

# Southampton Marine Services Limited

## Standard Terms & Conditions for Purchase of Goods and/or Services

### 1 DEFINITIONS AND INTERPRETATION

1.1 In these terms and conditions, unless the context requires otherwise:

“Completion Date” means the date for completion of the Works specified in the Purchase Order or such other date as may be agreed;

“Conditions” these terms and conditions as amended from time to time in accordance with clause 18.3;

“Contractor” means the person to whom the Purchase Order is addressed;

“Employer” means Southampton Marine Services Limited, incorporated in England (Number 10111491) with its registered office at Kintyre House, 70 High Street, Fareham, Hampshire, PO16 7BB;

“Employer’s Materials” means all materials, equipment and tools, drawings, specifications and data supplied by the Employer to the Contractor for use in connection with the Works;

“Goods” means all goods and materials of whatever nature supplied by the Contractor as part of its obligations under the Purchase Order but shall exclude any goods or equipment supplied temporarily as part of the provision of Services;

“Insolvency Event” means, in respect of a body corporate, that it has ceased to trade or has a receiver, examiner, administrative receiver, administrator or manager appointed over the whole or the majority of its assets or undertakings, or has become insolvent or gone into liquidation (unless such liquidation is for the purpose of a solvent reconstruction or amalgamation), compounded with its creditors generally or has otherwise been unable to meet its debts as they fall due or has suffered any similar event in consequence of debt and, in respect of an individual, that such individual has become or been declared bankrupt or has suffered any similar action in consequence of debt and shall include any analogous step in any jurisdiction in which the relevant party carries on business;

“Intellectual Property” means copyright and related rights, moral rights, patents, supplementary protection certificates, petty patents, utility models, trade marks, trade names, service marks, domain name registrations, design rights, database rights, semi-conductor topography rights, plant variety rights, rights in unfair competition, rights in undisclosed or confidential information (such as knowhow, trade secrets and inventions (whether patentable or not)), and other similar intellectual property rights (whether registered or not) and applications for such rights as may exist anywhere in the world, together with any rights of action for infringement of such rights, whether existing or arising in the future;

“Premises” means the Employer’s premises at Ocean Quay, Belvidere Road, Southampton SO14 5QY or such other premises of the Employer at which any part of the Works may be undertaken;

“Programme of Work” where applicable, means the programme of work agreed in accordance with clause 12;

“Purchase Order” means the document confirming the Employer’s order for the supply of Goods and/or

Services and includes these Conditions and any schedules or annexures attached thereto and which represents the written contract in relation to the Works between the Employer and the Contractor;

“Services” means the services and related materials to be provided by the Contractor under the Purchase Order and shall include the provision on a temporary basis of any goods or equipment in connection therewith;

“Specification” means the description or specification for the Goods and/or Services specified in the Purchase Order and agreed in writing by the Employer;

“Vessel” means any vessel or floating structure for or in connection with which the Goods and/or Services are supplied;

“Warranty Period” shall mean the period specified in the Purchase Order or if no period is specified 12 months from the delivery of the Goods or from completion of the Works whichever is later;

“Works” means all work and other acts required to be carried out by the Contractor in relation to the supply of the Goods and/or the Services as part of its obligations under the Purchase Order.

1.2 The clause headings used in these terms are for convenience only and are not in any way to affect the construction or interpretation of these terms.

### 2 TERMS OF CONTRACT

2.1 All the terms of the contract between the Contractor and the Employer are set out in the Purchase Order and incorporates the Conditions. All other written, printed or standard terms, and all oral and written communications which precede the finalisation of the Purchase Order, are hereby excluded.

2.2 The contract created by the Purchase Order is between the Employer and the Contractor only and the Contractor undertakes not to assert any claim in connection herewith against the registered owner of the Vessel and waives all rights in rem against the Vessel.

2.3 In the absence of written acceptance of the Purchase Order on behalf of the Contractor, delivery of the Goods or the commencement of the Works shall be deemed to be acceptance of these Conditions. No conduct by the Employer shall be deemed to constitute acceptance of any terms put forward by the Contractor.

2.4 The Contractor shall work for the Employer as an independent contractor. Nothing in these Conditions creates, implies or evidences the relationship of an employer and employee, or principal and agent or a partnership, and the Contractor does not have the authority to make any representation or commitment or to incur any liability on the Employer’s behalf.

### 3 SUPPLY OF GOODS

3.1 The Contractor warrants that the Goods shall:

3.1.1 correspond with their description in the Purchase Order and any applicable Specification;

3.1.2 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for their purpose as held out by the Contractor or made known to the Contractor by the Employer, expressly or by

## Southampton Marine Services Limited

### Standard Terms & Conditions for Purchase of Goods and/or Services

- implication, and in this respect the Employer relies on the Contractor's skill and judgement;
- 3.1.3 be free from defects in construction, design, materials and workmanship, and (if installed by the Contractor) installation, and remain so for the Warranty Period; and
- 3.1.4 comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods.
- 3.2 The Contractor undertakes to repair any defect in any Goods which becomes evident and is notified to the Contractor within the Warranty Period, or if the defect is irreparable to replace the defective Goods, all at no cost to the Employer.
- 3.3 The Contractor shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Purchase Order in respect of the Goods and warrants that they do not contravene the Intellectual Property rights of any third party.
- 3.4 The Employer shall have the right to inspect and test the Goods at any time before delivery. If, following such inspection or testing, the Employer considers that the Goods do not conform or are unlikely to comply with the Contractor's warranties in this clause 3, the Employer shall inform the Contractor and the Contractor shall immediately take such remedial action as is necessary to ensure compliance.
- 3.5 Any inspection or testing shall not reduce or otherwise affect the Contractor's obligations under the Contract.
- 3.6 In the case of Goods which are manufactured by a third party and supplied by the Contractor the benefit of any manufacturer's warranty if not directly enforceable by the Employer shall be transferred by the Contractor to the Employer following delivery of the Goods.
- 3.7 The Contractor shall ensure that all Goods are supplied together with manuals in the English language to cover the installation (if applicable), operation and maintenance of the Goods.

#### 4 DELIVERY AND ACCEPTANCE OF GOODS

- 4.1 This clause 4 applies only to Goods which are supplied independently of the provision of Services.
- 4.2 The Contractor shall ensure that the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition.
- 4.3 Goods must be delivered carriage paid, at the Contractor's risk, to the Premises or such other destination as the Employer may direct. Signature of a delivery note or other receipt on behalf of the Employer shall be deemed to be merely acknowledgement of receipt and not acceptance of the Goods nor a waiver of any rights of the Employer.
- 4.4 The Contractor acknowledges and agrees that it may not be possible to detect a defect on visual examination alone or before the Goods are installed and tested in fully operational circumstances, and no delay on the part of the Employer to do this shall be deemed inconsistent with or prejudice the Employer's rights under the Purchase Order.

#### 5 TITLE AND RISK

- 5.1 Risk in Goods which are supplied independently of Services shall pass to the Employer on delivery. Risk in Goods supplied as part of the supply of Services shall pass to the Employer when the Goods have been incorporated into the Vessel or, if earlier, upon completion of the Services.
- 5.2 Title to the Goods shall pass to the Employer or the registered owner of the Vessel (as determined by the Employer) on the earlier of payment for them and incorporation into the Vessel.
- 5.3 The Goods are sold with full title guarantee.

#### 6 SUPPLY OF SERVICES

- 6.1 The Contractor shall provide the Services to the Employer in accordance with the terms of the Purchase Order, meeting any dates specified in the Programme of Work or otherwise agreed.
- 6.2 In providing the Services, the Contractor shall:
- 6.2.1 co-operate with the Employer in all matters relating to the Services;
- 6.2.2 perform the Services with reasonable care, skill and diligence in accordance with good industry practice, using sufficient and suitably skilled and experienced personnel and materials, equipment, standards and techniques which are of sufficient quality and fit in every respect for their intended purpose;
- 6.2.3 obtain and at all times maintain all necessary licences and consents, and comply with all applicable laws and regulations;
- 6.2.4 observe all health and safety rules and regulations and any other security requirements that apply at the Premises; and
- 6.2.5 keep all Employer's Materials securely until redelivered to the Employer, and not dispose or use the Employer's Materials other than in accordance with the terms of the Purchase Order.
- 6.3 The Contractor undertakes to repair any defect in design, manufacture or workmanship in the provision of the Services which becomes evident and is notified to the Contractor within the Warranty Period, at no cost to the Employer.

#### 7 DELAY

- 7.1 Delivery of the Goods and/or the provision of Services shall be made by the Contractor in accordance with any agreed Programme of Work and the Works shall be completed on or before the Completion Date; time shall be of the essence for the obligations of the Contractor.
- 7.2 If the Works are not completed by the Completion Date, the Employer shall have the right to claim or deduct liquidated damages which shall be the amount specified in the Purchase Order to be payable for each week's delay or, if no amount is specified, 2% of the total price payable under the Purchase Order for the delayed Goods or Services, up to a maximum of the amount specified as the maximum in the Purchase Order or, if no amount is specified, 20% of the total price. If the Employer exercises its rights under this clause 7.2 it shall not be entitled to rely on delay in delivery of the Goods or completion of the

## Southampton Marine Services Limited

### Standard Terms & Conditions for Purchase of Goods and/or Services

- Service to terminate the Purchase Order pursuant to clause 14.2.
- 7.3 The Contractor shall not be liable for any delay in supply of the Goods or the Services attributable to:-
- 7.3.1 an event of "Force Majeure" being any of the following: Act of God, fire, explosion, flood, lightning, earthquake, epidemic, act of terrorism, war, rebellion, riot, sabotage, act of government, sanction, embargo, official labour dispute (not exclusive to the Contractor's workforce or that of its subcontractor) or any other events or circumstances outside the reasonable control of the Contractor provided that all reasonable steps to avoid or mitigate the effects thereof have been taken at the earliest practical opportunity; or
- 7.3.2 any revision to the Completion Date pursuant to clause 11.2 or any variation to the Specification agreed in accordance with clause 17.2.
- 8 PRICE AND PAYMENT**
- 8.1 The total price payable by the Employer for the Goods and/or Services shall be the price set out in the Purchase Order and is deemed to include the costs of all services (including delivery) and equipment necessary for the satisfactory supply of the Goods and/or Services and unless otherwise indicated is inclusive of VAT and any other duties or taxes payable by the Employer to the Contractor which shall be due at the rates prevailing at the date of the Purchase Order.
- 8.2 Unless otherwise specified in the Purchase Order, payment will be made by the Employer within 30 days following receipt of valid invoices which correspond with the payment schedule specified in the Purchase Order.
- 8.3 If the Purchase Order specifies a retention of the price, the amount in question shall be retained by the Employer and paid to the Contractor at the end of the Warranty Period (or such other period as may be specified in the Purchase Order) provided that the Employer shall be entitled to apply the amount retained in whole or in part towards settlement of any outstanding claims against the Contractor.
- 8.4 Where any part of the price is determined by reference to the amount of time and/or materials employed in connection with the Works, the Contractor shall account on an "open book" basis and implement reasonable procedures to enable the Employer to monitor and verify all variable and reimbursable charges. The Contractor agrees to provide to the Employer such information as the Employer may request, including budgets and estimates in advance of work, time records and rates for all personnel and invoices from suppliers. The Employer shall have the right, at any time during a period of 12 months after the expiry of the Warranty Period upon seven days' notice in writing, to examine all the Contractor's (and any of its subcontractors') books, accounts and other records relating to the Purchase Order and/or the Works, all of which the Contractor shall maintain in complete form for such period. Payment of any invoice shall not affect the right of the Employer subsequently to question any amount paid and to be reimbursed any overpayment.
- 8.5 Invoices and statements must be sent to the Employer at the address specified on the Purchase Order.
- 8.6 No costs incurred prior to the date of the Purchase Order may be claimed against the Employer unless otherwise agreed in writing.
- 9 INSURANCE AND LIABILITY**
- 9.1 The Contractor shall maintain insurance policies with reputable insurers covering employer's liability, public liability, product liability (applicable to the supply of Goods) and professional negligence (applicable to the supply of Services) with cover limits of not less than £5,000,000 (five million pounds) under each category on market terms which are usual for the Contractor's business. The Contractor shall provide such evidence of insurance as the Employer may reasonably request.
- 9.2 Except as expressly provided in the Purchase Order neither party shall be liable to the other for loss of profit, loss of business, loss of opportunity or other loss suffered which is not a direct and natural consequence of a breach of contract or negligence on the part of such party, its employees or agents.
- 10 INTELLECTUAL PROPERTY RIGHTS**
- 10.1 The Contractor retains Intellectual Property rights in, and ownership of all reports, materials, plans, drawings, specifications, patterns, processes and/or designs created by the Contractor prior to the date of the Purchase Order and provided to the Employer ("Contractor IPR"), and they shall all be returned in good condition to the Contractor on the Completion Date (or if earlier, the date of termination of the Purchase Order).
- 10.2 The Employer retains Intellectual Property rights in, and ownership of all reports, materials, plans, drawings, specifications, patterns, processes and/or designs provided by the Employer to the Contractor ("Employer IPR"), and they shall all be returned at any time in good condition to the Employer at the Employer request.
- 10.3 All Intellectual Property rights which are developed by the Contractor in connection with the Works including, but not limited to, Intellectual Property rights in the design and engineering of the Vessel and any materials of any nature and in any format embodying the designs regardless of whether such designs and materials are created by the Contractor or a third party engaged by the Contractor ("New IPR") shall be the absolute property of the Employer. To the extent that the New IPR does not vest automatically in the Employer, the Contractor agrees to do all such things as may be necessary to transfer or otherwise assign such New IPR to the Employer and for the Employer to protect the ownership and value of the New IPR and Employer IPR (including, without limitation, entering into an agreement for the Employer to license the Employer IPR to the Contractor for the purposes and duration of, the Project).
- 10.4 The Contractor shall keep the Employer indemnified in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest, fines, legal and other professional fees and expenses awarded against or incurred or paid by the Employer as a result of or in connection with any claim made against the Employer by a third party arising out of, or in connection with actual or alleged infringement of such third party's Intellectual Property rights arising out of, or in connection with, the manufacture, supply or use of the Goods, or receipt, use or supply of the Services except where such infringement arises from any reports,

## Southampton Marine Services Limited

### Standard Terms & Conditions for Purchase of Goods and/or Services

- materials, plans, drawings, specifications, patterns, processes and/or designs or other information provided by the Employer to the Contractor.
- 10.5 This clause 10 shall survive the termination of the Purchase Order.
- 11 ACCESS TO THE PREMISES**
- 11.1 The Employer shall afford to the authorised personnel of the Contractor, at all reasonable times and with prior agreement, such access to the Premises (but not necessarily exclusive access) as may be reasonably necessary for preparation for and execution of the Works in accordance with the Programme of Work, provided always that the Employer shall have the right to refuse to admit to, or order the removal from, the Premises of any person employed by or acting on behalf of the Contractor or a sub-contractor who, in the opinion of the Employer (which shall be final) is not a fit and proper person to be on the Premises. Action taken under this clause 11.1 shall not relieve the Contractor of its obligations under the contract.
- 11.2 The Contractor acknowledges that there may be other contractors working on the Vessel or in the Premises and shall act reasonably in conducting the Works at the Premises so that the execution of the Works does not interfere with any such other contractor. In the event of any conflict in access or timing with any other contractor, the Employer shall decide which shall have priority and the Contractor agrees to accept the Employer's decision in that regard and shall reschedule the Works; where such conflict has not arisen as a result of any delay or other default on the part of the Contractor the Completion Date shall be revised accordingly.
- 11.3 The Contractor shall, without prejudice to any other obligations to the Employer with regard to access to the Premises:
- 11.3.1 comply at all times with its statutory obligations in respect of health and safety at work and the Employer's policies, procedures and/or reasonable instructions in respect of health and safety;
- 11.3.2 comply with any policies, procedures and/or reasonable instructions of the Employer and Supervisor with regard to security when attempting to gain access to and from, and at all times when working at the Premises;
- 11.3.3 comply with any policies, procedures and/or instructions of the Employer and Supervisor in respect of the use of any services and/or facilities to be provided by the Employer;
- 11.3.4 ensure that any Works at the Premises be undertaken during the Employer's normal business hours unless otherwise agreed by the Employer; and
- 11.3.5 leave all materials and equipment and the Premises in a clean and tidy condition at the end of each visit and upon completion of the Works.
- 11.4 The Contractor shall ensure that its personnel and the personnel of any agent and/or sub-contractor of the Contractor shall comply with the obligations set out in clause 11.
- 12 PROGRAMME OF WORK**
- 12.1 Within 21 days of issue of the Purchase Order (or such other period as may be agreed) the Contractor shall if requested by the Employer submit to the Employer for approval a detailed programme showing the number of days or weeks required for each separate stage to ensure that the Works are completed by the Completion Date.
- 12.2 The Employer shall either approve the proposed Programme of Work or reject it, within a reasonable time and giving reasons, following which the Contractor shall propose revisions which meet with the Employer's approval.
- 13 CONFIDENTIALITY**
- 13.1 The Contractor undertakes that it shall not at any time without the Employer's prior written consent use the fact that it has been contracted to supply, or supplied, the Goods or the Services pursuant to the Purchase Order for any advertising, publicity or business promotion purposes whatsoever.
- 13.2 The Contractor shall keep and shall procure that its directors, employees, agents and sub-contractors keep in strict confidence all communications with the Employer and its representatives and all information (whether technical or commercial know-how, specifications, designs, inventions, processes or initiatives) which has been disclosed to the Contractor by or on behalf of the Employer in connection with the Works or the Vessel (including the identity of the Employer and/or registered owner of the Vessel), and any other confidential information concerning the Employer's business which the Contractor may obtain ("Confidential Information"). The Contractor shall restrict disclosure of Confidential Information to such of its employees, agents or sub-contractors as need to know it for the purpose of discharging the Contractor's obligations under the Purchase Order, and shall ensure that such directors, employees, agents or sub-contractors are subject to obligations of confidentiality corresponding to those which bind the Contractor.
- 13.3 Clause 13.2 shall not apply to information which the Contractor has lawfully received from third parties or which is already in the public domain (other than by reason of a breach of an obligation of confidentiality) or which it is required to disclose in any court or other proceedings or by law.
- 13.4 For the avoidance of doubt, a breach on the part of the Contractor of this clause 13 shall give the Employer a right to terminate the Purchase Order immediately.
- 13.5 In case of any breach of this clause 13 the Employer shall be entitled to damages and/or an account of profit made by the Contractor; the Contractor acknowledges that damages may not be an adequate remedy and shall not object to any application on part of the Employer, without proof of actual damages, for immediate injunctive or other equitable relief from any court of competent jurisdiction.
- 13.6 This clause 13 shall survive termination of the Purchase Order.
- 14 TERMINATION**
- 14.1 Without limiting its other rights or remedies the Employer may terminate the Purchase Order at any time:

## Southampton Marine Services Limited

### Standard Terms & Conditions for Purchase of Goods and/or Services

- 14.1.1 in respect of the supply of Services by giving the Contractor written notice of twenty-eight days or such other period as may be agreed; or
- 14.1.2 in respect of the supply of Goods, with immediate effect by giving written notice to the Contractor;
- and following termination in accordance with this clause 14.1 the Employer shall pay the Contractor fair and reasonable compensation for any Works in progress at the date of termination (but not including loss of anticipated profit on Works not performed, or consequential loss).
- 14.2 In addition to the rights of termination in clause 14.1, without limiting any of its other rights or remedies the Employer may terminate the Purchase Order with immediate effect by giving written notice to the Contractor in the event that:
- 14.2.1 an Insolvency Event shall occur in relation to the Contractor; or
- 14.2.2 the Contractor (being a natural person) dies or, by reason of illness or incapacity, is incapable of managing his own affairs or becomes a patient under any mental health legislation; or
- 14.2.3 the Contractor has delivered Goods that do not comply with clause 3.1 (whether or not the Employer has accepted the Goods); or
- 14.2.4 the Contractor fails to deliver the Goods and/or complete the Services after the Employer has become entitled to the maximum amount of liquidated damages payable in accordance with clause 7.2 ; or
- 14.2.5 the Contractor fails in a material respect to observe or perform any term or condition of the Purchase Order, and (in the case of any such failure which is capable of remedy) which has not been remedied to the satisfaction of the employer within 7 days (or such longer period as the Employer may specify) of a notice in writing to the Contractor identifying the failure and requiring its remedy,
- 14.3 In the event that the Employer exercises its right of termination pursuant to clause 14.2, it shall further be entitled:-
- 14.3.1 to have any sums paid in advance for Services that have not been provided and/or Goods which have not been delivered refunded by the Contractor; and/or
- 14.3.2 to claim damages for any additional costs, loss or expenses incurred by the Employer which are in any way attributable to the Contractor's failure to meet its contractual obligations.
- 14.4 Following termination of the Purchase Order, or any part of it, for any reason, and subject to the payment by the Employer of compensation pursuant to clause 14.1(if applicable) the Contractor shall upon the Employer's written request:
- 14.4.1 deliver any of the Goods in the Contractor's possession and all Employer's Materials which have not been consumed to the Employer; and/or
- 14.4.2 procure the agreement of any subcontractor to the novation to the Employer of any sub-contract for the supply of any of the Goods or the Services.
- #### 15 ASSIGNMENT AND SUBCONTRACTING
- 15.1 The Contractor shall not assign, licence or otherwise dispose of any part of its rights or obligations under the Purchase Order without the prior written consent of the Employer.
- 15.2 The Contractor may subcontract part (but not the whole) of the works to suitably qualified and financially sound subcontractors, provided that the Contractor shall remain fully responsible for the performance of the Purchase Order so that any acts or omissions of any subcontractor shall be deemed to be those of the Contractor.
- #### 16 NOTICES
- Any notice or other communication under or in connection with the Purchase Order shall be in writing and shall be delivered personally or by first class post or by email to the relevant party to the following addresses (or such other address as the relevant party shall notify to the other) :-
- To the Contractor: As specified in the Purchase Order
- To the Employer: Southampton Marine Services Limited  
Ocean Quay, Belvidere Road, Southampton  
SO14 5QY  
[chrisn@southamptonmarineservices.co.uk](mailto:chrisn@southamptonmarineservices.co.uk)
- 16.1 A notice delivered personally or by email shall be deemed delivered at the time of proven delivery, and a notice sent by post shall be deemed delivered three days after posting.
- #### 17 MISCELLANEOUS
- 17.1 No failure or delay on the part of the Employer in exercising any right, power or remedy will operate as a waiver of it nor will any single or partial exercise of any such right, power or remedy preclude any other or further exercise of such right, power or remedy.
- 17.2 No variation of the Purchase Order or the Specification shall be binding upon the Employer unless agreed in writing and signed by or on behalf of the Employer. The Employer may from time to time request a variation to the Specification by altering, adding to or deducting from the Works and the Contractor agrees to carry out such variation provided that the Employer and the Contractor have agreed the effect thereof on the price of the Goods or Services and the Programme of Works and Completion Date in a written variation order signed on behalf of both parties.
- 17.3 If any term or provision of these Conditions is to any extent held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining terms or provisions (and any other application of the said terms or provisions) shall not in any way be affected or impaired.
- 17.4 The Purchase Order may be signed by the Employer and the Contractor on separate counterparts, or in multiple versions, which together shall constitute one agreement.

**Southampton Marine Services Limited**  
**Standard Terms & Conditions for Purchase of Goods and/or Services**

17.5 A person who is not a party to the Purchase Order has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the contract.

**18 LAW AND ARBITRATION**

18.1 The Purchase Order, and any non-contractual obligations arising out of or in connection with it, shall be governed by and construed in accordance with English Law.

18.2 Subject to clause 19.3 any dispute arising out of or in connection with this Agreement shall be referred to arbitration in London under the London Maritime Arbitrators' Association terms and subject to the provisions of the Arbitration Act 1996. The party requiring arbitration of any dispute as aforesaid shall serve upon the other party written notice thereof specifying the issues to be arbitrated and the name of the arbitrator it shall have appointed. Within 10 Business Days after receipt of notice of such notice, the other party shall appoint an arbitrator and give notice in

writing of such appointment to the party requiring arbitration. If such other party fails so to appoint an arbitrator as aforesaid, such other party shall be deemed to have accepted and appointed as its own arbitrator the arbitrator appointed by the party requiring arbitration and the arbitration shall proceed before this sole arbitrator who alone in such event shall constitute the arbitration tribunal. The arbitrators so appointed shall determine which party, or the proper proportion which each party, shall pay of the expenses and legal and other costs of such arbitration.

18.3 Any dispute relating to purely technical aspects of the Works may, by agreement between the Employer and the Contractor, be submitted to and finally determined by a marine surveyor appointed by agreement between the parties, acting as a technical expert and not as an arbitrator. The fees of the technical expert shall be paid by the parties in such proportion as he may determine in each relevant case, or in the absence of any such determination they shall be borne in equal shares.

**November 2016**