

NEWCASTLE UNIVERSITY

GENERAL CONDITIONS OF CONTRACT (SHIPBUILDING)

Definitions and Interpretation

1. a. In the Contract as hereinafter defined the following words and expressions shall have the meanings hereby assigned to them except where the context otherwise requires:
- i. The “Contract” means the Agreement between the Builder and the Purchaser for the construction of the Vessel (as hereinafter defined) including the letter of acceptance of the said Tender, these General Conditions of Contract and the Special Conditions, the Specification and Drawings listed therein or annexed thereto, such Schedules as are referred to therein and the said Tender. No other terms or conditions printed or written at the head of or within any covering letter or communication sent by the Builder to the Purchaser shall be imported into the Contract or the interpretation thereof unless expressly agreed in writing by the Purchaser.
 - ii. The “Builder” means the person, firm or company whose Tender is accepted and includes in the case of such person, firm or company his their or its executors, administrators and permitted assigns and any receiver or trustee in bankruptcy or under a deed of composition with creditors or any liquidator.
 - iii. The “Purchaser” means Newcastle University whose principal office is at 1 Park Terrace, Newcastle upon Tyne NE1 7RU.
 - iv. The “Technical Officer” means the Marine Engineer for the time being of the Purchaser and where the Technical Officer has delegated any of his duties to the Technical Officer’s Representative and served notice of such delegation in writing on the Builder it shall in respect of those duties also mean the Technical Officer’s Representative until such time as the Marine Engineer serves a further notice on the Builder of revocation of such delegation.
 - v. The “Technical Officer’s Representative” means the Marine Engineering Superintendent for the time being of the Purchaser or any other person nominated by the Technical Officer to carry out certain duties on his behalf.
 - vi. The “Drawings” means the drawings referred to herein and in the Specification and all such additional drawings as from time to time may be furnished by the Technical Officer or supplied by the Builder and approved in writing by the Technical Officer.
 - vii. “The Conditions” means these General Conditions and the Special Conditions.
 - viii. The “Special Conditions” means any alterations to these General Conditions specified and identified as the Special Conditions in the Contract.
 - ix. “Letter of Acceptance” means the formal acceptance by the Purchaser of the Tender incorporating any amendments or variations to the Tender when agreed in writing by the Purchaser and the Builder.
 - x. “Specification” means the specification of the Vessel annexed to or included in the Contract including any modifications thereof made under the provisions of these General Conditions or any Special Conditions agreed by the Purchaser and the Builder.

b. The marginal headings in these Conditions of Contract shall not be deemed to be part hereof or be taken into consideration in the interpretation or construction of the Contract.

Extent of Contract

2. The Contract comprises the building, launching and fitting out, complete in every respect, testing and delivery, in full working order, to the Purchaser at the place named in the Contract of the vessel described in the Contract (hereinafter called “the Vessel”), as set out and further described in the Specification and Drawings including the provision of all labour and materials and all contingent or incidental work, whether mentioned in the Specification or not which, in the reasonable opinion of the Technical Officer, is essential for the proper construction and fitting out and efficient working of the Vessel and also comprises the making good of defects as mentioned in Condition 28 hereof, during a period of twelve months from the date upon which the Vessel is taken over by the Purchaser.

Classification, Statutory Requirements and Fees

3. a. The Vessel is to be designed, constructed and fitted out in accordance with the requirements of a ship Classification Society approved for the purpose by the Purchaser and under the supervision of a surveyor qualified to the class or standard stated in the Specification and in accordance with all requirements of the Department for Transport Maritime and Coastguard Agency. Unless otherwise stated in the Specification or in the Special Conditions, all details of the design necessary for the purpose shall be submitted to the Classification Society and to the Technical Officer for approval prior to commencement of construction. Where the Vessel is a small commercial vessel and not subject to ship Classification, it is to be designed, constructed and fitted out to the requirements for such vessels of the Department for Transport Maritime and Coastguard Agency. In this case the design approval, survey of construction and certification of the Vessel is to be undertaken by a Certifying Authority approved by the Department for Transport Maritime and Coastguard Agency. In any case, the Builder shall defray all fees and charges payable to the approved Classification Society and to the Department for Transport Maritime and Coastguard Agency or their approved Certifying Authority for associated approvals, surveys, tests, reports and certificates.

b. The Builder shall comply, at its own expense, with every law and with every directive order regulation and bye-law having the force of law that shall be applicable to the Vessel, provided that if the Specification, the Drawings, the time for completion of the Contract or any other term of the Contract is or needs to be altered, added to or have omissions made from it or if the cost to the Builder of the performance of the Contract shall be increased or reduced by reason of the making after the commencement of the Contract in the United Kingdom or the European Union, of any such law, directive, order, regulation or bye-law the alteration, addition or omission shall be agreed by the Builder and the Purchaser and the agreed amount of the increase or reduction shall be added to or deducted from the Contract Price as the case may be.

c. The Builder shall also pay any other sums which become payable, in respect of the Vessel, before it is taken over by the Purchaser including harbour dues and dry dock and/or slipway dues.

Assignment or Sub-Letting

4. The Builder shall not assign the Contract or any part thereof or make any sub-contract for the execution of any portion of the Vessel (except minor details or any portion of the Vessel of which the makers are named in the Contract) without the written approval of the Technical Officer and no such assignment or sub-contracting although made with such approval shall exonerate the Builder from its liability under the Contract.

**Builder's
Responsibility**

5. The Builder shall at its own expense do all things and provide all materials, machinery, plant, labour and supervision as may be required for building launching fitting out, completing, testing and delivering the Vessel, in accordance with the requirements of the Contract. It shall be the responsibility of the Builder to ensure that the design of the Vessel, its machinery and equipment are adequate and suitable in all respects to meet the requirements of the Specification relating to performance, stability, seaworthiness and draught.

No approval by the Technical Officer of any drawings submitted by the Builder or any approval of any amendments to the specification agreed by the Purchaser and the Builder, or of any material, component parts, or workmanship or any other approval expressed by the Technical Officer shall relieve the Builder of any of its obligations under the Contract.

**Royalties,
Fees, etc.**

6. The Builder shall indemnify the Purchaser against all actions, claims, demands, costs, charges and expenses arising from or incurred by reason of any infringement of letters patent, design trade mark or name, copyright or other protected rights in respect of any plant machinery work material or appliances used for or in the construction of the Vessel or in connection with the construction of the Vessel at the building premises but no such liability shall be with the Builder with regard to any component or equipment or design supplied by the Purchaser.

**Injuries and
Damage to
Persons and
Property**

7. From the commencement of the construction of the Vessel until it is taken over by the Purchaser, the Builder shall be responsible for and indemnify the Purchaser against all claims, demands, costs or expenses made upon or incurred by the Purchaser in respect of injury (whether fatal or otherwise) to any persons employed by the Builder or its sub-contractors or by the Purchaser or to any other person or in respect of damage to any property whatsoever which may arise out of or in consequence of the construction, launching, completion, fitting out, testing and delivery of the Vessel by the Builder, except to the extent that any such injury or damage shall be due to the negligence of the Purchaser, its servants or agents.

**Vessel and
Materials
to be the
Property of
the Purchaser**

8. a. From commencement of the construction of the Vessel until it is taken over by the Purchaser the Vessel together with all further works and additions subsequently made thereto and the engines machinery and other articles placed in made for or intended for the same, so far as they can be identified or distinguished from other property of the Builder, shall (subject to the Lien of the Builder for all work done and material supplied) become and continue to be the absolute property of the Purchaser. The Builder shall not dispose of the Vessel and shall not allow any mortgage or lien to be registered on the Vessel. No such articles, materials or things as are referred to above shall be removed from the Vessel or from the Builder's works without the consent in writing of the Technical Officer and on any infraction of this provision or any attempt to take possession by any other person the Purchaser may take possession of the Vessel and the articles materials and things as aforesaid or any of them.

The Purchaser may require the Builder to place and maintain on the Vessel or on the Builder's premises where the Vessel is being constructed a notice or notices in such conspicuous places as the Purchaser may decide to the effect that the Vessel is being built for the Purchaser for its service and that the Vessel and all materials and things provided or in preparation for its construction are the property of the Purchaser. Provided that nothing in this condition shall affect the right of the Purchaser to reject the Vessel or any part thereof under any other condition or relieve the Builder of its obligations to deliver a completed Vessel to the Purchaser as provided for elsewhere in the Contract.

b. The Builder shall retain all rights to any specification(s), plans and working drawings, technical descriptions, calculations, test results and other data, information and documents concerning the design and construction of the Vessel produced by the Builder and the Purchaser shall be entitled to free access to them for the purposes of inspecting the Vessel and making alterations and repairs to it provided the Purchaser does not bring them to the knowledge of third parties without the prior written consent of the Builder. Showing of any such plans and drawings to a third party shall not unreasonably be denied by the Builder if it is necessary for carrying out repairs to the Vessel.

**Vessel to be
at Risk of
the Builder**

9. Notwithstanding the provisions of Condition 8, until the Vessel is taken over by the Purchaser in accordance with the terms of Condition 27, the Vessel and all the articles, materials and things aforesaid shall be at the sole risk in all respects of the Builder, who shall make good all damage or loss thereto or thereof howsoever caused.

**Insurance
of Vessel**

10. a. Until the Vessel is taken over by the Purchaser in accordance with the terms of Condition 27, the Builder shall insure and keep insured the Vessel to the full value thereof with both the Builder and the Purchaser named on the insurance policy such that the requirements of Condition 10c. are satisfied. This insurance shall cover the Vessel or all parts as shall be constructed and the engines, machinery, articles, materials, equipment and other things placed in, made or intended for the same, whether supplied by the Builder or when supplied to the Builder by the Purchaser and delivered to the Builder. The insurance is to be arranged at an office or with underwriters approved by the Purchaser (such approval not to be unreasonably withheld) and under a policy the form of which has been first approved by the Purchaser, against all risks customarily insured against in this type of policy, including war and strike risks covered by the terms of the Institute Clauses for Builder's risks issued by the Institute of London Underwriters (without exception in respect of machinery, articles and materials placed in workshops and buildings unless the Builder satisfies the Technical Officer that adequate insurance cover in this respect is otherwise provided) and shall on request produce the policy and the receipts for the payment of the premiums thereon to the Technical Officer.

b. When the Vessel is ready for launching, the Builder shall to the satisfaction of the Purchaser and in addition to the requirements of Condition 10a., insure the Vessel to the full replacement value thereof against all Port and Sea risks, War, Risks of launching, risks in towing and all risks during preliminary and other trials and during drydocking and survey and on the voyage to the port of delivery and thereafter until the Vessel is taken over by the Purchaser.

c. In the event of any loss of or damage to the Vessel before the Vessel is taken over by the Purchaser, all sums recoverable under the policies of insurance shall be payable to the Purchaser. The Builder shall proceed to make good the loss or damage as expeditiously as possible, in accordance with the Contract and the money received by the Purchaser in respect of the insurance shall be paid to the Builder, in instalments as certified by the Technical Officer, having regard to the cost of and progress in making good the loss or damage. In the event of the sum or sums recovered under the policies of insurance being less than the cost of making good the loss or damage the Builder shall be responsible for any deficiency.

d. Where proceedings are taken to recover moneys due under any policy of insurance, the Builder shall be solely responsible for the cost thereof and shall indemnify the Purchaser against all costs to which it may by use of its name become liable.

**Builder's
Working
Drawings**

11. After acceptance of the Tender the Builder shall as soon as possible prepare and submit for the approval of the Technical Officer fully detailed and dimensioned working drawings in duplicate and in submitting them the Builder shall call the attention of the Technical Officer to all modifications of the Specification and the Drawings issued with the invitation to tender or accompanying the tender which the Builder may desire to make or consider necessary for the requirements of the Specification. The working drawings may be submitted by electronic means to the Technical Officer in computer aided design format in single copy when, prior to transmission, the Builder has ensured that the format can be read by the Technical Officer's Representative. Any and all modifications to the working drawings which the Technical Officer may reasonably require and any condition of approval to a modification of the Specification which he may impose shall be made and observed by the Builder and the Contract is to be carried out in accordance therewith.

**Materials
and Workmanship**

12. Materials and workmanship are to be in accordance with the Contract and to the satisfaction of the Technical Officer. Where not specifically mentioned in the Contract, any materials used or supplied shall be in accordance with the highest requirement of any standard promulgated by the European Union for maritime application in member states or failing that a relevant standard from the Department for Transport Maritime and Coastguard Agency approved ship Classification Society or the British Standards Institution for use in merchant vessels. In every case in which the workmanship and manner of construction are not mentioned or provided for in the Contract the same shall be fit for the purpose and of the best description in every respect and the Vessel shall be built fitted out and completed in the best possible manner to the satisfaction of the Technical Officer notwithstanding any errors in or omissions from the Contract. The Purchaser shall not be liable to the Builder in respect of any such error or omission nor shall the liability of the Builder to the Purchaser be lessened or affected by any such error or omission.

**Protection of the
Environment,
Removal of Waste,
Surplus and/or
Condemned
Materials**

13. The Builder shall at all times comply with all European Union directives directly applicable and all statutory provisions and subordinate legislation under the laws of England and the requirements of any government departments, local or public authorities, or bodies which are applicable and the Purchaser's reasonable instructions for the protection of the environment and in particular relevant sections of the Purchaser's publication "Safety Guidelines for Contractors". Works shall be carried out in such a way as to prevent (and where it is not, to minimise) so far as reasonably possible damage or causing pollution. The Builder shall keep any waste, surplus and condemned (or otherwise unusable) and recyclable materials and rubbish arising from the Works, securely and safely on the Site until cleared away in compliance with any requirements for the removal of such material. Removal of waste shall only be sub-contracted to registered, authorised and licensed carriers and the Builder must inspect the carrier's Certificate or Licence and keep both a record of the inspection and written confirmation from the carrier of the disposal site used. As required under the provisions of the Environmental Protection Act 1990 (as Amended), Transfer Notes for all disposals of waste shall be retained by the Builder. When required by the Technical Officer, the Builder shall confirm in writing to the Technical Officer any carrier used and the means of such disposal. The Builder shall leave the Site clear of all such waste materials and rubbish at completion of the Contract.

**Testing and
Inspection**

14. a. At all reasonable times before the Vessel is taken over by the Purchaser, the Technical Officer or the Technical Officer's Representative shall have full liberty to go upon the premises of the Builder or of any sub-contractor for the purpose of inspecting

and examining the building, completing and fitting out of the Vessel or any part thereof including the making of the engines, machinery, equipment and other articles intended for the same and the materials with which the same are to be built and made and the Builder shall at all times afford all reasonable information facilities and assistance to enable such inspection and examination to be efficiently made. The Builder shall also afford all facilities and assistance for the testing of materials and the testing and trials of all machinery and other equipment and supply all certificates as may be required by the Technical Officer.

b. The Builder shall afford the Purchaser all reasonable information, facilities and assistance to enable the Purchaser to attend any trials of the Vessel and assess the results thereof.

c. If and so often as the Technical Officer or the Technical Officer's Representative shall disapprove of the work, materials, machinery or other equipment, the Builder will, at its own expense, immediately alter or remove the work, materials, machinery or other equipment so disapproved of and will amend or replace the same to the reasonable satisfaction of the Technical Officer.

**Monthly
Progress**

15. The Builder shall, from the date of acceptance of this Contract, furnish to the Technical Officer a progress report on the Vessel at the end of each month, including the position with regard to the main sub-contracts, which affect the completion date of the Vessel. Reports must reach the Technical Officer within three days of the end of the month and reference must be made to any expected cause of delay.

**Alterations,
Additions and
Omissions**

16. a. The Technical Officer shall be at liberty during the construction and fitting out of the Vessel to order the Builder to alter add to or make omissions from the Vessel and to issue drawings showing his requirements in connection therewith and the Builder shall comply with such order if it is reasonably practicable for it to do so.

b. The Builder shall determine the reasonable and demonstrable cost of all alterations, additions or omissions comprised in such orders and shall supply the Technical Officer with all information which he may require to enable him to assess the reasonableness of such cost and the Purchaser shall then have the option of either rescinding such orders or affirming them and, in the latter case, the Contract price shall be adjusted accordingly and any necessary extension of the time for delivery and variation of any other terms of the Contract shall be agreed.

**Duties of the
Purchaser**

17. a. The Purchaser undertakes to provide the machinery, equipment and material listed in the Schedule to the contract entitled "PLA Supplied Items to the Builder" by the dates set out in this Schedule.

b. The Purchaser undertakes to assist with the provision of information required by the Builder to fulfil this Contract.

Payment

18. a. The Purchaser shall make interim payments under the Contract within 30 days of receipt of a valid VAT invoice from the Builder for the proper amount, upon the Technical Officer being satisfied that a relevant stage of work identified in the Payments Schedule has been reached.

b. The penultimate stage payment in accordance with the agreed schedule of payments, shall be adjusted up or down to take account of all agreed variations in the

Contract price. For the avoidance of doubt, the retention sum, where applied, will be valued in accordance with the price of the Vessel under the Contract without taking account of any agreed variations during building.

c. Where, after set-off of any sums due to the Purchaser by the Builder, money is owed to the Purchaser in accordance with the Payments Schedule, the Purchaser may charge interest on any sum outstanding after 30 days from receipt by the Purchaser of a properly calculated invoice at a rate of 2% *per annum* above the prevailing variable base bank rate until payment is received.

**Right for the
Builder to
Terminate the
Contract**

19. Should the Purchaser fail to carry out material obligations under Condition 17 or fail to make due payment in accordance with Condition 18 then the Builder may serve upon the Purchaser 30 days notice of termination of the contract.

**Interim
Payments
on Account Only**

20. Interim payments made by the Purchaser are not to be held to signify the approval of the whole or any part of the Vessel its machinery and equipment.

**Moneys Due to
the Purchaser
from the
Builder**

21. In every case where the Builder shall become liable for the payment of any sum of money to the Purchaser, whether under the Contract or otherwise howsoever, the Purchaser may deduct such sum from any money which may be or become due to the Builder under the Contract, or may recover the same from the Builder by action or otherwise.

**Provision for
Failure of Builder
To Complete**

22. In the event of the Builder, after 3 months have elapsed from a written warning given by the Purchaser, without any justified reason failing or being unable in the reasonable opinion of the Technical Officer to continue the building of the Vessel in a regular and businesslike manner and to complete and deliver her in accordance with the Contract or if the Builder shall become bankrupt or go into liquidation, whether compulsorily or voluntarily (not being merely for the purpose of reconstruction or amalgamation) or make any composition with its creditors or suffer any execution to be levied upon its property then or at any time thereafter, the Purchaser shall be entitled but not bound either:

a. To terminate the Contract forthwith (but without prejudice to any right or remedy of the Purchaser in respect of any antecedent breach of contract) in which event the property in the Vessel and all other things vested in the Purchaser under the terms of Condition No.8 hereof shall revert in the Builder and the Builder shall immediately repay to the Purchaser all sums of money paid by the Purchaser to the Builder in respect of the Vessel; or:

b. To enter upon the Builder's premises and to take possession of the Vessel and of such materials and things as are intended or proposed to be used in the construction of the Vessel, free from any lien of the Builder, and have the possession and use of the machinery on the Builder's premises necessary for the carrying out of the construction of the Vessel and to cause the Vessel to be completed by any person, firm or company whom the Purchaser may choose to employ using in so doing if it so wishes such of the materials goods and machinery as the Purchaser or such person firm or company shall think fit for the purpose of such completion and the Purchaser or any such person firm or company shall be entitled to remain on the Builder's premises with workmen and others until the construction and fitting out of the Vessel shall be completed. In

case of such entry the expense of such completion which the Purchaser shall pay to the person firm or company employed by it to complete the Vessel and all other expenses costs and liabilities incurred or paid by it and arising out of the default of the Builder within this Condition shall be deducted from the Contract price and if such expenses exceed the balance of the Contract price remaining unpaid at the date of such default and entry then the amount by which they shall exceed such balance shall be a debt due from the Builder to the Purchaser. In pursuance of the latest requirements of the Transfer of Undertaking Regulations and the Acquired Rights Directive, the Builder shall provide to the Purchaser upon request all necessary details relating to the contracts and terms of employment for all of its employees who had been employed in the building of the Vessel up to the time of the termination of this Contract.

Date of Delivery

23. The date of delivery of the Vessel completed in accordance with the requirements of the Contract shall be the date when the Vessel is taken over by the Purchaser in accordance with Condition 27 hereof.

Extension of Time for Delivery

24. a. The Builder shall proceed with all due diligence and expedition to construct, launch, fit out, complete and deliver the Vessel after carrying out all trials thereof to the reasonable satisfaction of the Technical Officer, so that it can be taken over by the Purchaser within the period for which the Contract provides, subject to extensions provided for in the Contract.

b. If it shall be proved, to the satisfaction of the Technical Officer, that any delay has arisen from causes which are unavoidable and which could not have been reasonably foreseen and overcome by the Builder, then the Technical Officer in his absolute discretion may in writing grant such extension or extensions of the said period as he may consider fair and reasonable, having regard to all the circumstances of the case. Provided always that the Technical Officer shall not be bound to take into account any such cause unless the Builder has within 28 days after such cause has become apparent delivered to the Technical Officer full and detailed particulars thereof.

Damages for Delay

25. If the Vessel shall not be delivered and taken over by the Purchaser in accordance with the Contract before the expiration of the period for which the Contract provides, for a cause for which the Builder is liable, then if the Purchaser does not exercise its rights under Condition 22, the Builder shall pay to the Purchaser as liquidated damages (and not by way of penalty) in respect of the delay in the completion delivery and taking over of the Vessel, a sum at the rate stated in the Special Conditions for each week which shall have elapsed between the expiration of the said period (or the extended period if any extensions have been granted under the provisions of the Contract) and the date on which the Vessel is taken over by the Purchaser. Any liquidated damages due from the Builder to the Purchaser may be deducted by the Purchaser from any moneys in its hands which may be or become due to the Builder or may be recovered from the Builder as a debt. Provided always that no omission to deduct such liquidated damages from any moneys due to the Builder and no payments made by the Purchaser to the Builder after the expiration of the period for delivery for which the Contract provides (or the extended time if any) shall relieve the Builder of its liability to pay or allow the said liquidated damages.

Drawings of

26. On completion of the Vessel the Builder is to supply to the Technical Officer, without

Finished Work to be Supplied

further charge, one set of fully dimensioned true-to-scale drawings in a computer aided design format to be agreed by the Purchaser and two sets of paper prints showing the work as executed for all parts of the hull, propelling and other machinery, gear and equipment and such other information as is called for in the Specification.

Acceptance of Vessel fitted out

27. When all trials and tests called for by the Contract have been carried out to the reasonable satisfaction of the Technical Officer and the vessel has been completed and

in every respect in accordance with the Contract to the satisfaction of the Technical Officer and all inventories of stores and gear have been agreed, the Technical Officer shall issue a certificate of acceptance and the vessel shall be taken over by the Purchaser forthwith, provided:

a. If the vessel shall fail on her trials to satisfy in any material respect the requirements of the Contract as a consequence of the Builder's breach of contract then the Purchaser shall have the options of rejecting the vessel or of accepting the vessel and agreeing a remedy for the deficiency with the Builder or of accepting the vessel and treating the failure as a breach of contract giving rise to a claim for damages.

b. If the Purchaser shall elect to reject the vessel it shall give written notice of such election to the Builder and thereupon the property in the vessel and all other things vested in the Purchaser under the terms of Condition No.8 shall re-vest in the Builder and without prejudice to any other right or remedy of the Purchaser for damages or otherwise the Builder shall immediately repay to the Purchaser all sums of money paid by the Purchaser to the Builder in respect of the vessel.

Making Good Defects after Acceptance of Vessel

28. a. Save as provided for in this clause, the Builder shall have no liability or responsibility whatsoever (including without limitation for defects or the consequences thereof) after the delivery of the vessel to the Purchaser. At no stage during this Contract whether before or after delivery of the vessel shall the Builder have any liability to the Purchaser for consequential losses whether direct or indirect, damages or expenses, including, without limitation, loss of profit, loss of earnings, consequential damage to the vessel, loss of goodwill, loss of business, loss of production, loss of time, third party claims and all costs and expenses associated therewith.

b. The Builder shall be responsible for making good all defects (notwithstanding any certificate which may have been previously issued by the Technical Officer) which may be discovered during the period stated in the Contract, from the date upon which the vessel is taken over by the Purchaser and arising from its normal use, in the construction and fitting out of the vessel (including all machinery and equipment) of faulty materials articles or parts other than any machinery, equipment materials articles or parts supplied by or on behalf of the Purchaser or to faulty workmanship, whether arising in work carried out by the Builder direct or by sub-contractors employed by it or from faulty design (except a design supplied by the Technical Officer with regard to which the Builder gave notice in reasonable time before the construction of the work of any objection on its part to such design).

c. The Technical Officer shall forthwith notify the Builder of the occurrence or discovery of any such defect and shall afford the Builder reasonable opportunity for inspection within the Port of London or at such other port in the United Kingdom as the Technical Officer shall determine. As soon as possible after notification by the Technical Officer, the Builder shall make good all such defects and damage by supplying and fitting sound new replacement materials, articles or parts and remedying all

workmanship found to be defective to the reasonable satisfaction of the Technical Officer. If the Builder shall fail to execute any such work within a reasonable time, the Purchaser shall be entitled to carry out the work by its own staff or by such other contractors as the Technical Officer may determine and to recover the cost thereof from the Builder. The Builder shall not be liable for the consequential loss or damage occasioned by or arising from such defects. The Builders' liability is limited to the repair or renewal of the vessel's parts which were supplied by the Builder (excluding those parts supplied by or on behalf of the Purchaser) that have been damaged as a direct and immediate consequence of the defect without any intermediate cause and provided such part or parts can be considered to form a part of the same equipment or same system.

d. The Builder's liability under this clause shall be further limited to a cumulative cost to the Builder of 10% of the Contract Price.

**Payments etc.
to Purchaser's
Employees.**

29. The payment of commissions, fees or perquisites to employees of the Purchaser is strictly prohibited and any infringement of this rule by the Builder will disqualify it thereafter from tendering for any of the Purchaser's requirements.

Arbitration

30. a. Should at any time any question, dispute or difference arise between the parties in connection with this Contract (except upon those matters which by the terms of the Contract are left to the approval, satisfaction, opinion, judgement or discretion of the Technical Officer) which is not promptly settled by discussion between them, either party shall be at liberty to give to the other notice in writing of the existence of such question dispute or difference specifying its nature and the point at issue and to request that the same shall be referred to the arbitration of a person to be mutually agreed upon or failing agreement to some person appointed by the President for the time being of the Institute of Arbitrators.

b. This submission shall be deemed to be a submission to arbitration within the meaning of the Arbitration Act 1996 or any statutory modification or re-enactment thereof for the time being in force and the parties agree that the powers to order relief on a provisional basis under Section 39 of the Arbitration Act 1996 shall apply.

c. The Contract shall where reasonably possible be continued during any arbitration proceedings and no payments due or payable by the Purchaser shall be withheld on account of such proceedings unless the obligation to make such payments is in question whether directly or indirectly in such proceedings.

**Third Party
Rights**

31. The parties do not intend the terms of this contract to be enforceable by third parties under the provisions of the Contracts (Rights of Third Parties) Act 1999.

Serving of Notices

32. A notice to the Builder shall be sufficiently served if delivered by hand, left for the Builder at its premises or sent by facsimile message to the correct facsimile number with a correct answer back or sent by a postal service which seeks to deliver such documents or other things by post no later than the next working day in all or the majority of cases.

Where the Builder is to communicate in writing with the Technical Officer or serve a notice upon the Purchaser, this shall be undertaken using hand delivery, facsimile message to the correct facsimile number with a correct answer back or sent by a postal service which seeks to deliver such documents or other things by post no later than the next working day in all or the majority of cases.

Data Protection Act

33. Where it is necessary for an individual's personal details to be included or information to be included which can identify a person in any document in this Contract, then the requirements of the Data Protection Act shall apply. The person concerned shall give prior consent in writing for this information to be included and the information shall be protected and used only for the purposes of this Contract. In addition, the person holding such personal data or information shall ensure that:

Access to the information is restricted to the employees agents and sub-contractors of the parties who have a valid reason for seeking such access; and

It is kept safe and secured so as to prevent unauthorised or unlawful access or processing, accidental loss or destruction of or damage to the information; and

It shall be retained upon the ending of this Contract only where there is good reason; and

The information is updated upon receipt of information that the information retained is inaccurate or of additional information; and

The information is not transferred or transmitted abroad except in compliance with the requirements of the Data Protection Act; and

Upon request, all the information held is produced to the individual concerned.

Precedence of Conditions

34. Unless otherwise provided in this Contract, the Conditions (as amended by the Letter of Acceptance) shall prevail over any other document forming part of the Contract and in the case of conflict between the General Conditions and the Special Conditions the Special Conditions shall prevail. Subject thereto the Specification shall prevail over any other document forming part of the Contract.

Law

35. The construction and interpretation of the Contract shall be governed by English Law.