, lack of care or want of maintenance by the Contractor);
- 3.3.3 Issued Property rendered unserviceable as a direct result of ordinary performance of the Contract;
- 3.3.4 any damage occurring while a Vessel is under the direct control of the Authority;
- 3.3.5 any loss or damage to Issued Property arising from:
- 3.3.5.1 aircraft or other aerial devices or objects dropped from them, including pressure waves caused by aircraft or such devices whether travelling at sonic or supersonic speeds;

- 3.3.5.2 ionising radiation or contamination by radioactivity from any nuclear fuel or from nuclear waste from the combustion of nuclear fuel;
 - 3.3.5.3 the radioactive, toxic, explosive or other hazardous properties of any nuclear assembly or nuclear component thereof;
 - 3.3.5.4 riot, civil commotion, civil war, rebellion, revolution, insurrection, military or usurped power or acts of the King's enemies; and
 - 3.3.5.5 any other Specified Events
4. At the end of the Contract Term the Contractor shall forward a list of Issued Property still held to the Authority's Commercial Officer named at Schedule H (*Contact Persons*). Return or disposal of such Issued Property will be as instructed by the Authority (acting reasonably) at the end of the Contract Term. If no disposal instructions are specified in the Contract the Authority shall provide such instructions within two months of the Contractor's written request to do so.
5. **Accounting For Property of the Authority (DEFCON 694)**
- 5.1 The Contractor shall:
- 5.1.1 maintain a Public Store Account (PSA), as defined in DEFSTAN 05-099, which shall include a complete list of all Issued Property, and record for that property all transactions or other accounting information specified in Annex 1, Part 2 of this Schedule F (*Issued Property*);
 - 5.1.2 supply to the Authority quarterly reports on the current PSA holdings. At least one report in any twelve-month accounting period or part thereof shall be a reconciled report. This shall be submitted with the Annual Certificate Form AAC 32 as required in DEFSTAN 05-099. The other three reports submitted in the period may be un-reconciled advisory reports. The submission by the Contractor and receipt by the Authority of these reports shall not prejudice any rights or obligations of the Authority or the Contractor under the Contract;
 - 5.1.3 ensure that the PSA is available for inspection by the Authority at any reasonable time;
 - 5.1.4 on being given two months' notice permit, and co-operate with, the Authority to conduct audits of the PSA in a manner to be determined by the Authority; where the Authority has reasonable grounds to doubt the integrity of the PSA to the extent that the Authority is not satisfied of the proper use of property of the Authority, an audit may be conducted without notice;
 - 5.1.5 retain the PSA for a period of three years after disposal of the last item of the property of the Authority, or for any other period as may be specified in the Contract;
 - 5.1.6 if the Authority agrees that a subcontractor at whatever level of subcontracting shall have responsibility in the subcontractor's PSA for property of the Authority issued in aid of the Contract, the Contractor shall include in any subcontract with those subcontractors only the provisions corresponding to those set out in this Schedule that apply to property of the Authority issued in aid of the subcontract, in particular paragraphs 5.1, 5.2, 5.4 and 5.5 (*Accounting For Property of the Authority (DEFCON 694)*) of this Schedule F (*Issued Property*); and

- 5.1.7 manage the Government Furnished Assets (GFA) component of the PSA in accordance with the provisions of DEFSTAN 05-099; and implement any new edition of or amendment to DEFSTAN 05-099 subject to Clause 29.2 (*Formal Amendments to the Contract*) of the Contract within three months of the publication date of the new edition. These amendments shall not have retrospective effect.
- 5.2 For the purposes of this Schedule 'property of the Authority' means GFA and fixed assets, including property issued and property of the Authority issued to the Contractor under any other authorising document.
- 5.3 For the avoidance of doubt, it is a condition of this Contract that this Schedule shall apply to all property issued to the Contractor from the Effective Date. Property of the Authority issued prior to the Effective Date may be subject to separate contractual arrangements.
- 5.4 The obligations of the Contractor arising under this Schedule in respect of property of the Authority issued in aid of the Contract shall survive completion of the Contract and shall not be completed until all such obligations are fulfilled including the provisions of paragraph 5.1.5 (*Accounting For Property of the Authority (DEFCON 694)*) of this Schedule F (*Issued Property*).
- 5.5 The obligations of the Contractor arising, under this Schedule F (*Issued Property*), in respect of property of the Authority unconnected with the Contract, shall survive completion of the Contract and shall not be completed until all those obligations are fulfilled. Including the provisions of paragraph 5.1.5 (*Accounting For Property of the Authority (DEFCON 694)*) of this Schedule F (*Issued Property*), unless and until a subsequent contract containing the provisions in paragraphs 5.1 to 5.7 (*Accounting For Property of the Authority (DEFCON 694)*) of this Schedule F (*Issued Property*) is placed with the Contractor, at which time obligations, in respect of any remaining property of the Authority, unconnected with the Contract, shall be subsumed in the subsequent contract.
- 5.6 If, after completion of the Contract, no subsequent contract is placed containing the provisions in paragraphs 5.1 to 5.7 (*Accounting For Property of the Authority (DEFCON 694)*) of this Schedule F (*Issued Property*) within the period detailed at in paragraph 5.1.5 (*Accounting For Property of the Authority (DEFCON 694)*) of this Schedule F (*Issued Property*), then the obligations of the Contractor arising under this Schedule F (*Issued Property*) in respect of property of the Authority unconnected with the Contract shall cease on expiry of the period detailed at paragraph 5.1.5 (*Accounting For Property of the Authority (DEFCON 694)*) of this Schedule.
- 5.7 The Authority reserves the right to amend the PSA without further consultation where the amendments arise from the Authority's proper and reasonable accounting requirements and to the extent they do not significantly alter the specification of GFA. For the purposes of this paragraph 5.7 (*Accounting For Property of the Authority (DEFCON 694)*), Annex 1 of this Schedule F (*Issued Property*) shall be regarded as a Specification and subject to the terms of Clause 29.2 (*Formal Amendments to the Contract*) of the Contract. If the Authority exercises this right:
- 5.7.1 the Contractor shall implement the amendment to Annex 1 of this Schedule F (*Issued Property*) at the commencement of the Authority's next accounting year provided that a notice of six months or such other period as may expressly be agreed between the Authority and Contractor is given to the Contractor. These amendments shall not have retrospective effect; and

- 5.7.2 the Contractor shall inform the Authority as soon as practicable, but in any event within three months of notice having been given, if the Contractor cannot comply with the amendment to the PSA.

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PART 2 : ACCOUNTING FOR PROPERTY OF THE AUTHORITY – DATA & FORMAT REQUIREMENTS FOR PSA RECORDS

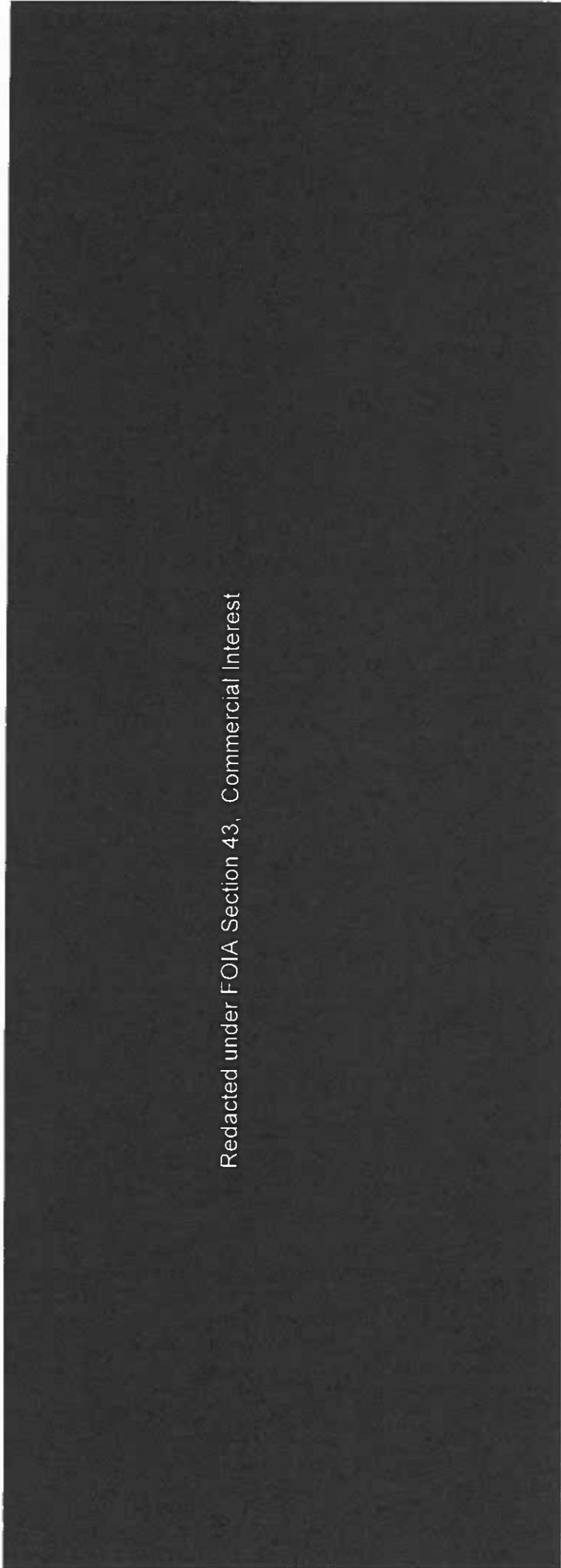
1. Format

1.1 The Contractor is not obliged to maintain and report on their PSA records in a format that is different from their original records. Electronic formats are the preferred format for reporting under paragraph 5.1.2 of this Schedule. If electronic formats are used for reporting, the following formats are acceptable:

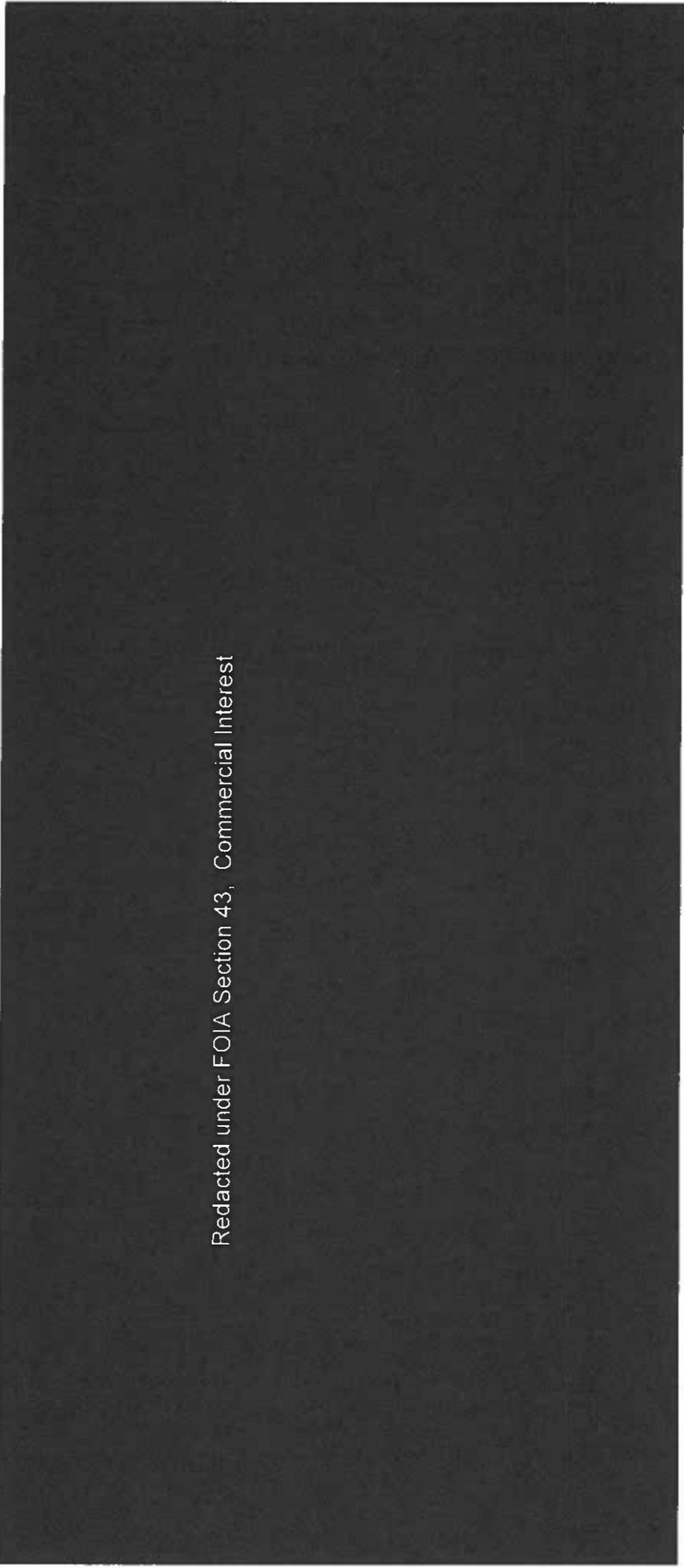
1.1.1 Single MS Access Table

1.1.2 Unformatted MS Excel Spreadsheet

1.2 Other electronic formats may be suitable, subject to agreement with DBS Finance ADMT - see Box 8 of DEFFORM 111 for points of contact. Reports required under paragraph 5.1.2 of this Schedule are to be submitted to DBS Finance ADMT - see Box 8 of DEFFORM 111.



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**SCHEDULE G :
CONTRACTOR'S PERSONNEL AT GOVERNMENT ESTABLISHMENTS**

INTERIM STRATEGIC SEALIFT (SSL-I)

1. **General**

1.1 The following general provisions apply:

- 1.1.1 The Officer in Charge shall provide such available administrative and technical facilities for the Contractor's Representatives employed at Government Establishments for the purpose of the Contract as may be necessary for the effective and economical discharge of work under the Contract. These facilities will be provided free of charge unless otherwise stated in the Contract. The status to be accorded to the Contractor's Representatives for messing purposes will be at the discretion of the Officer in Charge.
- 1.1.2 Any land or premises (including temporary buildings) made available to the Contractor by the Authority in connection with the Contract shall be made available to the Contractor free of charge, unless otherwise stated in the Contract, and shall be used by the Contractor solely for the purposes of performing the Contract. The Contractor shall have the use of such land or premises as licensee and shall vacate the same upon completion of the Contract. Any utilities required by the Contractor shall be subject to the charges set out in the Contract.
- 1.1.3 The Contractor shall have no claim against the Authority for any additional cost or delay occasioned by the closure for holidays of Government Establishments, where this is made known to them prior to entering into the Contract.
- 1.1.4 Capitalised terms in this Schedule G (*Contractor's Personnel at Government Establishments*) shall, unless otherwise expressly stated, have the same meaning as given to those terms in Clause 1.1 (*Definitions*) of the Contract.

2. **Liability In Respect Of Damage To Government Property**

- 2.1 Without prejudice to the provisions of Schedule F (*Issued Property*) where those clauses form part of the Contract, the Contractor shall, except as otherwise provided for in the Contract, make good or, at the option of the Authority, pay compensation for all direct losses or damage occurring to any Government Property, which includes land or buildings, caused or contributed to by the neglect or default of the Contractor, or by any of their Representatives, arising from the Contractor's or their Representatives' presence on a Government Establishment in connection with the Contract, provided that this paragraph 2.1 (*Liability In Respect Of Damage To Government Property*) shall not apply to the extent that the Contractor is able to show that any such direct loss or damage was not caused or contributed to by any circumstances within the Contractor's or their Representatives' reasonable control.
- 2.2 The total liability of the Contractor under paragraph 2.1 (*Liability In Respect Of Damage To Government Property*) herein shall be subject to Clause 45.12.1

3. **Contractor's Property**

- 3.1 All property of the Contractor and their Representatives shall be at the risk of the Contractor whilst it is on any Government Establishment, and the Authority shall accept no liability for any loss or damage howsoever occurring thereto or caused thereby, except as follows:
- 3.1.1 where any such loss or damage was caused or contributed to by any act, neglect or default of any Government Servant, agent or contractor then the Authority shall accept liability therefor to the extent to which such loss or damage is so caused or contributed to as aforesaid; and

- 3.1.2 where any property of the Contractor has been taken on charge by the Officer in Charge, and a proper receipt has been given therefor, or any property (including any Vessel) otherwise comes under Authority control in accordance with the terms set out in this Contract, then the Authority shall be liable for any loss or damage occurring to that property while held on such charge or within Authority control as aforesaid.

4. Contractor's Representatives

- 4.1 The Contractor shall submit in writing to the Authority for approval, initially and as necessary from time to time, a list of their Representatives who may need to enter a Government Establishment for the purpose of, or in connection with, work under the Contract, giving such particulars as the Authority may require, including full details of birthplace and parentage of any such Representative who:
- 4.1.1 was not born in the United Kingdom; or
- 4.1.2 if they were born in the United Kingdom, were born of parents either or both of whom were not born in the United Kingdom.
- 4.2 The Authority shall issue passes for those Representatives who are approved by it in accordance with paragraph 4.1 (*Contractor's Representatives*) herein for admission to a Government Establishment and a Representative shall not be admitted unless in possession of such a pass. Passes shall remain the property of the Authority and shall be surrendered on demand or on completion of the work.
- 4.3 Notwithstanding the provisions of paragraphs 4.1 and 4.2 (*Contractor's Representatives*) herein if, in the opinion of the Authority, any Representative of the Contractor shall misconduct themselves, or it shall not be in the public interest for any person to be employed or engaged by the Contractor, the Contractor shall remove such person without delay on being required to do so and shall cause the work to be performed by such other person as may be necessary.
- 4.4 The decision of the Authority upon any matter arising under paragraph 4.1 to 4.3 (inclusive) (*Contractor's Representatives*) herein shall be final and conclusive.

5. Observance Of Regulations

- 5.1 The following provisions apply:
- 5.1.1 The Contractor shall ensure that their Representatives have the necessary probity (by undertaking the Government Baseline Personnel Security Standard) and, where applicable, are cleared to the appropriate level of security when employed within the boundaries of a Government Establishment.
- 5.1.2 Where the Contractor requires information on the Government Baseline Personnel Security Standard (the "Standard") or security clearance for their Representatives or is not in possession of the relevant rules, regulations or requires guidance on them, they shall apply in the first instance to the Project Manager/Equipment Support Manager.
- 5.1.3 On request, the Contractor shall be able to demonstrate to the Authority that the Contractor's processes to assure compliance with the standard have been carried out satisfactorily. Where that assurance is not already in place, the Contractor shall permit the Authority to inspect the processes being applied by the Contractor to comply with the Standard.

5.1.4 The Contractor shall comply and shall ensure that their Representatives comply with the rules, regulations and requirements that are in force whilst at that Establishment which shall be provided by the Authority on request.

5.1.5 When on board ship, compliance with the rules, regulations, and requirements shall be in accordance with the Ship's Regulations as interpreted by the Officer in Charge. Details of those rules, regulations and requirements shall be provided on request by the Officer in Charge.

6. Transport Overseas

Where the Contractor's Representatives are required by the Contract to join or visit a Government Establishment overseas, transport between the United Kingdom and the place of duty (but excluding transport within the United Kingdom) shall be provided free of charge by the Authority whenever possible, normally by Royal Air Force or by MOD chartered aircraft. The Contractor shall make such arrangements through the Project Manager/Equipment Support Manager named for this purpose in the Contract. When such transport is not available within a reasonable time, or in circumstances where the Contractor wishes their Representatives to accompany materiel for installation which they are to arrange to be delivered, the Contractor shall make their own transport arrangements. The Authority shall reimburse the Contractor's costs for such transport of their Representatives on presentation of evidence supporting the use of alternative transport and of the costs involved. Transport of the Contractor's Representatives locally overseas which is necessary for the purposes of the Contract shall be provided wherever possible by the Authority and, where so provided, will be free of charge.

7. Medical Treatment Overseas

Out-patient medical treatment given to the Contractor's Representatives by a Service Medical Officer or other Government Medical Officer at a Government Establishment overseas shall be free of charge. Treatment in a Service hospital or medical centre, dental treatment, the provision of dentures or spectacles, conveyance to and from a hospital, medical centre or surgery not within the Establishment, and transportation of the Contractor's Representatives back to the United Kingdom, or elsewhere, for medical reasons, shall be charged to the Contractor at the appropriate local rate.

8. Injuries, Disease And Dangerous Occurrences

The Contractor shall report any injury, disease or dangerous occurrence at any Government Establishment arising out of the performance of this Contract, which is required to be reported under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR) to the Officer in Charge of the relevant Government Establishment. This would be in addition to any report, which the Contractor may be required to submit under RIDDOR to the relevant enforcing authority (e.g. Health and Safety Executive or Local Authority).

9. Dependants Of Contractor's Representatives

No assistance from public funds, and no messing facilities, accommodation or transport overseas shall be provided for dependants or members of the families of the Contractor's Representatives. Medical or necessary dental treatment may, however, be provided for dependants or members of families on repayment at current MOD rates.

10. **Provision Of Funds Overseas**

The Contractor shall, wherever possible, arrange for funds to be provided to their Representatives overseas through normal banking channels. If banking or other suitable facilities are not available, the Authority shall, upon request by the Contractor and subject to any reasonable limitation required by the Contractor, make arrangements for payments, converted at the prevailing rate of exchange (where applicable), to be made by the Establishment to which the Contractor's Representatives are attached. All such advances made by the Authority shall be recovered from the Contractor.

11. **Health And Safety Hazard Control**

11.1 Where the Contractor enters a Government Establishment for the purpose of performing work under the Contract:

11.1.1 The Contractor shall notify the Officer in Charge or the site project liaison officer or overseeing officer nominated in the Contract of:

11.1.1.1 any health and safety hazards associated with the work to be performed by them or any of their Representatives;

11.1.1.2 any foreseeable risks to the health and safety of all persons associated with such hazards; and

11.1.1.3 any precautions to be taken by them as well as any precautions which, in their opinion, ought to be taken by the Authority, in order to control such risks.

11.1.2 The Authority shall notify the Contractor of:

11.1.2.1 any health and safety hazards which may be encountered by the Contractor or any of their Representatives on the Government Establishment;

11.1.2.2 any foreseeable risks to the health and safety of the Contractor or any of their Representatives, associated with such hazards; and

11.1.2.3 any precautions to be taken by the Authority as well as any precautions which, in its opinion, ought to be taken by the Contractor, in order to control such risks.

11.1.3 The Contractor shall notify their Representatives of and, where appropriate, provide adequate instruction in relation to:

11.1.3.1 the hazards, risks and precautions notified by them to the Authority under paragraph 11.1.1 herein;

11.1.3.2 the hazards, risks and precautions notified by the Authority to the Contractor under paragraph 11.1.2 herein; and

11.1.3.3 the precautions which, in their opinion, ought to be taken by their Representatives in order to control those risks.

11.1.4 The Contractor shall provide the Officer in Charge or the site project liaison officer or overseeing officer nominated in the Contract with:

- 11.1.4.1 copies of those sections of their own and, where appropriate, their Representatives' Safety Policies which are relevant to the risks notified under paragraph 11.1.1 herein;
 - 11.1.4.2 copies of any related risk assessments; and
 - 11.1.4.3 copies of any notifications and instructions issued by them to their Representatives under paragraph 11.1.3 herein.
- 11.1.5 The Authority shall provide the Contractor with:
- 11.1.5.1 copies of those sections of its own Safety Policies which are relevant to the risks notified under paragraph 11.1.2 herein;
 - 11.1.5.2 copies of any related risk assessments; and
 - 11.1.5.3 copies of any notifications and instructions issued by it to its employees similar to those called for from the Contractor under paragraph 11.1.3 herein.

SCHEDULE H : CONTACT PERSONS

INTERIM STRATEGIC SEALIFT (SSL-I)

Redacted under FOIA Section 43, Commercial Interest

DEFFORM 111
(Edn 10/22)

Appendix - Addresses and Other Information

1. Commercial Officer

Name: [Redacted]
Address:
[Redacted]
Email:
[Redacted]
[Redacted]

8. Public Accounting Authority

1. Returns under DEFCON 694 (or SC equivalent) should be sent to [Redacted]
[Redacted]
2. For all other enquiries contact [Redacted]
[Redacted]

2. Project Manager, Equipment Support Manager or PT Leader (from whom technical information is available)

Name: [Redacted]
Address
[Redacted]
Email:
[Redacted]
[Redacted]

9. Consignment Instructions

The items are to be consigned as follows:

3. Packaging Design Authority Organisation & point of contact:

(Where no address is shown please contact the Project Team in Box 2)



10. Transport. The appropriate Ministry of Defence Transport Offices are:

A. [Redacted]
Air Freight Centre
IMPORTS [Redacted] Fax [Redacted]
EXPORTS [Redacted] Fax [Redacted]
Surface Freight Centre
IMPORTS [Redacted] Fax [Redacted]
EXPORTS [Redacted] Fax [Redacted]

4. (a) Supply / Support Management Branch or Order Manager:
Branch/Name:

[Redacted]
(b) [Redacted]

B. JSCS
JSCS Helpdesk No. [Redacted] (select option 2, then option 3)
JSCS Fax No. [Redacted]
Users requiring an account to use the MOD Freight Collection Service should contact [Redacted] in the first instance.

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<p>5. Drawings/Specifications are available from</p>	<p>11. The Invoice Paying Authority Ministry of Defence    Fax: Website Is: https://www.gov.uk/government/organisations/ministry-of-defence/about/procurement</p>
<p>6. Intentionally Blank</p>	<p>12. Forms and Documentation are available through *:</p>  Applications via fax or email: 
<p>Quality Assurance Representative:</p> <p>Name: </p> <p>Address: </p> <p>Email: </p>	<p>* NOTE</p> <p>1. Many DEFCONS and DEFFORMs can be obtained from the MOD Internet Site: https://www.kid.mod.uk/maincontent/business/commercial/index.htm</p> <p>2. If the required forms or documentation are not available on the MOD Internet site requests should be submitted through the Commercial Officer named in Section 1.</p>

PART 2 : REPRESENTATIVES OF THE CONTRACTOR:

The Managing Director of the Contractor or his successor or named deputy.

SCHEDULE I : FORM OF PARENT COMPANY GUARANTEE

INTERIM STRATEGIC SEALIFT (SSL-I)

Parent Company Guarantee

between

[REDACTED]

and

***Redacted under FOIA Section 43,
Commercial Interest***

The Secretary of State for Defence

as Authority

THIS DEED OF GUARANTEE AND INDEMNITY GIVEN BY A PARENT COMPANY IN RESPECT OF A SUBSIDIARY is dated _____ and made

BETWEEN:

- (1) _____ (the "Guarantor"), _____
Redacted under FOIA Section 43, Commercial Interest _____
_____; and
- (2) **THE SECRETARY OF STATE FOR DEFENCE**, (the "Authority").

WHEREAS:

- (A) The Authority proposes to award contract number [insert number] (the "Contract") to [insert contractor's full corporate name] [insert company registration number] whose registered office is at [insert details] (the "Contractor").
- (B) It is a condition precedent of the Authority entering into the Contract with the Contractor that the Guarantor must first execute and deliver this Deed of Guarantee and Indemnity to the Authority.
1. Now in consideration of the Authority entering into the Contract, the Guarantor hereby irrevocably and unconditionally agrees with the Authority as follows:
- 1.1 The Guarantor shall provide all resources and facilities whether financial or otherwise to enable the Contractor duly to fulfil its obligations in and arising from the Contract subsisting between the Authority and the Contractor at the date of this deed or which shall be entered into at any time after the date of this deed between the Authority and the Contractor (the "Indemnified Obligations");
- 1.2 If:
- 1.2.1 the Contractor shall fail in any respect duly to perform and observe, or shall otherwise be in breach of, any of the Indemnified Obligations; or
- 1.2.2 any of the Indemnified Obligations are or become void, voidable, unenforceable or otherwise ineffective; or
- 1.2.3 the Contract is terminated owing to a breach or an event of default on the part of the Contractor; or
- 1.2.4 a receiver, administrative receiver, administrator, liquidator or similar officer is appointed over any or all of the Contractor's undertaking or assets;

then, forthwith on demand from the Authority the Guarantor shall, as a primary obligation, indemnify the Authority against all reasonably incurred losses, liabilities, damages, costs and expenses (including legal fees on a solicitor/client basis) and disbursements and costs of investigation, litigation, settlement, judgment interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty or otherwise ("Losses"), which may be incurred, met or suffered by the Authority and which arise from or in connection with (whether directly or indirectly) any such matters save that, subject to the other provisions of this deed, the liability of the Guarantor under this paragraph 1.2 shall not exceed the liability of the Contractor to the Authority under the Contract.

The parties agree that no provision in this deed shall be construed as imposing on the Guarantor a greater liability than that which the Contractor has in accordance with the Contract and the Guarantor shall be entitled to rely on the same defences as those which the Contractor is entitled to raise under the Contract, provided that in the case that any Indemnified Obligations become unenforceable, invalid or illegal, the Guarantor's liability shall be no greater than the liability that the Contractor would have had if such Indemnified Obligations had been at all times enforceable, valid and legal.

2. The Guarantor irrevocably and unconditionally undertakes that all sums received or recovered by the Authority:
 - 2.1.1 by way of dividend, composition or payment arising from the liquidation, bankruptcy or otherwise of the Contractor may be taken and applied by the Authority in part satisfaction of the Losses, and the Guarantor's obligations under this deed shall stand good in respect of the balance;
 - 2.1.2 under this deed, may be credited to a suspense account and held in such account for so long as the Authority thinks fit pending the application of such monies towards the payment of the Indemnified Obligations;
 - 2.1.3 from the Contractor in respect of any of the Indemnified Obligations, may be applied by the Authority in any manner and in any order towards any debts owed by the Contractor to the Authority (whether or not relating to the Indemnified Obligations) as the Authority may determine (notwithstanding any appropriation or purported appropriation by any person);
3. The Guarantor shall have no right to be subrogated to the Authority and shall not make any claim against the Contractor (unless instructed so to do by the Authority, in which event the Guarantor shall make such a claim) in respect of the Guarantor's performance under this deed, until the Authority has received payment in full of its claim against the Contractor;
4. This deed shall not be affected by any insolvency (including, without limitation, winding up, administration, receivership or administrative receivership), amalgamation, reconstruction, change of name, ownership, control or status or any legal limitation relating to, by or of the Contractor or any other person or, where the Contractor is a partnership, by any change in the partners;
5. The Guarantor shall not be discharged or released from its obligations under this deed:
 - 5.1 by any arrangement or agreement made between the Authority and the Contractor or a receiver, administrative receiver, administrator, liquidator or similar officer of the Contractor:
 - 5.1.1 by any renegotiation, substitution, alteration, amendment or variation (however fundamental) and whether or not to the Guarantor's disadvantage, to or of, the obligations imposed upon the Contractor or any other person; or
 - 5.1.2 by any forbearance granted by the Authority to the Contractor or any other person as to payment, time, performance or otherwise; or
 - 5.1.3 by any release or variation (however fundamental) of, any invalidity in, or any failure to take, perfect or enforce any other indemnity, guarantee or security in respect of the obligations to which this deed relates; or
 - 5.1.4 by any other matter or thing which but for this provision might exonerate the Guarantor and this notwithstanding that such arrangement, agreement,

renegotiation, substitution, alteration, amendment, variation, forbearance, matter or thing may have been made, granted or happened without the Guarantor's knowledge or assent;

6. No failure to exercise or any delay in exercising on the Authority's part any right or remedy under this deed or under the Contract or any other agreement shall operate as a waiver of such right or remedy;
7. Any certificate or determination by the Authority of the amount due under this deed or under the Contract shall be, in the absence of manifest error, conclusive evidence of the matters to which it relates;
8. No settlement or discharge between the Authority and the Guarantor or the Contractor shall be effective if any payment to the Authority in respect of the Contractor's or the Guarantor's obligations to the Authority is avoided or reduced by virtue of any provisions or enactments relating to bankruptcy, insolvency, liquidation or similar laws of general application from time to time and if such payment is so avoided or reduced, the Authority shall be entitled to recover from the Guarantor the amount of such payment as if such settlement or discharge had not occurred;
9. The Authority shall not be obliged, before exercising any of its rights under this deed, to take any action against, or make any demand from, the Contractor or any other person;
10. The Guarantor's obligations under this deed are continuing obligations and shall not be considered satisfied, settled or terminated by the Authority giving any approvals, or taking delivery of any goods, or accepting any performance under the contract and no single, cumulative or partial exercise by the Authority of any right or remedy under or arising from this deed shall prevent any further exercise;
11. All payments under this deed shall be made without set-off, counter-claim or other deduction;
12. The Guarantor shall, on a full indemnity basis pay to the Authority on demand the amount of all Losses which the Authority incurs in connection with:
 - 12.1 the preservation, or exercise and enforcement, of any rights under or in connection with this guarantee or any attempt to do so; and
 - 12.2 any discharge or release of this guarantee.
13. The Guarantor shall be bound by all court judgments or arbitration awards relating to the contract or any dispute or matter between the Authority and the Contractor;
14. This deed shall be governed by and construed in accordance with English law. The parties irrevocably submit to English jurisdiction to the exclusion of all foreign jurisdictions, save that foreign jurisdictions may apply solely for the purposes of giving effect to this paragraph and for the enforcement of any judgment, order or award given under English jurisdiction.

Delivered as a deed on the date of this document.

Executed as a deed by [insert corporate name].

in the presence of Director

..... Director or Company Secretary

SCHEDULE J : TASKING AND CONTROL

INTERIM STRATEGIC SEALIFT (SSL-I)

1. **Definitions and Interpretation**

- 1.1 Capitalised terms in this Schedule J (*Tasking and Control*) shall, unless otherwise expressly stated, have the same meaning as given to those terms in Clause 1.1 of the Contract.
- 1.2 In this Schedule J (*Tasking and Control*), where there is a reference to a Table, Annex or paragraph, such reference shall be construed as a reference to a Table, Annex or paragraph in this Schedule J (*Tasking and Control*) unless expressly stated otherwise.
- 1.3 This Schedule sets out the arrangements that the Contractor and the Authority shall put in place to enable the Contractor to provide the Service in a timely and consistent manner throughout the Contract Term.

2. **Overview of Responsibilities**

- 2.1 Without limiting any other obligations under this Contract, the Contractor shall be responsible for the following:
- 2.1.1 making direct contact with the Vessels, including issuing a Vessel with the necessary instructions to carry out a Task, unless the Authority informs the Contractor that the circumstances of an Exercise or Operation require the Authority to issue a Task or instructions directly to a Vessel with the Authority making every endeavour to update the Contractor of said Task or instructions.
- 2.1.2 planning and undertaking all maintenance, crewing arrangements and re-supply of stores, spares and victuals (consumables) for all Tasks, including while carrying out a Task during an Exercise. For periods during which the Authority is issuing Tasks or instructions directly to a Vessel, the Contractor will be responsible for liaising with the Authority to the extent necessary to determine the planning requirements for all maintenance, crewing arrangements and re-supply of stores, spares and victuals (consumables).
- 2.1.3 organising all services which the Contractor is obliged to perform under this Contract to ensure that the Vessels efficiently and effectively complete each Task.
- 2.1.4 through the Master, overall responsibility for ensuring the safety of each Vessel and her cargo (save for loading, unloading or lashing of her cargo as set out in paragraph 3.5 (*Activity Programming*)) and crew.
- 2.1.5 update, provide supporting information for, confirm, amend and co-ordinate Tasks and the wider sealift programme on Sealift Programme via MODnet. Access to MODnet shall be enabled via a device provided by the Authority; and
- 2.1.6 unless otherwise agreed with the Authority, the Contractor will, where the Taskings allow, reasonably endeavour to ensure that the Vessels in Authority Use travel at the most economical speed for their Vessel Class in accordance with the Statement of Requirement.
- 2.2 Without limiting any other obligations under this Contract, the Authority shall be responsible for the following:
- 2.2.1 providing the Contractor with details of each Task in accordance with the procedures described herein;

- 2.2.2 funding of port and canal costs to facilitate the Vessels calls at all ports and transits of canals in accordance with paragraph 3 of Schedule E (*Performance and Payment*) of the Contract;
- 2.2.3 paying, taxes, fees, charges and reconciliations arising from regional Emissions Trading Schemes, extant at the Date of Contract. Any changes to ETS regimes to be advised by the Contractor to the Authority as a Change of Law;
- 2.2.4 providing and paying for all fuel for Vessels in Authority Use; and
- 2.2.5 loading, lashing, unlashng and unloading of all Cargo carried on the Vessels when in Authority Use, unless both Parties agree that the Contractor shall procure these activities on behalf of the Authority.
- 2.2.6 maintaining an up-to-date Tasking Profile and via the Authority's planning platform such as the Sealift Programme whenever a change has been made in accordance with paragraphs 3.4 (*Activity Programming*) and 7.1 (*Operating Activities*) of this Schedule J (*Tasking and Control*).
- 2.2.7 updating, provide supporting information for, confirm, amend and co-ordinate Task Entries and the wider sealift programme on the Authority's planning platform via MODnet.
- 2.2.8 Completion and submission of all cargo paperwork, including but not limited all customs declarations and any required cargo consents, or Import/Export licenses.

3. **Activity Programming**

- 3.1 The Authority shall provide the Contractor with access to the Authority's in use planning platform such as the Sealift Programme application and the necessary Authority equipment, software, training and access rights to use it. The Sealift Programme shall be used to undertake activities including but not limited to input, clarification, modification, authorisation, tracking and receipt of Task Entries and to discuss and amend the Tasking Profile in conjunction with the relevant meetings (ref meetings schedule). All supporting information for Task Entries shall, at a minimum, be submitted on SPBI.
- 3.2 For the purposes of developing the activities in the Sealift Programme, the Contractor shall promptly provide the Authority with such assistance and information relating to the operational requirements of each Vessel as is reasonably requested by the Authority and the Authority shall determine, after consultation with the Contractor, the Voyage duration of the Task by taking into account the Vessel's capability in accordance with Schedule A (*Statement of Requirement*), predicted weather conditions, Voyage distance, past experience of the destination port time and any other parameters agreed between the Parties.
- 3.3 The Contractor is solely responsible for issuing each Vessel with the necessary details of the Task Entry and to enable it to carry out the Task in accordance with the Service Requirements except where the Authority has chosen to invoke its right to issue Tasks or instructions directly to a vessel as outlined in paragraphs 2.1.1 and 5.
- 3.4 Not less than [REDACTED] prior to the Task Start Time set out in the Task Entry the Authority shall confirm the Task details on Sealift Programme. If less than [REDACTED] notice is given the relief described at paragraph 3.10 (*Activity Programming*) of this Schedule J (*Tasking and Control*) shall apply. Such Task confirmation on Sealift Programme shall specify the identity and name of the Authority's authorised

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representative(s) at the points of loading and unloading of cargo at ports for each Task. The Authority's authorised representative(s) shall:

- 3.4.1 Prior to the vessels arrival liaise with the Vessel's Chief Officer, via the Contractors Operations cell, regarding the loading and unloading of the cargo; and
 - 3.4.2 present relevant cargo certification and documentation to the Vessel's Chief Officer regarding the cargo; and
 - 3.4.3 be responsible for making contact with the Master or the Vessel's Chief Officer upon its arrival and will identify himself promptly at each port specified in the Task Entry at which Authority cargo is to be loaded or unloaded from the Vessel; and
 - 3.4.4 arranging for the loading of Authority cargo, provision, installation and removal of lashings and discharge of the Authority cargo.
- 3.5 The Authority shall be responsible for the loading, lashing, unlashings and unloading of its cargo and its authorised representative shall inform the Vessel's Chief Office or Master of the Vessel of the arrangements for it to carry out the loading, lashing, unlashings and unloading of its Cargo carried on each Vessel, PROVIDED ALWAYS that the Vessel's Chief Officer or Master of the Vessel shall be the Contractor's authorised representative who shall determine the order in which the items of the Cargo are loaded onto each Vessel.
- 3.6 To the extent that a Vessel is delayed in completing a Task as a direct result of a failure by the Authority to fulfil its obligations, such failure being a Compensation Event, Clause 12 (*Specified Events*) will apply. If the Contractor complies with its obligations under Clause 12 (*Specified Events*) of the Contract, the Authority shall not consider this a failure to meet the Availability KPI in this instance in accordance with Schedule E (*Performance and Payment*) of the Contract and the Authority shall pay to the Contractor any additional costs reasonably incurred by the Contractor by reason of such delay. The Contractor shall provide such documentation as may be reasonably requested by the Authority to support its claim for such additional costs.
- 3.7 Within [REDACTED] of receiving a Task via Sealift Programme the Contractor may elect to provide the Authority with written notice via email and Sealift Programme confirming the relevant Vessel is unable to carry out the Task and provide a mitigation in accordance with Clause 17 (*Mitigation*) of the Contract.
- 3.8 The notice referred to in paragraph 3.7 (*Activity Programming*) above shall clearly specify the reasons for such inability and the Contractor must submit to the Authority revisions to the Task Entry on Sealift Programme for the Vessel or, if the Contractor is entitled to mitigate in accordance with Clause 17 (*Mitigation*) of the Contract [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
- 3.9 The Authority shall be entitled to amend the details of a Task Entry set out in Sealift Programme at any time prior to the Task Start Time and the Contractor shall carry out the Task in accordance with such amended requirements. If the Authority requests any amendments to the details and/or requirements set out in a Task Entry after the Task Start Time, the Contractor shall implement such changes unless it is not reasonably practical to do so and, in any event, the relief described in paragraph 3.6 (*Activity Programming*) of this Schedule J (*Tasking and Control*) shall apply.
- 3.10 To the extent that a Vessel is delayed in completing a Task as a direct result of the Contractor implementing changes to a Task Entry where such change to the Task Entry

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was made by the Authority less than [REDACTED] before the scheduled Task Start Time, a Relief Event shall be deemed to have occurred.

- 3.11 If the Authority issues the confirmed Tasking Profile to the Contractor via Sealift Programme, the Contractor may request, via Sealift Programme, a change to the Planned Maintenance Periods to be included in such Tasking Profile, setting out the reasons for such request and the details of the proposed alternative Planned Maintenance Period. On Sealift Programme, the Contractor and the Authority shall agree the most suitable time for the Planned Maintenance Period taking account of the Authority's Task requirements and the Contractor's proposed alternative period. Following such agreement, the Authority shall amend the Tasking Profile to incorporate the agreed Planned Maintenance Period. The Contractor shall not be entitled to transfer any or part of the Planned Maintenance Period between Vessels. In the event that no agreement has been reached the Parties agree to submit the disputed matters to dispute resolution pursuant to Clause 72 (*Dispute Resolution*) of the Contract.

4. **Scheduled Drydocking**

4.1 The Contractor shall:

- 4.1.1 give the Authority a provisional prior written notice of [REDACTED] and then, subsequently, a definitive prior written notice of not less than [REDACTED], confirming the time and place of any scheduled drydocking of a Vessel. [REDACTED]

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- 4.1.2 use its reasonable endeavours to minimise the amount of time required for drydocking;

and in any year in which a Vessel is drydocked, the Planned Maintenance Period for such Vessel will be incorporated into the drydocking period.

5. **Authority Direct Tasking**

- 5.1 If the Authority determines that the circumstances of any Task require that it shall issue directions or issue the Task directly to any of the Vessels, electronically or via telecoms (not via Sealift Programme), then the Authority shall issue the Contractor with written notice to that effect. Such notice issued by the Authority shall state the time at which the responsibility of issuing directions or Tasks to the Vessels will be transferred to the Authority and the Contractor shall take all steps required to ensure such communication channels are transferred to the Authority.

5.1.1 The Contractor acknowledges that:

- 5.1.1.1 during a period in which the Authority is exercising direct control over the Vessel, the Authority may require Military Personnel to supplement the Contractor's Crew solely to operate and protect the secure communications equipment on the Vessel; and

- 5.1.1.2 it shall retain responsibility at all times for the operational and administrative management of the Vessels, including without limitation, management of its Crew, maintenance, bunker

management and re-supply of consumables as per paragraph 3.3, but excluding responsibility for embarked Military Personnel.

5.1.2 The Authority shall during the period in which the Authority is exercising direct control over a Vessel I:

5.1.2.1 indemnify the Contractor for all and any damages, loss or penalties that accrue, until such time as the Vessel is returned in a fully compliant state to the direction of the Contractor; and

5.1.2.2 take out and maintain Insurance cover for any and all policies that are invalidated by the Authority's acts, omissions, breaches in trading warranties or engaging in non-commercial activity.

5.2 Notwithstanding anything contained in Schedule A (*Statement of Requirement*) of the Contract, any Vessel within the Take or Pay Regime which has been made available for Commercial Use under paragraph 2.1.2 of Schedule E (*Performance and Payment*) shall be at [REDACTED] notice for Tasking, or such longer term as may be agreed between the Authority and the Contractor.

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6. **Authority Inspections**

6.1 **On Task and End of Task Inspections**

6.1.1 The Authority must be satisfied that the Vessels called back from whole charter Commercial Use into Authority Use (or [REDACTED] of the Contract meet the requirements of the service as specified in Annex 1 or Annex 2 (as applicable) of Schedule A (*Statement of Requirement*) of the Contract and (if applicable) as was demonstrated at the Service Commencement Meeting when the Vessel certification forms are provided. The Authority shall be entitled to inspect each Vessel in accordance with Schedule A (*Statement of Requirement*) of the Contract.

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6.2 **Visits to Vessels on Commercial Use**

The Authority shall have the right to inspect Vessels which are in Commercial Use. Such inspections shall be arranged through the Contractor and shall not interfere with the Commercial Use. The Authority shall give the Contractor at least [REDACTED] written notice of its intention to carry out such an inspection. The Contractor shall use all reasonable endeavours to ensure that the Authority can undertake such an inspection and if it is not possible for such an inspection to be carried out due to the requirements of the Commercial Use, the Contractor shall notify the Authority of the next possible date on which such inspection can be carried out, which shall in any event occur within [REDACTED] time of the Authority's first notice in this respect

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7. **Operating Activities**

7.1 The Authority shall use its reasonable endeavours to provide the Contractor with a provisional Cargo Load List ("CLL") at least [REDACTED] prior to the commencement of any Task. At least [REDACTED] before the start of the Task, the Authority shall provide a final CLL identifying the known make-up of the cargo to be loaded for the Task. The Cargo Stowage Report (CSR) report, which will be issued by the Authority's authorised representative at the point of loading, shall contain details of weights and sizes of units and information on any hazardous goods to be carried during such Task. The Authority may alter the composition of the CLL to be carried on a Task at any time prior to the Task Start Time.

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A failure by the Authority to provide such information at least [REDACTED] before the Task Start Time in accordance with this paragraph will be deemed to fall within the definition of Relief Event to the extent that such failure is the direct cause of a delay in a Task Completion and the Contractor shall be entitled to relief from this being considered a failure to meet the relevant Availability KPI in accordance with paragraph 9 of Schedule E (*Performance and Payment*). The Master of the Vessel has the right to override the works and decisions relating to the safe loading and unloading of all cargo undertaken pursuant to paragraph 3.5 (*Activity Programming*) by the Authority, its authorised representatives or agents.

- 7.2 The Contractor shall report on the state of the vessels in use in accordance with Schedule C (*Governance and Reporting*) of the Contract, for both Commercial and Authority use.
- 7.3 The Authority may determine that operational circumstances prohibit the Contractor from forwarding Daily Reports to the Authority, in which case the Authority shall notify the Contractor as soon as reasonably practicable of its requirement and the Contractor shall ensure that Daily Reports are not forwarded during any such period where the Authority has communicated that such restrictions are to be in place.
- 7.4 The Authority shall appoint agents and make arrangements for ensuring that all necessary support services are available at any port specified in the Task Entry or at any port to which the Authority directs the Contractor, including, without limitation, pilotage, stevedores, tugs and bunkers. For the avoidance of doubt the Contractor shall remain responsible for all services provided through the agent associated with provisioning and maintaining the Vessel.
- 7.5 The Authority shall be responsible for arranging the necessary diplomatic clearances in foreign ports when a Vessel is in Authority Use. The Authority shall notify the Contractor of the completion of such arrangements on the confirmed Task Entry.
- 7.6 The Authority shall not be liable for any costs incurred by the Contractor as a result of a Vessel arriving at a task end location prior to the time specified in the Task Entry. If the Contractor determines that a Vessel may arrive at its destination in advance of the task end date, the Contractor shall notify the Authority and request the Task End Date be adjusted to take account of such early arrival. The Authority shall not be obliged to accept early delivery of the cargo. If the Authority consents to the Contractor delivering the cargo at such an earlier time, the Authority shall notify the Contractor in writing that it consents to the amendment to the Task.
- 7.7 The Authority shall take account of any necessary bunkering periods and any Voyage deviation for that purpose when Tasking a Vessel, and the Vessel shall remain within the Take or Pay Regime during such deviation.

8. Emergency Situations

- 8.1 If the Contractor requires the Authority's salvage assistance or advice in respect of any of the Vessels allocated in support of the Service, whether in Authority Use or Commercial Use at the time, the Contractor shall contact the Authority who will act as a [REDACTED] point of contact. Responsibility for dealing with any incident or emergency relating to the Vessel rests solely with the Contractor.

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- 8.2 The Contractor is responsible for managing emergency situations (which include, without limitation, situations affecting the safety and/or operation of the Vessel, its crew and/or cargo due to fire, flood, grounding, total loss of power or loss of steering), arising on a Vessel and shall ensure that sufficient procedures and risk management plans are in place to deal with emergency situations.

8.3 Without limiting the Contractor's obligations under this paragraph 8 (*Emergency Situations*), following contact by the Authority in accordance with paragraph 10 (*Salvage and Assistance*), the Authority shall promptly notify the Contractor whether it will assign or provide resources to assist with the emergency situation. Where such a decision to assist is made control of such resources will be the responsibility of the Authority's Salvage Officer.

9. **Providing Assistance to Others**

9.1 **Safety and Rescue**

The Authority acknowledges that the Master of the Vessel is under an obligation to deviate for the purpose of saving or attempting to save life at sea or responding to any distress call received while at sea. Any such deviation shall not require any prior approval by the Authority and the Vessel shall remain within the Take or Pay Regime throughout any such period. To the extent that such deviation constitutes a deviation under paragraph (D) of the definition of "Relief Event" in the Contract, the provisions of Clause 12 (*Specified Events*) of the Contract shall apply so that the Contractor shall not be considered to have failed to meet the relevant KPI in accordance with paragraph 9 of Schedule E (*Performance and Payment*) of the Contract.

10. **Salvage and Assistance**

10.1 The Master of the Vessel shall not have the right to deviate for the purpose of rendering salvage or assistance to other vessels in circumstances other than those described in paragraph 9.1 (*Providing Assistance to Others*) while any Vessel is in Authority Use unless it obtains the prior approval of the Authority. The Contractor may request the Authority's assistance in any salvage operations which may be carried out by the Contractor. The provision of such assistance shall be at the sole discretion of the Authority. If the Master of the Vessel requests such approval and the Authority fails to notify the Contractor within [REDACTED] from submission of the request as to whether or not it approves of such deviation, the Authority shall be deemed to have approved such deviation. The Vessel shall remain within Authority Use and the Authority shall continue to pay to the Contractor the Monthly Usage Payments during any such period of salvage or assistance and the provisions of Clause 12 (*Specified Events*) of the Contract shall apply and the Authority shall not consider the Contractor to have failed to meet the Availability KPI in this instance in accordance with paragraph 9.7.1 of Schedule E (*Performance and Payment*) of the Contract.

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11. **General Average**

11.1 Any proceeds arising from the salvage operations shall, after deduction of any legal and other expenses incurred by the Contractor in connection therewith, be shared equally between the Contractor and the Authority; whether in Authority or Commercial Use. General Average shall be settled and adjusted in London according to York-Antwerp Rules (latest edition). Furthermore, it is recognised that, having regard to the governmental and non-commercial purposes for which Authority material is procured, quantification of loss or damage to Authority cargo is complex and expensive to assess. Accordingly, it is agreed that such quantification will only be required on completion of a voyage during which a General Average loss has been incurred. It is further agreed that the Contractor and their insurers will accept the Authority's reasonable estimate of value, PROVIDED ALWAYS that the Take or Pay Guarantee payment does not contribute to General Average.

ANNEX 1 : TASK ENTRY INSTRUCTION

1. Task details are to be provided to the Contractor by DSCOM prior to the commencement of every Task via submission of a Task Entry on the Sealift Programme application.
2. The Task Entry is to be completed as comprehensively as possible to allow the Contractor to plan the delivery of the Service required by a Vessel that meets the Authority's Service Requirements as defined and set out in Schedule A (*Statement of Requirements*) of the Contract. As a minimum all mandatory fields shall be completed in each Task Entry on Sealift Programme though every reasonable effort shall be made to complete each Task Entry as fully as possible.
3. Each Party shall review and either confirm or amend the other Party's input as soon as reasonably possible, alerting the other to any issues or concerns preventing such action where unable to do so.
4. The Task Entry is to be updated as further information becomes available and details agreed with the Contractor.
5. Complete Task details will normally be provided by the Authority at least [REDACTED] before Task Start Time. In certain circumstances advance complete details may not be available.
6. The information to be included in a Task Entry shall, as far as reasonably practicable, include, but not be limited to:
 - 6.1 Task identity;
 - 6.2 Allocated vessel name;
 - 6.3 Task start location, time and date;
 - 6.4 Intermediate location, times and dates;
 - 6.5 Task end location and estimated date and time;
 - 6.6 Port services required (commercial stevedores or military personnel);
 - 6.7 Agents provided in location;
 - 6.8 Authority Passengers on voyage;
 - 6.9 Authority's authorised representative of contact for loading at the first, last and all intermediate ports;
 - 6.10 Authority's authorised representative Point of Contact for unloading at the first, last and all intermediate ports;
 - 6.11 Dangerous Goods information for cargo where relevant;
 - 6.12 Export Control information; and
 - 6.13 Special instructions relating to nature of task (e.g. how will vessels be controlled during task, normal vessel management procedures or through military procedures, will Authority

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personnel be embarked, are Authority stevedores provided to manage cargo or are commercial contractors required.) e.g. are Mexeflote or Vertrep operations planned for this task.

SCHEDULE K : PROTECTION OF PERSONAL DATA

INTERIM STRATEGIC SEALIFT (SSL-I)

1. **Interpretation**

- 1.1 Capitalised terms in this Schedule K (*Protection of Personal Data*) shall, unless otherwise expressly stated, have the same meaning as given to those terms in Clause 1.1 (*Definitions*) of the Contract.
- 1.2 In addition, "Data Subject" shall have the same meaning as in the Data Protection Act 2018 in which it is defined in Section 3 as "Data subject".

2. **Data Protection and Data Security**

- 2.1 In respect of any Personal Data that is transferred from one Party (the "Disclosing Party") to the other Party (the "Recipient Party") in connection with this Agreement, the Parties agree that:

- 2.1.1 the Disclosing Party and the Recipient Party shall each be a "Controller"; and
- 2.1.2 the terms of this paragraph 2 (*Data Protection and Data Security*) shall apply.

- 2.2 In respect of its Processing of any Personal Data, each Party shall:

- 2.2.1 comply at all times with all Data Protection Legislation at its own expense;
- 2.2.2 provide the other Party with reasonable co-operation and assistance in connection with:
- 2.2.2.1 its compliance with Data Protection Legislation in relation to the Personal Data;
- 2.2.2.2 any request or other communication made in relation to Data Subject rights (including a request made in respect of the Data Subject's right of access and data portability, right to object, right to be provided with fair processing information and his/her rights to rectification and erasure of their Personal Data within the statutory response periods); and
- 2.2.2.3 any notice or other communication received from a Supervisory Authority in connection with the processing of the Personal Data or the Disclosing Party's compliance with the Data Protection Laws,

provided that a Party shall not be required to incur material costs or expenses in providing such co-operation and assistance.

- 2.3 In respect of its processing of the Personal Data, the Recipient Party warrants, represents and undertakes that:
- 2.3.1 it shall provide Data Subjects with all of the information, in a concise, transparent, easy to understand format using clear and plain English, required under the Data Protection Legislation to ensure that the Data Subjects understand how their personal data will be processed by the Recipient Party;
- 2.3.2 it shall take all appropriate technical and organisational measures against unauthorised or unlawful processing of the Personal Data and against accidental

loss or destruction of, or damage to the Personal Data, including (without limitation) by:

- 2.3.2.1 taking reasonable steps to ensure the reliability of any employees who have access to the Personal Data;
 - 2.3.2.2 ensuring a level of security appropriate to the nature of the Personal Data and the risks that are presented by its processing;
 - 2.3.2.3 where appropriate and reasonably practicable, the encryption and the pseudonymisation of the Personal Data; and
 - 2.3.2.4 implementing a process for periodically testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing of the Personal Data.
- 2.3.3 in the event of a Personal Data Breach which might impact the Personal Data, it shall notify the Disclosing Party (providing all such details as the Disclosing Party may reasonably request);
- 2.3.4 it shall promptly notify the Disclosing Party of the receipt of any request, notice or other communication from any Data Subject or Supervisory Authority relating to the Personal Data;
- 2.3.5 it shall ensure that only those employees that need to have access to the Personal Data are given access to the extent reasonably necessary and that such employees are subject to appropriate confidentiality obligations; and
- 2.3.6 it shall ensure that any third party to whom it publishes, discloses or divulges any of the Personal Data is:
- 2.3.6.1 subject to appropriate confidentiality and data security obligations; and
 - 2.3.6.2 required to comply with Data Protection Legislation in respect of its processing of the Personal Data.
- 2.4 Each Party warrants, represents and undertakes that, at the time of entering into this Agreement, it is not aware of the existence of any local laws that would have a substantial adverse effect on its ability to comply with the requirements of this paragraph 2 (*Data Protection and Data Security*), and it will promptly inform the other Party if it becomes aware of any such laws.

3. **Transfers of Personal Data**

- 3.1 Where a Party transfers, or otherwise permits access to, any Personal Data outside of the EEA (or outside of the UK where the Disclosing Party is subject to UK Data Protection Legislation) (each an "Exporting Country") the EU Standard Contractual Clauses or the UK Standard Contractual Clauses, as applicable, shall apply, in accordance with this Schedule K (*Protection of Personal Data*). Any other transfers of Personal Data carried out by either Party shall be compliant with Data Protection Legislation.
- 3.2 Each Recipient Party and / or its agents or processor(s) (where applicable) shall upon request from the Disclosing Party, assist the Disclosing Party with the carrying out of or itself

carrying out, at the Disclosing Party's option, a transfer risk assessment and taking steps to mitigate the risks identified during the course of such assessment as reasonably required by the Disclosing Party. The Recipient Party shall, at no additional cost, provide such information and assistance to the Disclosing Party as reasonably required, and within the timescales reasonably specified by the Disclosing Party, in order to allow the relevant Disclosing Party to assess the protection afforded to any such Personal Data transfers outside the Exporting Country.

- 3.3 In the event that Personal Data is transferred from an Exporting Country, unless otherwise agreed in writing by the Disclosing Party, such transfers shall be subject to the Module One Transfer controller to controller terms in the EU Standard Contractual Clauses or the UK Standard Contractual Clauses, as applicable and in each case, the Annexes to those clauses shall be completed using the details set forth in Annex 1 (*Details of Processing*) of this Schedule K (*Protection of Personal Data*).
- 3.4 If the Disclosing Party shares the Personal Data with a data importer who the Disclosing Party reasonably considers is not able to meet its obligations set out under the EU Standard Contractual Clauses or the UK Standard Contractual Clauses, as applicable, then the Disclosing Party shall be entitled to suspend or terminate data transfers to the relevant data importer.
- 3.5 In the event that there is a conflict between the provisions of this Schedule K (*Protection of Personal Data*) and / or the Agreement and the EU Standard Contractual Clauses or the UK Standard Contractual Clauses, the EU Standard Contractual Clauses or the UK Standard Contractual Clauses shall take precedence, as applicable.

ANNEX 1 : DETAILS OF PROCESSING

This Form forms part of the Contract.

Data Exporter	
Name	[•]
Address	[•]
Contact person's name, position and contact details	[•]
Activities relevant to the data transferred under the EU Standard Contractual Clauses or UK Standard Contractual Clauses, as applicable	[•]
Signature and date	[•]
Role (controller / processor)	[•]
Data Importer:	
Name	[•]
Address	[•]
Contact person's name, position and contact details	[•]
Activities relevant to the data transferred under the EU Standard Contractual Clauses or UK Standard Contractual Clauses, as applicable	[•]
Signature and date	[•]
Role (controller / processor)	[•]
Categories of Data Subjects	<p>The Personal Data to be processed under the Contract concern the following Data Subjects or categories of Data Subjects: <i>[please specify]</i></p> <p><i>[Examples include staff (including volunteers, agents, and temporary workers), customers/ clients, suppliers, patients, students / pupils, members of the public, users of a particular website etc]</i></p>

<p>Categories of Data</p>	<p>The Personal Data to be processed under the Contract concern the following categories of data: <i>[please specify]</i></p> <p><i>[Examples include name, address, telephone number, medical records etc]</i></p>
<p>Special Categories of data (if appropriate)</p>	<p>The Personal Data to be processed under the Contract concern the following Special Categories of data: <i>[please specify]</i></p> <p><i>[A Special Category of Personal Data is anything that reveals racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, sex life or sexual orientation or genetic or biometric data]</i></p>
<p>Subject matter of the processing</p>	<p>The processing activities to be performed under the contract are as follows: <i>[please specify]</i></p> <p><i>[This should be a high-level, short description of what processing will be taking place and its overall outcome i.e. its subject matter]</i></p>
<p>Nature and the purposes of the Processing</p>	<p>The Personal Data to be processed under the Contract will be processed as follows: <i>[please specify]</i></p> <p><i>[The nature of the processing means any operation such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether by automated means or not) etc. The purpose might include: employment processing, statutory obligation, recruitment assessment etc]</i></p>
<p>The period for which the personal data will be retained, or, if that is not possible, the criteria used to determine that period.</p>	<p>[•]</p>
<p>For transfers to (sub-) processors, also specify subject matter, nature and duration of the processing.</p>	<p>[•]</p>
<p>Technical and organisational measures</p>	<p>The following technical and organisational measures to safeguard the Personal Data are required for the performance of this Contract: <i>[please specify]</i></p> <p><i>[Provide an overview of the measures described in the System Requirements, Statement of Work and/or the controls required in accordance with the Cyber Risk Profile relevant to the Contract, as detailed in Annex 1 to <u>Def Stan 05-138</u>. Examples include anonymisation, authorised access, data processed on closed/restricted systems]</i></p>

The capitalised terms used in this form shall have the same meanings as in the General Data Protection Regulations.

SCHEDULE L : SECURITY MEASURES

INTERIM STRATEGIC SEALIFT (SSL-I)

1. **Interpretation**

Capitalised terms in this Schedule L (*Security Measures*) shall, unless otherwise expressly stated, have the same meaning as given to those terms in Clause 1.1 (*Definitions*) of the Contract.

2. **The Official Secrets Acts**

2.1 The Contractor shall:

2.1.1 take all reasonable steps to ensure that all Employees engaged on any work in connection with the Contract have notice that the Official Secrets Acts 1911-1989 apply to them and will continue so to apply after the completion or termination of the Contract; and

2.1.2 if directed by the Authority, ensure that any Employee shall sign a statement acknowledging that, both during the term of the Contract and after its completion or termination, they are bound by the Official Secrets Acts 1911-1989 (and where applicable any other legislation).

3. **Security Measures**

3.1 Unless they have the written authorisation of the Authority to do otherwise, neither the Contractor nor any of their Employees shall, either before or after the completion or termination of the Contract, do or permit to be done anything which they know or ought reasonably to know may result in Secret Matter being disclosed to or acquired by a person in any of the following categories:

3.1.1 who is not a British citizen;

3.1.2 who does not hold the appropriate authority for access to the protected matter;

3.1.3 in respect of whom the Authority has notified the Contractor in writing that the Secret Matter shall not be disclosed to or acquired by that person;

3.1.4 who is not an Employee of the Contractor;

3.1.5 who is an Employee of the Contractor and has no need to know the information for the proper performance of the Contract.

3.2 Unless they have the written authorisation of the Authority to do otherwise, the Contractor and their Employees shall, both before and after the completion or termination of the Contract, take all reasonable steps to ensure that:

3.2.1 no photograph of, or pertaining to, any Secret Matter shall be taken and no copy of or extract from any Secret Matter shall be made except to the extent necessary for the proper performance of the Contract;

3.2.2 any Secret Matter is at all times strictly safeguarded in accordance with the GovS 007: Security (as amended from time to time) and upon request, is delivered up to the Authority who shall be entitled to retain it.

A decision of the Authority on the question of whether the Contractor has taken or is taking reasonable steps as required by this Clause, shall be final and conclusive.

3.3 The Contractor shall:

3.3.1 provide to the Authority:

3.3.1.1 upon request, such records giving particulars of those Employees who have had at any time, access to any Secret Matter that is required to be kept in accordance with paragraph 3.2.2 of this Schedule L (*Security Measures*);

3.3.1.2 upon request, such information as the Authority may from time to time require so as to be satisfied that the Contractor and their Employees are complying with their obligations under this Schedule L (*Security Measures*), including the measures taken or proposed by the Contractor so as to comply with their obligations and to prevent any breach of them;

3.3.1.3 full particulars of any failure by the Contractor and their Employees to comply with any obligations relating to Secret Matter arising under this Schedule L (*Security Measures*) immediately upon such failure becoming apparent;

3.3.2 ensure that, for the purpose of checking the Contractor's compliance with the obligation in paragraph 3.2.2 of this Schedule L (*Security Measures*), a representative of the Authority shall be entitled, at any time, to enter and inspect any premises used by the Contractor, which are in any way connected with the Contract, and inspect any document or thing in any such premises which is being used, or made for the purposes of the Contract. Such representative shall be entitled to all such information as it may reasonably require.

3.4 If at any time either before or after the completion or termination of the Contract, the Contractor or any of their Employees discovers or suspects that an unauthorised person is seeking or has sought to obtain information directly or indirectly concerning any Secret Matter, the Contractor shall forthwith inform the Authority of the matter with full particulars thereof.

4. **Subcontracts**

4.1 If the Contractor proposes to make a Subcontract which will involve the disclosure of Secret Matter to the Subcontractor, the Contractor shall:

4.1.1 submit for approval of the Authority the name of the proposed subcontractor, a statement of the work to be carried out and any other details known to the Contractor which the Authority shall reasonably require;

4.1.2 incorporate into the Subcontract the terms of the Annex 1 to this Schedule L (*Security Measures*) and such secrecy and security obligations as the Authority shall direct. In the Annex "Agreement" shall mean the "Subcontract", "First Party" shall mean the "Contractor" and "Second Party" shall mean the "Subcontractor";

4.1.3 inform the Authority immediately if they become aware of any breach by the Subcontractor of any secrecy or security obligation and, if requested to do so by the Authority, terminate the Subcontract.

5. **Official-Sensitive Security Requirements**

- 5.1 In this Schedule L (*Security Measures*) "Information" means information recorded in any form disclosed or created in connection with the Contract.
- 5.2 The Contractor shall protect all Information relating to the aspects designated OFFICIAL-SENSITIVE as identified in the Security Aspects Letter annexed at Annex 2 to this Schedule L (*Security Measures*) in accordance with the official security clauses contained in the contract or annexed to the Security Aspects Letter.
- 5.3 The Contractor shall include the requirements and obligations set out in paragraph 1 of Annex 1 of this Schedule L (*Security Measures*) in any Subcontract placed in connection with or for the purposes of the Contract which requires disclosure of OFFICIAL-SENSITIVE Information to the subcontractor or under which any Information relating to aspects designated as OFFICIAL-SENSITIVE is created by the subcontractor. The Contractor shall also include in the Subcontract a requirement for the relevant subcontractor to flow the requirements of this clause to its subcontractors and through all levels of the supply chain to the lowest level where any OFFICIAL-SENSITIVE Information is handled.

6. **Termination by the Authority**

- 6.1 The Authority shall be entitled to terminate the Contract immediately if:
- 6.1.1 the Contractor is in breach of any obligation under this Schedule L (*Security Measures*); or
- 6.1.2 the Contractor is in breach of any secrecy or security obligation imposed by any other contract with the Crown;

where the Authority consider the circumstances of the breach jeopardise the secrecy or security of the Secret Matter and claim such damages as may have been sustained as a result of the Contractor's breach of this Schedule L (*Security Measures*). For the avoidance of doubt, including for the purposes of Clause 37 (*Termination for material breach by the Contractor*) of the Contract a breach as set out at paragraphs 6.1.1 and 6.1.2 of this Schedule L (*Security Measures*) shall be a material breach of the Contract.

**ANNEX 1 : PROVISIONS TO BE INCLUDED IN RELEVANT
SUBCONTRACTS**

1. The Official Secrets Acts

1.1 The Second Party shall:

1.1.1 Take all reasonable steps to ensure that all Employees engaged on any work in connection with the Agreement have notice that the Official Secrets Acts 1911-1989 apply to them and will continue so to apply after the completion or termination of the Agreement; and

1.1.2 If directed by the First Party or the Authority, ensure that any Employee shall sign a statement acknowledging that, both during the term of the Agreement and after its completion or termination, they are bound by the Official Secrets Acts 1911-1989 (and where applicable any other legislation).

2. Security Measures

2.1 Unless they have the written authorisation of the Authority to do otherwise, neither the Second Party nor any of their Employees shall, either before or after the completion or termination of the Agreement, do or permit to be done anything which they know or ought reasonably to know may result in Secret Matter being disclosed to or acquired by a person in any of the following categories:

2.1.1 who is not a British citizen;

2.1.2 who does not hold the appropriate authority for access to the protected matter;

2.1.3 in respect of whom the Authority has notified the Second Party in writing that the Secret Matter shall not be disclosed to or acquired by that person;

2.1.4 who is not an Employee of the Second Party;

2.1.5 who is an Employee of the Second Party and has no need to know the information for the proper performance of the Agreement.

2.2 Unless they have the written permission of the Authority to do otherwise, the Second Party and their Employees shall, both before and after the completion or termination of the Agreement, take all reasonable steps to ensure that:

2.2.1 no photograph of, or pertaining to, any Secret Matter shall be taken and no copy of or extract from any Secret Matter shall be made except to the extent necessary for the proper performance of the Agreement;

2.2.2 any Secret Matter is at all times strictly safeguarded in accordance with the GovS 007: Security (as amended from time to time) and upon request is delivered up to the Authority who shall be entitled to retain it.

2.3 A decision of the Authority on the question of whether the Second Party has taken or is taking reasonable steps as required by this Clause, shall be final and conclusive.

2.4 The Second Party shall:

- 2.4.1 provide to the Authority:
- 2.4.1.1 upon request, such records giving particulars of those Employees who have had at any time, access to any Secret Matter that is required to be kept in accordance with Clause 2.2.2 of this Annex 1;
 - 2.4.1.2 upon request, such information as the Authority may from time to time require so as to be satisfied that the Second Party and their Employees are complying with their obligations under this Schedule L (*Security Measures*), including the measures taken or proposed by the Second Party so as to comply with their obligations and to prevent any breach of them;
 - 2.4.1.3 full particulars of any failure by the Second Party and their Employees to comply with any obligations relating to Secret Matter arising under this Schedule L (*Security Measures*) immediately upon such failure becoming apparent.
- 2.4.2 ensure that, for the purpose of checking the Second Party's compliance with the obligation in Clause 2.4 of this Annex 1, a representative of the First Party or the Authority shall be entitled at any time to enter and inspect any premises used by the Second Party which are in any way connected with the Agreement and inspect any document or thing in any such premises, which is being used or made for the purposes of the Agreement. Such representative shall be entitled to all such information as they or it may reasonably require.
- 2.5 If at any time either before or after the completion or termination of the Agreement, the Second Party or any of their Employees discovers or suspects that an unauthorised person is seeking or has sought to obtain information directly or indirectly concerning any Secret Matter, the Second Party shall forthwith inform the Authority of the matter with full particulars thereof.
3. **Subcontracts**
- 3.1 If the Second Party proposes to make a Subcontract which will involve the disclosure of Secret Matter to the Subcontractor, the Second Party shall:
- 3.1.1 submit for approval of the Authority the name of the proposed subcontractor, a statement of the work to be carried out and any other details known to the Second Party which the Authority shall reasonably require;
 - 3.1.2 incorporate into the Subcontract the terms of this Schedule L (*Security Measures*) and such secrecy and security obligations as the Authority shall direct;
 - 3.1.3 inform the Authority immediately if they become aware of any breach by the Subcontractor of any secrecy or security obligation and, if requested to do so by the Authority, terminate the Agreement.
4. **Termination**
- 4.1 The First Party shall be entitled to terminate the Agreement immediately if:
- 4.1.1 the Second Party is in breach of any obligation under this Schedule L (*Security Measures*); or

4.1.2 the Second Party is in breach of any secrecy or security obligation imposed by any other contract with the Crown;

where the Authority consider the circumstances of the breach jeopardise the secrecy or security of the Secret Matter and notifies its contractor accordingly.

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**ANNEX 3 : UK OFFICIAL & UK OFFICIAL SENSITIVE
CONTRACTUAL SECURITY CONDITIONS**

Purpose

1. This document provides guidance for Contractors where classified material provided to or generated by the Contractor is graded UK OFFICIAL or UK OFFICIAL-SENSITIVE. Where the measures requested below cannot be achieved or are not fully understood, further advice should be sought from the UK Designated Security Authority (Email: [REDACTED]).

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Commercial Interest

Definitions

2. The term "*Authority*" for the purposes of this Annex 3 means the HMG Contracting Authority.
3. The term "*Classified Material*" for the purposes of this Annex 3 means classified information and assets.

Security Grading

4. The SENSITIVE caveat is used to denote UK OFFICIAL material that is of a particular sensitivity and where there is a need to reinforce the 'need to know'. The Security Aspects Letter, issued by the Authority shall define the UK OFFICIAL-SENSITIVE material that is provided to the Contractor, or which is to be developed by it, under this Contract. The Contractor shall mark all UK OFFICIAL and UK OFFICIAL-SENSITIVE documents which it originates or copies during the Contract with the applicable security grading.

Security Conditions

5. The Contractor shall take all reasonable steps to adhere to the provisions specified in the Contract or listed in this Annex 3. The Contractor shall make sure that all individuals employed on any work in connection with the Contract have notice that these provisions apply to them and shall continue so to apply after the completion or earlier termination of the Contract. The Authority must state the data retention periods to allow the Contractor to produce a data management policy. If you are a Contractor located in the UK your attention is also drawn to the provisions of the Official Secrets Acts 1911 to 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.

Protection of UK OFFICIAL and UK OFFICIAL-SENSITIVE Classified Material

6. The Contractor shall protect UK OFFICIAL and UK OFFICIAL-SENSITIVE material provided to or generated by it in accordance with the requirements detailed in this Security Condition 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 classified material whether accidentally or from deliberate or opportunist attack.
7. Once the Contract has been awarded, where Contractors are required to store or process Authority classified information electronically, they are required to register the IT system onto the Defence Assurance Risk Tool (DART). Details on the registration process can be found in the 'Industry Security Notices (ISN)' on Gov.UK website. ISNs 2023/10 and 2017/06, Schedule M and Defence Standard 05-138 details the DART registration, IT security accreditation processes, risk assessment/management and Cyber security requirements which can be found in the following links:

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

https://assets.publishing.service.gov.uk/media/60dc934a8fa8f50abc106c0a/DefStan_05-138_issue_3.pdf

<https://www.gov.uk/government/publications/defence-condition-658-cyber-flow-down>

8. All UK classified material including documents, media and other assets must be physically secured to prevent unauthorised access. When not in use UK OFFICIAL and UK OFFICIAL-SENSITIVE material shall be handled with care to prevent loss or inappropriate access. As a minimum UK OFFICIAL-SENSITIVE material shall be stored under lock and key and shall be placed in a lockable room, cabinets, drawers or safe and the keys/combinations shall be subject to a level of control.
9. Disclosure of UK OFFICIAL and UK OFFICIAL-SENSITIVE material must be strictly controlled in accordance with the “*need to know*” principle. Except with the written consent of the Authority, the Contractor shall not disclose the Contract or any provision thereof to any person other than to a person directly employed by the Contractor or Subcontractor.
10. Except with the consent in writing of the Authority the Contractor shall not make use of the Contract or any information issued or provided by or on behalf of the Authority otherwise than for the purpose of the Contract, and, same as provided for in paragraph 8 above, the Contractor shall not make use of any article or part thereof similar to the articles for any other purpose.
11. Subject to any Intellectual Property Rights of third parties, nothing in this Security Condition shall restrict the Contractor from using any specifications, plans, drawings and other documents generated outside of this Contract.
12. 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 must be returned on completion of the Contract or, if directed by the Authority, destroyed in accordance with paragraph 34.

Access

13. Access to UK OFFICIAL and UK OFFICIAL-SENSITIVE material 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 their duties.
14. The Contractor shall ensure that all individuals requiring access to UK OFFICIAL-SENSITIVE information have undergone basic recruitment checks. This should include establishing proof of identity; confirming that they satisfy all legal requirements for employment by the Contractor; and verification of their employment record. Criminal record checks should also be undertaken where permissible under national/local laws and regulations. This is in keeping with the core principles set out in the UK Government (HMG) Baseline Personnel Security Standard (BPSS) which can be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/714002/HMG_Baseline_Personnel_Security_Standard_-_May_2018.pdf

Hard Copy Distribution

15. UK OFFICIAL and UK OFFICIAL-SENSITIVE documents may be distributed, both within and outside Contractor premises in such a way as to make sure that no unauthorised person

has access. It may be sent by ordinary post in a single envelope. The words UK OFFICIAL or UK OFFICIAL-SENSITIVE must not appear on the envelope. The envelope must bear a stamp or marking that clearly indicates the full address of the office from which it was sent. Commercial Couriers may be used.

16. Advice on the distribution of UK OFFICIAL-SENSITIVE documents abroad or any other general advice including the distribution of UK OFFICIAL-SENSITIVE shall be sought from the Authority.

Electronic Communication and Telephony and Facsimile Services

17. UK OFFICIAL information may be emailed unencrypted over the internet. UK OFFICIAL-SENSITIVE information shall normally only be transmitted over the internet encrypted using either a National Cyber Security Centre (NCSC) Commercial Product Assurance (CPA) cryptographic product or an Authority 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>

18. Exceptionally, in urgent cases UK OFFICIAL-SENSITIVE information may be emailed unencrypted over the internet where there is a strong business need to do so, but only with the prior approval of the Authority. However, it 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 require. Such limitations including any regarding publication, further circulation or other handling instructions shall be clearly identified in the email sent with the material.
19. UK OFFICIAL information may be discussed on fixed and mobile telephones with persons located both within the country of the Contractor and overseas. UK OFFICIAL-SENSITIVE information may be discussed on fixed and mobile telephones only where there is a strong business need to do so and only with the prior approval of the Authority.
20. UK OFFICIAL information may be faxed to recipients located both within the country of the Contractor and overseas, however UK OFFICIAL-SENSITIVE information may be transmitted only where there is a strong business case to do so and only with the prior approval of the Authority.

Use of Information Systems

21. The detailed functions that must be provided by an IT system to satisfy the minimum requirements cannot all be described here in specific detail; it is for the implementers to identify possible means of attack and ensure proportionate security mitigations are applied to prevent a successful attack.
22. The Contractor should ensure **10 Steps to Cyber Security** (Link below) is applied in a proportionate manner for each IT and communications system storing, processing or generating UK OFFICIAL or UK OFFICIAL-SENSITIVE information. The Contractor should ensure competent personnel apply 10 Steps to Cyber Security.

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

23. 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.
24. Within the framework of the 10 Steps to Cyber Security, the following describes the minimum security requirements for processing and accessing UK OFFICIAL-SENSITIVE information on IT systems.
- 24.1 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.
- 24.2 Identification and Authentication (ID&A). All systems are to have the following functionality:
- 24.2.1 Up-to-date lists of authorised users.
- 24.2.2 Positive identification of all users at the start of each processing session.
- 24.3 Passwords. Passwords are part of most ID&A security measures. Passwords are to be “*strong*” using an appropriate method to achieve this, e.g. including numeric and “*special*” characters (if permitted by the system) as well as alphabetic characters.
- 24.4 Internal Access Control. All systems are to have internal Access Controls to prevent unauthorised users from accessing or modifying the data.
- 24.5 Data Transmission. Unless the Authority authorises otherwise, UK OFFICIAL-SENSITIVE information may only 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 paragraph 16 above.
- 24.6 Security Accounting and Audit. Security relevant events fall into two categories, namely legitimate events and violations.
- 24.6.1 The following events shall always be recorded:
- 24.6.1.1 All log on attempts whether successful or failed,
- 24.6.1.2 Log off (including time out where applicable),
- 24.6.1.3 The creation, deletion or alteration of access rights and privileges,
- 24.6.1.4 The creation, deletion or alteration of passwords.
- 24.6.2 For each of the events listed above, the following information is to be recorded:
- 24.6.2.1 Type of event,
- 24.6.2.2 User ID,
- 24.6.2.3 Date & Time,
- 24.6.2.4 Device ID.

The accounting records are to have a facility to provide the System Manager with a hard copy of all or selected activity. There also must 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 must be protected by physical means when not in use i.e. locked away or the hard drive removed and locked away.

- 24.7 Integrity & Availability. The following supporting measures are to be implemented:
- 24.7.1 Provide general protection against normally foreseeable accidents/mishaps and known recurrent problems (e.g. viruses and power supply variations),
 - 24.7.2 Defined Business Contingency Plan,
 - 24.7.3 Data backup with local storage,
 - 24.7.4 Anti-Virus Software (Implementation, with updates, of an acceptable industry standard Anti-virus software),
 - 24.7.5 Operating systems, applications and firmware should be supported,
 - 24.7.6 Patching of Operating Systems and Applications used are to be in line with the manufacturers recommended schedule. If patches cannot be applied an understanding of the resulting risk will be documented.
- 24.8 Logon Banners. Wherever possible, a "Logon Banner" will 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"*
- 24.9 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.
- 24.10 Internet Connections. Computer systems must not be connected direct to the Internet or "un-trusted" 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).
- 24.11 Disposal. Before IT storage media (e.g. disks) are disposed of, an erasure product must be used to overwrite the data. This is a more thorough process than deletion of files, which does not remove the data.

Laptops

- 25. Laptops holding any UK OFFICIAL-SENSITIVE information shall be encrypted using a CPA product or equivalent as described in paragraph 16 above.
- 26. Unencrypted laptops and drives containing personal data are not to be taken outside of secure sites¹. For the avoidance of doubt the term "drives" includes all removable, recordable media e.g. memory sticks, compact flash, recordable optical media (CDs and DVDs), floppy discs and external hard drives.

- 27. 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.
- 28. Portable CIS devices holding the Authorities' data 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

- 29. The Contractor shall immediately report any loss or otherwise compromise of any OFFICIAL or OFFICIAL-SENSITIVE material to the Authority. In addition any loss or otherwise compromise of any Authority owned, processed or Authority Contractor generated UK OFFICIAL or UK OFFICIAL-SENSITIVE material is to be immediately reported to the UK MOD Defence Industry Warning, Advice and Reporting Point (WARP), within the Joint Security Co-ordination Centre (JSyCC) below. 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 Authority's Chief Information Officer (CIO) and, as appropriate, the Contractor concerned. The UK MOD WARP will also advise the Contractor what further action is required to be undertaken.

JSyCC WARP Contact Details

Email: [REDACTED] (OFFICIAL with no NTK restrictions)

RLI Email: [REDACTED] (MULTIUSER)

Telephone (Office hours): [REDACTED]

JSyCC Out of hours Duty Officer: [REDACTED]

Mail: [REDACTED]

[REDACTED]

[REDACTED]

***Redacted under FOIA
Section 43, Commercial
Interest***

- 30. Reporting instructions for any security incidents involving MOD classified material can be found in Industry Security Notice 2017/03 as may be subsequently updated at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/651683/ISN_2017-03 - Reporting of Security Incidents.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/651683/ISN_2017-03_-_Reporting_of_Security_Incidents.pdf)

Subcontracts

- 31. Where the Contractor wishes to Subcontract any elements of a Contract to Subcontractors within its own country or to Contractors located in the UK such Subcontracts will be notified to the Contracting Authority. The Contractor shall ensure that these Security Conditions are incorporated within the Subcontract document.
- 32. The prior approval of the Authority shall be obtained should the Contractor wish to Subcontract any UK OFFICIAL-SENSITIVE elements of the Contract to a Subcontractor facility located in another (third party) country. The first page of Appendix 5 (MOD Form

1686 (F1686) of the GovS 007 Security 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/710891/2018_May_Contractual_process.pdf

33. If the Subcontract is approved, the Contractor will flow down the Security Conditions in line with paragraph 30 above to the Subcontractor. Contractors located overseas may seek further advice and/or assistance from the Authority with regards the completion of F1686.

Publicity Material

34. Contractors wishing to release any publicity material or display assets that arises from a Contract to which these Security Conditions apply must 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 UK Government

Physical Destruction

35. As soon as no longer required, UK OFFICIAL and UK OFFICIAL-SENSITIVE material shall be destroyed in such a way as to make reconstitution very difficult or impossible, 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 UK OFFICIAL-SENSITIVE information/material which cannot be destroyed in such a way shall be returned to the Authority.

Interpretation/Guidance

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

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

Audit

38. 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 Contractors' National/Designated Security Authorities or the Authority to ensure compliance with these requirements.

SCHEDULE M : CYBER

INTERIM STRATEGIC SEALIFT (SSL-I)

1. **Interpretation**

Capitalised terms in this Schedule M (*Cyber*) shall, unless otherwise expressly stated, have the same meaning as given to those terms in Clause 1.1 (*Definitions*) of the Contract

2. **Authority Obligations**

2.1 The Authority shall:

2.1.1 determine the Cyber Risk Profile appropriate to this Contract and notify the Contractor of the same at the earliest possible date; and

2.1.2 notify the Contractor as soon as reasonably practicable where the Authority reassesses the Cyber Risk Profile relating to this Contract, which shall be in accordance with paragraph 7 (*General*) of this Schedule M (*Cyber*).

3. **Contractor Obligations**

3.1 The Contractor shall, and shall procure that their Principal Subcontractors shall:

3.1.1 comply with DEFSTAN 05-138 or, where applicable, a Cyber Implementation Plan which shall be prepared and implemented in accordance with Good Industry Practice taking account of any risk-balance case and any mitigation measures required by the Authority and shall ensure that any measures taken to protect MOD Identifiable Information are no less stringent than those taken to protect their own proprietary information;

3.1.2 complete the CSM Risk Assessment Process in accordance with the Authority's instructions, ensuring that any change in the Cyber Risk Profile is notified to any affected Principal Subcontractor, and complete a further CSM Risk Assessment or CSM Supplier Assurance Questionnaire where a change is proposed to the Contractor's supply chain or on receipt of any reasonable request by the Authority;

3.1.3 re-perform the CSM Supplier Assurance Questionnaire no less than once in each year of this Contract commencing on the first anniversary of completion of the CSM Supplier Assurance Questionnaire to demonstrate continued compliance with the Cyber Security Instructions;

3.1.4 having regard to the state of technological development, implement and maintain all appropriate technical and organisational security measures to discharge their obligations under this Schedule in accordance with Good Industry Practice *provided always that* where there is a conflict between the Contractor's obligations under paragraph 3.1.1 above and this paragraph 3.1.4 (*Contractor Obligations*) the Contractor shall notify the Authority in accordance with the notification provisions in DEFSTAN 05-138 as soon as they become aware of the conflict and the Authority shall determine which standard or measure shall take precedence;

3.1.5 comply with all Cyber Security Instructions notified to it by the Authority as soon as reasonably practicable;

3.1.6 notify the JSyCC WARP in accordance with ISN 2017/03 as amended or updated from time to time and the Contractors NSA/DSA, and in the case of a Principal

Subcontractor also notify the Contractor, immediately in writing as soon as they know or believe that a Cyber Security Incident has or may have taken place providing initial details of the circumstances of the incident and any mitigation measures already taken or intended to be taken, and providing further information in phases, as full details become available;

- 3.1.7 in coordination with their NSA/DSA, investigate any Cyber Security Incidents fully and promptly and co-operate with the Authority and its agents and representatives to take all steps to mitigate the impact of the Cyber Security Incident and minimise the likelihood of any further similar Cyber Security Incidents. For the avoidance of doubt, this shall include complying with any reasonable technical or organisational security measures deemed appropriate by the Authority and the Contractors NSA/DSA in the circumstances and taking into account the Cyber Risk Profile; and
- 3.1.8 consent to the Authority recording and using information obtained via the Supplier Cyber Protection Service in relation to the Contract for the purposes of the Cyber Security Model which shall include any agreed Cyber Implementation Plan. For the avoidance of doubt such information shall include the cyber security accreditation of the Contractor and/or Principal Subcontractor as appropriate; and
- 3.1.9 include provisions equivalent to those set out in the accompanying Annex 1 to this Schedule M (*Cyber*) (the “equivalent provisions”) in all Principal Subcontracts.

4. **Management Of Principal Subcontractors**

- 4.1 Provided that it is reasonable in all the circumstances to do so, the Authority agrees that the Contractor shall be entitled to rely on the self-certification by the Principal Subcontractor of their compliance with this Schedule M (*Cyber*) in accordance with paragraph 3.1.1 (*Contractor Obligations*) above.
- 4.2 Where a Principal Subcontractor notifies the Contractor that it cannot comply with the requirements of DEFSTAN 05-138, the Contractor shall require a Principal Subcontractor to prepare and implement a Cyber Implementation Plan in accordance with Good Industry Practice taking account of any risk-balance case and any mitigation measures required by the Contractor and shall ensure that any measures taken to protect MOD Identifiable Information are no less stringent than those taken to protect the proprietary information of the Principal Subcontractor. Where the Contractor has reasonably relied on the Principal Subcontractor’s self-certification and the Principal Subcontractor is subsequently found to be in breach of their obligations, the Contractor shall not be in breach of this Schedule M (*Cyber*).
- 4.3 The Contractor shall, and shall require their Principal Subcontractors to, include provisions equivalent to those set out in Annex 1 to this Schedule M (*Cyber*) in all relevant Principal Subcontracts and shall notify the Authority in the event that they become aware of any material breach of the provisions set out in the Annex 1 to this Schedule M (*Cyber*) by their Principal Subcontractor.

5. **Records**

- 5.1 The Contractor shall keep and maintain, and shall ensure that any Principal Subcontractor shall keep and maintain, until six (6) years after termination or end of Contract term or final payment under this Contract, or as long a period as may be agreed between the Parties, full and accurate records including but not limited to:

- 5.1.1 copies of all documents required to demonstrate compliance with DEFSTAN 05-138 and this Schedule, including but not limited to any information used to inform the CSM Risk Assessment Process and to carry out the CSM Supplier Assurance Questionnaire, together with any certificates issued to the Contractor and/or Principal Subcontractor; and
- 5.1.2 copies of all documents demonstrating compliance with paragraph 3.1.5 (*Contractor Obligations*) and in relation to any notifications made under paragraph 3.1.6 (*Contractor Obligations*) and/or investigation under paragraph 3.1.7 (*Contractor Obligations*).
- 5.2 The Contractor shall, and shall ensure that any Principal Subcontractor shall, on request provide the Authority, the Authority's representatives and/or the Contractors NSA/DSA such access to those records under paragraph 5.1 (*Records*) as may be required in connection with this Contract.
- 6. **Audit**
- 6.1 In the event of a Cyber Security Incident the Contractor agrees that the Authority and its representatives, in coordination with the Contractor's NSA/DSA, may conduct such audits as are required to establish (i) the cause of the Cyber Security Incident, (ii) the impact of the Cyber Security Incident, (iii) the MOD Identifiable Information affected, and (iv) the work carried out by the Contractor to resolve the Cyber Security Incident and to mitigate the effects, to ensure that the Cyber Security Incident is resolved to the satisfaction of the Authority and the NSA/DSA.
- 6.2 In addition to the rights in paragraph 6.1 (*Audit*) above the Authority or its representatives and/or the Contractor's NSA/DSA, either solely or in any combination, may at any time during the Contract and for a period of six (6) years after termination of the Contract or the end of the Contract term or final payment under the Contract whichever is the later, but not more than once in any calendar year, conduct an audit for the following purposes where the Contractor continues to hold MOD Identifiable Information:
 - 6.2.1 to review and verify the integrity, confidentiality and security of any MOD Identifiable Information; and
 - 6.2.2 to review the Contractor's and/or any Principal Subcontractor's compliance with their obligations under DEFSTAN 05-138 or a Cyber Implementation Plan; and
 - 6.2.3 to review any records created during the provision of the Contractor Deliverables, including but not limited to any documents, reports and minutes which refer or relate to the Contractor Deliverables for the purposes of paragraphs 5.1.1 and 5.1.2 (*Records*) above.
- 6.3 The Authority, acting reasonably and having regard to the confidentiality and security obligations owed by the Contractor to third parties, shall propose the scope of each audit in writing with a view to seeking the agreement of the Contractor but shall make the ultimate decision on the scope. For the avoidance of doubt the scope of the audit shall not grant the Authority any unsupervised access to any of the Contractor's information systems or electronic communications networks. The Authority shall use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Contractor and/or Principal Subcontractor or delay the provision of the Contractor Deliverables and supplier information received by the Authority in connection with the audit shall be treated as Confidential Information.

- 6.4 The Contractor shall, and shall ensure that any Principal Subcontractor shall on demand provide the Authority and any relevant regulatory body, including the Contractor's NSA/DSA, (and/or their agents or representatives), together "the Auditors", with all reasonable co-operation and assistance in relation to each audit, including but not limited to:
- 6.4.1 all information requested by the Authority within the permitted scope of the audit;
 - 6.4.2 reasonable access to any Sites controlled by the Contractor or any Associated Company used in the performance of the Contract to the extent required within the permitted scope of the audit and, where such Sites are out of the control of the Contractor, shall secure sufficient rights of access for the Auditors as shall be necessary to allow audits to take place; and
 - 6.4.3 access to any relevant staff.
- 6.5 The Authority shall endeavour to (but is not obliged to) provide at least fifteen (15) calendar days' notice of its intention to conduct an audit.
- 6.6 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this Schedule, unless the audit identifies a material breach of the terms of this Schedule by the Contractor in which case the Contractor shall reimburse the Authority for all the Authority's reasonable costs incurred (which shall be evidence to the Contractor) in the course of the audit.
- 6.7 The Contractor shall in their Principal Subcontracts procure rights for the Authority to enforce the terms of paragraph 6 (*Audit*) in accordance with the Contracts (Rights of Third Parties) Act 1999.
7. **General**
- 7.1 On termination or expiry of this Contract the provisions of this Schedule M (*Cyber*) excepting paragraph 3.1.2 and 3.1.3 (*Contractor Obligations*) above shall continue in force so long as the Contractor and/or Principal Subcontractor holds any MOD Identifiable Information relating to this Contract.
- 7.2 Termination or expiry of this Contract shall not affect any rights, remedies, obligations or liabilities of the Parties under this Schedule M (*Cyber*) that have accrued up to the date of termination or expiry, including but not limited to the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- 7.3 The Contractor agrees that the Authority has absolute discretion to determine changes to DEFSTAN 05-138 or the Cyber Risk Profile or both and issue new or updated Cyber Security Instructions. In the event that there is such a change to DEFSTAN 05-138 or the Cyber Risk Profile or both, then either Party may seek an adjustment to the Contract Price for any associated increase or decrease in costs and the Contractor may request an extension of time for compliance with such revised or amended DEFSTAN 05-138 or Cyber Risk Profile or both *provided always that* the Contractor shall seek to mitigate the impact on time and cost to the extent which it is reasonably practicable to do so and *further provided that* such costs shall not be allowed unless they are considered to be appropriate, attributable to the Contract and reasonable in all the circumstances.
- 7.4 Subject to paragraph 7.3 (*General*) above, where the Contractor seeks such adjustment or extension, the Authority will proceed in accordance with Schedule P (*Contract Change Control Procedure*) of the Contract. The Contractor must deliver a Contractor Change Proposal to the Authority within eight (8) weeks (or other period agreed by the Parties) of the occurrence of the change in DEFSTAN 05-138 or Cyber Risk Profile or both, identifying

the impact of that change and accompanied by full details of the request for adjustment. For the avoidance of doubt, the Authority shall not be required to withdraw any Authority Notice of Change which may have been issued insofar as it relates to DEFSTAN 05-138 or the Cyber Risk Profile or both whether or not the Contractor Change Proposal is rejected. If the Contractor does not agree with the Authority's determination, then the provisions of Clause 73 (*Fast Track Resolution*) and Clause 72 (*Dispute Resolution*) of the Contract shall apply.

- 7.5 The Contractor shall not recover any costs and/or other losses under or in connection with this Schedule M (*Cyber*) where such costs and/or other losses are recoverable or have been recovered by the Contractor elsewhere in this Contract or otherwise. For the avoidance of doubt this shall include but not be limited to the cost of implementing any upgrades or changes to any information system or electronic communications network whether in response to a Cyber Security Incident or otherwise, where the Contractor is able to or has recovered such sums in any other provision of this Contract or has recovered such costs and/or losses in other contracts between the Contractor and the Authority or with other bodies.

ANNEX 1 : SCHEDULE M (CYBER)

Provisions to Be Included in Principal Subcontracts

1. **Definitions**

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

“Associated Company” means:

- (A) any associated company of the Subcontractor from time to time within the meaning of Section 449 of the Corporate Tax Act 2010 or any subordinate legislation; and
- (B) any parent undertaking or subsidiary undertaking of the Subcontractor from time to time within the meaning of section 1162 Companies Act 2006 and it is further agreed that where the ownership of shares in any such undertaking have been pledged or transferred to a third party by way of security, the original parent shall still be considered a member of the subsidiary undertaking;

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“Authority” means the Secretary of State for Defence, having its registered office at [REDACTED]

“Cyber Risk Profile” means the level of cyber risk relating to this Subcontract or any lower tier Subcontract assessed in accordance with the Cyber Security Model;

“Cyber Implementation Plan” means the plan referred to in paragraph 3 of Schedule M (*Cyber*);

“Cyber Security Incident” means an event, act or omission which gives rise or may give rise to:

- (A) unauthorised access to an information system or electronic communications network on which MOD Identifiable Information resides;
- (B) disruption or change of the operation (including but not limited to takeover of control) of an information system or electronic communications network on which MOD Identifiable Information resides;
- (C) unauthorised destruction, damage, deletion or the change of MOD Identifiable Information residing in an information system or electronic communications network;
- (D) unauthorised or unintentional removal or limiting the possibility to use MOD Identifiable Information residing in an information system or electronic communications network; or
- (E) the appropriation, publication, dissemination or any other use of non-public MOD Identifiable Information by persons unauthorised to do so.

“Cyber Security Instructions” means DEFSTAN 05-138, together with any relevant ISN and specific security instructions relating to this Subcontract issued by the MOD to the Prime Contractor;

“Cyber Security Model” and “CSM” mean the process by which the Authority ensures that MOD Identifiable Information is adequately protected from Cyber Security Incident and includes the CSM Risk Assessment Process, DEFSTAN 05-138 and the CSM Supplier Assurance Questionnaire conducted via the Supplier Cyber Protection Service;

“CSM Risk Assessment Process” means the risk assessment process which forms part of the Cyber Security Model and is used to measure the Cyber Risk Profile for this Subcontract and any lower tier Subcontract;

“CSM Supplier Assurance Questionnaire” means the supplier assessment questionnaire which forms part of the Cyber Security Model and is to be used by the Subcontractor to demonstrate compliance with this Condition;

“Data” means any data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media;

“DEFSTAN 05-138” means the Defence Standard 05-138 as amended or replaced from time to time;

“Electronic Information” means all information generated, processed, transferred or otherwise dealt with under or in connection with this Subcontract, including but not limited to Data, recorded or preserved in electronic form and held on any information system or electronic communications network;

“Good Industry Practice” means in relation to any undertaking and any circumstances, the exercise of skill, diligence, prudence, foresight and judgment and the making of any expenditure that would reasonably be expected from a skilled person in the same type of undertaking under the same or similar circumstances;

“ISN” means Industry Security Notices issued by the Authority to the Prime Contractor whether directly or by issue on the gov.uk website at: <https://www.gov.uk/government/publications/industry-security-notices-isns>;

“JSyCC WARP” means the Joint Security Co-ordination Centre MOD Defence Industry Warning, Advice and Reporting Point or any successor body notified by way of ISN;

“MOD Identifiable Information” means all Electronic Information which is attributed to or could identify an existing or proposed MOD capability, defence activities or personnel and which the Authority requires to be protected against loss, misuse, corruption, alteration and unauthorised disclosure;

“Prime Contractor” means the Contractor named in the Prime Contract with the Authority;

“NSA/DSA” means, as appropriate, the National or Designated Security Authority of the Prime or Subcontractor that is responsible for the oversight of the security requirements to be applied by the Prime or Subcontractor and for ensuring compliance with applicable national security regulations;

“Sites” means any premises from which Contractor Deliverables are provided in connection with this Subcontract or from which the Subcontractor or any relevant lower tier Subcontractor manages, organises or otherwise directs the provision or the use of the Contractor Deliverables and/or any sites from which the Subcontractor or any relevant lower tier Subcontractor generates, processes, stores or transmits MOD Identifiable Information in relation to this Subcontract;

“Supplier Cyber Protection Service” means the tool incorporating the CSM Risk Assessment Process and CSM Supplier Assurance Questionnaire;

2. Subcontractor Obligations

2.1 The Subcontractor shall:

- 2.1.1 comply with DEFSTAN 05-138 or, where applicable, the Cyber Implementation Plan attached to this Subcontract and for the avoidance of doubt any Cyber Implementation Plan shall be prepared and implemented in accordance with Good Industry Practice taking account of any risk-balance case and any mitigation measures required by the Authority and the Prime Contractor and shall ensure that any measures taken to protect MOD Identifiable Information are no less stringent than those taken to protect their own proprietary information;
- 2.1.2 complete the CSM Risk Assessment Process in accordance with the Authority and the Prime Contractor’s instructions, ensuring that any change in the Cyber Risk Profile is notified to the MOD, the Prime Contractor and any affected lower tier Subcontractor, and complete a further CSM Risk Assessment or CSM Supplier Assurance Questionnaire where a change is proposed to the supply chain or on receipt of any reasonable request by the MOD;
- 2.1.3 re-perform the CSM Supplier Assurance Questionnaire no less than once in each year of this Subcontract commencing on the first anniversary of completion of the CSM Supplier Assurance Questionnaire to demonstrate continued compliance with the Cyber Security Instructions;
- 2.1.4 having regard to the state of technological development, implement and maintain all appropriate technical and organisational security measures to discharge their obligations under this Condition in accordance with Good Industry Practice *provided always that* where there is a conflict between the Subcontractor’s obligations under paragraph 2.1.1 (*Subcontractor Obligations*) above and this paragraph 2.1.4 (*Subcontractor Obligations*) the Subcontractor shall notify the Prime Contractor and the Authority in accordance with the notification provisions in DEFSTAN 05-138 as soon as they become aware of the conflict and the Authority shall determine which standard or measure shall take precedence;
- 2.1.5 comply with all Cyber Security Instructions notified to them by the Authority and/or the Prime Contractor as soon as reasonably practicable;
- 2.1.6 notify the JSyCC WARP in accordance with ISN 2017/03 as amended or updated from time to time and the Prime Contractor and the Subcontractor’s NSA/DSA immediately in writing as soon as they know or believe that a Cyber Security Incident has or may have taken place providing initial details of the circumstances of the incident and any mitigation measures already taken or intended to be taken, and providing further information in phases, as full details become available;
- 2.1.7 in coordination with their NSA/DSA, investigate any Cyber Security Incidents fully and promptly and co-operate with the Authority, the Prime Contractor and their agents and representatives to take all steps to mitigate the impact of the Cyber Security Incident and minimise the likelihood of any further similar Cyber Security Incidents. For the avoidance of doubt, this shall include complying with any reasonable technical or organisational security measures deemed appropriate by the Authority and the relevant Prime and/or Subcontractor’s NSA/DSA in the circumstances and taking into account the Cyber Risk Profile; and

2.1.8 consent to the Authority recording and using information obtained via the Supplier Cyber Protection Service in relation to the Subcontract for the purposes of the Cyber Security Model which shall include any agreed Cyber Implementation Plan. For the avoidance of doubt such information shall include the cyber security accreditation of the Subcontractor and/or lower tier Subcontractor as appropriate; and

2.1.9 include provisions equivalent to this Condition in all lower tier Subcontracts (the "equivalent provisions") and, where a lower tier Subcontractor breaches terms implementing this Condition in a Subcontract, the Subcontractor shall, and shall procure that their lower tier Subcontractors shall, in exercising their rights or remedies under the relevant Subcontract:

2.1.9.1 notify the Prime Contractor and the Authority of any such breach and consult with the Prime Contractor and the Authority regarding any remedial or other measures which are proposed as a consequence of such breach, taking the Authority's views into consideration; and

2.1.9.2 have regard to the equivalent provisions.

3. **Records**

3.1 The Subcontractor shall keep and maintain, and shall ensure that any lower tier Subcontractor shall keep and maintain, until six (6) years after termination of Contract term or final payment under this Subcontract, or as long a period as may be agreed between the Parties, full and accurate records including but not limited to:

3.1.1 copies of all documents required to demonstrate compliance with DEFSTAN 05-138 and this Condition, including but not limited to any information used to inform the CSM Risk Assessment Process and to carry out the CSM Supplier Assurance Questionnaire, together with any certificates issued to the Subcontractor and/or any lower tier Subcontractor.

3.1.2 copies of all documents demonstrating compliance with paragraph 2.1.5 (*Subcontractor Obligations*) and in relation to any notifications made under paragraph 2.1.6 and/or investigation under 2.1.7 (*Subcontractor Obligations*).

3.2 The Subcontractor shall, and shall ensure that any lower tier Subcontractor shall, on request provide the Authority, the Authority's representatives and/or the relevant Prime or Subcontractor's NSA/DSA such access to those records under paragraph 3.1 (*Records*) as may be required in connection with this Subcontract.

4. **Audit**

4.1 In the event of a Cyber Security Incident the Subcontractor agrees that the Authority and its representatives, in coordination with the relevant Prime or Subcontractor's NSA/DSA, may conduct such audits as are required to establish (i) the cause of the Cyber Security Incident, (ii) the impact of the Cyber Security Incident, (iii) the Authority Identifiable Information affected, and (iv) the work carried out by the Subcontractor to resolve the Cyber Security Incident and to mitigate the effects, to ensure that the Cyber Security Incident is resolved to the satisfaction of the Authority and the NSA/DSA.

4.2 In addition to the rights in paragraph 4.1 (*Audit*) above, the Subcontractor agrees that the Authority, its representatives and/or the relevant Prime or Subcontractor's NSA/DSA, either solely or in any combination, may at any time during the Contract and for a period of six (6)

years after termination of this Subcontract or the end of the Subcontract term or final payment under the Subcontract whichever is the later, but not more than once in any calendar year, conduct an audit for the following purposes where the Subcontractor continues to hold MOD Identifiable Information:

- 4.2.1 to review and verify the integrity, confidentiality and security of any MOD Identifiable Information;
 - 4.2.2 to review the Subcontractor's and/or any lower tier Subcontractor's compliance with their obligations under DEFSTAN 05-138 or a Cyber Implementation Plan; and
 - 4.2.3 to review any records created during the provision of the Contractor Deliverables, including but not limited to any documents, reports and minutes which refer or relate to the Contractor Deliverables for the purposes of paragraphs 3.1.1 and 3.1.2 (*Records*) above.
- 4.3 The Authority, acting reasonably and having regard to the confidentiality and security obligations owed by the Subcontractor to third parties, shall propose the scope of each audit in writing with a view to seeking the agreement of the Subcontractor but shall make the ultimate decision on the scope. For the avoidance of doubt the scope of the audit shall not grant the Authority any unsupervised access to any of the Subcontractor's information systems or electronic communications networks. The Authority and the Prime Contractor shall use their reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Subcontractor and/or lower tier Subcontractor or delay the provision of the Contractor Deliverables and supplier information received in connection with the audit shall be treated as Confidential Information.
- 4.4 The Subcontractor shall, and shall ensure that any lower tier Subcontractor shall, on demand provide the Authority and any relevant regulatory body, including the relevant Prime or Subcontractor's NSA/DSA, (and/or their agents or representatives), together "the Auditors", with all reasonable co-operation and assistance in relation to each audit, including but not limited to:
- 4.4.1 all information requested by the Authority within the permitted scope of the audit;
 - 4.4.2 reasonable access to any Sites controlled by the Subcontractor or any Associated Company and any lower tier Subcontractor used in the performance of the Subcontract to the extent required within the permitted scope of the audit and, where such Sites are out with the control of the Subcontractor, shall secure sufficient rights of access for the Auditors as shall be necessary to allow audits to take place; and
 - 4.4.3 access to any relevant staff.
- 4.5 Where the Prime Contractor is provided with notice of the audit by the Authority and/or the relevant NSA/DSA, the Prime Contractor shall endeavour to (but is not obliged to) provide at least fifteen (15) calendar days' notice to the Subcontractor of the intention to conduct an audit.
- 4.6 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this paragraph, unless the audit identifies a material breach of the terms of Schedule M (*Cyber*) and accompanying Annex 1 by the Subcontractor and/or a lower tier Subcontractor in which case the Subcontractor shall reimburse the Prime Contractor and the Authority as appropriate for all the reasonable costs incurred in the course of the audit.

4.7 The Subcontractor shall in their lower tier Subcontracts procure rights for the Authority to enforce the terms of this paragraph 4 (*Audit*) of this Annex 1 in accordance with the Contracts (Rights of Third Parties) Act 1999.

5. **General**

5.1 On termination or expiry of this Subcontract the provisions of this Condition shall continue in force so long as the Subcontractor and/or any lower tier Subcontractor holds any MOD Identifiable Information relating to this Subcontract.

5.2 Termination or expiry of this Subcontract shall not affect any rights, remedies, obligations or liabilities of the Parties under Schedule M (*Cyber*) that have accrued up to the date of termination or expiry, including but not limited to the right to claim damages in respect of any breach of this Subcontract which existed at or before the date of termination or expiry.

5.3 The Subcontractor agrees that the Authority has absolute discretion to determine changes to DEFSTAN 05-138 or the Cyber Risk Profile or both and issue new or updated Cyber Security Instructions. In the event that there is such a change to DEFSTAN 05-138 or the Cyber Risk Profile or both, then the Subcontractor may seek an adjustment to the Contract Price from the Prime Contractor for any associated increase or decrease in costs and the Subcontractor may request an extension of time for compliance with such revised or amended DEFSTAN 05-138 or Cyber Risk Profile or both *provided always that* the Subcontractor shall seek to mitigate the impact on time and cost to the extent which it is reasonably practicable to do so and *further provided that* such costs shall not be allowed unless they are considered to be appropriate, attributable to this Subcontract and reasonable in all the circumstances.

5.4 The Subcontractor shall not recover any costs and/or other losses under or in connection with Schedule M (*Cyber*) where such costs and/or other losses are recoverable or have been recovered by the Subcontractor elsewhere in this Contract or otherwise. For the avoidance of doubt this shall include but not be limited to the cost of implementing any upgrades or changes to any information system or electronic communications network whether in response to a Cyber Security Incident or otherwise, where the Subcontractor is able to or has recovered such sums in any other provision of this Subcontract or has recovered such costs and/or losses in other contracts between the Subcontractor and the Prime Contractor or with other bodies.

OFFICIAL-SENSITIVE - COMMERCIAL

SCHEDULE N : SUBCONTRACT PLAN

INTERIM STRATEGIC SEALIFT (SSL-I)

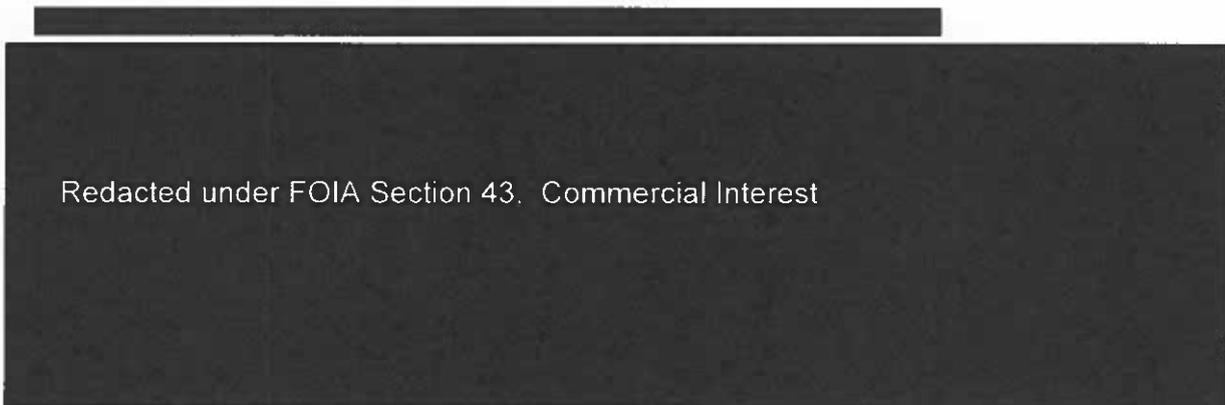
1. **Introduction**

- 1.1 Capitalised terms in this Schedule N (*Subcontract Plan*) shall, unless otherwise expressly stated, have the same meaning as given to those terms in Clause 1.1 (*Definitions*) of this Contract.
- 1.2 This Schedule sets out the details under which the Contractor shall implement any obligation under this Contract, which it elects to subcontract.
- 1.3 The Parties agree that this Schedule N (*Subcontract Plan*) shall indicate the identity of Principal Subcontractors and in relation to the Principal Subcontractors, their respective roles.

2. **Subcontracts**

- 2.1 The Contractor elects to subcontract to the persons, set out below, certain of its obligations set out in the table below.

2.2



- 2.3 In the event that the Contractor proposes a change of Principal Subcontractor in accordance with the provisions of this Contract, the details of such change shall be incorporated and amended in the table contained in paragraph 2.2 (above) of this Schedule N (*Subcontract Plan*) and such amended table shall be deemed incorporated.

3. **Subcontractor Management**

The Contractor shall report to the Authority on each of its Principal Subcontractor's, in accordance with the process set out in Schedule C (*Governance and Reporting*) of this Contract.

SCHEDULE O : CREWING AND SPONSORED RESERVES

INTERIM STRATEGIC SEALIFT (SSL-I)

1. **Introduction**

Capitalised terms in this Schedule O (*Crewing and Sponsored Reserves*) shall, unless otherwise expressly stated, have the same meaning as given to those terms in Clause 1.1 (*Definitions*) of the Contract.

2. **Recruitment & Maintaining**

2.1 The Contractor will:

2.1.1 maintain in their workforce the number of Sponsored Reservists described by rank and skill/trade at Schedule A (*Statement of Requirements*) all of whom are to be available for Call-Out, fully trained up to requirements and standards set by the Authority and be available to deploy overseas if necessary following Call-Out within fourteen (14) days of the Authority notifying the Contractor of a possible requirement to do so;

2.1.2 recruit, in sufficient numbers to meet and maintain the obligation in paragraph 2.1.1 above, personnel who are employees of the Contractor/Subcontractor(s) or self-employed but under contract to the Contractor, who are volunteers for Sponsored Reserve service and who meet the age, medical, nationality and residential criteria for entry into the Royal Navy Reserve; and

2.1.3 prior to each Sponsored Reserve being recruited by the Contractor, provide each Sponsored Reserve with a copy of the Authority's Privacy Notice.

2.2 For the purposes of fulfilling paragraph 2.1.2 above, an individual will be deemed to have been 'recruited' when:

2.2.1 The Contractor informs the Authority that the employee / self-employed person has agreed to the terms and conditions of employment or conditions of their contract referred to in paragraph 11.7 below;

2.2.2 the employee has been given their Employer's Consent to becoming a SR and the employer has informed the Authority of the name and address of such persons.

2.2.3 the employee / self-employed person enters into an Employee Agreement with the Secretary of State for Defence (and,

2.2.4 the employee / self-employed person has become an officer of or been enlisted by the Authority into the Royal Navy Reserve Force as a SR.

2.2.5 the Authority undertakes to brief a designated representative(s) of employers on SR terms and conditions of service and to provide employers with written information designed to assist them with recruiting. This assistance will in no way reduce the Authority's responsibility for ensuring that employees understand the essentials of their terms and conditions of Sponsored Reserve service on enlistment into or on becoming an officer of a Reserve Force.

2.2.6 Once the Contractor has complied with paragraphs 2.2.1 and 2.2.2 above, it will be the Authority's obligation, with the assistance of the Contractor, to process the signing of the Employee Agreement and the enlistment of the individual into

Reserve Service (or acceptance of the individual as an officer of a Reserve Force as the case may be).

2.2.7 If individuals fail / refuse to sign their Employee Agreements, fail to be enlisted (or become an officer of the Reserve Force) or are discharged by MOD from SR Service, the Authority will inform the Contractor as soon as is reasonably practical so that further recruiting action may be taken without delay.

2.2.8 To facilitate the discharge of the Contractor's SR obligations, the Authority will undertake to inform the Contractor / Employer whenever during SR Training or at other times a warning has to be given to an individual concerning their suitability to continue in SR Service.

3. **Security Vetting**

The Parties agree to expedite the process of security vetting without undue delay. When the employee is given their Employer's Consent to become a SR, the Contractor will ensure that the employee completes the security documentation and that it is forwarded to the Authority without delay. For this purpose, the Authority undertakes to supply the Contractor with a supply of the relevant blank forms.

4. **Service Discipline - Fines, Stoppages and Forfeitures of Pay**

The Contractor will:

4.1 ensure that for each SR employed as part of the contract there shall be in their contract of employment a term stating that they will continue to be paid by their employer for any periods of SR Training, Duty and / or Permanent Service as a SR. Contracts for the provision of SR services by self-employed persons are to state that fees payable for services also recompense the person for any Duty or period of SR Training or Permanent Service as a SR;

4.2 ensure that for each SR employed as part of the contract, there shall be in their contract of employment a term, complying with Section 13 of the Employment Rights Act 1996, which authorises their employer to make deductions at the request of the Authority from their pay / salary and /or allowances of:

4.2.1 sums equal to any fines, forfeitures or stoppages that may be imposed in accordance with the Service Discipline Act for service offences, as defined by s.50 of that Act., and

4.2.2 sums equal to those ordered to be paid as or towards compensation for loss or damage to public property or to the property of the Secretary of State for Defence, under the Service Discipline Act;

4.3 ensure that, in the case of self-employed SR used in support of the contract, provisions similar to paragraph 4.2 above are incorporated in contracts for services to permit deductions to be made from fees paid;

4.4 ensure that any deductions referred to in paragraphs 4.2 and 4.3 above will be made if requested by the Authority and that the sums involved, with the exception of sums for pay forfeited for non-attendance by an individual at their place of Duty, will then be paid over to the Authority;

- 4.5 ensure that for each SR employed in support of the contract, there shall be in their contract of employment a term stating that when undertaking any Duty or period of SR Training or Permanent Service the employee will be treated as continuing in the employment of their employer, except where a written agreement between the Authority, the employer and the employee exists to the contrary regarding any particular Duty or Period of Duty or type of Duty;
- 4.6 ensure that, in the case of self-employed SR used in support of the contract, a provision in the contract for services makes it clear that SR Duty, SR Training or Permanent Service is also part of the contracted service for which the fees are being paid; and,
- 4.7 without prejudice to the Contractors' responsibilities under paragraphs 4.1 to 4.6 above, submit to the Authority for consideration before their first use and again if amended, the Conditions or terms referred to in paragraphs 4.1, 4.2, 4.3, 4.5, and 4.6 above to be used in contracts of employment or for contracts for services.

5. **Pay**

Continuing civilian employment and pay whilst undertaking SR service is based on the concept of an employee being on loan to a third party.

6. **Terms and Conditions of Sponsored Reserve Service and Employee Agreements**

- 6.1 The Contractor acknowledges that the SR terms and conditions of service that will apply to their SR employees are those contained in the relevant single Service Regulations unless, in any particular, the application is varied by recording the fact in an individual's Employee Agreement. The Parties agree that the variations recorded below will also be recorded in the section reserved for such variations in the Employee Agreement.
- 6.2 The Parties acknowledge that any Employee who is enlisted as a Sponsored Reservist for the purposes of this Contract shall only be required to be Called-Out as a Sponsored Reservist in support of the provision of the Service by the Contractor.
- 6.3 The Authority acknowledges that all Sponsored Reservists are entitled to Uniform Upkeep Allowance, Call-Out, Gratuities and Annual Training Bounties in accordance with the current regulations. These are Allowable Costs and recoverable under the provisions of Annex 3 of Schedule E (*Performance and Payment*).

7. **Employee Agreements**

The form of Employee Agreement to be used for SR employed in support of this contract is at Annex 2 of Schedule O. The Parties agree that this form may be amended before first use and subsequently for new signings provided that the Contractor has been informed by the Authority of the intended amendments and, in the case of any proposed changes to the variations recorded in Part 1 paragraph 8 of the Employee Agreement, the Contractor has agreed to them.

8. **Training**

8.1 The Contractor will:

- 8.1.1 will release for Service Training on days or at times specified by the Authority, any SR employed by them, or under contract to them as a self-employed person, provided that;

8.1.1.1 the SR Training is required for the SR to meet their legal Training Liability; and,

8.1.1.2 the Authority gives four (4) weeks notice to the Contractor of the requirement:

8.1.2 will make every effort to ensure that SR employed or contracted in support of the contract fulfil their SR Training liabilities; and,

8.1.3 grants that where the Contractor is required to provide support for military exercises and subject to six (6) months notice of the requirement being given, the Authority has the right to require the simulation of Call-Out and exercise of SR support as if it were Permanent Service provided the period of SR Training given falls within the Training Liability of those SR concerned.

8.2 [Redacted under FOIA Section 43, Commercial Interest]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

9. **Call Out**

The Authority undertakes to liaise closely with the Contractor on matters relating to Call-Out and in particular give the Contractor as much notice as possible, within security constraints, of any possible requirement for Call-Out.

10. **Crew Scope of Work**

10.1 Save for such additional duties that might reasonably be required of the Master of the Vessel, the Authority agrees that whilst on board any Vessel, duties of an Employee who is a Sponsored Reservist during Permanent Service will be those referred to in their contracts of employment and Employee Agreements unless an emergency requires otherwise for the protection, safety or good order of the Vessel and the Crew. The Authority agrees that in the event that Employees who are Sponsored Reservists become inadvertently detached from their Vessel, it shall return such Employees to the Vessel as soon as reasonably practicable or, if this is not practical, such Employees shall be returned to the UK for release from Permanent Service as soon as reasonably practicable. The Contractor acknowledges that until release from Permanent Service, such Employees who are Sponsored Reservists shall continue to be subject to the terms and conditions of their Permanent Service.

10.2 In addition to the duties described in paragraph 10.1 (*Crew Scope of Work*), the Contractor agrees that the Master of the Vessel's primary duty during Call-Out is to ensure the safety of the Vessel and Crew, the timely and safe delivery of the Service and to exercise both Contractor management and Naval command of the Vessel and its Crew. In addition to on-board duties, the Master of the Vessel may be required to attend various briefing and/or other events associated with the operation and delivery of the Service as ordered by higher Naval or other Military Authority. Furthermore, Naval command of the Vessel and its Crew shall also require additional duties from time to time to ensure the safe passage of the Vessel, the operation of the Vessel in a war or war-like zone, the operation of the Vessel with friendly units and the maintenance of the good order and Naval discipline in the Vessel for which the Master of the Vessel shall be responsible. The Authority undertakes to brief Master of the Vessel on their Naval duties during Training.

11. **Miscellaneous**

The Contractor:

- 11.1 agrees that periods of SR Training or Permanent Service will not relieve the Contractor from fulfilling any contractual obligations to the employee, save where the Contractor can demonstrate that any failure to fulfil any contractual obligation is a direct consequence of the control and management of the SR exercised by the Authority.
- 11.2 will take all such steps as may be necessary to permit or facilitate compliance by their SR employees or self-employed SR with the legislation relating to SR service, and not to include in contracts of employment applicable to SR or in contracts for services which require a self-employed person to be a SR, any term or condition which is inconsistent with SR legal obligations or terms and conditions of service.
- 11.3 will, provided it does not contravene the legal rights of an individual, not terminate or agree to the termination of a SR's contract of employment or, in the case of a self-employed SR, contract for services without the written consent of the Authority whilst the SR is in Permanent Service or during the period between their being given notice of Call-Out and their acceptance into Permanent Service. The availability of a suitable relief and when relief can be effected will be of primary consideration to the Authority in giving such consent. A SR in Permanent Service remains a SR until they are discharged from that service even if their civilian employment ceases whilst they are Called-Out.
- 11.4 agrees that if, for any reason, the contract of employment for a SR ceases whilst that person is in Permanent Service, the Authority will pay the SR for the subsequent period they are in Permanent Service at Service rates for pay and allowances and the Contractor will reimburse the Authority for any such expenditure incurred.
- 11.5 will record in SR contracts of employment and, in the case of the self employed in SR contracts for services, a notice period that must be given by the employee / self-employed person of not less than three calendar months for the termination of either the contract of employment or contract for services.
- 11.6 will comply with the liaison procedure in Schedule C (*Governance and Reporting*) regarding matters of mutual interest relating to SR service.
- 11.7 will produce guidance for SR employed in support of the contract that will not conflict with the provisions of RFA96, Service Law and Regulations applicable to civilians and SR.
- 11.8 will use the form of Employer's Consent Certificate shown at Annex 1 of Schedule O. The Parties agree that this form may be amended by agreement between Employers and the Authority.

ANNEX 1 : EMPLOYER'S CONSENT CERTIFICATE

EMPLOYER'S CONSENT CERTIFICATE

Reference: Contract Number between and the Secretary of State for Defence.

- 1. In compliance with the Reserve Forces Act 1996 Section 39, employer consent is given for those named in the attached Schedule to enter into Employee Agreements (as described in the Reserve Forces Act 1996 section 38(2)) for the purpose of becoming 'special members of a Reserve Force' (as referred to in Part V of the Reserve Forces Act 1996), termed hereafter as 'Sponsored Reservists'.
- 2. It is understood that the terms and conditions of Reserve Service (namely such periods of time in which an individual is a special member of a Reserve Force) that will apply to those listed in the Schedule will be those prescribed for Sponsored Reservists in the Royal Naval Reserve.
- 3. It is further understood that these terms and conditions of service will be varied in accordance with the content of the Employee Agreement Part 1 paragraph 8.

Signed: Date:

Full Name: Position in (employees' company or organisation)

It is requested that any future correspondence or notifications sent to the above company concerning those named in the attached Schedule be marked for the attention of

....., and addressed to:

.....

.....

Fax: Email:

Redacted under FOIA Section 43, Commercial Interest

Redacted under FOIA Section 43. Commercial Interest

Redacted under FOIA Section 43. Commercial Interest

Redacted under FOIA Section 43, Commercial Interest

Redacted under FOIA Section 43. Commercial Interest

Redacted under FOIA Section 43. Commercial Interest

Redacted under FOIA Section 43. Commercial Interest

SCHEDULE P : CONTRACT CHANGE CONTROL PROCEDURE

INTERIM STRATEGIC SEALIFT (SSL-I)

1. **Introduction**

- 1.1 Either Party may propose any change to the Contract (a "Change") or (subject to paragraph 1.2) Changes, in accordance with this Schedule P.
- 1.2 Nothing in this Schedule P shall operate to prevent a Party from specifying more than one Change in any single proposal, provided that such Changes are related to the same or similar matter or matters.

2. **Change Request**

Authority Change Request

- 2.1 If the Authority wishes to propose a Change or Changes, it shall serve a written notice (an "Authority Notice of Change") on the Contractor.
- 2.2 The Authority Notice of Change shall set out the Change(s) proposed by the Authority in sufficient detail to enable the Contractor to provide a written proposal (a "Contractor Change Proposal") in accordance with paragraphs 3.1 and 3.2 (*Contractor Change Proposal*).
- 2.3 The Contractor may only refuse to implement a Change or Changes proposed by the Authority, if such change(s):
- 2.3.1 is technically impossible;
 - 2.3.2 would materially and adversely affect the health or safety of any person and infringes any applicable Law;
 - 2.3.3 would be a departure from Good Industry Practice;
 - 2.3.4 does not contain adequate information (within the Authority Notice of Change) to prepare a Contractor Change Proposal in accordance with paragraphs 3.1 to 3.2 (provided that, where the Authority Notice of Change does not contain adequate information, the Contractor shall promptly notify the Authority and request such further information as it requires to prepare a Contractor Change Proposal allowing the Authority a reasonable time to respond before refusing to implement a Change pursuant to this paragraph);
 - 2.3.5 would materially and adversely affect the quality of the Service or the successful delivery of the Services;
 - 2.3.6 would materially and adversely affect the current or future market value of the Vessels (as confirmed by an independent vessel sale and purchase broker acceptable to the Contractor and the Authority) in a way that cannot be compensated by the Authority;
 - 2.3.7 would, if implemented, materially change the nature and scope of the Service (including its risk profile or an increase in the risk of KPI Credits) under the Contract in a way which prejudices the Contractor or any Principal Subcontractor and which cannot be compensated for by way of payment to the Contractor;
 - 2.3.8 would, if implemented, require the Contractor to deliver any aspect of the Service in a manner that infringes any applicable Law relevant to such delivery; and/or

- 2.3.9 would, if implemented, cause any existing consent obtained by or on behalf of the Contractor in connection with their obligations under the Contract to be revoked (or would require a new required consent to be obtained to implement the Change(s) which, after using reasonable efforts, the Contractor has been unable to obtain or procure and reasonably believes it will be unable to obtain or procure using reasonable efforts).
- 2.4 If the Contractor considers that the relevant proposed Change or Changes is/are a Change(s) falling within the scope of paragraph 2.3 it shall notify the Authority of the same within twenty (20) Working Days of receipt of the Authority Notice of Change, providing written evidence for the Contractor's reasoning on the matter. Further to such notification, within a reasonable period (and in any event, within ten (10) Working Days) the Authority shall:
- 2.4.1 notify the Contractor in writing that the Authority agrees; or
- 2.4.2 notify the Contractor that the Authority disputes the Contractor's notice under paragraph 2.4, and the matter shall be determined in accordance with Clause 72 (*Dispute Resolution*) of the Contract.
- 2.5 Where the Authority either agrees or it is so determined that the relevant Change(s) is/are a Change(s) falling within the scope of paragraph 2.3 the Authority shall be entitled to make adjustments to the relevant Authority Notice of Change and issue a revised Authority Notice of Change to remove the Contractor's grounds for refusing to implement the relevant Change within ten (10) Working Days (or such longer period as shall have been agreed in writing by the Parties) and the process in paragraphs 2.1 to 2.4 shall be followed in respect of such revised Authority Notice of Change (up to a maximum of two revised Authority Notices of Change (in addition to the original Authority Notice of Change) for any proposed Change or such higher number as may be agreed between the Contractor and the Authority).
- 2.6 Where the Authority agrees or it is so determined that the relevant Change(s) is/are a Change(s) falling within the scope of paragraph 2.3 (*Notice of Change*) and the Authority does not submit a revised Authority Notice of Change in accordance with paragraph 2.5 or the Authority has reached the maximum number of revised Authority Notices of Change without the grounds in paragraph 2.3 (*Notice of Change*) being resolved, the Authority Notice of Change shall be deemed to be withdrawn.
- 2.7 If:
- 2.7.1 the Contractor notifies the Authority that an Authority Notice of Change is accepted; or
- 2.7.2 the Contractor fails to notify the Authority under paragraph 2.4 (*Notice of Change*) within the time period specified therein; or
- 2.7.3 it is determined in accordance with Clause 72 (*Dispute Resolution*) that an Authority Notice of Change does not fall within the scope of paragraph 2.3 (*Notice of Change*),
- then the Authority Notice of Change shall be deemed to be accepted and the date of such acceptance shall be the "ANC Acceptance Date".
- 2.8 For the avoidance of doubt, the Contractor shall not be obliged to deliver to the Authority a Contractor Change Proposal where the Contractor notifies the Authority, and the Authority agrees or it is determined further to such notification in accordance with paragraph 2.4, that

the relevant Change or Changes is/are a Change(s) falling within the scope of paragraph 2.3.

Contractor Change Request

- 2.9 If the Contractor wishes to propose a Change or Change(s), it shall serve a Contractor Change Proposal on the Authority, prepared in accordance with the provisions of paragraph 3 of this Schedule P.

3. **Contractor Change Proposal**

- 3.1 In the case of:

- 3.1.1 an Authority proposed Change, as soon as practicable, and in any event within twenty (20) Working Days of the ANC Acceptance Date; or
- 3.1.2 a Contractor proposed Change, at any time,

the Contractor shall deliver to the Authority a Contractor Change Proposal.

- 3.2 The Contractor Change Proposal shall comprise in respect of each and all Change(s) proposed:

- 3.2.1 the effect of the Change(s) on the Contractor's obligations under the Contract;
- 3.2.2 a detailed breakdown of any costs which are (without double counting) fairly and properly attributable to the Change(s), such pricing to be as per and in compliance with SSCR, in the form of the revised Contractor Databook that meets the requirements set out under the Contract and SSCR, and required supporting information;
- 3.2.3 the programme for implementing the Change(s);
- 3.2.4 any amendment required to this Contract as a result of the Change(s), including, where appropriate, to the Daily Rate and/or the Take or Pay Guarantee, the Daily provisions allowance or the cost of consumables; and
- 3.2.5 such other information as the Authority may require.

4. **Authority evaluation of Contractor Change Proposal**

- 4.1 As soon as practicable after the Authority receives a Contractor Change Proposal, the Authority shall:

- 4.1.1 evaluate the Contractor Change Proposal; and
- 4.1.2 where necessary, discuss with the Contractor any issues arising (and (in relation to a Change(s) proposed by the Authority) following such discussions the Authority may modify the Authority Notice of Change) and the Contractor shall as soon as practicable, and in any event not more than twenty (20) Working Days (or such other period as the Parties shall have agreed in writing) after receipt of such modification, submit an amended Contractor Change Proposal.

- 4.2 As soon as practicable after the Authority has evaluated the Contractor Change Proposal (amended as necessary) the Authority shall either:

- 4.2.1 indicate its acceptance of the Contractor Change Proposal by issuing an amendment to the Contract in accordance with Clause 29.2 (*Formal Amendments to the Contract*) of the Contract, whereupon the Contractor shall promptly issue to the Authority its Change Acceptance Form indicating their unqualified acceptance of such amendment in accordance with, and otherwise discharge their obligations under, such Clause and implement the relevant Change(s) in accordance with such proposal; or
- 4.2.2 serve Notice on the Contractor rejecting the Contractor Change Proposal and withdrawing (where issued in relation to a Change or Changes proposed by the Authority) the Authority Notice of Change (in which case such notice of change shall have no further effect), provided that the Authority shall not be entitled to withdraw an Authority Notice of Change in relation to any assumption, exclusion or dependency set forth in the MDAL or the Contractor Databook submitted within the bid proposal (as updated in accordance with Clause 29.2 (*Formal Amendments to the Contract*)), being breached, incorrect or untrue ("MDAL Proposed Change") and, in such a circumstance where the Authority does not accept such MDAL Proposed Change, the provisions of Clause 72 (*Dispute Resolution*) of the Contract shall apply to determine whether such MDAL Proposed Change is required and, if so, to determine the impact (if any) on the Contract.
- 4.3 If the Authority rejects the Contractor Change Proposal, it shall not be obliged to give its reasons for such rejection.
5. **All Changes**
- 5.1 Both Parties shall act reasonably when discharging their obligations and/or exercising their discretion under this Schedule P.
- 5.2 Any third party costs incurred by the Contractor in complying with this Schedule P shall be Allowable Costs.
- 5.3 Subject to paragraphs 5.2 and 5.4:
- 5.3.1 any amendments to this Agreement required by a Change shall be effective only when accepted by the Authority and the Contractor pursuant to paragraph 4.2.1; and
- 5.3.2 the Authority shall:
- 5.3.2.1 be liable to the Contractor for the reasonable costs incurred by the Contractor in the preparation of a Contractor Change Proposal in response to an Authority Notice of Change (or event which constitutes a Change proposed by the Authority pursuant to the terms of this Contract);
- 5.3.2.2 be liable to the Contractor for the reasonable costs incurred by the Contractor in the preparation of a Contractor Change Proposal for a Contractor proposed Change where such costs have been discussed and agreed at the QCRM (as defined and held pursuant to Schedule C); and
- 5.3.2.3 not be liable to the Contractor for any additional work undertaken or expense incurred in connection with the implementation of any Change, unless a Contractor Change Proposal has been so

accepted and then subject only to the terms of the Contractor Change Proposal so accepted.

- 5.4 The reasonable costs incurred by the Contractor as a result of any assumption, exclusion or dependency set forth in the MDAL or the Contractor Databook submitted within the bid proposal as updated in accordance with Clause 29.2 (*Formal Amendments to the Contract*) being breached, incorrect or untrue prior to any agreed or determined Change to the Contract shall be Allowable Costs.
- 5.5 After the Contractor has issued its Change Acceptance Form in accordance with paragraph 4.2.1, the Authority shall describe the change with details of the date and cost and include it within the Contract Amendment List, in Annex 2 of Schedule P.

ANNEX 1 : DEFFORM 10B

DEFFORM 10B

(Edn 06/22)



Name
Post Title

Postal address line 1
Postal address line 2
Postal address line 3
Tel:
Email:

To Address Line 1
To Address Line 2
Postcode
For the attention of:

Your Reference:

Our Reference:

Date:

Dear [insert name],

Contract [insert] for the [Supply / Provision] of [insert] from [insert name of supplier] ("Original Contract")

Background

1. With reference to and in accordance with the abovenamed Original Contract, [the Authority [wishes to / has agreed to] amend the Original Contract in order to] [SET OUT THE REASON FOR REQUESTED AMENDMENT] [insert amendment no]. The amendment will [insert description summary of changes].
2. Unless otherwise defined in this letter, terms defined in the Original Contract shall have the same meaning when used in this letter.

Amendments to Original Contract

3. The Original Contract shall be amended as follows:
 - 3.1 [insert amendment/s. Alternatively, if the amendments are complex/lengthy then refer out to an annex to be attached.]
4. The total value of this contract amendment is [insert value] ex VAT.
5. The current overall contract value for the Original Contract will be amended to [insert value] ex VAT.

Effective Date

- 6. The Original Contract shall be amended on the terms set out in paragraph 3 above with effect on and from the date on which this contract amendment letter is countersigned by you (the Effective Date).

Continuity

- 7. All other terms and conditions of the Original Contract remain unchanged and the Original Contract shall, save as amended by this contract amendment letter, continue in full force and effect.
- 8. With effect on and from the Effective Date, the Original Contract and this letter shall be read and construed as one document.
- 9. Save for the amendments set out in paragraph 3 above, nothing in this letter shall be deemed to be an amendment to the terms of the Original Contract or a waiver or consent by the Authority to any breach or potential breach (present or future) of any provision of the Original Contract or any waiver of any default which arises on or after the date of this letter. Nothing in this letter shall prejudice the Authority's rights under the Original Contract.

Governing Law and Jurisdiction

- 10. This contract amendment letter shall be considered a contract made in England and subject to English Law.
- 11. Subject to Clause 69 and without prejudice to the dispute resolution process set out in that Condition, each Party hereby irrevocably submits and agrees to the exclusive jurisdiction of the Courts of England to resolve, and the laws of England to govern, any actions, proceedings, controversy or claim of whatever nature arising out of or relating to this contract amendment letter or breach thereof.
- 12. Other jurisdictions may apply solely for the purpose of giving effect to this Condition and for the enforcement of any judgment, order or award given under English jurisdiction.
- 13. Please sign and return the enclosed copy of this contract amendment letter within ten (10) Working Days of the date of this letter to confirm your acceptance of and agreement to the amendments to the terms and conditions of the Original Contract.

Yours sincerely

Signature	
-----------	--

For and on behalf of the Secretary of State for Defence

Name and Title	
Date	

We acknowledge and confirm our agreement to the terms of this letter of which this is a copy.

For and on behalf of the Company Name [insert company name in full]:

Name, Title and Company Position	
Signature	
Date	

ANNEX 2 : CONTRACT AMENDMENT LIST

Amendment No	Amendment Title	Date	Contract Value

**SCHEDULE Q : TRANSFER REGULATIONS EMPLOYEE TRANSFER
ARRANGEMENTS ON EXIT**

INTERIM STRATEGIC SEALIFT (SSL-I)

1. **Introduction**

1.1 In this Schedule Q, save where otherwise provided, words and terms defined in Clause 1 (*Definitions*) of the Contract shall have the meaning ascribed to them in Clause 1 (*Definitions*) of the Contract.

2. **Employment**

2.1 **Information on Re-tender, Partial Termination, Termination or Expiry**

2.1.1 No earlier than one (1) year preceding the termination, partial termination or Expiry of this Contract or a potential Transfer Date or at any time after the service of a notice to terminate this Contract or the provision of any of the Services (whether in whole or part) or on receipt of a written request by the Authority, the Contractor shall (and shall procure that any Employing Principal Subcontractor shall):

2.1.1.1 supply to the Authority such information as the Authority may reasonably require in order to consider the application of the Transfer Regulations on the termination, partial termination or expiry of this Contract;

2.1.1.2 supply to the Authority such full and accurate and up-to-date information as may be requested by the Authority including the information listed in Annex 1 to this Schedule Q relating to the employees who are wholly or mainly employed, assigned or engaged in providing the Services or part of the Services under this Contract who may be subject to a Relevant Transfer;

2.1.1.3 provide the information promptly and in any event not later than three (3) months from the date when a request for such information is made and at no cost to the Authority;

2.1.1.4 acknowledge that the Authority will use the information for informing any prospective New Provider for any services which are substantially the same as the Services or part of the Services provided pursuant to this Contract;

2.1.1.5 inform the Authority of any changes to the information provided under paragraph 2.1.1 or 2.1.2 up to the Transfer Date as soon as reasonably practicable.

2.1.2 Three months preceding the termination, partial termination or expiry of this Contract or on receipt of a written request from the Authority the Contractor shall:

2.1.2.1 ensure that Employee Liability Information and such information listed in Part 1 of Annex 2 of this Schedule Q (*Personnel Information*) relating to the Transferring Employees is provided to the Authority and/or any New Provider;

2.1.2.2 inform the Authority and/or any New Provider of any changes to the information provided under this paragraph 2.1.2 up to any Transfer Date as soon as reasonably practicable;

- 2.1.2.3 enable and assist the Authority and/or any New Provider or any subcontractor of a New Provider to communicate with and meet those employees and their trade union or other employee representatives.
- 2.1.3 No later than twenty-eight (28) days prior to the Transfer Date the Contractor shall provide the Authority and/or any New Provider with a final list of the Transferring Employees together with the information listed in Part 2 of Annex 2 of this Schedule Q (*Personnel Information to be Released Pursuant to this Contract*) relating to the Transferring Employees. The Contractor shall inform the Authority and/or New Provider of any changes to this list or information up to the Transfer Date.
- 2.1.4 Within fourteen (14) days following the relevant Transfer Date the Contractor shall provide to the Authority and/or any New Provider the information set out in Part 3 of Annex 2 of this Schedule Q in respect of Transferring Employees.
- 2.1.5 Paragraphs 2.1.1 and 2.1.2 of this Schedule Q are subject to the Contractor's obligations in respect of the Data Protection Legislation and the Contractor shall use its best endeavours to obtain the consent of its employees (and shall procure that its Principal Subcontractors use their best endeavours to obtain the consent of their employees) to the extent necessary under the Data Protection Legislation or provide the data in an anonymous form in order to enable disclosure of the information required under paragraphs 2.1.1 and 2.1.2. Notwithstanding this paragraph 2.1.5, the Contractor acknowledges (and shall procure that its Principal Subcontractors acknowledge) that they are required to provide sufficient information to the Authority to enable the Authority to determine the nature of the activities being undertaken by employees engaged in providing the Services, to assess whether there is an organised grouping for the purposes of the Transfer Regulations and to assess who is assigned to such organised grouping. To the extent that anonymous data has been provided by the Contractor pursuant to its obligations under paragraphs 2.1.1 and 2.1.2 above, the Contractor shall provide full data to the Authority no later than twenty-eight (28) days prior to the Transfer Date.
- 2.1.6 On notification to the Contractor by the Authority of a New Provider or within the period of six (6) months prior to the Termination Date or after service of a notice to terminate this Contract (whether in whole or in part), whichever is earlier and in any event on receipt of a written request by the Authority, the Contractor shall not and shall procure that an Employing Principal Subcontractor shall not:
- 2.1.6.1 materially amend or promise to amend the rates of remuneration or other terms and conditions of employment of any person wholly or mainly employed or engaged in providing the Services under this Contract; or
- 2.1.6.2 replace or re-deploy from the Services any person wholly or mainly employed or engaged in providing the Services, or materially increase or decrease the number of persons performing the Services under this Contract or the working time spent on the Services (or any part thereof); or
- 2.1.6.3 reorganise any working methods or assign to any person wholly or mainly employed or engaged in providing the Services (or any part thereof) any duties unconnected with the Services (or any part thereof) under this Contract; or

- 2.1.6.4 terminate or give notice to terminate the employment of any person wholly or mainly employed or engaged in providing the Services (or any part thereof) under this Contract other than in the case of serious misconduct or for poor performance,
- 2.1.6.5 save in the ordinary course of business and with the prior written consent of the Authority (not to be unreasonably withheld or delayed) and the Contractor shall indemnify and keep indemnified the Authority in respect of any reasonable costs (including reasonable legal costs), losses and expenses and all damages, compensation, fines and liabilities arising out of or in connection with any breach of paragraphs 2.1.1, 2.1.2, 2.1.3, 2.1.4 or 2.1.6 of this Schedule Q.
- 2.1.6.6 The Authority may at any time prior to the period set out in paragraph 2.1.5 of this Schedule Q request from the Contractor any of the information in sections 1.1.1 to 1.1.4 of Annex 1 and the Contractor shall and shall procure any Principal Subcontractor will provide the information requested within twenty-eight (28) days of receipt of that request.

2.2 Obligations in Respect of Transferring Employees

- 2.2.1 To the extent that the Transfer Regulations apply on expiry, termination or partial termination of this contract, the Contractor shall and shall procure any Employing Principal Subcontractor shall and the Authority shall and shall procure that a New Provider shall in such circumstances:
- 2.2.1.1 before and in relation to the Transfer Date liaise with each other and shall co-operate with each other in order to implement effectively the smooth transfer of the Transferring Employees to the Authority and/or a New Provider; and
- 2.2.1.2 comply with their respective obligations under the Transfer Regulations including their obligations to inform and consult under Regulation 13 of the Transfer Regulations.

2.3 Unexpected Transferring Employees

- 2.3.1 If a claim or allegation is made by an employee or former employee of the Contractor or any Employing Principal Subcontractor who is not named on the list of Transferring Employees provided under paragraph 2.1.3 (an "Unexpected Transferring Employee") that he has or should have transferred to the Authority and/or New Provider by virtue of the Transfer Regulations, the Party receiving the claim or allegation shall notify the other Party (or the Contractor shall notify the Authority on the Principal Subcontractor's behalf and the Authority shall notify the Contractor on the New Provider's behalf) in writing as soon as reasonably practicable and no later than ten (10) Working Days after receiving notification of the Unexpected Transferring Employee's claim or allegation, whereupon:
- 2.3.1.1 the Contractor shall (or shall procure that the Employing Principal Subcontractor shall), as soon as reasonably practicable, offer and/or confirm continued employment to the Unexpected Transferring Employee or take such other steps so as to effect a written withdrawal of the claim or allegation; and

2.3.1.2 if the Unexpected Transferring Employee's claim or allegation is not withdrawn or resolved the Contractor shall notify the Authority (who will notify any New Provider who is a party to such claim or allegation), and the Authority (insofar as it is permitted) and/or New Provider (as appropriate) shall employ the Unexpected Transferring Employee or as soon as reasonably practicable, (subject to compliance with its obligations at paragraph 2.3.1), serve notice to terminate the Unexpected Transferring Employee's employment in accordance with his contract of employment; and

2.3.1.3 the Contractor shall indemnify the Authority against all reasonable Losses, compensation, fines and liabilities arising out of or in connection with any of the following liabilities incurred by the Authority or New Provider in dealing with or disposing of the Unexpected Transferring Employee's claim or allegation:

2.3.1.3.1 any additional costs of employing the Unexpected Transferring Employee up to the date of dismissal where the Unexpected Transferring Employee has been dismissed in accordance with paragraph 2.3.1.2;

2.3.1.3.2 any liabilities acquired by virtue of the Transfer Regulations in relation to the Unexpected Transferring Employee;

2.3.1.3.3 any liabilities relating to the termination of the Unexpected Transferring Employee's employment but excluding such proportion or amount of any liability for unfair dismissal, breach of contract or discrimination attributable:

2.3.1.3.3.1 to a failure by the Authority or a New Provider to act reasonably to mitigate the costs of dismissing such person);

2.3.1.3.3.2 directly or indirectly to the procedure followed by the Authority or a New Provider in dismissing the Unexpected Transferring Employee; or

2.3.1.3.3.3 to the acts/omissions of the Authority or a New Provider not wholly connected to the dismissal of that person;

2.3.1.3.4 any liabilities incurred under a settlement of the Unexpected Transferring Employee's claim which was reached with the express permission of the Contractor (not to be unreasonably withheld or delayed);

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2.3.1.3.5 reasonable administrative costs incurred by the Authority or New Provider in dealing with the Unexpected Transferring Employee's claim or allegation, subject to a cap per Unexpected Transferring Employee of [REDACTED]; and

2.3.1.3.6 legal and other professional costs reasonably incurred;

2.3.2 the Authority shall be deemed to have waived its right to an indemnity under paragraph 2.3.1.3 if it fails without reasonable cause to take, or fails to procure any New Provider takes, any action in accordance with any of the timescales referred to in this paragraph 2.3.

2.4 Indemnities on transfer under the Transfer Regulations on Partial Termination, Termination or Expiry of the Contract

2.4.1 If on the expiry, termination or partial termination of the Contract there is a Relevant Transfer, the Contractor shall indemnify the Authority and any New Provider against all reasonable Losses, compensation, fines and liabilities arising out of or in connection with any claim by any employee or trade union representative or employee representative arising whether before or after the Transfer Date out of any failure by the Contractor or any Principal Subcontractor to comply with their obligations under Regulation 13 of the Transfer Regulations in relation to any Transferring Employee or any other employee of the Contractor or any Principal Subcontractor affected by the Relevant Transfer (as defined by Regulation 13 of the Transfer Regulations), save to the extent that all reasonable Losses, compensation, fines and liabilities are a result of the act or omission of the Authority or the New Provider.

2.4.2 If there is a Relevant Transfer, the Authority shall indemnify the Contractor against all reasonable Losses, compensation, fines and liabilities arising out of, or in connection with:

2.4.2.1 any claim or claims by a Transferring Employee at any time on or after the Transfer Date which arise as a result of an act or omission of the Authority or a New Provider or a subcontractor of a New Provider during the period from and including the Transfer Date;

2.4.2.2 subject to paragraph 2.4.1 any claim by any employee or trade union representative or employee representative arising whether before or after the Transfer Date out of any failure by the Authority or a New Provider or a subcontractor of a New Provider to comply with their obligations under Regulation 13 of the Transfer Regulations in relation to any Transferring Employee or any other employee engaged wholly or mainly in connection with the Services by the New Provider or any other employee of the Authority or any New Provider affected by the Relevant Transfer effected by this Contract (as defined by Regulation 13 of the Transfer Regulations),

save to the extent that all reasonable Losses, compensation, fines and liabilities are a result of the act or omission of the Contractor or any Employing Principal Subcontractor.

2.4.3 In the event of a Relevant Transfer, the Authority shall indemnify the Contractor in respect of all reasonable Losses, compensation, fines and other liabilities arising out of or in connection with or as a result of a substantial change by the Authority [or a New Provider or any subcontractor of a New Provider] on or after the Transfer Date to the working conditions of any Transferring Employee to the material detriment of any such Transferring Employee. For the purposes of this paragraph 2.4.3, the expressions "substantial change" and "material detriment" shall have the meanings as are ascribed to them for the purposes of Regulation 4(9) of the Transfer Regulations.

2.5 Contracts (Rights of Third Parties) Act 1999

- 2.5.1 A New Provider may enforce the terms of paragraph 2.3 and 2.4 against the Contractor in accordance with the Contracts (Rights of Third Parties) Act 1999.
- 2.5.2 The consent of a New Provider (save where the New Provider is the Authority) is not required to rescind, vary or terminate this Contract.
- 2.5.3 Nothing in this paragraph 2.5 shall affect the accrued rights of the New Provider prior to the rescission, variation, expiry or termination of this Contract.

2.6 General

- 2.6.1 The Contractor shall not recover any Costs and/or other losses under this Schedule Q where such Costs and/or losses are recoverable by the Contractor elsewhere in this Contract and/or are recoverable under the Transfer Regulations or otherwise.

**ANNEX 1 : CONTRACTOR PERSONNEL-RELATED
INFORMATION TO BE RELEASED UPON RE-TENDERING
WHERE THE TRANSFER REGULATIONS APPLIES**

1. Pursuant to paragraph 2.1.1.2 of this Schedule Q, the following information will be provided:
 - 1.1.1 The total number of individual employees (including any employees of Principal Subcontractors) that are currently engaged, assigned or employed in providing the Services and who may therefore be transferred. Alternatively the Contractor should provide information why any of their employees or those of their Principal Subcontractors will not transfer;
 - 1.1.2 The total number of posts or proportion of posts expressed as a full-time equivalent value that currently undertakes the work that is to transfer;
 - 1.1.3 The preceding 12 (twelve) months total pay costs – (Pay, benefits employee/employer national insurance contributions and overtime);
 - 1.1.4 Total redundancy liability including any enhanced contractual payments;
2. In respect of those employees included in the total at paragraph 1.1.1, the following information:
 - 2.1.1 Age (not date of Birth);
 - 2.1.2 Employment Status (i.e. Fixed Term, Casual, Permanent);
 - 2.1.3 Length of current period of continuous employment (in years, months) and notice entitlement;
 - 2.1.4 Weekly conditioned hours of attendance (gross);
 - 2.1.5 Standard Annual Holiday Entitlement (not “in year” holiday entitlement that may contain carry over or deficit from previous leave years);
 - 2.1.6 Pension Scheme Membership;
 - 2.1.7 Pension and redundancy liability information;
 - 2.1.8 Annual Salary;
 - 2.1.9 Details of any regular overtime commitments (these may be weekly, monthly or annual commitments for which staff may receive an overtime payment);
 - 2.1.10 Details of attendance patterns that attract enhanced rates of pay or allowances;
 - 2.1.11 Regular/recurring allowances;
 - 2.1.12 Outstanding financial claims arising from employment (i.e. season ticket loans, transfer grants);
3. The information to be provided under this Annex 1 should not identify an individual employee by name or other unique personal identifier unless such information is being provided twenty-eight (28) days prior to the Transfer Date.

4. The Contractor will provide (and will procure that the Principal Subcontractors provide) the Authority/tenderers with access to the Contractor's and Principal Subcontractor's general employment terms and conditions applicable to those employees identified at paragraph 1.1.1 of this Annex 1.

**ANNEX 2 : PERSONNEL INFORMATION TO BE RELEASED
PURSUANT TO THIS CONTRACT**

PART 1

1. Pursuant to paragraph 2.1.2 of this Schedule Q, the written statement of employment particulars as required by section 1 of the Employment Rights Act 1996 together with the following information (save where that information is included within that statement) which will be provided to the extent it is not included within the written statement of employment particulars:

1.1 Personal, Employment and Career

- 1.1.1 Age;
- 1.1.2 Security Vetting Clearance;
- 1.1.3 Job title;
- 1.1.4 Work location;
- 1.1.5 Conditioned hours of work;
- 1.1.6 Employment Status;
- 1.1.7 Details of training and operating licensing required for Statutory and Health and Safety reasons;
- 1.1.8 Details of training or sponsorship commitments;
- 1.1.9 Standard Annual leave entitlement and current leave year entitlement and record;
- 1.1.10 Annual leave reckonable service date;
- 1.1.11 Details of disciplinary or grievance proceedings taken by or against transferring employees in the last two years;
- 1.1.12 Information of any legal proceedings between employees and their employer within the previous two (2) years or such proceedings that the transferor has reasonable grounds to believe that an employee may bring against the transferee arising out of their employment with the transferor;
- 1.1.13 Issue of Uniform/Protective Clothing;
- 1.1.14 Working Time Directive opt-out forms; and
- 1.1.15 Date from which the latest period of continuous employment began.

1.2 Superannuation and Pay

- 1.2.1 Maternity leave or other long-term leave of absence (meaning more than 4 weeks) planned or taken during the last two (2) years;
- 1.2.2 Annual salary and rates of pay band/grade;

- 1.2.3 Shifts, unsociable hours or other premium rates of pay;
 - 1.2.4 Overtime history for the preceding twelve (12) month period;
 - 1.2.5 Allowances and bonuses for the preceding twelve (12) month period;
 - 1.2.6 Details of outstanding loan, advances on salary or debts;
 - 1.2.7 Pension Scheme Membership;
 - 1.2.8 For pension purposes, the notional reckonable service date;
 - 1.2.9 Pensionable pay history for three years to date of transfer;
 - 1.2.10 Percentage of any pay currently contributed under additional voluntary contribution arrangements; and
 - 1.2.11 Percentage of pay currently contributed under any added years arrangements.
- 1.3 Medical**
- 1.3.1 Details of any period of sickness absence of three (3) months or more in the preceding period of twelve (12) months; and
 - 1.3.2 Details of any active restoring efficiency case for health purposes.
- 1.4 Disciplinary**
- 1.4.1 Details of any active restoring efficiency case for reasons of performance; and
 - 1.4.2 Details of any active disciplinary cases where corrective action is on going.
- 1.5 Further information**
- 1.5.1 Information about specific adjustments that have been made for an individual under the Equality Act 2010;
 - 1.5.2 Short term variations to attendance hours to accommodate a domestic situation;
 - 1.5.3 Individuals that are members of the Reserves, or staff that may have been granted special leave for public duties such as a School Governor; and;
 - 1.5.4 Information about any current or expected maternity or other statutory leave or other absence from work.

PART 2

- 1.6 Information to be provided twenty-eight (28) days prior to the Transfer Date:**
- 1.6.1 Employee's full name;
 - 1.6.2 Date of Birth

1.6.3 Home address;

1.6.4 Bank/building society account details for payroll purposes Tax Code.

PART 3

1.7 Information to be provided within fourteen (14) days following a Transfer Date:

1.7.1 Performance Appraisal

1.7.1.1 The current year's Performance Appraisal;

1.7.1.2 Current year's training plan (if it exists); and

1.7.1.3 Performance Pay Recommendations (PPR) forms completed in the current reporting year, or where relevant, any bonus entitlements;

1.7.2 Superannuation and Pay

1.7.2.1 Cumulative pay for tax and pension purposes;

1.7.2.2 Cumulative tax paid;

1.7.2.3 National Insurance Number;

1.7.2.4 National Insurance contribution rate;

1.7.2.5 Other payments or deductions being made for statutory reasons; and

1.7.2.6 Any other voluntary deductions from pay.

SCHEDULE R : REQUIRED INSURANCES

INTERIM STRATEGIC SEALIFT (SSL-I)

1. **Introduction**

Capitalised terms in this Schedule R (*Required Insurances*) shall, unless otherwise expressly stated, have the same meaning as given to those terms in Clause 1.1 (*Definitions*) of the Contract. Annex 1 to this Schedule R, list the Relevant Insurances to be in place at the Effective Date, and maintained throughout the Contract. Any changes to Annex 1, will be agreed between the Authority and Contractor and subject to the Change Control procedure.

2. The Contractor shall (subject always to paragraph 2.2 below) insure and keep the Vessels insured in the joint names of the Authority and the Contractor, each as their interests may appear, and include a Waiver of subrogation rights against the Authority in the amounts which on the Effective Date shall be as set out in Annex 1:

2.1 for Hull and Machinery on terms not less wide than the current Institute Time Clauses - Hulls with the current Institute Additional Perils Clauses - Hulls and the current Institute Trading Warranties, on an agreed value basis for the full reinstatement value of the Vessels, plus () Disbursements cover for each Vessel. In addition, subject to receipt of the appropriate permission from the underwriters, an amount of () each Vessel;

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2.2 subject to the proviso to this paragraph 2.2, for War Risks on terms not less wide than the current Institute War and Strikes Clauses - Hulls - Time with the current London Market World-Wide War Risks Trading Warranties, on the same agreed value basis as set out in 2.1 above;

2.3 the War Risks Insurance shall include full War Risks Protection and Indemnity Risks for a separate sum insured not less than an amount equal to the agreed value. War risks cover shall also include War Risks Loss of Hire insurance on the terms described in paragraph 3.1.3 below;

2.4 Kings Enemies Risk Insurance with the Department of Transport through one of their approved UK intermediaries;

2.5 for Protection and Indemnity Risks (including pollution risks and crew liability) on each of the Vessels on their full tonnage with a full entry (meaning the maximum cover then available as appropriate for an operator of ro-ro vessels from the P&I Association in which the Club is a member) of the Vessels in a protection and indemnity association that is a member of the International Group of Protection and Indemnity Clubs. However it is understood and agreed that the interest of the Authority in this insurance shall be limited to "misdirected arrow" cover for a minimum Sum Insured of () each accident;

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2.5.1 International ocean towage agreement (TOWCON) in un-amended form so as not to increase the liability of the insured vessel. Not United Kingdom standard towage Conditions.

2.5.2 Contractual liability (vessel specific) and where such cover has been agreed by insurers in writing upon such terms as insurers may require.

2.5.3 Liability to persons being carried on board insured vessels.

2.5.4 Specialist operations (vessel specific) and where such cover has been agreed by insurers in writing upon such terms as insurers may require.

2.5.5 Balance ¾ths collision liability included.

3. **Additional Insurances**

The Contractor shall also insure:

3.1 in the joint names of the Contractor, the Technical Manager, the Crew Manager and the Crew Employer:

3.1.1 Professional Indemnity Insurance for [REDACTED] any one claim including Third Party Liability Insurance;

3.1.2 Freight Demurrage and Defence ("FD&D") risks for a minimum sum insured of [REDACTED] each dispute; and

3.1.3 for the Vessels in Authority Use, Loss of Hire insurance to maintain the business for a minimum sum insured of [REDACTED] each accident, each Vessel. The Contractor shall be named as sole loss payee for the various parties.

3.2 in its own name:

3.2.1 Employers Liability risks for a minimum limit of [REDACTED] each accident; and

3.2.2 Non-Marine Third Party Public and Products Liability for a minimum limit of [REDACTED] in respect of any one occurrence, the number of occurrences being unlimited in any annual policy period.

3.3 in the joint names of the Authority, the Contractor, the Technical Manager, the Crew Manager and the Crew Employer:

3.3.1 General Liabilities [REDACTED] not covered under the Protection and Indemnity Insurance, arising out of the operations of the Contractor and the associated operations of the Technical Manager, the Crew Manager, the Crew Employer and the Supervision Subcontractor, for a minimum limit of [REDACTED] each accident; and

3.3.2 Spares, Equipment, Parts and Machinery (not forming part of the Hull and Machinery of the Vessels) in store, in transit, or under repair for the value of [REDACTED] thereof.

4. **Trading Warranties Clause**

The following clause to be included in those of the Required Insurances that are subject to Trading Warranties:

4.1 "This Insurance is subject to the attached Trading Warranties:

4.1.1 Insurers acknowledge that the Assureds may not wish to disclose in advance voyages into excluded or restricted areas, and agree to automatically hold covered any breach of the Trading Warranties without prior notice, subject to the other terms and conditions of this clause.

4.1.2 [REDACTED] (the "Contractor") shall advise Insurers of every breach of the Trading Warranties as soon as reasonably practicable after the Vessel has

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completed a voyage into an excluded or restricted area ("Excluded Area") and has reached the first safe port thereafter. The Contractor shall likewise advise Insurers whenever such a breach results in the Vessel going "Off Insurance" as provided in paragraph 4.2 below.

4.1.3 The Assured shall pay any pre-agreed additional premium, or agreed additional premium in the case of a SAHC Breach, that is due to the breach of the Trading Warranties and shall comply with any pre-agreed terms conditions or warranties that may apply to the voyage concerned, unless the Vessel goes "Off Insurance".

4.1.4 The Contractor shall keep a record of all advices from the Authority as to whether Insurance is required for any breach of the Trading Warranties or the Vessel is to go "Off Insurance" as provided in Contract DSCOM CB 2255.

4.2 Where a Vessel goes Off Insurance, cover hereunder shall be suspended from the time the Vessel enters an Excluded Area until the time the Vessel leaves that Excluded Area, UNLESS the Vessel has sustained loss or damage whilst within the Excluded Area, in which event cover hereunder shall remain suspended until the Vessel:-

4.2.1 has reached the first safe port outside the Excluded Area;

4.2.2 has undergone a survey to determine the extent of the loss or damage; and

4.2.3 if the damage results in the Vessel being unseaworthy and/or having its Class suspended or withdrawn, it has been repaired and its Class has been restored.

Cover hereunder shall thereupon re-attach automatically upon completion of the survey and, if Clause 4.2.3 above applies, upon completion of such repairs and the restoration of the Vessel's class.

4.3 The records of the Contractor relating to breaches of Trading Warranties shall be open to inspection by the Insurers or their representatives at the office of the Contractor during normal working hours."

5. Compulsory Insurances (including Employers Liability Insurance)

5.1 The Contractor is required to meet United Kingdom statutory insurance obligations in full. Insurances required to comply with all statutory requirements relating to the Contract including, but not limited to, United Kingdom employers' liability insurance.

5.2 Compulsory insurances shall contain an indemnity to principals clause or additional insured equivalent.

2. Insurance Premium Index

5.3 The Contractor shall establish a panel comprised of three Authority approved insurance brokers (the "Approved Panel"), initially comprising a representative from each of the following:

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under FOIA
Section 40,
Personal
Information***

- 5.3.1 [REDACTED]
- 5.3.2 [REDACTED] and
- 5.3.3 [REDACTED]

to provide the Contractor with quotes for insurance premiums for each of the Obligatory Insurances in accordance with paragraph 6.2. Any proposed replacement members of the Approved Panel shall be subject to the Authority's prior written approval.

- 5.4 In December of each year during the Contract Term, the Contractor shall obtain a quotation for all of the premiums payable to take out the Obligatory Insurances (net of any commission payable to the Contractor) ("Quoted Premium") from each member of the Approved Panel. The Quoted Premium shall include a breakdown to indicate the premium payable in respect of each type of Obligatory Insurance (each premium being referred to as a "Component Cost"). For the avoidance of doubt, if a risk is deemed to be Uninsurable within the meaning of Clause 48.12 (*Uninsurable Risks*) (i.e. insurance is not available in the market), or the Contractor is not required to, and does not, take out insurance in respect of a particular risk, no amount will be included in the Quoted Premium in respect of that component of the Obligatory Insurance. The Contractor shall ensure that:
 - 5.4.1 any amount for brokerage included in the Quoted Premium does not include any brokerage benefit paid to the Contractor; and
 - 5.4.2 each member of the Approved Panel provides the Quoted Premium on the basis of the Terms of Reference and Assumptions set out in Annex 2 to this Schedule.
- 5.5 The Contractor shall provide the Authority with the Quoted Premium, including the breakdown of all of the Component Costs, of the Quoted Premium received in December of each relevant year, by no later than 10th December for effect on 1st January of the following year.
- 5.6 In order to obtain the Insurance Premium Index at commencement of the Contract Term, the Panel shall report quotes obtained for each component of the Quoted Premiums in at June 2024. This shall become the baseline Insurance Premium Index. The Approved Panel will then report the indexation for the first time in December 2024 to be effective on the Effective Date.
- 5.7 In order to obtain the Insurance Premium Index for the purposes of calculating the Daily Rate Indexation Factor, on the Indexation Date of the relevant year referred to in paragraph 2.1 of Annex 4 of Schedule E (Performance and Payment) the Parties shall average the sum of the Quoted Premiums for the Required Insurances.

Premiums above the Uninsurable Level

- 5.8 In order to determine whether a risk is Uninsurable within the meaning of Clause 48.12 (*Uninsurable Risks*), the Parties shall divide the sum of the three Component Costs obtained from each of the Approved Panel of each year for the risk in question by a factor of three to obtain an average ("Average Component Cost"). If the Average Component Cost is greater than the Uninsurable Level (as defined in Clause 48.12) for such risk in respect of the Average Component Cost obtained twelve months previously, then the risks covered by the insurance, in respect of which the Average Component Cost is payable, will be deemed to be Uninsurable, as defined in Clause 48.12 (*Uninsurable Risks*), and the provisions of Clause 48.12 (*Uninsurable Risks*) will apply.

- 5.9 Where the Authority requires the Contractor under Clause 63.3 to maintain the insurance for Elements of Service in Authority Use in respect of the Uninsurable risk referred to in paragraph 6.6, or the parties otherwise agree that such insurance shall be maintained for Elements of Service in Authority Use, for the purpose of calculating the average Quoted Premium (to produce the Insurance Premium Index), the Parties shall include the Average Component Cost in respect of that Uninsurable risk.
- 5.10 Any Supplementary Calls made on the Contractor by the P&I Club shall be excluded from the calculation of the Quoted Premium under paragraph 6.3 above. The Contractor shall be entitled, by submission of an invoice, to claim an amount equal to the Supplementary Calls made on the Contractor by the P&I Club, provided that any such claim for Calls is properly evidenced in writing. The Authority shall reimburse the Contractor for such costs within thirty (30) Working Days of receipt by the Authority of such invoice, subject to the right of the Authority to determine the legitimacy of the claim if, acting reasonably, it requires to do so.
- 5.11 Any costs reasonably incurred by the Contractor in obtaining the Quoted Premium from the Approved Panel shall be considered as AAR and recovered by the Authority within thirty (30) Working Days of receipt of a duly evidenced claim for such costs by the Contractor.

ANNEX 1 : RELEVANT INSURANCES

The Relevant Insurances at the Effective Date are:-

Insurance	Maximum Liability	Deductible
Hull and Machinery (per Vessel)	Redacted under FOIA Section 43, Commercial Interest	
Total Loss Only (Disbursement)		
IV (Owners interest)		
Protection and Indemnity (include Wreck Removal and Oil Pollution)		
WAR (including WAR Risk Loss of Hire)		
Kings Enemies Risk		
Loss of Hire (per ship)		
FD&D		
Professional Indemnity		
General Liability (excluding P&I)		
Non-Marine Third Party Liability		

ANNEX 2 : APPROVED PANEL TERMS OF REFERENCE

TERMS OF REFERENCE

1. Introduction and Purpose

1.1 The Contractor operates a fleet of Roll-on Roll-off ("RoRo") Vessels to provide a strategic sealift service for the Authority under a long term contract.

Insurance costs are subject to periodic review and their allocation between the Contractor and the Authority is subject to a formula provided in the Contract.

This review and allocation process requires a panel of insurance brokers to provide an estimate of "market" changes in the relevant insurance costs pertaining to such vessels.

1.2 The purpose of this insurance review is:

1.2.1 to provide a separate market average of the costs of each of the Relevant Insurances that would typically be purchased by operators of RoRo vessels having an average claims record; and

1.2.2 to reflect overall market changes rather than specific penalties or concessions given to individual fleets on their individual records;

1.2.3 nevertheless, since this review is considering market averages, the average of such penalties or concessions should be reflected in the costs;

1.2.4 to consider fleets of all flags and nationalities that purchase insurance.

2. Relevant Insurances

The Relevant Insurances are:

Insurance
Hull and Machinery (per Vessel)
Total Loss Only (Disbursement) (per Vessel
IV (Owners interest) (per Vessel)
Protection and Indemnity (include Wreck Removal and Oil Pollution)
WAR (including WAR Risk Loss of Hire)
Kings Enemies Risk
Loss of Hire (per ship) 14/180/180
FD&D
Professional Indemnity
General Liability (excluding P&I)
Non-Marine Third Party Liability

3. Insurance Markets

3.1 For the purpose of assessing the insurances the brokers should consider all the insurers in the United Kingdom Market (including Lloyd's and Mutual Insurers referred to in 3.3 below) that underwrite the applicable class.

3.2 The Insurers considered in item 3.1 should all have:

3.2.1 Standard and Poors rating of BBB or higher; and/or

3.2.2 AM Best rating of A- or higher; and/or

3.2.3 minimum free reserves of US\$ 50 million.

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3.3 The following Mutual Insurers shall be considered within Clause 3.1 above - the [REDACTED] and [REDACTED].

3.4 For the purpose of assessing insurance (c) (Protection and Indemnity) and insurance (e) (FD&D) the brokers should consider the member clubs of the International Group of Protection and Indemnity Associations, and their respective FD&D Associations.

4. Information and Assumptions

4.1 The Contractor shall provide the brokers with current information as detailed in Appendix A.

4.2 In addition to such information, the brokers shall make the assumptions as detailed in Appendix B.

4.3 The brokers will assume that the Quotes are for an attachment date that is thirty (30) days after the Due Date specified in Appendix A.

4.4 The brokers will assume that the insured party has an average claims record.

4.5 The broker will assess the likelihood of any supplementary calls for each of the Relevant Insurances other than Protection and Indemnity and include these in each quotation.

5. Methodology

5.1 The brokers should assess each of the classes of the Relevant Insurances specified in Clause 2 above separately.

5.2 The brokers should provide "desk" quotations (the "Quotes") (without reference to any insurers) for each insurance in respect of a hypothetical fleet of Ro-Ro Vessels engaging in international trade world-wide, and having regard to the information and assumptions provided herein.

5.3 The brokers should provide the Quotes in the form set out in Appendix C.

6. Timetable

6.1 The Contractor will provide the brokers with details of the Information and the Assumptions not less than thirty (30) days prior to the Due Date specified in Appendix A.

6.2 The brokers will provide the Quotes on or before the said Due Date to the Contractor by electronic means to, Foreland Shipping Limited and marked for the attention of the "Managing Director".

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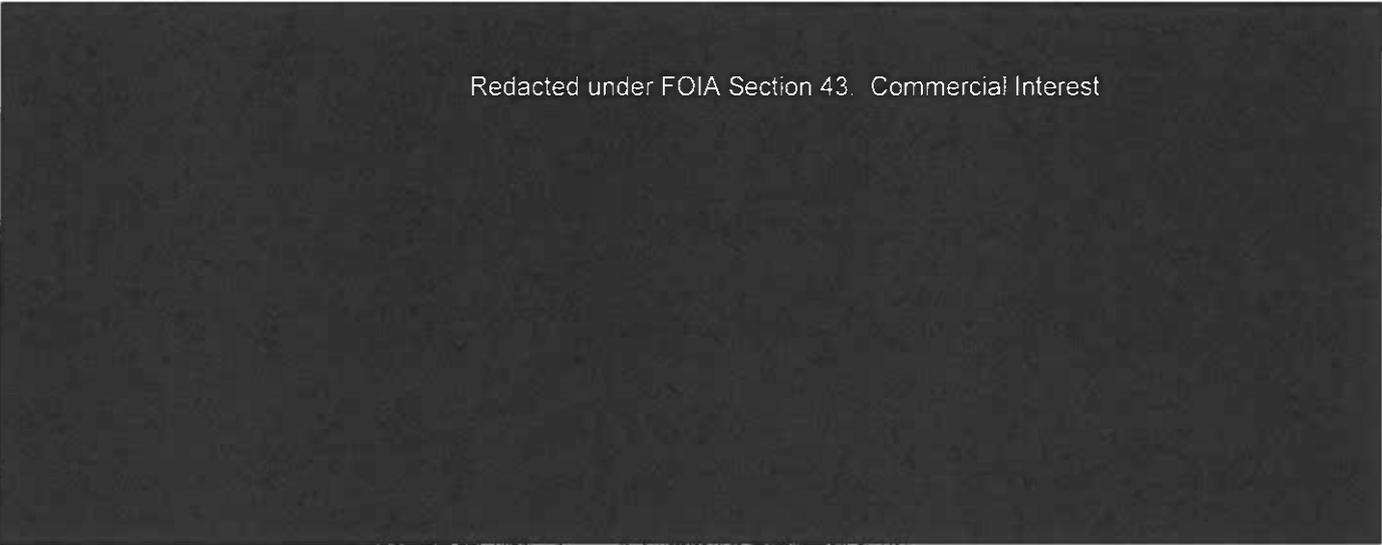
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SCHEDULE S : EXIT MANAGEMENT PLAN: CREWING AND SPONSORED RESERVES

INTERIM STRATEGIC SEALIFT (SSL-I)

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SCHEDULE T : CHANGE OF LAW

INTERIM STRATEGIC SEALIFT (SSL-I)

1. **Definitions**

1.1 In this Schedule T (*Change of Law*):

“**Capital Expenditure**” means any expenditure which falls to be treated as capital expenditure in accordance with generally accepted accounting principles in the United Kingdom from time to time.

“**Change in Operating Costs**” means the difference between the reasonable and proper Operating Costs following a Change of Law and the reasonably and properly incurred Operating Costs prior to such Change of Law.

“**Change of Law Estimate**” means the Contractor’s estimate of the costs of the Change of Law (including the cost of any Change of Law Works and the associated Capital Expenditure) and any Change in Operating Costs.

“**Change of Law Works**” means the works which are reasonably and properly required to be carried out by the Contractor to comply with a Change of Law.

“**Modification Plan**” means a statement supplied by the Contractor, containing the following information:

- (A) description of the Change of Law;
- (B) description of the Change of Law Works required;
- (C) the Change of Law Estimate; and
- (D) a schedule for implementation of the Change of Law Works.

1.2 Capitalised terms in this Schedule shall, unless otherwise stated, have the same meaning as given to those in Clause 1.1 of the Contract.

2. **Change of Law Notification**

2.1 Throughout the Contract Term the Contractor is required to comply with Law in carrying out its obligations under this Contract.

2.2 If a Change of Law occurs from the Base Date until the end of the Contract Term the Contractor shall comply with the Change of Law within the time limit(s) prescribed by the relevant Law.

2.3 If a Change of Law occurs or is shortly to occur, then (subject to the process set out in MDAL) either Party may serve a notice on the other as to the likely effects of such Change of Law, giving written details of its reasonable opinion of:

2.3.1 any necessary Change; and

2.3.2 whether relief from compliance with the obligations of this Contract is required;

and where the Contractor is notifying the Authority of such Change of Law, the Contractor shall give details of:

- 2.3.3 the Change of Law Estimate, including any change to the Daily Rate directly resulting from the Change of Law;
- 2.3.4 to the extent appropriate, the Modification Plan; and
- 2.3.5 any Capital Expenditure that is required or no longer required as a result of a Change of Law,

in each case giving reasonable details of the timescale for implementing such a Change.

3. **MDAL and costs**

- 3.1 The Parties acknowledge that a Change of Law is included in the MDAL and Schedule P (*Contract Change Control Procedure*) shall apply as amended by the MDAL.
- 3.2 The reasonable costs incurred by the Contractor in complying with a Change of Law prior to any agreed or determined Change to the Contract shall be Allowable Costs, provided that no cost shall be taken into account more than once.

4. **Mitigation**

The Contractor shall without prejudice to its obligations in the Contract and in accordance with the standard expected of a competent contractor acting in accordance with Good Industry Practice use reasonable endeavours to mitigate the adverse effects of any Change of Law.

5.

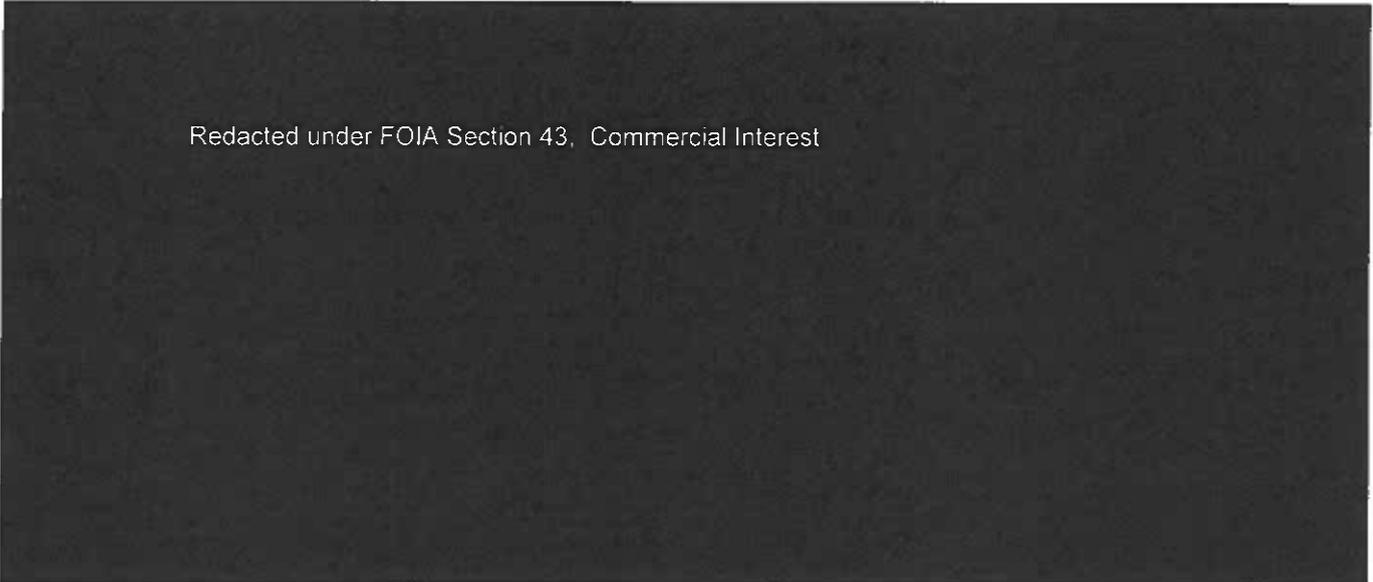
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SCHEDULE U : COMPENSATION FOR TERMINATION

INTERIM STRATEGIC SEALIFT (SSL-I)

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SCHEDULE V : DATA PACKAGE

INTERIM STRATEGIC SEALIFT (SSL-I)

Data Package Schedule

The following documents in respect of each Vessel shall comprise the Data Package:

1. Declaration of Class or (depending on the relevant Vessel's classification society) a Class Maintenance Certificate issued no more than thirty (30) days prior to delivery of the Vessel to the Authority under this Contract, confirming that the Vessel is in Class free of condition/recommendation;
2. A copy of the Continuous Synopsis Record;
3. Classification certificate(s);
4. Plans, drawings and manuals (excluding ISM/ISPS manuals) and any other certificates which are on board the Vessel at the time of delivery of the Vessel to the Authority under this Contract;
5. Current Safety Construction, Safety Equipment, Safety Radio and Load Line Certificates;
6. Current Safety Management Certificate;
7. International Safety Management Code Company's Document of Compliance;
8. Current International Ship Security Certificate; and
9. International Air Pollution Prevention Certificate.

SCHEDULE W : PRINCIPAL SUBCONTRACTOR NOTICE

INTERIM STRATEGIC SEALIFT (SSL-I)

Principal Subcontractor Notice

To: [Principal Subcontractor]

Address: [•]

[Date]

Dear [•],

Under a contract dated [•] (the "Contract") between us, Foreland Shipping Limited, as contractor (the "Contractor") and The Secretary of State for Defence as customer (the "Authority"), we have agreed to include the following provisions in our subcontract with you, namely:

1. provisions which enable the Contractor to comply with its obligations under, and protect the rights of the Authority under, the Contract;
2. a provision enabling the Contractor, on the Authority exercising its option to purchase the vessels under the Contract, to assign, novate or otherwise transfer any of its rights and/or obligations under the Principal Subcontract to the Authority or any other person nominated by the Authority without restriction (including any need to obtain any consent or approval) or payment by the Authority and including a requirement to execute, and provide to the Authority, a deed of novation, substantially in the form appended at Appendix A to this notice;
3. obligations no less onerous on the Principal Subcontractor than those imposed on the Contractor under the Contract in respect of confidentiality, data protection and FOIA requirements; and
4. obligations to facilitate, on the Authority exercising its option to purchase the vessels under the Contract, the transfer of the services (in whole or in part) from the Contractor to the Authority or a third party nominated by the Authority and to provide, on expiry or termination of the Contract, exit assistance to the Authority or a third party nominated by the Authority to facilitate exit and or transfer in accordance with the Contract,

such provisions to be enforceable by the Authority pursuant to a third party rights clause:

"A person who is not a party to [the subcontract] shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement, except that the Authority may enforce Clauses [X] of [the subcontract]"; and

We confirm that you may comply with instructions from the Authority following termination of the Contract without any further permission from us and without enquiry by you as to the justification for or validity of any notice, request or instructions.

This notice and any non-contractual obligations and other matters arising from or in connection with it are governed by English law.

Please acknowledge receipt of this notice to confirm your agreement to its terms, by signing the acknowledgement on the attached copy of this notice and returning that copy to [REDACTED], or via email to [REDACTED], marked for the attention of Defence Supply Chain, Operations and Movements.

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.....

For and on behalf of

[•]

as Contractor

[On duplicate]

***Redacted under FOIA Section 43,
Commercial Interest***

To: [REDACTED]

[REDACTED]

Email: [REDACTED]

For the attention of Defence Supply Chain, Operations and Movements.

We acknowledge receipt of the Principal Subcontractor Notice of which this is a copy, acknowledge the Authority's rights to enforce these rights against us directly and agree to comply with its terms.

.....

For and on behalf of

[Principal Subcontractor]

Date:

ANNEX 1 : FORM OF DEED OF NOVATION

Novation Deed

between

[]¹

as Subcontractor

[Foreland Shipping Limited]²

as the Outgoing Party

and

The Secretary of State for Defence

as the Incoming Party

relating to

[]³

¹ **Note:** name of Subcontractor to be included in version that is executed.

² **S&S Note to FSL:** FSL to confirm that this is the FSL entity under each Principal Subcontract.

³ **Note:** description of contract to be inserted in version that is executed.

THIS DEED is dated

and made

BETWEEN:

- (1) [], a company incorporated under the laws of [] (company number []) whose registered office is at [] ("Subcontractor")⁴;
- (2) **[FORELAND SHIPPING LIMITED]**, [REDACTED]
[REDACTED] Redacted under FOIA Section 43. Commercial Interest
[REDACTED] ("Outgoing Party")⁵; and
- (3) **THE SECRETARY OF STATE FOR DEFENCE**, having its registered office at [REDACTED]
[REDACTED] ("Incoming Party")⁶.

(together the "Parties" and each a "Party").

Background:

- (A) The Subcontractor and the Outgoing Party have executed the Original Agreement (as defined below).
- (B) This Deed is supplemental to the Original Agreement.
- (C) The Parties have agreed that, with effect from the Effective Date (subject to the terms of this Deed), the Outgoing Party shall cease to be a party to the Original Agreement and that the Incoming Party shall become a party to the Original Agreement in place of the Outgoing Party and that the Outgoing Party shall be released and discharged from the Original Agreement upon the terms and to the extent set out in this Deed.

THE PARTIES AGREE THAT:

1. **Definitions and Interpretation**

1.1 In this Deed:

"Business Day" means every day excluding weekends and public or bank holidays in England and Wales;

"Effective Date" means [•];⁶

"FSL Contract" means the contract dated [•]⁷ made between the Contractor and the Incoming Party;

"Notices" has the meaning given to it in Clause 5.2 (*Notices*);

⁴ Note: details of Subcontractor to be inserted in version that is executed.

⁵ S&S Note to FSL: as above.

⁶ Note: date to be confirmed by the Incoming Party as any date after the date of the Agreement on or after the date on which the Incoming Party exercises its option to purchase the Vessels under and in accordance with the FSL Contract.

⁷ Note: date to be included in the version that is executed.

“Original Agreement” means the contract dated []⁸ made between the Contractor and the Outgoing Party⁹; and

“Vessels” means the vessels or ships being used by the Outgoing Party to provide the service to the Incoming Party under the FSL Contract.

1.2 In this Deed, where the context admits:

- (A) References to Clauses are to the clauses of this Deed;
- (B) Clause headings shall not affect the interpretation of this Deed; and
- (C) The singular includes the plural and vice versa.

2. Novation

2.1 Substitution of Parties

With effect from the Effective Date, the Outgoing Party shall transfer by novation all its rights and obligations under the Original Agreement to the Incoming Party so that:

- (A) subject to Clause 2.3 (*Obligations and Liabilities*), the Incoming Party hereby undertakes to the Subcontractor to perform the Original Agreement and to be bound by the terms thereof in every way as if the Incoming Party was the original party to the Original Agreement in place of the Outgoing Party;
- (B) the Subcontractor hereby:
 - (1) releases and discharges the Outgoing Party from all obligations and liabilities of the Outgoing Party under or in connection with the Original Agreement becoming due to be performed or satisfied arising on or after the Effective Date and all claims and demands whatsoever in respect thereof and accept the performance thereof by the Incoming Party in place of performance by the Outgoing Party, and the rights of the Subcontractor against the Outgoing Party shall, subject to Clause 2.3 (*Obligations and Liabilities*), be cancelled; and
 - (2) undertakes to the Incoming Party to perform the Original Agreement and be bound by the terms thereof in every way as if the Incoming Party was the original party to the Original Agreement in place of the Outgoing Party; and
- (C) the Outgoing Party releases and discharges the Subcontractor from all obligations and liabilities of the Subcontractor to the Outgoing Party under or in connection with the Original Agreement becoming due to be performed or satisfied arising on or after the Effective Date and all claims and demands whatsoever in respect thereof and the rights of the Outgoing Party against the Subcontractor shall be cancelled.

⁸ **Note:** date to be included in the version that is executed.

⁹ **S&S Note to FSL:** FSL to confirm if there are guarantees in place for any of the Principal Subcontracts.

2.2 Notification

The Incoming Party shall notify the Subcontractor (with a copy to the Outgoing Party) of the Effective Date on the date that it occurs, save that failure by the Incoming Party to do so shall not invalidate the novation pursuant to Clause 2.1 (*Substitution of Parties*).

2.3 Obligations and Liabilities

The Outgoing Party (and not the Incoming Party) shall remain responsible to the Subcontractor for all obligations and liabilities of the Outgoing Party to the Subcontractor under or in connection with the Original Agreement which became due to be performed or satisfied prior to the Effective Date.

3. Limitation Periods

Nothing in this Deed shall have the effect of extending any limitation period applicable to the Original Agreement.

4. Costs and expenses

Each Party shall pay its own costs incurred in connection with the evaluation, negotiation, preparation, printing, execution and implementation of this Deed.

5. Notices

5.1 All notices, orders, or other forms of communication required to be given in writing ("Notices") under or in connection with this Deed shall:

- (A) be given in writing;
- (B) be authenticated by signature or by such other method as agreed between the Parties; and
- (C) be marked for the attention of the person whose name is set out in Clause 5.4.

5.2 Notices should be delivered by:

- (A) hand;
- (B) first-class prepaid post (or airmail, in the case of Notices to or from overseas); or
- (C) electronic mail.

5.3 Notices shall be deemed to have been received:

- (D) if delivered by hand, on the day of delivery if it is the recipient's Business Day and otherwise on the first Business Day of the recipient immediately following the day of delivery;
- (A) if sent by first-class prepaid post (or airmail, if appropriate), on the third Business Day (or on the tenth Business Day, in the case of airmail) after the day of posting; or
- (B) if received by the other party by electronic means between 09.00 and 17:00 hours on a Business Day.

5.4 The addresses (including electronic addresses) to which all Notices shall be sent are, subject to Clause 5.5:

The Subcontractor ¹⁰	
Address	[]
Email Address	[]
For the attention of:	[]

The Outgoing Party ¹¹	
Address	[]
Email Address	[]
For the attention of:	[]

The Incoming Party ¹²	
Address	[]
Email Address	[]
For the attention of:	[]

5.5 Any Party to this Deed may notify the other Parties of any change to the address or any of the other details specified in Clause 5.4, provided that such notification shall only be effective on the date specified in such notice or five (5) Business Days after the notice is given, whichever is later.

5.6 Where either Party requests written confirmation of any communication which does not constitute a Notice such request shall not unreasonably be refused.

5.7 Where no timeline is expressed in this Contract for the acceptance or rejection of any communication, such timeline shall be deemed to be twenty (20) Business Days from the receipt of such communication.

¹⁰ **Note:** notice details for Subcontractor to be included in version that is executed.

¹¹ **S&S Note to FSL:** please include your notice details.

¹² **S&S note to the Authority:** please include your notice details.

IN WITNESS of which this Deed has been executed and delivered by the Parties on the date first written above.

SIGNATURE PAGE OF THE NOVATION DEED¹³

EXECUTED AS A DEED

by

[SUBCONTRACTOR]¹⁴

By

Name

Title

By

Name

Title

¹³

Note: for the Subcontractor and FSL, either two directors or a director and a secretary are to execute.

¹⁴

Note: name of Subcontractor to be inserted in version that is executed.

EXECUTED AS A DEED

by
[FORELAND SHIPPING LIMITED] ¹⁵

By

Name

Title

By

Name

Title

¹⁵ **S&S Note to FSL:** as above.

IN WITNESS, whereof the Corporate Seal of the Secretary of State for Defence has been hereunto affixed the day and year first before written.

The CORPORATE SEAL of the SECRETARY OF STATE FOR DEFENCE hereto affixed is hereby authenticated by:

.....
Authorised Signatory

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