

# **Sealander Marine International Limited**

## **Terms and Conditions**

### **1. Definitions**

"Service Provider" is **Sealander Marine International Ltd**, which is trading under the conditions hereinafter appearing.

"Client" is the party at whose request or on whose behalf the Service Provider undertakes the technical Services.

"Services" shall mean the technical services supplied by the Service Provider in connection with instructions received from the Client.

"Disbursements" means the cost of all reasonable photography, reproduction of drawings, diagrams, sketches and printing, duplicating and, where applicable, electronic transmission fees, and all reasonable and appropriate expenses including travel, refreshments and hotel accommodation where an overnight stay is necessary.

"Fees" means the fees charged by the Service Provider to the Client and including any value added tax where applicable and any Disbursements.

### **2. Scope**

The Service Provider shall provide its Services solely in accordance with these terms and conditions.

### **3. Work**

The Client will set out in writing the Services which it requires the Service Provider to provide. The Service Provider will confirm in writing that it accepts those instructions alternatively what Services it will perform in connection with the Client's instructions. Once the Service Provider and the Client have agreed what Services are to be performed any subsequent changes or additions must be agreed by both parties in writing and any consequent adjustments to the Fees shall be agreed by both parties.

### **4. Payment Terms**

Invoices shall be issued on the last working day of each calendar month, unless otherwise agreed. The Client shall pay the Service Provider's Fees punctually in accordance with these Conditions and in any event not later than 7 days following the date of a correctly prepared invoice. Any delay in payment shall entitle the Service Provider to interest at 10% above the Base Lending Rate of Barclays Bank Plc prevailing at the time of default. Any delay in payment over and above 14 days shall result in an equal increase to any agreed or implied delivery period with no liability whatsoever to the service provider if payment of fees is not pay after 28 days the service will be terminated.

### **5. Obligations and Responsibilities**

#### **(a) Client**

The Client undertakes to ensure that full instructions and relevant documentation in appropriate format are given to the Service Provider and are provided in sufficient time to enable the required Services to be performed effectively and efficiently and to procure all necessary access for the Service Provider to goods, premises, vessels, installations and transport and to ensure that all appropriate safety measures are taken to provide safe and secure working conditions.

Where Classification Society Approval is to be attained the Client shall open a project account with the agreed Society to provide support and approval for the duration of the project.

The Service Provider shall not be liable for the consequences of late, incomplete, inadequate, inaccurate or ambiguous instructions, documentation or classification society support.

#### **(b) Reporting**

The Service Provider shall submit the appropriate documentation to the Client in support of the agreed Services and/or as described in an agreed Scope of Work if one has been prepared, unless otherwise expressly instructed by the Client not to do so.

#### **(c) Confidentiality**

The Service Provider shall not disclose or permit access to any information provided in confidence by the Client to any third party (with the exception of the Service Provider's professional advisors) or use such information in any way otherwise than for the purpose of performing the agreed Services unless the Client expressly grants permission save where required to do so by an order of a competent court of law.

#### **(d) Property**

The right of ownership in respect of all original work created by the Service Provider remains the property of the Service Provider.

#### **6. Liability**

- (a) Without prejudice to Clause 7, the Service Provider shall be under no liability whatsoever to the Client for any loss, damage, delay or expense of whatsoever nature, whether direct or indirect and howsoever arising unless same is proved to have resulted solely from the negligence, gross negligence or wilful default of the Service Provider or any of its employees or agents or sub-contractors.
- (b) In the event that the Client proves that the loss, damage, delay or expense was caused by the negligence, gross negligence or wilful default of the Service Provider aforesaid, then, save where loss, damage, delay or expense has resulted from the Service Provider's personal act or omission committed with the intent to cause same or recklessly and with knowledge that such loss, damage, delay or expense would probably result, the Service Provider's liability for each incident or series of incidents giving rise to a claim or claims shall never exceed a sum equal to the Service Provider's charges.
- (c) The Service Provider shall not be liable for loss of or damage to equipment and other items placed at its disposal by or on behalf of the Client however such loss or damage occurs.
- (d) During the processes of undertaking the agreed services The Service Provider may issue calculations, drawings and work of a preliminary status for discussion, review or other purposes, such work being subject to change and development as the work progresses. The Service Provider shall be under no liability whatsoever to the Client for any loss, damage, delay or expense of whatsoever nature, whether direct or indirect and howsoever arising resulting from work that is marked 'Preliminary', 'Subject to Classification Society Approval/Acceptance' or 'Subject to Marine Certification Authority Approval/Acceptance' until such a time that approval/acceptance is attained and the work marked accordingly.

#### **7. Force Majeure**

Neither the Service Provider nor the Client shall, except as otherwise provided in these Conditions, be responsible for any loss, damage, delay or failure in performance hereunder arising or resulting from act of God, act of war, seizure under legal process, quarantine restrictions, strikes, boycotts, lockouts, riots, civil commotions and arrest or restraint of princes, rulers or people.

#### **8. Service Provider's Right to Sub-contract**

The Service Provider shall have the right to sub-contract any of the Services provided under the Conditions, subject to the Client's right to object on reasonable grounds. In the event of such a sub-contract the Service Provider shall remain fully liable for the due performance of its obligations under these Conditions.

#### **9. Insurance**

Due to the unusual and specialist nature of the work normal undertaken, the Service Provider will not provide Professional Indemnity Insurance unless requested by the Client in writing at the outset of the request for services.

#### **10. Indemnity**

Except to the extent and solely for the amount therein set out that the Service Provider would be liable under Clause 6, the Client hereby undertakes to keep the Service Provider and its employees, agents and sub-contractors indemnified and to hold them harmless against all actions, proceedings, claims, demands or liabilities whatsoever or howsoever arising which may be brought against them or incurred or suffered by them, and against and in respect of all costs, loss, damages and expenses (including legal costs and expenses on a full indemnity basis) which the Service Provider may suffer or incur (either directly or indirectly) in the course of the Services under these Conditions.

#### **11. Time Bar**

Any claims against the Service Provider by the Client shall be deemed to be waived and absolutely time barred upon the expiry of one year from the date of the final invoice for the Services, save in respect of any claim notified to the Service Provider in writing prior to the expiry of such period.

#### **12. Jurisdictions and Law**

Any dispute shall be resolved by arbitration and can only be referred to law with the agreement of the Service provider and Client and shall be governed by and construed in accordance with the laws of England and Wales and any dispute shall be subject to the exclusive jurisdiction of the English Courts.

Jan 2003  
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