



JAMES FISHER AND SONS PUBLIC LIMITED COMPANY

TERMS AND CONDITIONS

- 1. GENERAL TERMS AND CONDITIONS FOR SALE, HIRE OR PROVISION OF SERVICES**
- 2. TERMS AND CONDITIONS FOR HIRE OF EQUIPMENT**
- 3. STANDARD TERMS AND CONDITIONS OF PURCHASE**

JAMES FISHER AND SONS PUBLIC LIMITED COMPANY
GENERAL TERMS AND CONDITIONS FOR SALE, HIRE OR PROVISION OF SERVICES

These Terms and Conditions apply to all Quotations and Contracts for Sale, Hire or Provision of Services provided by or entered into by James Fisher and Sons Public Limited Company or any subsidiary or related company within the James Fisher Group

Attention is drawn in particular to clauses A7 and A8, which exclude or restrict the Company's liability or contain indemnities in the Company's favour in certain circumstances

A1. Definitions

In these Terms and Conditions:

"Company" means James Fisher and Sons Public Limited Company or any subsidiary or related company within the James Fisher Group.

"Company's Address" means Fisher House, PO Box 4, Barrow-in-Furness, Cumbria, LA14 1HR or the usual place of business of any subsidiary or related company within the James Fisher Group.

"Customer" means any person, firm, company, partnership, competent authority or other business entity who agrees to obtain Services, purchase Products or hire Equipment from the Company under the Contract.

"Contract" means the agreement between the Company and the Customer for any form of business conducted by or with the Company, incorporating these Terms and Conditions.

"Delivery Address" means the address for delivery of Products or Equipment which shall be the Company's Address or such other address as may be agreed in Writing.

"Equipment" means the equipment, plant, machinery, tools, parts and accessories, including any instalment, part or combination of same, which the Company is to hire to the Customer, or provide Services in respect of, in accordance with the Contract.

"Estimated Delivery Date" means the date on which the Company estimates that Products or Equipment will be delivered.

"Hire Period" means the period from the time the Equipment is despatched by the Company to the Customer or collected by the Customer or its agents from the Company's Address until the time the Equipment is received back at the Company's Address or other such address as may be agreed in Writing.

"Losses" includes all actions, claims, demands, proceedings, damages, awards, payments, losses, costs, expenses, penalties, fines, compensation or other liabilities (direct, indirect, consequential or otherwise including loss of profit, business, turnover or market share), legal or professional expenses and interest thereon.

"Price" means the charge made by the Company for the provision of Services, sale of Products or hire of Equipment as further defined in the Contract.

"Product(s)" means any goods, materials, equipment, machinery, products or articles of whatsoever nature, which the Company is to supply or sell to the Customer, or provide any Services in respect of, under the Contract.

"Quotation" means the Company's quotation for the provision of Services, sale of Products or hire of Equipment, which term includes any document issued by the Company indicating the terms on which Services are to be provided, Products sold or Equipment hired.

"Services" means any services or work provided by the Company to the Customer under the Contract including but not limited to the provision of any consultancy or advisory services, or the service, maintenance, refurbishment or provision of qualified operators for the use or operation of the Products or Equipment.

"Terms and Conditions" means the Terms and Conditions set out in this document and any other terms and conditions agreed pursuant to clause A2.2.

"Writing" means any form of written communication including transmission by facsimile. It shall also include electronic mail ("Email") where the parties have agreed either expressly or by a course of dealing to communicate by Email and have provided each other with correct Email addresses accordingly, save that any Email shall take effect only when received by the recipient.

A2. Application

A2.1 All business conducted by the Company with the Customer, including any contracts, quotations or pre-contractual negotiations, shall be subject to these Terms and Conditions to the exclusion of any and all other terms and conditions unless otherwise agreed in Writing.

A2.2 No variation or addition to these Terms and Conditions shall be binding unless agreed in Writing by the Company. Any and all statements, representations, advice or recommendations made or given by the Company during negotiations prior to the conclusion of a Contract are not binding unless incorporated into the Contract in Writing signed by both parties.

A2.3 The headings in these Terms and Conditions are for convenience only and shall not affect their interpretation.

A2.4 If any provision of these Terms and Conditions is held by any competent court, tribunal or authority to be invalid or unenforceable in whole or in part the validity of the remainder of the provision and all other remaining provisions of these Terms and Conditions shall not be affected thereby.

A3. Description of Contract

A3.1 No Contract shall be formed until the Company confirms in Writing its acceptance of the offer of business to be conducted with the Customer.

A3.2 The Company will sell, hire and/or provide Services and the Customer will pay the specified Price, in accordance with the Company's acceptance in A3.1 above.

A4. Performance of Contract

A4.1 Unless otherwise agreed in Writing, the place of performance of the Contract, including any delivery of Products or Equipment, shall be the Company's Address. Unless otherwise agreed in Writing, it is the Customer's obligation and

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- risk to take delivery or to deliver, as the case may be, any Product or Equipment the subject of the Contract from or to the Company's Address.
- A4.2 Where the Company agrees to sell or hire Products or Equipment to the Customer, the Company will use all reasonable effort to deliver any Product or Equipment by the Estimated Delivery Date. However, any dates specified by the Company for delivery of the Products or Equipment are intended to be an estimate only and if no dates are so specified, delivery will be within a reasonable time.
- A4.3 Unless otherwise agreed, the Customer will take delivery of the Products or Equipment within seven (7) days from receipt of notice in Writing from the Company to do so. If the Customer fails to take delivery of the Products or Equipment within seven (7) days (or any other period agreed pursuant to this clause) from receipt of notice in Writing from the Company then, without prejudice to any other right or remedy available to the Company, the Company may:
- A4.3.1 issue its invoice in respect of the Products or Equipment as if they had been delivered;
- A4.3.2 store the Products or Equipment until actual delivery is made and charge the Customer for the costs of storage;
- A4.3.3 sell, supply or hire the Products or Equipment to a third party in any country at the best price obtainable;
- A4.3.4 suspend other deliveries of Products or Equipment.
- A4.4 The Products or Equipment are at the risk of the Customer from the time of delivery and the Customer shall insure the Products or Equipment accordingly.
- A4.5 Notwithstanding clause A4.4, where the Company agrees to sell Products to the Customer, property in the Products shall not pass to the Customer until the Company has received payment of the Price in full (in cash or cleared funds), including any additional sums which become due from the Customer under the Contract. The Customer hereby agrees to and grants the Company a continuing security interest in any and all such Products together with all accessions, attachments, substitutions and amalgamations thereto, and any proceeds or products derived from the sale thereof. Without prejudice to any other rights and remedies available to the Company under the Contract or in law, in the event of any breach of Contract by the Customer, the Company shall have the full right and entitlement without further notice to the Customer to take possession of all or any part of the Products and to sell the same in a commercial manner in accordance with applicable law and to apply the proceeds of such sale against any Losses suffered by the Company. The Customer hereby agrees to do all that is necessary by law to give effect to such security.
- A4.6 Where the Company agrees to hire Equipment to the Customer, the Company's Terms and Conditions for Hire of Equipment shall apply in addition to these Terms and Conditions. Where inconsistent, the Terms and Conditions for Hire of Equipment shall prevail.
- A5. Price**
- A5.1 The Price for the provision of Services, purchase of Products or hire of Equipment shall be that agreed between the parties and confirmed in Writing by the Company.
- A5.2 All prices quoted by the Company in its Quotations are valid for thirty (30) days only. The Company reserves the right to amend any typographical, clerical or other error or omission on any documentation containing pricing information issued by or on behalf of the Company, and the Company shall have no liability to the Customer for any such errors or omissions.
- A5.3 Unless otherwise specified, the Price for any Services, Products or Equipment provided by the Company to the Customer shall be exclusive of any travel, accommodation, subsistence or other out-of-pocket expenses of the Company's employees, servants or agents (which where applicable the Customer shall pay to the Company at cost) and shall exclude any costs, charges or taxes relating to storage, loading, carriage, unloading, delivery and insurance of any Products or Equipment or any licence fees, duties, local taxes or additional costs of such nature, which shall remain the liability of the Customer.
- A5.4 Where applicable the Company is obliged to charge in addition to the Price any value added tax in the United Kingdom.
- A6. Invoicing and Payment**
- A6.1 The Company will issue to the Customer from time to time an invoice or invoices for the Price of any Services, Products or Equipment, together with any additional costs and/or charges payable by the Customer under clause A4.
- A6.2 Unless otherwise agreed in Writing, payment of any invoice submitted by the Company to the Customer is due within thirty (30) days of the date of the invoice and payment within this time shall be of the essence of the Contract.
- A6.3 Receipts for payment of any invoice will only be issued upon request in Writing by the Customer.
- A6.4 If the Customer fails to make any payment of any invoice within due time then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to:
- A6.4.1 cancel the Contract, and require immediate return at the Customer's expense of any Products or Equipment;
- A6.4.2 suspend further performance by the Company under the Contract;
- A6.4.3 charge the Customer interest on any unpaid amount from the date payment is due to the date payment in full is made on a daily basis at the per annum rate of 2% above the base bank rate from time to time of HSBC Bank PLC;
- A6.4.4 be reimbursed by the Customer for all Losses incurred by the Company in the collection of any overdue amount.
- A7 Warranties, Representations and Risk**
- A7.1 Unless otherwise agreed in Writing, no warranties or representations are given or made by the Company as to the availability, durability, use, storage, effectiveness, quality, suitability or fitness for any purpose of any Product or Equipment sold or supplied hereunder, or for any Service provided hereunder, and any conditions or warranties implied or imposed by operation of law are hereby excluded.
- A7.2 Notwithstanding clause A7.1 above, the Company's sole obligation when providing any Services under the Contract is to exercise reasonable care and skill.

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- A7.3 It is the Customer's responsibility and risk that any order, specification, drawing or information provided to the Company to enable or assist the Company to perform the Contract is complete and accurate.
- A7.4 Where the Company is not the manufacturer of the Products or Equipment, the Company will endeavour, where applicable, to transfer to the Customer the benefit of any warranty or guarantee given to the Company.
- A7.5 The Company shall not be liable for a breach of any warranty or warranties, whether provided by the Contract, statute, the general law or otherwise, in respect of any Products or Equipment sold or hired or any Service provided, unless the Customer gives written notice of the breach complained of within seven (7) days of the time the Customer discovers or ought to have discovered such breach and the Company is given a reasonable opportunity of remedying the breach.
- A7.6 The Company shall not be liable for any defect in the Product, Equipment or Service arising from fair wear and tear, wilful damage or negligence by the employees, servants or agents of the Customer or other persons not within the Company's reasonable control, abnormal working conditions, failure to follow the Company's instructions (if any, whether oral or in Writing), or misuse, alteration or repair of the Product or Equipment or change in terms of Service without the prior approval in Writing of the Company.
- A7.7 Subject to clause A7.5, if any Product or Equipment does not conform with any warranty or warranties provided by the Contract, statute, the general law or otherwise, the Company shall at its option repair or replace such Products or Equipment (or any defective part or parts) or refund the Price of the Products or Hire at the Contract rate provided that (if the Company so requests and at its cost) the Customer returns the defective Products, Equipment or part(s) to the Company. If the Company complies with this clause, it shall have no further liability for breach of any warranty or warranties whatsoever and howsoever arising in respect of the Product or Equipment.
- A8. Limitation of Liability and Indemnity**
- A8.1 The Company's liability to the Customer under the Contract for any loss or damage howsoever and whatsoever arising including any loss or damage arising from negligence and/or any act or omission of any person employed, hired or engaged by the Company shall not exceed the Price of the Contract.
- A8.2 The Company shall not in any event be liable to the Customer for any consequential and/or indirect loss or damage whether for loss of profit or otherwise, costs, expenses or other claims for consequential compensation whatsoever and whether caused by the negligence of the Company its employees, servants, agents or otherwise.
- A8.3 Unless otherwise agreed in Writing, the Customer shall fully indemnify the Company against any loss, damage or injury howsoever caused (including by negligence) to the Customer's employees, servants or agents and/or property of the Customer's employees, servants or agents during the execution of the Contract.
- A8.4 Nothing in these Terms and Conditions excludes or limits the Company's liability for death or personal injury caused by the Company's negligence or fraudulent misrepresentation.
- A8.5 Where the Company agrees to sell or hire Products or Equipment to the Customer, the Company will not be liable for any Losses caused directly or indirectly by any delay in the delivery of the Products or Equipment (even if caused by the negligence of the Company, its employees, servants or agents), nor will any delay entitle the Customer to terminate or rescind the Contract unless such delay exceeds thirty (30) days.
- A8.6 Where the Company agrees to provide a Service to the Customer, the Company will not be liable for any Losses caused directly or indirectly by any delay in the provision of the Service (even if caused by the negligence of the Company, its employees, servants or agents). Unless otherwise agreed, the Customer shall not be entitled to cancel the Contract solely because of such delay.
- A9. Termination**
- A9.1 The Company shall be entitled to terminate the Contract forthwith by notice in Writing to the Customer if:
- A9.1.1 the Customer commits an irremediable breach of the Contract, persistently repeats a remediable breach or commits any remediable breach and fails to remedy it within seven (7) days of receipt of notice in Writing of the breach requiring remedy of the same; or
- A9.1.2 the Customer makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of solvent amalgamation or reconstruction); or
- A9.1.3 an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Customer; or
- A9.1.4 the Customer ceases or threatens to cease to carry on business; or
- A9.1.5 where the Customer is resident in a jurisdiction other than England and Wales, an event similar to any of those specified in clauses A9.1.2 and A9.1.3 occurs to or in relation to the Customer.
- A9.2 In the event of termination by the Company pursuant to clause A9.1 above then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to cancel the Contract or suspend any further deliveries or Services due under it without any liability to the Customer and, if the Services have already been provided, Products delivered or Equipment hired but not paid for, the price of the Services, Products or Equipment shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary and the Company shall be entitled to charge interest at the per annum rate of 2% above the base bank rate from time to time of HSBC Bank PLC from the time of such cancellation or suspension until the Company receives payment.
- A9.3 The Customer shall be entitled to terminate the Contract by giving thirty (30) days notice in Writing of termination to the Company. In the event of termination by the Customer pursuant to this clause, the Company shall invoice the Customer and the Customer shall immediately pay to the Company the full Price together with any additional costs and/or charges payable by the Customer under clause A4.
- A10. Laws and Regulations**
- A10.1 The Customer shall comply with all laws and regulations relating to the ownership and use of the Products or Equipment including health and safety requirements.

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A10.2 The Customer shall ensure that all appropriate safety information (whether or not supplied by the Company) is distributed and drawn to the attention of its employees and all others who require it for the safe handling or use of the Products or Equipment.

A10.3 The Customer shall indemnify the Company for any and all Losses suffered by the Company attributable to a breach of this Clause A10.

A11. Resources

A11.1 The Customer hereby agrees that, during the term of the Contract and for a period of twelve (12) months after expiry or termination howsoever caused, he will not solicit the Company's staff who are known by the Customer to have been employed or engaged in the performance of the Contract. For the purposes of this clause, 'solicit' means a direct or indirect attempt to induce such person to take an engagement with such party as an employee, director, sub-contractor or independent contractor provided that this clause shall not apply to any engagement as a result of a general advertisement or recruitment campaign.

A12. Confidentiality

A12.1 All techniques, processes, inventions, equipment, drawings, designs, specifications, proposals and such information concerning the Services, Products or Equipment or relating to the Company's business of which the Customer shall obtain knowledge or information (except to the extent that they are within or fall into the public domain other than by breach of the Contract) shall remain both during and after the completion of the business conducted under the Contract the absolute and exclusive property of the Company and the Customer shall keep confidential and retain the same with the utmost secrecy and shall use its utmost endeavours to ensure that all its employees, servants and agents shall abide by the terms of this provision as though it were binding upon each of them and the Customer shall not use same for its own purposes, nor shall it cause or permit anything which may damage or endanger the intellectual property of the Company or allow or assist others to do so.

A13. Waiver

A13.1 No payment accepted by the Company and no neglect, delay or indulgence on the part of the Company in enforcing the Contract or any of the Terms and Conditions thereof shall operate as a waiver of the Company's rights thereunder, unless in each case the Company expressly so agrees in Writing.

A14. Force Majeure

A14.1 The Company shall not be liable to the Customer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Company's obligations if the delay or failure was due to any cause beyond the Company's reasonable control including (without limitation):

A14.1.1 act of God, storm, flood, tempest or other weather conditions, explosion, fire or accident;

A14.1.2 war or threat of war, civil war, hostilities, sabotage, insurrection, riot or civil disturbance, or requisition;

A14.1.3 Governmental or local authority acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind;

A14.1.4 import or export regulations or embargoes;

A14.1.5 strikes, lock-outs or other industrial actions or trade disputes whether involving employees of the Company or of a third party;

A14.1.6 difficulties in obtaining raw materials, labour, fuel, parts, equipment, machinery or other essential supplies;

A14.1.7 failure or breakdown in equipment or machinery from power failure or other external causes;

A15. Cross Claims and Set Off

A15.1 The Customer hereby waives any right to set-off under the Contract or otherwise and agrees to pay all sums due regardless of any equity, set-off or cross claim on the part of the Customer against the Company.

A16. Computer Software

If the Company supplies to or makes available for use by the Customer any computer software programme and associated documentation, the Company does so on the following terms:

A16.1 The Customer is granted a non-exclusive licence to use such computer software programmes and any associated documentation.

A16.2 All copyright trademarks and other intellectual property rights remain the exclusive property of the Company.

A16.3 The Customer shall not copy the whole or any part of any such computer software programme or associated documentation or modify or combine the whole or any part of the same with any other software or documentation.

A16.4 The Customer shall not assign, transfer, lease, sell, or otherwise trade in or encumber the computer software programme nor use on behalf of or make available the same to any third party.

A17. Notices

A17.1 Any notice required to be given by either party under the Contract shall be delivered or sent by pre-paid first class recorded delivery letter or facsimile addressed to the registered office of the party to be served or to such other place as may be designated by the party for the purpose of service and shall be deemed to have been served in the case of a notice delivered by hand, when delivered, in the case of a letter, forty-eight (48) hours after the time of posting, in the case of facsimile when despatched.

A18. Non-Assignment

A18.1 The Customer shall not assign, transfer or sub-contract the Contract or any benefit, interest, right or obligation under the Contract, without the prior agreement of the Company in Writing.

A19. Governing Law and Jurisdiction

A19.1 The Contract shall be governed by and construed in accordance with the laws of England.

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A19.2 The Customer hereby agrees for the benefit of the Company that any claims, disputes, legal actions, suits or proceedings it may have against the Company arising out of or in connection with the Contract shall be subject to the exclusive jurisdiction of the English Courts. In addition the Customer hereby agrees that the Company shall have the right to bring any claims, disputes, legal actions, suits or proceedings it may have against the Customer in the courts of any jurisdiction where the Customer or any of its property or assets may be found or located, and the Customer hereby irrevocably submits to the jurisdiction of any such court.

JAMES FISHER AND SONS PUBLIC LIMITED COMPANY
TERMS AND CONDITIONS FOR HIRE OF EQUIPMENT

These Terms and Conditions apply to all Quotations and Contracts for Hire of Equipment from James Fisher and Sons Public Limited Company or any subsidiary or related company within the James Fisher Group

These Terms and Conditions for Hire of Equipment are in addition to and must be read in conjunction with James Fisher and Sons Public Limited Company General Terms and Conditions for Sale, Hire or Provision of Services

B1. Hire of Equipment

B1.1 The Company's Quotation is subject to the availability of the relevant Equipment.

B2. Delivery of the Equipment

B2.1 Unless otherwise agreed in Writing, delivery of the Equipment shall take place at the Company's Address.

B2.2 The Company will use its reasonable efforts to ensure delivery of the Equipment on or around the Estimated Date of Delivery. However, any dates specified by the Company for delivery of the Equipment are intended to be an estimate only and time for delivery shall not be made of the essence of the Contract, and if no dates are so specified, delivery will be within a reasonable time.

B2.3 The Customer shall pay the cost of and, if required by the Company, make all arrangements for delivery of the Equipment from the Company's Address to the intended place of operation at the beginning of the Hire Period and from the place of operation to the Company's Address, or such other address as may be agreed in Writing, at the end of the Hire Period.

B2.4 When the Equipment is to be despatched from, and returned to, the Company's Address the Company shall be responsible for loading the Equipment onto the delivery vehicle at the beginning of the Hire Period and unloading the Equipment from the delivery vehicle at the end of the Hire Period. The Customer shall be responsible for all other loading and unloading throughout the Hire Period.

B2.5 The Customer shall at its expense provide free and suitable access to the intended place of operation, including removal and reinstatement of local obstructions, for the delivery, servicing and collection of the Equipment.

B2.6 The Customer shall ensure that the intended place of operation is suitable for the positioning and operating of the Equipment and shall protect, cover or reinforce as necessary any surface or other parts of the intended place of operation liable to be damaged in the course of moving or operating the Equipment. The Customer shall be solely responsible for and shall indemnify the Company in full against all claims for damage to the place of operation or surrounding area.

B2.7 The Equipment shall be deemed to have been received in good order unless written notice to the contrary is received by the Company within three (3) days of delivery of the Equipment.

B3. Operators

B3.1 When a qualified operator is supplied by the Company with the Equipment:

B3.1.1 the Company shall supply a person who it considers to be competent in operating the Equipment;

B3.1.2 the Customer shall not permit any other person to operate the Equipment without obtaining prior consent in Writing from the Company.

B3.2 Any operator of the Equipment supplied by the Company shall be under the exclusive control of the Customer and the Customer shall not be entitled to make any claim against and shall indemnify and hold the Company harmless against all claims arising out of any such operator's act, accident, negligence, default or omission whilst under the Customer's exclusive control.

B3.3 The Company's costs, charges and expenses relevant to the provision of a qualified operator shall be specified separately for each Contract.

B4. Customer's Obligations

B4.1 During the Hire Period the Customer shall, at its own expense:

B4.1.1 comply with all laws and regulations relating to the use of the Equipment including health and safety requirements and shall use or permit the use of the Equipment only in accordance with relevant operating and safety instructions, including without limitation, any supplied with the Equipment. Any typographical, clerical or other error or omission in such instructions shall be subject to correction without any liability on the part of the Company;

B4.1.2 ensure that the Equipment is operated properly and safely with due care and skill at all times by suitably competent, qualified, experienced and instructed personnel;

B4.1.3 fully acquaint itself with the appropriate manufacturers' guidelines and not use or permit the use of the Equipment for any purpose beyond its capacity or in a manner likely to result in excessive wear in accordance with such guidelines;

B4.1.4 ensure that the Equipment remains safe, serviceable and clean;

B4.1.5 ensure that the Equipment undergoes daily routine maintenance, including, but not limited to, maintenance of the correct levels of all lubricants and other fluids;

B4.1.6 ensure that all fuel and lubricants used in respect of the Equipment shall be of suitable grade and quality for use with the Equipment.

B4.2 Additionally the Customer shall:

B4.2.1 not make any alterations or modifications to the Equipment;

B4.2.2 take all reasonable steps to keep itself acquainted with the state and condition of the Equipment;

B4.2.3 not operate the Equipment in an unsafe or unsatisfactory state;

B4.2.4 ensure that when the Equipment requires the fitting or re-fitting of any accessory (which term includes but is not limited to drills, wheels, discs and blades), that only accessories supplied by the Company are utilised

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and that any such accessory is correctly fitted or re-fitted in a manner so as not to damage the Equipment or render it unsafe;

- B4.2.5 immediately notify the Company of any malfunctioning of the Equipment and the Customer shall not carry out any repair to the Equipment without obtaining authorisation from the Company in Writing;
 - B4.2.6 immediately notify the Company if the Equipment is involved in any incident or accident resulting in damage to the Equipment or to other property or injury to any person and immediately cease using the Equipment if there is any possibility that it or a defect with it was responsible for such incident or accident;
 - B4.2.7 ensure that the Company, and any person authorised by it, shall at all reasonable times have full access to the Equipment and facilities for inspecting, testing, adjusting, repairing and replacing same.
 - B4.2.8 not remove, deface or cover up any name-plate or identification mark or number on the Equipment nor put any mark on the Equipment which might indicate or suggest that the Equipment is not the property of the Company;
 - B4.2.9 not sell, mortgage, charge, pledge, part with possession of, or otherwise deal with the Equipment except with the written consent of the Company;
 - B4.2.10 protect the Equipment against distress, execution or seizure.
- B4.3 The Customer shall indemnify the Company against any loss or damage to the Equipment or otherwise which it may suffer as a result of the Customer failing to comply with its obligations under this clause B4.

B5. Price and Payment

- B5.1 Unless otherwise agreed, the Price being the hire charges shall be calculated on a daily basis using seven (7) days to the week throughout the Hire Period.
- B5.2 The full contracted hire rate will be charged for the full Hire Period irrespective of the actual time during which the Equipment was in operation.
- B5.3 In the event of a breakdown of the Equipment otherwise than as a result of breach by the Customer of its obligations under these Terms and Conditions, no hire charges will be made to the Customer from the time when the Customer first notifies the Company in Writing that such breakdown has occurred.
- B5.4 No allowance will be made for stoppages resulting from the Customer's misuse, negligence or misdirection or other causes outside the Company's control.

B6. Title and Risk

- B6.1 The Equipment is deemed to be the Customer's responsibility throughout the Hire Period and without limiting its responsibilities under the Contract, the Customer shall insure against any damage, loss or injury which may arise from its possession or use of the Equipment which may occur to any property including the Equipment or any person for which it may be responsible or liable.
- B6.2 Notwithstanding clause B6.1, no title or right in the Equipment shall pass to the Customer at any time.
- B6.3 The Customer shall return the Equipment to the Company on completion of the Hire Period in the same condition as at the commencement of the Hire Period, fair wear and tear excepted.
- B6.4 During the Hire Period the Customer shall make good to the Company all loss of or damage to the Equipment from whatever cause the same may arise.
- B6.5 In the event that the Equipment is damaged during the Hire Period, hire charges shall continue during any repair period. If repair or rectification of damage is necessary at the place of operation, the charges for labour, materials, travel and shipping will be payable by the Customer in full.
- B6.6 In the event that the Equipment is lost, stolen or damaged beyond economic repair during the Hire Period, the Customer shall pay to the Company the full current new price of the Equipment.

JAMES FISHER AND SONS PUBLIC LIMITED COMPANY STANDARD TERMS AND CONDITIONS OF PURCHASE

These Terms and Conditions apply to all Contracts for Purchase of Goods or Services entered into by James Fisher and Sons Public Limited Company or any subsidiary or related company within the James Fisher Group

Attention is drawn in particular to clause 6, which contains warranties and indemnities in the Company's favour in certain circumstances.

1. Definitions

In these Terms and Conditions:

"Company" means James Fisher and Sons Public Limited Company or any subsidiary or related company within the James Fisher Group.

"Company's Address" means Fisher House, PO Box 4, Barrow-in-Furness, Cumbria, LA14 1HR or the usual place of business of any subsidiary or related company within the James Fisher Group.

"Completion Date" means the date specified in the Purchase Order by which the Supplier will fully and satisfactorily complete the Service.

"Contract" means the agreement between the Company and the Supplier, whereby the Supplier sells or supplies Products or Equipment or provides a Service to the Company, incorporating these Terms and Conditions.

"Delivery Address" means the address for delivery of Products or Equipment which shall be the Company's Address or such other address as may be agreed in Writing or specified in the Purchase Order.

"Delivery Date" means the date specified in the Purchase Order for the Supplier to deliver the Products or Equipment.

"Equipment" means the equipment, plant, machinery, tools, parts and accessories, including any instalment, part or combination of same, which the Company is to hire from the Supplier, or the Supplier is to provide Services in respect of, in accordance with the Contract.

"Hire Period" means the period from the time the Equipment is delivered by the Supplier to the Company until the time the Equipment is made available by the Company for collection by the Supplier at Company's Address or other such address as may be agreed in Writing.

"Losses" includes all actions, claims, demands, proceedings, damages, awards, payments, losses, costs, expenses, penalties, fines, compensation or other liabilities (direct, indirect, consequential or otherwise including loss of profit, business, turnover or market share), legal or professional expenses and interest thereon.

"Price" means the charge made by the Supplier for the provision of Services, sale of Products or hire of Equipment as further defined in the Contract.

"Product(s)" means any goods, materials, equipment, machinery, products or articles of whatsoever nature, which the Supplier is to supply or sell to the Company, or provide any Services in respect of, under the Contract.

"Purchase Order" means the order form issued by the Company to the Supplier setting out the requirements of the Company.

"Quotation" means the Supplier's quotation for the provision of Services, sale of Products or hire of Equipment.

"Services(s)" means any services or work provided by the Supplier to the Company under the Contract including but not limited to the provision of any consultancy or advisory services, or the service, maintenance, refurbishment or provision of qualified operators for the use or operation of the Products or Equipment.

"Supplier" means any person, firm, company, partnership, competent authority or other business entity engaged in supplying Services, hiring Equipment or providing Products to the Company under the Contract.

"Terms and Conditions" means the Terms and Conditions set out in this document and any other terms and conditions agreed pursuant to clause 2.1.

"Writing" means any form of written communication including transmission by facsimile. It shall also include electronic mail ("Email") where the parties have agreed either expressly or by a course of dealing to communicate by Email and have provided each other with correct Email addresses accordingly, save that any Email shall take effect only when received by the recipient.

2. Application

- 2.1 All business conducted by the Supplier with the Company, including any contracts, purchase orders, quotations or pre-contractual negotiations, shall be subject to these Terms and Conditions. Unless otherwise agreed in Writing or provided elsewhere in these Terms and Conditions, no variation or addition to these Terms and Conditions shall be binding unless agreed in Writing by the Company.
- 2.2 The headings in these Terms and Conditions are for convenience only and shall not affect their interpretation.
- 2.3 If any provision of these Terms and Conditions is held by any competent court, tribunal or authority to be invalid or unenforceable in whole or in part the validity of the remainder of the provision and all other remaining provisions of these Terms and Conditions shall not be affected thereby.
- 2.4 A Contract shall be formed when the Supplier accepts the Company's Purchase Order subject to these Terms and Conditions.
- 2.5 The Supplier will sell Products and/or hire Equipment and/or provide Services and the Company will pay the specified Price, in accordance with the Contract.

3. Performance of Contract

- 3.1 Unless otherwise agreed in Writing or specified in the Purchase Order, the place of performance of the Contract, including any delivery of Products or Equipment or where any Services are to be provided, shall be the Company's Address. Unless otherwise agreed in Writing, it is the Supplier's obligation and risk to deliver any Products or Equipment the subject of the Contract to the Company's Address or any other address the Company may nominate.
- 3.2 Where the Supplier agrees to sell or hire Products or Equipment to the Company, it is the essence of the Contract that the Supplier will deliver any Products or Equipment by the Delivery Date within normal office hours.

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- 3.3 Where the Supplier agrees to provide a Service to the Company, it is the essence of the Contract that the Supplier will complete the Service by the Completion Date.
- 3.4 The Supplier must notify the Company immediately of any circumstances whatsoever which might cause non-compliance with Completion or Delivery Dates.
- 3.5 The Supplier shall provide the Company in good time with any instructions or other information required to enable the Company to accept performance of the Services and/or delivery of the Products or Equipment.
- 3.6 The Products or Equipment shall remain at the risk of the Supplier until delivery to the Company is complete (including any off-loading or stacking), when ownership, where applicable, of the Products or Equipment shall pass to the Company.

4. Price

- 4.1 The Price for the provision of Services, purchase of Products or hire of Equipment shall be that agreed between the parties and confirmed in Writing by the Company or specified in the Purchase Order.
- 4.2 Unless otherwise specified, the Price for any Services, Products or Equipment provided by the Supplier shall be inclusive of costs, charges or taxes relating to storage, loading, carriage, unloading, delivery and insurance of any Products or Equipment or any licence fees, duties, local taxes or additional costs of such nature.
- 4.3 The Company shall not accept any variation of the Price or any additional charges from the Supplier unless agreed in Writing by the Company.

5. Invoicing and Payment

- 5.1 The Supplier will issue to the Company an invoice or invoices for the Price of any Services, Products or Equipment.
- 5.2 Unless otherwise agreed, the Company will pay undisputed invoice(s) within forty-five (45) days of receipt of the invoice.
- 5.3 The Company shall have the right to set-off in law or equity against any sums due to the Supplier any sums which in the Company's opinion is due from the Supplier to the Company.

6. Warranties, Representations, Risk and Indemnities

- 6.1 The Supplier warrants and guarantees to the Company that the Products sold or supplied by the Supplier are of the best available design, of the best quality, material and workmanship, be without fault and conform in all respects with the Company's Purchase Order and any specification, drawing, requirement or other information provided to the Supplier.
- 6.2 The Company's rights under these Terms and Conditions are in addition to the statutory terms implied in favour of the Company by the Sale of Goods Act 1979 and/or the Supply of Goods and Services Act 1982, and any subsequent amending or relevant legislation.
- 6.3 The Company is entitled to rely on any statement, representation, advice and/or recommendation made by the Supplier during negotiations and/or after the date of the Contract, and such statements, representation, advice and/or recommendations shall be deemed incorporated into the Contract.
- 6.4 Where the Supplier is providing a Service to the Company, the Supplier agrees to exercise utmost care and skill in doing so.
- 6.5 Prior to delivery of any Products by the Supplier, the Company shall have the right if it so wishes to inspect and test the Products at all times, and if the results of such inspection or testing cause the Company to consider that the Products do not, or are unlikely to, conform with the Purchase Order and/or any specification, drawing or information provided to the Supplier, the Company shall inform the Supplier and the Supplier shall immediately take such action as is necessary to ensure conformity.
- 6.6 Where the Supplier is not the manufacturer of the Products or Equipment, the Supplier will transfer to the Company the benefit of any warranty or guarantee given to the Supplier in respect of such Products or Equipment.
- 6.7 The Supplier shall indemnify the Company in full against all Losses incurred by the Company as a result of or in connection with:
- 6.7.1 defective workmanship, quality or materials;
 - 6.7.2 an infringement or alleged infringement of any intellectual property rights caused by the use, manufacture or supply of the Services, Products or Equipment;
 - 6.7.3 any claim made against the Company in respect of any Losses arising as a consequence of a breach or negligent performance or failure or delay in performance of the Contract by the Supplier.
- 6.8 Without prejudice to any other right or remedy which the Company may have, if any fault or defect in any Products shall occur within twelve (12) months after the Products have been delivered, the Company shall notify the Supplier and the Supplier shall then (at the Company's option) either replace the Products or make good the Products at the expense of the Supplier and any Products so replaced or made good shall be guaranteed by the Supplier on the same terms for a further period of twelve (12) months.
- 6.9 Where the Supplier and/or its personnel, employees, contractors, sub-contractors, or any other person at the behest of the Supplier (the "Workforce"), boards any vessel or craft or enters the environs of any other property or premises owned or leased or occupied by the Company, in connection with the Contract,
- 6.9.1 the Supplier agrees to hold the Company, its employees, directors, crew, servants, agents and insurers (together the "Indemnified Parties") harmless, and to indemnify them:-
 - 6.9.1.1 for any losses, damages, claims, liabilities, costs and expenses of whatsoever nature that they may sustain and/or incur as a result of any act or omission by the Workforce, and
 - 6.9.1.2 in respect of their liability for any claims of whatsoever nature which may be made against them by the Workforce, their heirs or assigns, and

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- 6.9.1.3 in respect of their liability for any claims of whatsoever nature which may be made against them by any third party arising out of any default, act or omission by the Workforce, and
 - 6.9.1.4 in respect of any and all costs and/or expenses incurred by them arising from any injury to or illness of the Workforce.
- 6.9.2 the Supplier also
 - 6.9.2.1 undertakes and guarantees that all its liabilities, of whatsoever nature arising out of this clause 6.9 indemnity will be insured by the Supplier with an insurance company or facility acceptable to the Company, and further that the insurance company or facility concerned will waive its rights of subrogation against the Indemnified Parties, and
 - 6.9.2.2 agrees, in the event of any proceedings, action, arbitration and/or claim being commenced against the Indemnified Parties in respect of any and all of the matters referred above, provide the Indemnified Parties from time to time on demand with sufficient funds to defend any such proceedings.
- 7. Company's Property**
- 7.1 If the Company or its agents supply any goods, materials, equipment or the like or any specifications, drawings or such data free of charge to the Supplier for the purposes of the Contract, all such items shall be and remain the exclusive property of the Company and shall be held by the Supplier in safe custody and maintained and kept in good order and condition by the Supplier until returned to the Company.
- 8. Confidentiality and Resources**
- 8.1 All techniques, processes, inventions, equipment, drawings, designs, specifications, proposals and such information concerning the Services, Products or Equipment or relating to the Company's business of which the Supplier shall obtain knowledge or information (except to the extent that they are within or fall into the public domain other than by breach of the Contract) shall remain both during and after the completion of the business conducted under the Contract the absolute and exclusive property of the Company and the Supplier shall keep confidential and retain the same with the utmost secrecy and shall use its utmost endeavours to ensure that all its employees, servants and agents shall abide by the terms of this provision as though it were binding upon each of them and the Supplier shall not use same for its own purposes, nor shall it cause or permit anything which may damage or endanger the intellectual property of the Company or allow or assist others to do so.
- 8.2 The Supplier hereby agrees that, during the term of the Contract and for a period of twelve (12) months after expiry or termination howsoever caused, he will not solicit the Company's staff who are known by the Supplier to have been employed or engaged in the performance of the Contract. For the purposes of this clause, 'solicit' means a direct or indirect attempt to induce such person to take an engagement with such party as an employee, director, sub-contractor or independent contractor provided that this clause shall not apply to any engagement as a result of a general advertisement or recruitment campaign.
- 9. Rejection and Termination**
- 9.1 Without prejudice to any other right or remedy which the Company may have, if any Services, Products or Equipment are not supplied in accordance with the Contract, or the Supplier fails to comply with any terms of the Contract, the Company may avail itself of any one or more of the following remedies at its discretion, whether or not part of the Services, Products or Equipment have been accepted by the Company:
 - 9.1.1 to cancel the Contract by notice in Writing, without any liability on the part of the Company;
 - 9.1.2 to reject any Products (in whole or in part) and return them to the Supplier at the risk and cost of the Supplier and require a full refund for the Products so returned to be paid by the Supplier;
 - 9.1.3 to refuse to accept deliveries of any further Products and without any liability on the part of the Company.
- 9.2 The Company shall further be entitled to terminate the Contract forthwith by notice in Writing to the Supplier if:
 - 9.2.1 the Supplier makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of solvent amalgamation or reconstruction); or
 - 9.2.2 an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Supplier; or
 - 9.2.3 the Supplier ceases or threatens to cease to carry on business; or
 - 9.2.4 where the Supplier is resident in a jurisdiction other than England and Wales, an event similar to any of those specified in the above sub-clauses occurs to or in relation to the Supplier.
- 9.3 In the event of termination by the Company pursuant to clause 9.2 above then, without prejudice to any other right or remedy available to the Company, the Company shall be under no further obligations under the Contract and any sums already paid by the Company to the Supplier but not earned shall become repayable immediately notwithstanding any previous agreement or arrangement to the contrary and the Company shall be entitled to charge interest at the per annum rate of 2% above the base bank rate from time to time of HSBC Bank PLC from the time of such cancellation or suspension on any sums owed by the Supplier to the Company until the Company receives payment.

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10. Force Majeure

- 10.1 The Company shall not be liable to the Supplier or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Company's obligations due to any cause beyond the Company's reasonable control including (without limitation):
- 10.1.1 act of God, storm, flood, tempest or other weather conditions, explosion, fire or accident;
 - 10.1.2 war or threat of war, civil war, hostilities, sabotage, insurrection, riot or civil disturbance, or requisition;
 - 10.1.3 Governmental or local authority acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind;
 - 10.1.4 import or export regulations or embargoes;
 - 10.1.5 strikes, lock-outs or other industrial actions or trade disputes whether involving employees of the Company or of a third party;
 - 10.1.6 failure or breakdown in equipment or machinery from power failure or other external causes.

11. Notices

- 11.1 Any notice required to be given by either party under the Contract shall be delivered or sent by pre-paid first class recorded delivery letter or facsimile addressed to the registered office of the party to be served or to such other place as may be designated by the party for the purpose of service and shall be deemed to have been served in the case of a notice delivered by hand, when delivered, in the case of a letter, forty-eight (48) hours after the time of posting, in the case of facsimile when despatched.

12. Non-Assignment

- 12.1 The Supplier shall not assign, transfer or sub-contract the Contract or any benefit, interest, right or obligation under the Contract, without the prior agreement of the Company in Writing.

13. Waiver

- 13.1 No act, omission, delay or indulgence on the part of the Company in enforcing the Contract or any of the Terms and Conditions thereof shall operate as a waiver of the Company's rights thereunder, unless in each case the Company expressly so agrees in Writing.

14. Governing Law and Jurisdiction

- 14.1 The Contract shall be governed by and construed in accordance with the laws of England.
- 14.2 The Supplier hereby agrees for the benefit of the Company that any claims, disputes, legal actions, suits or proceedings it may have against the Company arising out of or in connection with the Contract shall be subject to the exclusive jurisdiction of the English Courts. In addition the Supplier hereby agrees that the Company shall have the right to bring any claims, disputes, legal actions, suits or proceedings it may have against the Supplier in the courts of any jurisdiction where the Supplier or any of its property or assets may be found or located, and the Supplier hereby irrevocably submits to the jurisdiction of any such court.