

## GENERAL TERMS OF CONTRACT

### TERMS FOR THE PROVISION OF TECHNICAL AND CONSULTANCY SERVICES

#### 1) GENERAL

- a) These Terms, together with any Special Terms set out in the Quotation or other contract documents shall be deemed to comprise the entire Terms between the parties hereto (and shall supersede and replace all other warranties, including the Customer's standard terms) under which Marine and Risk Consultants Limited, also known as MARICO Marine (hereinafter called 'the Company'), offers its services to the Customer.
- b) Where any conflict arises between these Terms and any Special Terms advised by the Company the Special Terms shall prevail to the extent that they are inconsistent with these Terms.

#### 2) VALIDITY

- a) Unless otherwise stated, prices or charge rates quoted will remain valid for 30 days. The price quoted, unless otherwise agreed in writing, is subject to the commencement of the work being carried out within three months of the signing of this agreement by both parties.
- b) The Company's tender is made on the assumption that the work is reasonably capable of being carried out. If, on inspection, this is found not to be the case, the Company will advise the Customer as soon as reasonably practicable and thereupon shall be freed from carrying out its obligations hereunder. No liability shall attach to the Company for any loss occasioned by the work not being carried out and the cost of such inspections and all work connected therewith shall be borne by the Customer.
- c) The scope of the work shall not be changed without the agreement of both parties. The Company will provide written quotations in relation to the scope and update any changes to the Scope in writing. The Company will seek a written response from the Customer. Where a verbal go ahead is provided, the Company will still seek written confirmation, but if no such confirmation is forthcoming within 30 days from the date of written quotation, then the Customer is deemed to have given agreement to the change of scope and will be invoiced accordingly.
- d) Except for agreed sub-contract work no rights or obligations arising between the parties as a result of this Contract shall be assigned to any third party without the written agreement of both parties.

#### 3) PRICE

- a) Prices are exclusive of VAT and any other duties, taxes or levies chargeable in respect of the provisions of goods or services. Any such taxes and levies shall be charged at the rate effective at the date of invoice.
- b) The Customer shall not be entitled to the quoted price where the Company agrees to vary the scope of the work or timescales from those originally specified in the Quotation.

#### 4) PRICE ADJUSTMENT

- a) While the Company will endeavour to maintain prices it reserves the right to increase prices proportionately to increases in the cost of labour or materials arising between quotation and completion.
- b) In the event of the suspension of, or delay in, the work by reason of any act or omission of the Customer, any prices quoted may be increased by the Company to cover any extra expenses incurred by it on this or any other contract by reason of such suspension or delay.

#### 5) PAYMENT

- a) The Customer shall make full payment to the Company of the contract price (or the appropriate parts thereof where payment is by instalments) by the 30th day of the month following the date of the invoice. If payment is not made on the due date the

Customer shall pay to the Company interest at the rate of 3% per month on the unpaid balance whether before or after judgement until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

- b) All monies owing by the Customer to the Company in respect of work done or expenses incurred as aforesaid shall become due and payable :
  - i) upon the rendering by the Company of an invoice in respect thereof; or
  - ii) upon the frustration of this agreement due to causes outside the control of the Company; or
  - iii) upon the termination of this agreement for any reason whatsoever.
- c) The Customer does not gain any rights to use the results of work undertaken by the Company until outstanding invoices are settled in full. This includes any stage payments outstanding.

6) **COMPLETION**

- a) Time shall not be of the essence in relation to completion. All timescales quoted are the best available estimates based on the information available at the date of the quotation and are subject to revision during the course of the work.

7) **LIABILITY FOR DELAY**

- a) For the purpose of this Contract time shall not begin to run until receipt of all information necessary to enable the Company to carry out the work or until a written order to proceed, on the terms stated in the quotation, has been received by the Company, whichever is the latest.
- b) The Company shall have no liability for delay or non-performance caused by Force Majeure. 'Force Majeure' means natural disasters, governmental restrictions, wars, insurrections, industrial dispute or any circumstances beyond the Company's reasonable control including but not limited to any act or omission of the Customer (such as the Customer's failure to submit necessary materials or information within a reasonable time of being requested to do so).
- c) The Company's total liability whether in contract or in tort or otherwise shall not exceed the price paid for the work, save that this clause shall not apply in respect of any liability or class of liability which may not be so limited by virtue of any applicable statute or other law.

8) **REPORTS AND ADVICE**

- a) Any results or recommendations given in reports are correct to the best of the knowledge of the Company at the time and on the basis of the instructions and information provided by the Customer. The Company in giving advice or information will use the professional skills available to it. The Company gives no warranty or guarantee relating to any report, advice or information and, except in respect of death or personal injury caused by the Company's negligence, shall not be liable in any way for any claims actions or consequential damage, including damage to reputation suffered by the Customer (and whether caused by the negligence of the Company its employees agents (or otherwise) by the use of such reports or the adoption of such information or the advice or as a result of anything omitted from such advice. In addition the Customer will indemnify and keep indemnified the Company by any third party as a result of the Customer's use of the Company's report advice or information.
- b) Notification of any concern or intention to claim or make proceedings in any way against the company will be time-barred if six months have passed from the delivery date of any written advice (letter, facsimile or report).

9) **INTELLECTUAL PROPERTY RIGHTS**

- a) The rights either under Letters Patent, Registered Design, Copyright or otherwise to developed risk assessment processes (and HAZMAN software) inventions, designs, drawings, vessel traffic data, or information produced or acquired in the performance of this contract shall vest in and shall remain the property of the Company.
- b) The Customer gains licence rights for its own use to final reports issued by the Company, provided payment has been made in full against invoices issued.

10) **CONFIDENTIALITY**

- a) The Company agrees to keep confidential all matters relating to this Contract, and shall not give details of this Contract to any third party without the Customer's prior written consent. The Company shall, however, be entitled to disclose to others the mere fact that there is or has been a business relationship with the Customer.
- b) The Company, including its directors, employees and contractors, do not take on any obligation to report knowledge of any incident to anyone that may have occurred involving the Customer under any statutory duty on the Customer to report. The Customer understands
- c) The Customer shall not by virtue of this contract gain any rights in information wholly or partially owned by the Company or any third party and used in the execution of this work. All such information shall be treated as confidential by the Customer and with the exception of normal access rights to information held by a public body, or on discovery, shall not be divulged to any other party without the prior written consent of the Company. In particular, the Customer undertakes that he will not without the written consent of the Company use as evidence in any litigation or arbitration proceedings the results of the work by the Company or any document relating thereto.
- d) The above shall not apply to information which :
  - i) is known to the receiving party at the start of contract negotiations
  - ii) is in or comes into the public domain
  - iii) is legitimately obtained from a third party
- e) The Customer shall not publish any document relating to any of its products containing any reference to the Company whether express or implied, without the Company's written consent, which will not be unreasonably withheld.

11) **TERMINATION**

- a) It is a condition of the Company's agreeing to enter into this agreement that there are no circumstances of which the Customer is or ought with reasonable diligence to be aware which might involve the Company or any of its officers or employees in giving evidence in any litigation or arbitration proceedings concerning the subject matter of this agreement or any matter connected therewith or arising therefrom. In the event of any such circumstances arising or coming to the notice of the Company during the currency of this agreement, the Company shall be entitled to discontinue the work under this agreement and shall forthwith be released from all liability to the Customer but nothing herein shall prejudice any claim of the Company against the Customer. If, during the currency of this agreement the Customer shall become aware of any such circumstances he shall forthwith notify the Company.
  - b) If the Customer shall break any provision of this or any other Contract with the Company or suffer distress or execution or commit an act of bankruptcy, make arrangements with creditors or go into liquidation (except for amalgamation or reconstruction) or have a receiver appointed or if this Contract is frustrated :
    - i) in the event of war, hostilities, civil war, rebellion, revolution, insurrection or other disturbance occurring in the Customer's country;
    - ii) being an individual, the Customer shall die;
- the Company may, without prejudice to claim or remedy, suspend or terminate performance of this or any other Contract by written notice and shall be entitled, without prejudice to any other claim or remedy, to payment at a reasonable rate based on the contract price for the value of the work already completed.

12) **ARBITRATION**

- a) If during continuation of the Contract or at any time thereafter any dispute, difference or question shall arise between the Company and the Customer in regard to the Contract or the construction of these Terms or anything therein contained or the rights or liabilities of the Company or the Customer such dispute difference or question shall be referred pursuant to the relevant Arbitration Act or any statutory modification thereof to a sole arbitrator to be agreed upon by the Customer and the Company and failing agreement to be appointed at the request of the either the Customer or the Company by the President for the time being of the Institution of Electrical Engineers. The decision of the Arbitrator is to be final and binding on both parties.

13) **LAW**

- a) The Contract shall be governed by English Law.

14) **GENERAL**

- a) No waiver by the Company of any breach of the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- b) If any provisions of these Terms are held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Terms and the remainder of the provision in question shall not be affected thereby.