

TERMS AND CONDITIONS

Contract Addendum

Should the Contract Specification or requirements change materially, including if a job is materially misdescribed, then we reserve the right to submit a new Tender including revision of any prices quoted to cover any extra costs incurred.

1. General

- 1.1. These Conditions shall be incorporated in the Contract howsoever constituted. The placing of an order by the Customer with the Contractor by any means (including but not limited to oral, telephone, written, e-mail, or facsimile) shall constitute acceptance of these Conditions which shall govern all work done and shall override and exclude any other Terms stipulated or referred to by the Customer. All orders hereafter placed by the Customer shall be deemed to be subject to these Conditions. No variation to these Conditions shall be binding unless agreed in writing by the Customer and the Contractor.

2. Definitions

In these Conditions the following expressions shall be defined as follows:

- 2.1. "Abatements" means all deletions from the Tender agreed by the Parties.
- 2.2. "Completion" means the completion of Contract Work.
- 2.3. "Conditions" means the Conditions numbered 1 to 23 herein and Appendices 1 and 2 which will be deemed as incorporated into the Contract howsoever constituted and apply to the Contract Work.
- 2.4. "Contract" means the Contract howsoever made by on behalf of the Customer and the Contractor. In the event that the Contract is made by any person, firm or corporation purporting to act as an agent for the Customer, then that person, firm or corporation shall be responsible jointly and severally with the Customer for the performance of the obligations to the Contractor under the Contract. Communication by the Contractor to such person, firm or corporation of these Conditions shall constitute communication to the Customer.
- 2.5. "Contract Period" means the period agreed between the Parties for the performance of the Tender. Time is counted from the working day of the vessel's arrival at the Contractors Yard.
- 2.6. "Contract Price" means the agreed price excluding VAT for the Tender.
- 2.7. "Contract Value" means the aggregate of the Contract Price and the Contractor's latest estimate of the value of all Extras less Abatements for the Tender.
- 2.8. "Contract Work" means the Tender as may be amended by Extras or Abatements from time to time agreed verbally or in writing between the Parties.
- 2.9. "Contractor" means only the company within the Linked Solutions SW LTD group which the Contract is entered into or, at the company's sole option, the company within the Linked Solutions SW LTD group to whom the Contract is assigned, provided that such assignment shall not take place without the Customer's consent (such consent not being unreasonably withheld).
- 2.10. "Contractor's Manager" means the Project Manager or any other Manager appointed by the Contractor to oversee the Contract Work.

- 2.11. "Crew" means the Vessel's crew and any other employees of the Customer, including Superintendents and the Customer's Representative.
- 2.12. "Contractor's Yard" means the premises of the Contractor.
- 2.13. "Customer" means the Owner of the Vessel subjected to the Contract Work and/or the person, firm or corporation ordering work to be carried out in accordance with the Contract.
- 2.14. "Customer's Contractors" means all specialist or other independent Contractors engaged by the Customer to perform, monitor, or supervise work in relation to the Vessel in addition to the Contract Work to be provided by the Contractor and includes representatives of the Vessel's Classification Society, Flag State etc.
- 2.15. "Customer's Representative" means the superintendent or other representatives appointed by and fully authorized by the Customer to oversee the Contract who shall be deemed to have full authority to act on behalf of the Customer and the performance of the Contract Work, or in the absence of such appointment the Vessel's Master.
- 2.16. "Delivery" means the delivery of the Vessel to the Contractor's Yard.
- 2.17. "Extras" means all work ordered by or on behalf of the Customer in addition to or modification of the Tender.
- 2.18. "Overall Limit" means in respect of the aggregate of all claims or liabilities under the Contract the lesser of (i) fifty (50)% of the contract value and (ii) the sum of one million pounds sterling (£1,000,000).
- 2.19. "The Parties" means the Contractor and the Customer.
- 2.20. "Redelivery" means redelivery of the Vessel to the Customer.
- 2.21. "Specification" means the specification, docking list, or other document or communication to or from the Contractor which states the work which the Customer wishes to be performed.
- 2.22. "Sub-Contractor(s)" means and includes all persons (other than the Contractor's employees) instructed or engaged by the Contractor to do work, supply materials or equipment, or provide accommodation or services in connection with the Contract Work.
- 2.23. "Tender" means the written offer made by the Contractor to provide specific work and services based on the Contractor's interpretation of the requirements of the Specification in conjunction with Appendices 1 and 2 of these Conditions.
- 2.24. "Vessel" means the ship, rig, or other structure subject of the Contract and includes any part, machinery, or equipment thereof or intended thereof.

3. Delivery and Redelivery

- 3.1. The Vessel, unless otherwise agreed, is to be delivered to, and redelivered by the Contractor at the Contractor's Yard, or at the Contractor's option to the nearest convenient place to the Contractor's Yard.
- 3.2. The date of Vessel delivery is to be agreed at least 7 days prior to arrival. If the vessel is subsequently delayed for any reason other than a breach by the Contractor of its obligations under this Contract, then the Customer shall indemnify the Contractor against all costs and losses resulting from this delay.
- 3.3. If the delay interferes with the other work in the Contractor's Yard, in addition to its rights under clause 3.2 above, the Contractor shall have the right to either cancel the Contract or delay commencement of the Contract Work until suitable facilities become available in the Contractor's Yard.

4. Removals

- 4.1. The Contract Work includes all removals in the Tender. All other removals and renewals will be treated as Extras except renewals of previously sound parts which have been broken or damaged due to negligence by the Contractor or those for whom the Contractor is responsible.

5. Old material

- 5.1. All old materials, for example steel and piping materials, except heavy parts of machinery, propellers and tail shafts removed from the Vessel, shall upon Redelivery become the Contractor's property unless otherwise agreed in writing. The Contractor shall have the right to dispose of these materials with absolute discretion that it sees fit. Should the Contractor incur any costs for disposing of old materials then the Contractor will raise an Extra to cover the additional cost.

6. Payment

- 6.1. Payment by the Customer for work done shall be made without deduction. The Contractor shall be entitled, unless otherwise agreed, to claim interim payments based on interim invoices in respect of work done and services rendered to date, such interim invoices being payable within 7 days of presentation or prior to the Vessel leaving the Contractors yard if earlier. Unless otherwise agreed, the final Contract Value shall be paid on Completion, or if earlier, Redelivery, and in any event all monies must be received by the Contractor prior to the Vessel leaving the Contractor's Yard failing which the Contractor shall have the right to exercise a possessory lien over the Vessel until payment is received.
- 6.2. No forbearance on the part of the Contractor in demanding interim payments under the Contract shall prejudice or effect the entitlement of the balance of the Contract Value upon the earlier of Completion or Redelivery.
- 6.3. Without prejudice to the Contractor's other remedies, in default of payment of invoices on the due date, the Customer will pay interest on sums due at the rate of 1.5% per month for each day of default of payment of an interim invoice, and in the default of payment of an interim invoice the Contractor shall have the right to suspend work on the Contract without thereby incurring liability to the Customer until payment is made in full together with accrued interest, and to recover from the Customer costs of undocking and docking, towage, berthing, watchmen and (without limitation) any other costs arising from such suspension of works.
- 6.4. The Contractor shall not be obliged to redeliver the Vessel unless the final Contract Value has been agreed and full payment thereof has been made to the Contractor.
- 6.5. All sums due from the Customer on Completion or Redelivery pursuant to Condition 6.1 shall be paid in full and without any deduction, counterclaim, or set-off. Any claim by the Customer pursuant to Condition 10.2 shall be pursued by separate action and shall not affect the Contractor's entitlement to payment under Condition 6.1.
- 6.6. The Contractor shall have the right to change any agreed payment terms if there occurs or appears to be likely to occur, in the sole opinion of the Contractor, any material change in the condition of the Customer.

7. Disbursements

- 7.1. Any charges for tugs, pilotage, transport, harbour dues, crantage, and similar cash disbursements not included in the Contract Price shall be reimbursed to the Contractor plus an allowance at 30% or such other rates for handling sub-Contractor or material services as may be specified in the Contract.

8. Escalation

- 8.1. The Contract Price is based on the cost of labour, materials and services ruling at the date of Tender, and if by reason of any increase therein before Completion, the actual cost to the Contractor, and the Contract Value shall be adjusted accordingly.
- 8.2. In the event that the value of the excess of Abatements over Extras amounts to or exceeds 25% of the Contract Price the Contractor shall be entitled to increase the Contract Price by an amount equal to the under-recovery by the Contractor of the total of establishment charges and profit applied to the Contract.
- 8.3. The prices quoted in the Contract Value are calculated using raw material cost quotations obtained at the time of compiling the Contract. The Contractor reserves the right to adjust the prices quoted should there be any increase in the cost of raw materials between compilation of the Contract and incurring the actual cost of procuring those materials, or should the cost to the Contractor be increased by reason of exchange rate fluctuations.
- 8.4. The Contract Value is calculated to allow for the energy (i.e. electricity, gas, fuel, etc) costs at the date of making the offer. Should there be any increase in these costs between making the offer and the date of actual carrying out the Contract Work then the Contractor reserves the right to charge the extra accordingly.

9. Insurance

- 9.1. The Customer shall keep the Vessel fully insured and shall ensure that all insurances for Hull and Machinery Protection and Indemnity and all other marine risks are in force throughout the Contract Work. The Contractor will maintain in force throughout the Contract Work, Ship Repairers Liability Insurance with a sufficient sum to cover the Contract in accordance with the Contract.

10. Guarantee and Liability

- 10.1. Subject always to the Overall Limit, the Contractor accepts liability for, and will repair or reinstate or pay the cost of repair or reinstatement (limited in accordance with Condition 10.2), of any direct or consequential physical damage to the Vessel before Redelivery caused only by the negligence of the Contractor or those for whom the Contractor is responsible.
- 10.2. Provided always
- (a) that no alterations or additions have been made to the Contract Work without the consent of the Contractor,
 - (b) that the Customer has observed the Contractor's and Sub-Contractor's instructions in relation to the use of the Vessel during the Contract Work,

(c) and that any defect in the Contract Work has not resulted from negligence or mismanagement by the Customer, or errors or omissions in information supplied to the Contractor by or on behalf of the Customer prior to or during the Contract Work.

- 10.3. The Contractor will, subject to the Overall Limit, either
- (a) carry out the repair or replacement at the Contractor's Yard, or
 - (b) pay to the Customer the reasonable cost of repair or replacement by another more conveniently located yard ("Other Yard"), provided always that the Customer will use all reasonable endeavours to allow the Contractor to arrange an inspection of the damage prior to repair, and that the Customer has the onus of proving the reasonableness of its selection of the Other Yard (over other locals yards) and of the Other Yard's repair charges, for any defective Contract Work notified to the Contractor in writing within 3 months of Redelivery if later, or of withdrawal of the Contractor's workmen upon Completion.

These Conditions shall apply to any such repair and replacement if carried out by the Contractor.

- 10.4. Except as provided in Conditions 10.1 and 10.2, the Contractor shall not be under any liability to the Customer in either contract, tort or bailment. After Redelivery or, if later, Completion, all liability of the Contractor in respect of the Contractor Works shall cease.
- 10.5. The Contractor's obligations in Conditions 10.1 and 10.2 are in substitution for any condition, duty or warranty implied by common law or statute (including without limitation the Sale of Good Act 1979, the Supply of Goods and Services Act 1982 and the Sales and Supply of Goods Act 1994) and any such condition, duty or warranty is hereby expressly excluded.
- 10.6. In no circumstances shall
- (a) the Contractor be liable for loss of use or profit from the Vessel, or any direct or indirect economic or pecuniary loss whatsoever, howsoever resulting, including as a result of loss or damage or death or personal injury caused by the negligence of the Contractor, its agents or its sub-Contractors.
 - (b) the liability of the Contractor and the liability of those for whom the Contractor is responsible exceed the Overall Limit.
 - (c) the Contractor have any liability or responsibility for design or for interface risk.
- 10.7.
- (a) Save that nothing herein shall affect the rights of the Contractor in relation to its Sub-Contractors or their employees, or the Customer's rights in relation to the Customer's Contractors or their employees, the Contractor contracts on behalf of all employees and Sub-Contractors of the Contractor as well as itself, and the Customer contracts on behalf of all interests in the Vessel as well as the Customer to the extent that these Conditions shall bind such interests and accrue to the benefit of the Contractor and its employees and its Sub-Contractors and their employees. Save as is necessary to give effect to this Condition 10.7(a), the Parties do not intend to give enforceable rights (pursuant to the Contract (Rights of Third Parties Act 1999)) to any third Parties to the Contract.
 - (b) It is expressly understood and agreed that the provisions of this Condition 10- shall apply to, and survive the termination of the Contract in any circumstances.
 - (c) Nothing herein shall affect any right which the Contractor or any Sub-Contractor may have to limit its liability under any statutory enactment for the time being in force.

10.8.

- (a) The Contractor shall not be liable for any loss or damage caused by the Customer's failure to fulfil his responsibilities under these Conditions or for any matter within the control of the Customer, and the Customer will indemnify the Contractor against any loss, damage, costs, claims and expenses suffered by the Contractor as a result of any failure by the Customer to make timely decisions or perform any of the Terms and Conditions of the Contract. The Customer's Representative must be fully authorised to agree and sign for additional work, and to negotiate, agree and sign the final invoice at full and final Completion or if earlier, Redelivery.
- (b) In the event that the Contract Work is delayed or interrupted by failure of the Customer or any of the Customer's Contractors to supply parts, equipment, material, or services essential to the progress of the Contract Work, the Contractor shall be entitled to suspend work on the Contract and/or recover from the Customer all costs of undocking and docking, towage, berthing, watchmen, and (without limitation) any other costs or losses arising from such delay, interruption, or suspension.

10.9.

Each Party accepts responsibility and liability for the death or personal injury or its own personnel, and the personnel of those entities for whom they are responsible under this Contract, irrespective of the cause of death or personal injury, and whether or not caused by the negligence or gross negligence of the other Party or those entities for whom the other Party are responsible under this Contract. Each Party further agrees to indemnify and hold harmless the other Party, as regards both liability and legal costs, in the event that the aforesaid person or their dependents pursue claims for death or personal injury against the Party who is not responsible for them under this Contract.

11. Loss, Damage or Frustration

11.1. If damage to the Vessel during the contract Work amounts to an actual or constructive or an arranged total loss of the Vessel, or if by reason of some supervening enactment or if the Contract is otherwise frustrated at law, the Contract shall thereupon be terminated whereupon;

Either the Customer shall pay to the Contractor:

- (a) the amount by which the costs (including establishment charges and profit at the rate applied to the Contract) of work done and materials purchased for the Contract prior to termination exceeds the aggregate of
- (b) all sums paid by the Customer to the Contractor before the termination, and
- (c) the value to the Contractor for other use of any materials or goods not placed in the Vessel before and remaining in the Contractors hands after the time of termination, and
- (d) any sum for which the Contractor is liable in accordance with sub-Condition 10.1,

or, if the aggregate of sums at (b), (c) and (d) exceeds the amount at (a), the Contractor shall pay such excess to the Customer.

11.2.

If the Vessel or any part thereof is damaged during the course of the Contract Work, but the Contract is not terminated pursuant to sub-conditions 11.1 the Customer shall pay to the Contractor in addition to the Contract Value the cost (including the establishment charges and profit at the rate applied to the Contract) of repairing the damage less any amount for which the Contractor is liable in accordance with condition 10.1

12. Delay

- 12.1. The Contractor shall have no liability for delay howsoever occurring.
- 12.2. Should the Customer wish to vary 12.1 so that the Contractor is assumed for liability in delay, the Customer must advise the Contractor prior to the conclusion of the Contract so as to allow the Contractor to obtain and provide to the Customer a quotation from the Contractor's insurance for this additional cost.
- 12.3. If the Contract Work is extended by Extras or if any delay due to the Contract Work shall occur due to war, hostilities, riots, civil commotions, government restrictions, strikes, lock outs or other industrial action, fire, accident, or explosion (whether in the Contractor's Yard or elsewhere), acts of god, natural disaster or weather conditions preventing the Contractor's performance of the Contract Work, or delay in supply, or of defects in items of machinery or equipment or materials or services provided on behalf of the Customer by its Contractors or if the Contract Work is delayed by any other cause whatsoever (whether or not the same nature as the forgoing) beyond the Contractor's control, or if work is suspended pursuant to Conditions 6.3 and/or 10.7, the contract period shall be extended by the period or periods of such extension, suspension or delay.
- 12.4. No restrictions will be imposed on the Contractor or Sub-Contractors on hours of working in any area of the Vessel and there will be no interference of the Contractor's programme by the Customer's Contractors or Crew (including crew living aboard).

13. Trials or Movements

- 13.1. Any trials or movements of the Vessel shall be at the Customer's sole risk in every respect and neither the Contractor or any Sub-Contractor shall be under any liability whatsoever to the Customer for any act of default in, or arising out of, such trials or movements and the Customer shall keep the Contractor and any Sub-Contractor fully and effectually indemnified in respect of any claims whatsoever arising out of such trials and movements.

14. Third Party Property

- 14.1. The Contractor shall not be liable for any damage caused by defects or deficiencies in any docks which are not the Contractor's property or permanently occupied by the Contractor, or by any defect in cranes or other equipment not owned by the Contractor, where the Contractor has granted an indemnity in connection with the occupancy of hiring of such docks, premises, cranes or equipment. The Customer shall indemnify the Contractor in respect of any claim by the owner of such docks, premises, cranes, or equipment arising out of the Contract Work except to the extent that (subject to the Overall Limit) any such claim results solely from the negligence of the Contractor.

15. Customer's Personnel

- 15.1. Any Customer retaining to bringing on board the Vessel any Customer's Contractors or Crew to undertake or Supervise work on its behalf must protect those Customer's Contractors or Crew with the Vessel's insurances. The Customer undertakes to keep the Contractor fully and effectually indemnified against all claims for liability by the Customer's Contractors or Crew howsoever caused on board the Vessel or in the Contractor's Yard or elsewhere in connection with the Contract.

15.2. In the event that the Contractor supplies personnel to enable or assist the Customer's Contractor to perform their work, such Contractor's personnel shall be deemed to be employees of the Customer for all purposes (including the operation of Condition 10.8) and the Contractor shall have no liability and shall be indemnified by the Customer in respect for any defect, liability or claim arising from work carried out, or claim brought by such Contractor's personnel.

16. No Waiver

16.1. No failure or forbearance of the Contractor to exercise any of its rights or remedies under the Contract shall constitute a waiver thereof, nor prevent the Contractor from subsequently exercising any such rights or remedies in full.

17. Cancellation

17.1. The Customer may not cancel the Contract without the prior written consent of the Contractor, which if given shall be deemed to be on the express condition that the Customer shall indemnify the Contractor against all loss (including loss of profit), damage, expenses, claims, or actions arising out of such cancellation unless otherwise agreed in writing.

18. Entire Contract

18.1. The Contract constitutes the entire contract between the Parties in relation to the Contract Work and no representation, warranty, or statement by either Party prior to the date of the Contract shall affect the Contract, nor shall any modification of the Contract be of any effect unless put in writing and signed by or on behalf of the Parties. Unless otherwise expressly agreed in writing by the Contractor, where the Customer purports to incorporate Terms and Conditions into this Contract, the same shall also apply, but only to the extent that the same do not conflict with these Conditions.

19. Severance

19.1. If by any reason of enactment or judgment that any provision of the Contract shall be deemed or held illegal, void, or unenforceable in whole or in part, all other provisions of the contract shall be unaffected thereby and shall remain in full force and effect.

20. Assignment

20.1. No assignment by the Customer of this Contract or of any right hereunder shall be valid unless made with the prior written consent of the Contractor (such consent not to be held unreasonably).

21. Insolvency of Customer

21.1. If

- (a) the Customer makes any voluntary arrangement with its creditors or becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or
- (b) an encumbrancer takes possession or a receiver is appointed, of any of the property or assets of the Customer; or
- (c) the Contractor reasonably apprehends that any of these events mentioned above is likely to occur in relation to the Customer and notifies the Customer accordingly; then, without prejudice to any other right or remedy available to the Contractor, the Contractor shall be entitled to cancel the Contract or suspend any further deliveries or further Contract Work without any liability to the Contractor, and if any Contract Work has been performed but not paid for, the Contract Value shall become immediately due and payable notwithstanding any previous Contract or arrangement to the contrary.

22. Law and Arbitration

22.1. This Contract shall be governed by and construed in accordance with English law, and any dispute arising out of or in connection with this Contract shall be referred to arbitration in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment thereof save to the extent necessary to give effect to the provisions of this Clause.

- (a) The arbitration shall be conducted in accordance with London Maritime Arbitration Association (LMAA) Terms current at the time when the arbitration proceedings are commenced.
- (b) The reference shall be to three arbitrators. A Party wishing to refer a dispute to arbitration shall appoint its own arbitrator and send notice of such appointment in writing to the other Party requiring the other Party to appoint its own arbitrator as sole arbitrator unless the other Party appoints its own arbitrator and gives notice that it has done so within the 14 days specified. If the other Party does not appoint its own arbitrator and gives notice that it has done so within the 14 days specified, 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 he had been appointed by agreement.
- (c) Nothing herein shall prevent the Parties agreeing in writing to vary these provisions to provide for the appointment of a sole arbitrator.
- (d) In cases where neither the claim nor any counterclaim exceeds the sum of £75,000 (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.

22.2. Notwithstanding 22.1 above, the Parties may agree at any time to refer to mediation any difference and/or dispute arising out of or in connection with this Contract.

- 22.3. In the case of a dispute in respect of which arbitration has been commenced under (a) above, the following shall apply:
- (a) Either Party may at any time and from time to time elect to refer the dispute or part of the dispute to mediation by service on the other Party of a written notice (the “Mediation Notice”) calling the other Party to a mediation.
 - (b) The other Party shall thereupon within 14 calendar days of receipt of the Mediation Notice confirm that they agree to mediation, in which case the Parties shall thereafter agree a mediator within a further 14 calendar days, failing which the application of either Party a mediator will be appointed by the Arbitration Tribunal (“The Tribunal”) or such person as The Tribunal may designate for that purpose. The mediation shall be conducted in such a place and in accordance with such procedure and on such terms as the Parties agree or, in the event of disagreement, as may be set by the Mediator.
 - (c) If the other Party does not agree to mediate, that fact may be brought to the attention of The Tribunal and may be taken into account by The Tribunal when allocating costs of the arbitration between the Parties.
 - (d) The mediation shall not affect the right of either Party to seek such relief or take such steps as it considers necessary to protect its interests.
 - (e) Either Party may advise The Tribunal that they have agreed to mediation. The arbitration procedure shall continue during the conduct of the mediation by The Tribunal and may take the mediation timetable into account when setting the timetable for steps in arbitration.
 - (f) Unless otherwise agreed or specified in the mediation terms, each Party shall bear its own costs incurred in the mediation and the Parties shall share equally the Mediator’s costs and expenses.
 - (g) The mediation process shall be without prejudice and confidential and no information or documents disclosed during it shall be revealed to The Tribunal except to the extent that they are disclosable under the law and procedure governing the arbitration.

23. General Regulations and Commercial Clarification

- 23.1. All Vessels entering the Contractor’s Yard for repair and the Customer, Superintendents, Officers and Crew and any sub-Contractors engaged by the Customer shall be subject to the General Regulations Articles 1-12 set out in Appendix 1 to these conditions and the Customer shall be solely responsible for any loss or damage resulting from any disregard or non-compliance with the General Regulations. The Tender has been prepared in accordance with the Commercial Clarifications 1-6 set out in Appendix 2.

Appendix 1

THE SCHEDULE

GENERAL REGULATIONS IN OPERATION AT THE CONTRACTOR'S YARD

Article 1:

The Contractor has an obligation to provide a safe working environment for its employees and sub-Contractors. The Customer is therefore required to advise the Contractor of all materials or conditions that may present a hazard to the Contractor's and Sub-Contractor's employees and property as early as possible. Particular attention is drawn to the existence of materials such as Asbestos and its condition of repair. Delays in completion of contracted work may result if Asbestos or similar is found in areas of known work or is found to be in poor state of repair in areas of known work.

Article 2:

All sub-Contractors, including Customer's Contractors and Crew working at the Contractor's Yard are to comply with the following:

- I. All work is to be within the guidelines set out in the Environmental Protection Act 1990 Authorisation for the Contractor's Yard.
- II. On arrival at the Contractor's Yard all persons are to attend a Safety Induction where they will be informed of their Responsibilities to the Environment and need to work within the Contractor's Authorisation.
- III. All persons are to work in a manner so not cause potential harm to the Environment. Any incidents that may cause potential harm to the Environment must be reported to the Contractor's Manager in the shortest possible time.
- IV. All sub-Contractors are to sign a declaration stating that they have seen the Penzance Dry Dock induction and have been given the opportunity to have any details explained to them and agree to work within the site rules.
- V. All sub-Contractors shall provide evidence from their insurance company of their insurance cover, which shall provide minimum cover of £5 million Employers Liability and £2 million Public and Product Liability.
- VI. All sub-Contractors are to provide relevant Method Statements and Risk Assessments specific to their work and provide certificates of training for equipment and skills relevant to the work for which they are engaged.
- VII. All sub-Contractors shall advise the Contractor of any HSE Improvement Notices, Prohibition Notices, or prosecutions to which they may have been subject within the last five (5) years.

Article 3:

No later than 72 hours prior to the Vessels' arrival at the Contractor's Yard, the Customer shall advise to the Contractor the following particulars:

- I. Vessel's name, service, and class.
- II. Vessel's dimensions and tonnage.
- III. Expected draft at the time of the Vessel entering, staying at, and leaving the Contractor's Yard.
- IV. Docking and Line Plans for the Vessel.
- V. Whether or not cargo and/or fuel will remain on board.
- VI. A description of the cargo and/or fuel and how they are stowed.
- VII. Type of survey.
- VIII. Whether the Vessel has any recorded or suspected damage or defects on her underwater parts.
- IX. Any matters requiring the Contractor's special attention in respect of the Vessel entering, staying at, and leaving the Contractor's Yard.
- X. In the case of repairs which involve knowledge of the structure or arrangements of hull or machinery, the Customer will provide the Contractor with "as built" drawings or arrange sufficiently to enable the Contractor to carry out the repair work.
- XI. Any information concerning features of the Vessel in way of the Contract Work which the Contractor should reasonably expect to be advised of and/or which are specifically requested by the Contractor in the Tender.

Article 4:

Prior to arrival at the Contractor's Yard, the Vessel shall be completely free of gas, slop, sludge and/or dirty ballast to the satisfaction of the Contractor's Chemist(s) in respect of the cargo tanks, pump rooms and associated piping systems, ballast tanks, holds or other spaces not normally used for the storage of fuel oil, unless special arrangements are made in the case of emergency, and likewise shall be completely discharged of any cargo of a dangerous nature such as explosives, or substances which are noxious or harmful to health. Slops received must be declared free of heavy metal content (no more than 10 parts per billion (1/100,000,000)) otherwise the full cost of specialised disposal will be charged to the Customer.

Article 5:

The Customer shall undertake to make the Vessel fit and safe in all respects for docking and/or berthing, and without prejudice to the foregoing shall upon request by the Contractor, complete any necessary adjustment to the Vessel draft, trim and preparation of mooring ropes etc.

Article 6:

No Agency Service shall be provided by the Contractor unless specifically requested and agreed in advance. The Customer shall take all necessary procedures for entry into Port Quarantine, Customs Clearance etc.

Article 7:

Where paint has been specified or is supplied by the Customer, the Contractor accepts no responsibility whatsoever as to the suitability, durability, or adhesive properties of the paint. The Customer is to be responsible for supervising and approving the application of such paint and will indemnify the Contractor against any claim made against the Contractor by any third Party relating to or arising out of such application.

Article 8:

Unless otherwise specifically agreed, the Customer is prohibited, and will ensure that the Customer's Contractors and Crew are prohibited from committing any of the following acts:

- I. to carry out fumigation while the Vessel is in the Contractor's Yard.
- II. to take on fuel while the Vessel is in the Contractor's Yard.
- III. to discharge or throw overboard any dust, waste, oil, or oily elements.
- IV. to use sanitary lines when the Vessel is in the Dry Dock or floating dock.
- V. to use drainpipes (e.g. scupper pipes and discharging pipes) when painting work is in progress on the Vessel's shell.
- VI. To carry out welding, burning or other hot work.
- VII. To carry out any blasting or spray painting.
- VIII. To carry out any activity which, in the opinion of the Contractor, is or may be a nuisance to or result in liability to Third Parties.

Article 9:

Any instructions or orders in respect of the Vessel docking, undocking, repairs, and relative works shall be given directly to the Contractor's Manager. The Contractor shall incur no responsibility for any instructions given by the Customer to any personnel other than the Contractor's Manager.

Article 10:

Without prejudice to Condition 13, from and after the arrival of the Vessel at the Contractor's Yard, the Customer's Crew and Customer's Contractors (subject always to the Terms of the Contract) must comply with all Instructions by the Contractor in relation to docking, undocking and movements of the Vessel within and between the Contractor's premises.

Article 11:

The Customer, the Crew and the Customer's Contractors shall be deemed to have notice of, and shall observe the safety, security and other rules and precautions in force at the Contractor's Yard. Any breach of this provision may without prejudice to liability, therefore result in the Contractor excluding any such personnel from the Contractor's Yard.

Article 12:

Docking and other charges are subject to the applicable tariffs then current. Additional charges shall be paid by the Customer for overtime work and for special services rendered in the course of the Contract Work.

Appendix 2

COMMERCIAL CLARIFICATIONS

In the preparation of the Tender and any subsequent Contract, the Contractor has made the following assumptions:

1. **Classifications/Drawings/Design**

- 1.1. All Classification Society, Regulatory Bodies and Underwriters' representatives would be arranged by the Customer's Representatives and any attendance, certification fees or other charges would be paid by the Customer direct to the organisation concerned.
- 1.2. Any Classification Society approved drawings required for the repair would be provided by the Customer and would be available prior to the arrival of the Vessel at the Contractor's Yard.
- 1.3. The Contractor has no responsibility for any design work changes specified in the Contract Work. All design responsibilities remain with the Customer.
- 1.4. The Contractor has not allowed for verifying any sizes detailed on drawings or in the specification provided by the Customer. Whilst the Contractor will use all reasonable endeavours to verify the information provided, if any additional costs are incurred then the Contractor will raise an Extra to cover any additional costs or implications due to verifying the provided information.

2. **Painting/Cleaning etc.**

- 2.1. All paints, coatings, solvents, etc., safety data sheets and paint manufacturer's representations to be supplied by the Customer.
- 2.2. The chosen method of paint removal and surface preparation will depend on the location, area, Customer's requirements and environmental considerations. Methods available include Ultra High Pressure (UHP) water jetting, discing, and chipping.
- 2.3. No allowance has been included in the programme for any delays due to any periods required for the curing of coatings.
- 2.4. Where minimum areas are referred to in the Tender, unless quoted otherwise these are deemed to be 500m². If the area to be treated is less than the minimum area, then the Contractor reserves the right to charge either the minimum area at the rate quoted or revise the rate to be more appropriate for the area treated.
- 2.5. Any costs associated with cleaning, access arrangements, Asbestos removals, or disposal of any Tributyltin (TBT) paints/content or other hazardous materials are not included unless the Tender clearly states that these items are being provided for in the Contract Work. Dumping of ballast water into the Dry Dock is to be scheduled before wash down of TBT paint. Time required for dumping ballast water is to be agreed before the Vessel arrives. Precleaning of any spaces which are to be blasted has not been included. If the blast standard specified is unable to be achieved due to the configuration of the steelwork (e.g. ice stiffening, heavy scale, surface contamination or heavy toughened coatings) then the Contractor is entitled to reassess the prices for carrying out the work.
- 2.6. Where local environmental considerations apply it is our policy to adopt UHP water jetting as the preferred method of steel surface preparation prior to painting. Surface preparation and painting rates quoted apply by convention unless stated otherwise in the Tender. Thinners are to be supplied by the Customer. For surface preparation a test area will be trialled to establish the removal rate and agreement as to the finish standard required.

- 2.7. Where prices are quoted for tank cleaning then these may be subject to revision after the actual condition of the tanks have been determined. Removal of residual water, sludge or scale will be subject to an additional charge by the Contractor to the Customer as an Extra.
- 2.8. Any prices quoted for the disposal of garbage relate solely to the removal of galley refuse. To comply with Health and Safety Regulations, no other materials (e.g. paint tins, insulation, oil products etc.) should be placed by the Customer into the galley refuse containers. The removal of any such substances not already included in the Tender is to be an Extra.
- 2.9. Preparation or painting of the Vessel's hull bottom is based on treating areas which are accessible without the removal of keel or side block supports. Should there be a need to treat the entire underwater surface then this would be an Extra.
- 2.10. Prices quoted for tank blasting do not include:
- I. reblasting due to steel bleeding and/or too high Chloride content of the blasted steel, or
 - II. existing soft coating unless stated in the Tender. Where spot repairs are carried out to tank coatings, or any other internal or external coated surface, the Contractor does not accept any liability for the adhesion between old and new coatings.

3. Payments/Invoices

- 3.1. It is the Contractor's procedure to agree the invoice for the repairs to the Vessel with the Customer's Representative prior to Redelivery. Costs and any delays incurred by the Contractor resulting from any lack of authority of the Customer's Representative will be paid by the Customer.

4. Specifications

- 4.1. Where specified plate thicknesses, scantlings and/or plate qualities are not readily obtainable, then the Contractor shall have the right to substitute with material of the nearest equivalence acceptable to the Vessel's Classification Society and to adjust the Contract Price accordingly.
- 4.2. Where the Tender includes prices for pipe renewals then the Contractor has assumed Standard Weight steel pipe and existing flanges unless clearly stated otherwise. Materials for Classification Society approved piping and mechanical systems (excluding Customer supplied material), where required will vary according to requirement, unless stated otherwise in the Tender. Where there is an additional requirement for material to be certified to a specific standard which is not identified within the Specification, additional time and cost (including any requirements for mechanical and chemical testing) shall be charged to the Customer as an Extra.
- 4.3. Where steelwork repairs are being undertaken, the Contractor shall endeavour to avoid/minimise distortion by adopting recognised welding procedures. Remedial work necessary to correct any distortion either prior to or after survey and testing would be subject to an additional charge by the Contractor. In calculating steel weights on shaped plates, measurements will be taken at the greatest length and breadth.
- 4.4. Where the Specification includes references to "as required," "as necessary" or "as directed," etc., then no allowance has been included in the Tender arising therefrom. The repair programme included in the Tender refers to lump sum items and does not include allowances for items where only rates are tendered.
- 4.5. Where valves have been specified for overhaul then the Contractor is allowed to open in situ, manually grind in seats/lids, repack glands and close up with new jointing. The Contractor has made no allowance in the Tender for unspecified machining or any new parts unless otherwise specified.
- 4.6. The Contract Price includes the costs of any removals, cleaning or staging for access where such requirements are clearly specified in the Specification and have been expressly included in the Tender.

- 4.7. If the Contract Price schedule includes allowances/budget prices for work or for the attendance of service engineers, then such prices will be confirmed/adjusted upon receipts of actual invoices and/or the determination of work undertaken.
- 4.8. All oils, spare parts and manufacturer's representations will be supplied by the Customer unless clearly defined as the Contractor's supply with individual items in the Tender.
- 4.9. Where prices are quoted for the removal/overhaul of machinery/equipment then it has been assumed that machinery/equipment and its securing arrangements have been generally maintained and are readily accessible. Should these be found to be seized, corroded, require lifting arrangements to facilitate removal and refitting then we as the Contractor have the right to charge an Extra.
- 4.10. For steelwork where tariff rates are quoted for "internals" these rates will apply to internal stiffening only, i.e., frames, webs, brackets, longitudinal, etc. All internal structure renewals i.e., bulkheads, deckheads, tank tops etc. will be charged and rates agreed. Where tariff rates are quoted in relation to steelwork renewals they are to be considered as for guidance only and subject to the confirmation on the establishment of complexity of structure, weld attachment, accessibility to work and service requirements.
- 4.11. The Dry Dock facility charge used in calculating the Contract Price assumes that the Contractor's workforce will be fully utilised during the Contract Work. If, due to Emergent Work or Extras, it becomes necessary to extend the Contract Period, the Contractor reserves the right to increase the Dry Dock rental/daily facility charge for that period to recover any of its workforce who are unemployed at any time.

5. Crew/Sub-Contractor Working

- 5.1. The Contractor reserves the right to charge the Customer a 'facilities' charge for the Customer's Contractors performing work within the Contractor's yard pursuant to Condition 15.
- 5.2. Subject to Condition 15 the Contractor shall, if requested, endeavour to provide assistance to any Customer's Contractors on the understanding that responsibility for the workmanship schedule remains with the Customer.
- 5.3. Work to be carried out by Customer's Contractors or Crew are to be agreed prior to the Vessel arrival.

6. Facilities

- 6.1. At the date of the Tender the Contractor confirms the availability of the necessary facilities to carry out the Contract Work to suit the anticipated arrival date of the Vessel. However, the right to withdraw the offer if the facilities are pre-sold prior to the Customer's acceptance of the Tender is expressly reserved by the Contractor.