

SEATEC UK Ltd

TERMS AND CONDITIONS FOR THE PROVISION OF SERVICES

14th September 09

1. Definitions

1.1 In these terms and conditions, unless the context otherwise requires, the following expressions have the following meanings:

“Client” means the person, firm or company for whom Services are provided by **“SeaTec”**.

“£” and “GBP” means Great British Pounds

“\$” and “USD” means United States Dollars.

“SeaTec” means SeaTec UK Ltd, a company incorporated in Scotland with registered number SC106026 and having its registered office at Skypark, 8 Elliot Place, Glasgow G3 8EP.

“Services” means the services provided for the Client by SeaTec.

“Proposal” means the quotation, letter, tender or other documents(s) submitted by SeaTec to the Client describing the Services to be provided and the fees and other sums payable in respect of such Services.

“Variation” means a variation to the scope of the Services agreed in accordance with Clause 5.

“Knowhow” means any and all technical information generated in the course of performance of the Services, which is secret, substantial and recorded in some tangible form.

“Intellectual Property” means all rights which may subsist in any part of the world in patentable and non-patentable inventions, discoveries and processes, improvements, trade marks, trade names, designs and copyright works (including without limitation computer programs) generated in the course of performance of the Services whether or not registered or registrable.

1.2 Reference to clauses and sub-clauses are, unless otherwise stated, to clauses and sub-clauses of these terms and conditions.

1.3 Words importing the singular include the plural and vice versa. Words importing a gender include every gender and references to persons include bodies corporate or unincorporated.

1.4 Headings are inserted for convenience and shall not affect the interpretation of this Agreement.

2. Provision of Services

2.1 SeaTec shall exercise all reasonable skill, care and diligence in the provision of Services for the Client and shall perform the Services in accordance with normal professional standards within the shipping services industry.

2.2 SeaTec shall use all reasonable endeavours to perform the Services within any time periods indicated in the Proposal, but it is expressly agreed that such time periods are estimates only and time is not of the essence.

2.3 Where staff are specifically nominated, SeaTec has the right to nominate alternative staff of equal standing at any time with the consent of the Client which consent shall not be unreasonably withheld.

3. Client Assistance and Liaison

3.1 The Client shall provide SeaTec with all relevant data and information available to it without charge and within a reasonable time and shall give such assistance as SeaTec shall reasonably require to enable it to perform the Services.

3.2 The Client shall appoint a named representative who will be responsible for liaison between the Client and SeaTec.

4. Payment

4.1 The Client shall pay SeaTec for the Services fees and other sums as provided in the Proposal.

4.2 Payment shall be made at the time or times stated in the Proposal and in any event within 30 days after receipt of an invoice from SeaTec. Late payments will carry interest at the rate of 4% over Barclay's base rate as varied from time to time.

4.3 All prices are exclusive of Value Added Tax or other applicable local sales taxes.

5. Variations

5.1 The Customer shall be entitled to request any Variation. All Variation requests shall be in writing and shall clearly define the nature and extent of the Variation requested.

5.2 No Variation shall be binding on SeaTec until it has been expressly accepted in writing and agreement has been reached with regard to additional payments and any revised time periods applicable.

6. Termination

6.1 The Client shall have the right to terminate the Services at any time upon 30 days written notice to SeaTec.

- 6.2 In the event of such termination the Client shall reimburse SeaTec for all work performed up to the date on which termination takes effect and shall pay all costs and expenses reasonably incurred by SeaTec as a consequence of such termination.
- 6.3 Both SeaTec and the Client shall have the right to terminate this agreement with immediate effect if the other party is in material breach of its obligations hereunder, if the other party goes bankrupt or has a Receiver, Administrative Receiver, Liquidator or similar Officer appointed.
- 6.4 In the event of the early termination of the contract due to the sale of the vessels under construction and the failure of the new owner to continue with the supervision service through SeaTec, SeaTec shall be entitled to a cancellation fee equal to 10% of the value of the fees outstanding (based on the full contract value less the value of fees invoiced at the date of termination).

7. Communication by e-mail

- 7.1 To facilitate the provision of Services SeaTec shall be entitled to communicate with the Client and other parties by e-mail notwithstanding that communications over the Internet are not completely secure. If the Client does not wish any specific information or data to be communicated by e-mail, the Client shall provide full details thereof in writing to SeaTec.
- 7.2 SeaTec will take reasonable precautions to prevent viruses or similar harmful devices from being spread via e-mail communications by the use of a Firewall and virus checking software. It is understood that the Client will take similar reasonable precautions in any communications by e-mail sent by it to SeaTec.

8. Ship Inspection

- 8.1 Where Services consist of ship inspections, such inspections will, unless otherwise expressly agreed in writing, be superficial inspections afloat undertaken on the following terms of this clause.
- 8.2 Inspections are limited to those parts of the ship, her machinery equipment or records (if made available) which were actually exposed, uncovered or readily accessible and SeaTec are unable to report on any other part of the ship, her machinery or equipment and shall have no responsibilities whatsoever in such respect.
- 8.3 SeaTec are unable to report on the ship's water tightness or integrity, the operational efficiency of its machinery or equipment, its suitability for any business or trade, or its stability characteristics.

9 Reports

- 9.1 Any report issued by SeaTec in respect of Services is issued solely to the Client and under no circumstances is any part of it to be issued or made available by the Client to any other party without the permission of SeaTec.

10. Right to Sub-Contract

- 10.1 SeaTec shall be entitled to procure performance of SeaTec's obligations hereunder by their parent, subsidiary or associated companies or third parties (hereinafter collectively called the "Sub-Contractors") in accordance with the following provisions of this Clause 10.
- 10.2 Any such performance of all or any of SeaTec's obligations by the Sub-Contractors shall be and constitute full and sufficient performance by SeaTec of their obligations hereunder.
- 10.3 The Client hereby agrees with SeaTec that insofar as the Sub-Contractors perform the obligations of SeaTec the Sub-Contractors and their employees and agents shall be entitled to the Benefits of the provisions of Clause 11.
- 10.4 Any performance of SeaTec's obligations by the Sub-Contractors shall be without prejudice to the rights of the Client for any failure by SeaTec in performance of SeaTec's duties and obligations and notwithstanding performance by the Sub-Contractors SeaTec shall remain solely responsible to the Client for performance of their obligations hereunder.

11. Liability

- 11.1 Neither the Client nor SeaTec shall be under any liability for any failure to perform any of their obligations hereunder by reason of any cause whatsoever of any nature or kind beyond their reasonable control.
- 11.2 Without prejudice to Clause 11.1, SeaTec shall be under no liability whatsoever to the Client for any loss, damage, delay or expense of whatsoever nature, whether direct or indirect, (including but not limited to loss of profit or other consequential or economic losses) and howsoever arising in the course of performance of the Services UNLESS same is proved to have resulted solely from the negligence, gross negligence or wilful default of SeaTec, or Sub-Contractors employed by SeaTec in connection with the Services or their respective employees or agents, in which case SeaTec's liability for each incident or series of incidents giving rise to a claim or claims shall never exceed and shall be limited to either (a) ten times the fee payable for Services or (b) USD 1,000,000 1 MILLION US DOLLARS, whichever shall be the lower.

SeaTec and the Client agree that having regard to the nature of the Services, the fees paid for such Services by the Client and all other circumstances known to SeaTec and the Client relating to the Services, the forgoing limits of liability are fair and reasonable.

11.3 "Himalaya"

It is hereby expressly agreed that no employee or agent of SeaTec (including every sub-contractor from time to time employed by SeaTec and the employees or agents of such sub-contractor) shall in any circumstances whatsoever be under any liability whatsoever to the Client for any loss, damage or delay of whatsoever kind arising or resulting directly or indirectly from any act neglect or default on his part while acting

in the course of or in connection with his employment and, without prejudice to the generality of the foregoing provisions in this Clause, every exemption, limitation, condition and liberty herein contained and every right, exemption from liability defence and immunity of whatsoever nature applicable to SeaTec or to which SeaTec are entitled hereunder shall also be available and shall extend to protect every such employee or agent of SeaTec acting as aforesaid.

12. Solicitation of Employees

Throughout the duration of this agreement and for a period of 12 months thereafter, the parties hereby agree that no party shall solicit or endeavour to entice away an employee, agent or any sub-contractors employees or agents of the other party with an offer of employment unless the other party has express permission in writing for that offer to take place.

13. Confidentiality

- 13.1 Save for the purpose of enforcing or carrying out as may be necessary their respective rights or obligations, SeaTec and the Client will each maintain and use all reasonable endeavours to procure that their respective officers and employees maintain confidentiality and secrecy in respect of all information relating to the other's business received by it or indirectly pursuant to the provision of Services.

14. Intellectual Property

- 14.1 All Knowhow and all Intellectual Property arising as a direct result of the performance of the Services by SeaTec shall vest in and be the absolute property of the Client, and SeaTec shall (at the Client's expense) execute all such further documentation as the Client may reasonably require in order to perfect its title to such Intellectual Property. [The Client hereby grants to SeaTec an irrevocable non-exclusive worldwide royalty-free licence for the use of any such Knowhow and Intellectual Property by SeaTec for purposes which in SeaTec's opinion are not competing with the Client's current business].
- 14.2 The Client shall indemnify SeaTec in full on demand against all losses, liabilities, costs and expenses which SeaTec may incur as a result of work done in accordance with the Client's specifications which involves or results in the infringement of any third party intellectual property rights or knowhow.

15. Third Party Rights

- 15.1 Any person (other than SeaTec and the Client) who is given any rights or benefits under Clauses 10 and 11 (a "Third Party") shall be entitled to enforce those rights or benefits against SeaTec and the Client in accordance with the Contracts (Rights of Third Parties) Act 1999.
- 15.2 Save as provided in Clause 15.1 above the operation of the Contracts (Rights of Third Parties) Act 1999 is hereby excluded.

- 15.3 SeaTec and the Client may amend vary or terminate these terms and conditions in such a way as may affect any rights or benefits of any Third Party which are directly enforceable against the parties under the Contracts (Rights of Third Parties) Act 1999 without the consent of any such Third Party.
- 15.4 Any Third Party entitled pursuant to the Contracts (Rights of Third Parties) Act 1999 to enforce any rights or benefits conferred on it by these terms and conditions may not veto any amendment, variation or termination of these terms and conditions which is proposed by SeaTec and the Client and which may affect the rights or benefits of any such Third Party.

16. Law and Disputes

- 16.1 This Agreement shall be governed by English law.
- 16.2 Any dispute arising out of or in connection with this contract shall, at first instance, be referred to a mediator for resolution. The parties shall attempt to agree upon the appointment of a mediator, upon receipt, by either of them, of a written notice to concur in such appointment. Should the parties fail to agree within fourteen days, either party, upon giving written notice, may apply to the President or the Vice President, for the time being, of the Chartered Institute of Arbitrators, for the appointment of a mediator.
- 16.3 Should the mediation fail, in whole or in part, either party may, upon giving written notice, and within twenty eight days thereof, apply to the President or the Vice President, for the time being, of the Chartered Institute of Arbitrators, for the appointment of a single arbitrator, for final resolution. The arbitrator shall have no connection with the mediator or the mediation proceedings, unless both parties have consented in writing. The arbitration shall be governed by both the Arbitration Act 1996 and the Controlled Cost Rules of the Chartered Institute of Arbitrators (2000 Edition), or any amendments thereof, which Rules are deemed to be incorporated by reference into this clause. The seat of the arbitration shall be England and Wales.