W TROUT & SON LTD - TERMS OF BUSINESS

1. PRELIMINARY PROVISIONS AND DEFINITIONS

1.1 These Terms of Business form an integral part of all quotations and contracts provided by the Company.

1.2 These Terms of Business apply to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

1.3 In these Terms of Business:

'Applicable Laws on Consumer Rights' means all applicable laws, rules, regulations, instruments and provisions in force from time to time relating to consumer protection, including but not limited to the Consumer Rights Act 2015.

'**Company'** means the party or parties undertaking the Work, as well as any authorised member, agent, employee or representative of the Company.

'**Consumer'** means a Customer who is considered a "consumer" under the Applicable Laws on Consumer Rights.

'Customer' means the party or parties with whom the Company agrees to perform the Work and shall include the legal owner of any relevant Vessel, any parent or associated company and/or firm, as well as any authorised member, agent, employee or representative of the Customer. Where the Vessel is under demise charter and the agreement is with the demise charterer, the Customer shall also include the demise charterer. In the event that the Company enters into an agreement with more than one party, the obligations of such other parties shall be joint and several, unless otherwise agreed in writing.

'Order' means the Customer's order for the Work, as set out in the Customer's order form, or the Customer's written acceptance of the Company's quotation, or overleaf, as the case may be.

'Parties' means the Company and the Customer; each a Party and collectively the Parties.

'Vessel' means any vessel or a floating craft of any nature (or part thereof), or any other comparable object such as a yacht, a lighter, a barge, a pontoon, a tug, a drilling-platform, a rig as well as any other object entrusted to the Company for the Work to be undertaken.

'Work' means the goods and services supplied to the Customer and/or work undertaken by the Company pursuant to these Terms of Business.

2. LIABILITY

2.1 The Company shall not be liable for any failure or delay in performing its obligations hereunder, or for any loss or damage, caused by or arising from events or circumstances beyond its reasonable control (which includes, without limitation, acts of God, wars (whether declared or not), riots, civil commotions, malicious damage, embargoes, compliance with any law or governmental order, rule, regulation or direction, breakdown of plant or machinery, fire, flood, accidents, strikes, lock-outs or other industrial disputes (whether involving the workforce of the Company or any other Party), failure of a utility service or transport network, unusually severe weather conditions, default of suppliers or subcontractors or the actions of third parties not employed by the Parties).

2.2 The Company shall take reasonable steps to maintain security at its premises, and to maintain its facilities and equipment in reasonably good order and condition.

2.3 Notwithstanding Clause 2.2, the Vessel, and any other property of the Customer left at the Company's premises, is at the Customer's own risk.

2.4 The Company shall not be under any duty to salvage or preserve the Vessel from the consequences of: (a) any defect in the Vessel and/or (b) an accident which has not been caused by the Company. However, the Company reserves the right to salvage or preserve the Vessel, at its sole discretion, in appropriate circumstances and in particular where the safety of people, property or the environment is at risk.

2.5 The Customer shall effect and maintain, at no cost to the Company, liability insurance providing cover for any loss or damage for which the Customer may be liable under these Terms of Business (including third party liability cover and, where appropriate, employer's liability cover in respect of any of its employees).

2.6 The Company shall effect and maintain, at no cost to the Customer, liability insurance for such loss or damage for which the Company may be held liable under these Terms of Business.

2.7 Each Party shall produce copies of insurance policies as evidence of cover, immediately and (in any case within seven (7) days) upon request by the other Party.

2.8 Each Party accepts responsibility and liability for:

2.8.1 death or personal injury caused by its negligence or the negligence of its employees, agents or sub-contractors;

2.8.2 fraud or fraudulent misrepresentation; or

2.8.3 any other reason for which it would be illegal for the Parties to exclude liability.

2.9 Subject to Clause 2.8, the Company shall under no circumstances whatsoever, be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with these Terms of Business.

2.10 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from these Terms of Business.

3. PRICES AND ESTIMATES

3.1 The price for the Work shall be the price set out in the Order, or if no price is quoted for the Work, the price will be determined based upon the labour and materials expended and services provided in accordance with the Company's usual tariff at the time when the Work was performed, as duly invoiced to the Customer (the "**Price**").

3.2 Unless otherwise agreed in writing, the Price will not include expenses incurred for pilotage, salvage, tugs, harbour dues and similar charges which shall be invoiced separately to the Customer.

3.3 The Company will exercise reasonable skill and judgment when giving an estimate or indication of Price. However, estimates are always subject to the accuracy of information provided by the Customer, are often based on a superficial examination and do not include the cost of any emergent work which may be necessary nor the cost of any extensions to the Work. The Company reserves its right to (a) increase the rates under its usual tariff (provided that such increase does not take place more than once in any twelve (12) months) and/or (b) subject to Clause 3.4, increase the Price for the Work.

3.4 The Company will inform the Customer of any proposed increase in the estimated Price, together with the reasons for such increase, and will proceed with the Work after having obtained the Customer's approval (such approval not to be unreasonably delayed or withheld). The Customer shall remain responsible for the cost of labour and materials already supplied or remaining to be supplied which are not affected by the proposed increase in the Price.

4. PAYMENT

4.1 Unless otherwise agreed between the Parties in writing, payment for all Work provided shall be due immediately upon receipt of the Company's invoice. Payment shall be deemed to have been made when received by the Company in cash or cleared funds at the Company's nominated bank account. Time for payment is of the essence.

4.2 If the Customer fails to make any payment due to the Company by the due date for payment, the Company has the right to charge interest on the overdue amount at the rate of four percent (4%) above Bank of England base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment.

4.3 The Customer shall pay all amounts due under these Terms of Business in full without any set-off, counterclaim, deduction or withholding except as required or permitted by law. The Company may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by the Company to the Customer.

4.4 To the extent permitted by law, the Customer hereby grants to the Company a lien and a continuing security interest, and, where applicable, a maritime lien, over the Vessel as security for payment of the Price until full payment of the Price by the Customer, or until the Customer has given security to the Company in a form and substance acceptable to the Company (for example a letter of guarantee from a bank reasonably acceptable to the Company or lodgement of a cash deposit with a professional third party agent reasonably acceptable to the Company). The security provided shall be sufficient to cover the debt with interest and, where the debt is contested, a reasonable provision for the Company's prospective legal costs and expenses.

4.5 The Company shall be entitled to charge the Customer for storage and the provision of any ongoing services at the Company's normal daily rates until full payment (or provision of security) by the Customer and removal of the Vessel from the Company's premises. The Customer shall be entitled to remove the Vessel upon providing proper security.

5. DELAYS

5.1 Unless otherwise agreed in writing by the Parties, time estimates given for completion of the Work are given in good faith and without

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guarantee.

5.2 The Company shall not be liable for any failure or delay in the performance or completion of the Work, or for any such loss or damage resulting therefrom, unless the Company has expressly guaranteed completion by a specific date in writing, or the delay arises from its wilful acts or omissions or negligence.

6. THE VESSEL'S MOVEMENTS

6.1 The Company shall have the right to order such movements of the Vessel and such tests or trials it deems necessary in order to perform and determine the due completion of the Work and/or for reasons of safety, security or good management of the Company's business and premises.

6.2 The costs of such movements, trials and/or tests including the cost of any bunkers and/or consumables shall be borne by the Customer.

7. TITLE AND RISK

7.1 Risk in all goods, equipment and materials supplied by the Company to the Customer shall pass to the Customer at the time of supply to the Customer of such goods, equipment or materials or at the time when such goods, equipment or material are assigned or affixed to the Vessel, as the case may be.

7.2 Title to all goods, equipment and materials supplied by the Company to the Customer shall not pass to the Customer until the Company receives payment in full (in cash or cleared funds) for the Work.

8. GUARANTEE

8.1 The Company guarantees that, for a period of twelve (12) months from completion of the Work (the "**Warranty Period**"), the Work will be free of defects in material and workmanship and in conformity with the agreed specification. The Customer shall give notice in writing (as per Clause 14) to the Company of any defects in material or workmanship ("**Defective Work**") which may become apparent and shall provide the Company with sufficient evidence so as to establish the nature and extent of the Defective Work. This guarantee applies only to the Customer: a person who is not a Party to these Terms of Business shall not have any rights to enforce these Terms of Business.

8.2 On notification by the Customer of the Defective Work, the Company will be given a reasonable opportunity to inspect the Defective Work and if it is the Company's responsibility, the Company shall repair or re-perform, in whole or in part, at its discretion, the Defective Work. Delivery of repairs or re-performance under this guarantee will be made in accordance with these Terms of Business.

8.3 The Customer shall, immediately after the discovery of any Defective Work, take all appropriate steps to mitigate any loss or damage and to prevent any Defective Work becoming more serious.

8.4 The Company shall not be liable for any Defective Work if the defect arose as a result of: (a) the Customer's failure to follow the Company's oral or written instructions; (b) the Company following any drawing, design or specifications supplied by the Customer; (c) fair wear and tear, wilful damage, negligence or abnormal working conditions; and/or (d) changes made to ensure compliance with applicable statutory or regulatory standards.

8.5 Any remedial work which is put in hand by the Customer directly without first notifying the Company and allowing the Company a reasonable opportunity to inspect the Defective Work shall invalidate the guarantee provided under this Clause 8.

8.6 Where the Customer is not a Consumer:

8.6.1 these Terms of Business do not contain any express or implied term as to quality or fitness for any particular purpose, unless, prior to the Work being performed, the purpose has been clearly identified in writing to the Company and the Customer has stipulated that it is relying upon the Company's skill and judgment to ensure this purpose has been met; and

8.6.2 the Company accepts no liability to the Customer in respect of any loss of profit or turnover which the Customer or its customer or any other person may sustain in consequence of the failure of any faulty or unfit article supplied to the Customer by the Company.

8.7 The Company shall assign to the Customer any and all of its rights against the manufacturer or supplier of any particular article used in the Work or supplied to the Customer as part of the Work.

9. QUALITY STANDARDS

9.1 The Company will exercise reasonable care and skill in the performance of the Work in accordance with the provisions of these Terms of Business, the requirements of any relevant regulatory bodies and, in the absence of any other contractual term as to quality, to a satisfactory standard.

10. ACCESS TO PREMISES / WORK

10.1 No work or services shall be carried out by the Customer on the Vessel or the Company's premises without the Company's prior written consent except for minor running repairs or minor maintenance of a routine nature. The Company's consent may be revoked with immediate effect in the event of any breach of these Terms of Business by the Customer, in which case the Company shall be entitled to demand the immediate cessation of any work.

10.2 The Customer is subject to the Company's health and safety, environmental and access policies and shall further be obliged to comply with all laws and regulations relating to environmental protection and safety.

10.3 The Customer is responsible for any damage or loss caused directly or indirectly from any breach of its obligations under these Terms of Business.

10.4 The Customer shall take all necessary precautions to avoid pollution of the environment and shall indemnify the Company for any loss or damage arising from any pollution of the environment.

10.5 The Customer shall ensure that it does not cause any nuisance or annoyance to the Company, any other customer or person present or residing in the vicinity and does not interfere with the Company's schedule for the Work and/or the good management of the Company's premises and business.

10.6 During performance of the Work by the Company (and/or any of the Company's sub-contractors), the Customer shall not have access to the Vessel unless the Company's prior written consent has been obtained.

11. ASSIGNMENT AND OTHER DEALINGS

11.1 The Company may at any time assign, transfer or deal in any other manner with all or any rights under these Terms of Business and may sub-contract or delegate in any manner any or all of its obligations under these Terms of Business to a third party.

11.2 The Customer shall not, without the prior written consent of the Company, assign, transfer, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under these Terms of Business.

12. CONSUMER RIGHTS

12.1 To the extent that these Terms of Business contradict with the Applicable Laws on Consumer Rights, the rights conferred on Consumers under the Applicable Laws on Consumer Rights remain unaffected.

12.2 Advice on whether a Customer is a Consumer or is otherwise protected by some or all of the Applicable Laws on Consumer Rights may be obtained from any local Trading Standards Office, the Citizens Advice Bureau, the Office of Fair Trading or any firm of solicitors practising in England and Wales.

13. THIRD PARTY RIGHTS

13.1 A person who is not a Party to these Terms of Business shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of these Terms of Business.

14. COMMUNICATION AND NOTICES

14.1 All communications and notices given under these Terms of Business shall be in writing. A notice shall be sufficiently served if given by effective means of communication, including but not limited to fax, email, registered or recorded mail or by personal service, to the Customer's last known address or to the Company's official email, trading address or registered office.

15. SEVERANCE

15.1 If any provision of these Terms of Business is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this Clause 15 shall not affect the validity and enforceability of the remaining provisions of these Terms of Business.

16. GOVERNING LAW AND JURISDICTION

16.1 These Terms of Business, as well as any contract(s) made subject to these Terms of Business, shall be governed by and construed in accordance with English law.

16.2 All disputes arising out of or in connection with these Terms of Business shall be subject to the non-exclusive jurisdiction of the English courts.

16.3 Disputes arising out of or in connection with this Agreement, when they cannot be resolved by negotiation, may, with the written agreement of the Parties, first be submitted to mediation under British Marine's ("**BM**") Dispute Resolution Scheme. Details of the Scheme are available to current BM members on request from BM and/or online on BM's member website.

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