



KONGSBERG

**KONGSBERG MARITIME
STANDARD CONDITIONS
FOR
AFTER SALES & SUPPORT**

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1 PREAMBLE

These Standard Conditions for After Sales & Support shall apply for all services and supplies provided by KONGSBERG Maritime following expiry of KONGSBERG Maritime's warranty obligations subject to a previous sales contract or otherwise for services and supplies outside the scope of a previous sales contract. To the extent the terms contained herein are conflicting or inconsistent with the terms of the Service Rates document issued by KONGSBERG; the terms of the latter shall prevail.

2 DEFINITIONS

"Buyer" shall mean the person or entity ordering services or supplies from KONGSBERG.

"Contract" shall mean the contract entered into between KONGSBERG and the Buyer for the specific services and supplies and which shall be effective only to the extent confirmed by an Order Confirmation from KONGSBERG.

"Contract Price" shall mean the sum to be paid for the performance of the Work, which may be increased or decreased in accordance with the provisions of the Contract, including license fees for computer software, if applicable.

"Intellectual Property" ("IP") shall mean all work of authorship, designs, inventions and discoveries, samples, models, tools, and, in each case, in all forms, formats, languages and versions.

"Intellectual Property Rights" ("IPR") shall mean all right, title and interest in and to any Intellectual Property, in all territories, under all applicable bodies of law (including, without limitation, under the laws of copyright, patent, trademark, trade usage and trade secrets), and all applications, registrations, renewals, extensions, restorations and resuscitations relating to any of the foregoing.

"KONGSBERG" shall mean the KONGSBERG Maritime entity who is a party to the Contract with Buyer.

"Order Confirmation" shall mean a written statement from KONGSBERG confirming KONGSBERG's undertaking to perform specific services and supplies to Buyer.

"Proprietary Information" shall mean all technological, financial, commercial or other information or data of a proprietary or confidential nature in any form or format (e.g., written, electronic, visual, oral, or otherwise).

"Quotation" shall mean an offer from KONGSBERG to perform certain services and supplies and which shall not be binding on KONGSBERG until confirmed by an Order Confirmation from KONGSBERG.

"Scope of Work" shall mean the scope of services and supplies to be performed by KONGSBERG pursuant to the Contract as specified in the Quotation or in the Order Confirmation.

"Site" shall mean the shipyard or offshore or onshore installation or vessel where the Work shall be delivered, installed, or otherwise performed.

"Standard Conditions" shall mean these Standard Conditions for After Sales & Support.

"Technical Specifications" shall, if applicable, mean the contract document specifying the

technical specifications for the Work to be performed by KONGSBERG.

"Time for Performance" shall unless otherwise explicitly stated in writing mean the time for which KONGSBERG shall commence performance of the Work under the Contract.

"Work" shall mean all supplies and services to be performed by KONGSBERG pursuant to the Contract.

3 THE WORK

3.1 KONGSBERG shall perform the Work in accordance with the Contract and at the agreed Time for Performance.

3.2 All information, description, and data contained in general product information, brochures or otherwise shall be binding only to the extent expressly incorporated by reference in the Contract and shall otherwise constitute an approximate guide.

4 TERMS OF DELIVERY

4.1 Terms of delivery are FCA (Free Carrier), KONGSBERG's production site in Norway (INCOTERMS 2010).

4.2 The risk of loss of or damage to the Work shall pass to the Buyer according to the applicable trade term.

4.3 KONGSBERG will ensure packing in accordance with prudent industry standard in order to reasonably prevent potential damages caused by normal transportation.

4.4 KONGSBERG shall never be responsible for importation in or to Buyer's country or the location of the Site, or any import charges, duties, taxes or customs related hereto.

4.5 KONGSBERG SHALL USE REASONABLE ENDEAVOURS TO PERFORM THE WORK AT THE TIME FOR PERFORMANCE BUT KONGSBERG SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE OR CLAIM WHATSOEVER CAUSED BY OR INCURRED AS A CONSEQUENCE OF ANY DELAY.

4.6 If KONGSBERG is aware that there will be a delay in the performance of the Work, then KONGSBERG shall notify the Buyer of such delay as soon as is reasonably practicable.

5 PAYMENT

5.1 KONGSBERG shall invoice the Buyer for the price of the supplies on or after the Time for Performance; and for the price of the services either monthly in arrears or immediately upon performance of all or any part of the services, at KONGSBERG's discretion.

5.2 Terms of payment are net 30 days.

5.3 Payment shall be made by wire transfer to KONGSBERG's nominated bank account. Payment

shall not be deemed effected before KONGSBERG's account has been fully and irrevocably credited.

5.4 All prices are exclusive of Value Added Tax unless otherwise agreed in writing.

5.5 Work beyond the scope of the Contract shall be performed according to KONGSBERG's standard service rates.

5.6 Payment will be due in the same currency as the price stated in the Order Confirmation.

5.7 KONGSBERG shall without liability be entitled to stop or suspend its performance until correct payment is received in full.

5.8 KONGSBERG is entitled to claim interest with 1.5% per month on overdue payment.

5.9 Buyer shall ensure that KONGSBERG receives the Contract Price in full without deductions of any kind such as withholding tax or the like.

5.10 The Work remains the property of KONGSBERG until correct payment is received in full.

6 VARIATIONS

6.1 The Buyer may in writing request variations to the Work or Time for Performance.

6.2 KONGSBERG shall have no obligation to carry out requested variations until agreement in writing is concluded by means of Order Confirmation or otherwise on the adjustments to the Work, Contract Price, or other terms of the Contract.

6.3 The supplied Work will be in accordance with KONGSBERG's standard classification and certification applicable to the Work. Any upgrading of the classification or certification not communicated to KONGSBERG in writing prior to Order Confirmation shall be regarded as a request for variation.

7 BUYER'S OBLIGATIONS

7.1 The Buyer shall at own cost and risk provide such supplies, services, documentation, information, access to the Site, permits, licenses, transportation to and from offshore installations and such other things which is required or necessary in due time and otherwise within reasonable time so as not to delay KONGSBERG's performance of the Work.

7.2 The Buyer shall be solely responsible and bear all risk in connection with the accuracy and completeness of all supplies, services, documentation, information and other work provided by the Buyer or its subcontractors, and KONGSBERG is not responsible to control or correct such work, and for any consequences that may occur as a result of default or errors therein.

7.3 If the Buyer fails to meet his obligations (preparation for delivery, payment, etc.) or the Buyer otherwise delays delivery by request for variations, etc., then KONGSBERG is entitled to adjust the Time for Performance and Contract Price resulting here from.

7.4 The Buyer shall compensate KONGSBERG for (i) costs and extra work resulting from the delay, (ii) additional costs for storage, (iii) additional costs for travel, board and lodging for KONGSBERG's personnel, (iv) additional financing costs and costs of insurance, and (v) other documented costs incurred by KONGSBERG as a result of the Buyer's default.

8 WORKING CONDITIONS

8.1 If KONGSBERG's personnel are required to visit the Site, then the Buyer shall ensure that appropriate standards of health and safety and for working conditions are followed at the Site.

8.2 The Buyer shall properly inform KONGSBERG of all relevant safety regulations in force at the Site; and ensure compliance with all applicable health and safety laws and regulations. KONGSBERG's personnel shall be entitled to refuse to perform the Work if the working conditions at the Site are deemed unsafe or dangerous according to standard industry practice in Western Europe. KONGSBERG will not be liable for any damages caused by the performance of the Services unless caused by gross negligence or wilful misconduct.

8.3 The Buyer shall ensure that KONGSBERG's personnel shall be able to obtain suitable and convenient board and lodging.

9 WARRANTY

9.1 The Buyer shall have an obligation to carry out proper examination of the Work upon receipt, and shall without undue delay notify KONGSBERG in writing of any non-compliance discovered. KONGSBERG shall have no responsibility for non-compliances which should have been notified to KONGSBERG as a result of the Buyer's examination.

9.2 Pursuant to this Clause 9, KONGSBERG shall remedy defects in the Work resulting from faulty materials or workmanship. KONGSBERG's warranty is limited to defects that appear within a period of twelve (12) months from delivery of supplies and twelve (12) months from performance of services.

9.3 Warranty work shall be performed according to the following allocation of costs and expenses related to the warranty work:

- Warranty work (time spent) including replacement or remedy of defective supplies, or re-performance of defective services, in whole or in part, shall be at the account of KONGSBERG.

- Travel, board and lodging, waiting time caused by the Buyer, together with other costs and expenses, shall be at the account of the Buyer.

9.4 When a defect in a part of the Work has been remedied, KONGSBERG shall be liable for

defects in the repaired or replaced part under the same warranty terms and conditions for a period of twelve (12) months, however, KONGSBERG shall have no further liability for repaired or replaced parts hereunder whatsoever after eighteen (18) months from the initial delivery or performance.

9.5 The Buyer shall notify KONGSBERG in writing of any defect including a detailed description thereof without undue delay after its appearance and under no circumstances later than two (2) weeks. If the Buyer fails to notify KONGSBERG accordingly, KONGSBERG shall have no responsibility to remedy the defect and shall have no liability to the Buyer in relation to such defect.

9.6 With regard to the circumstances, KONGSBERG decides at its sole discretion, in consultation with the Buyer, how and where to remedy a warranty defect. If KONGSBERG decides that the defective parts thereof shall be returned to KONGSBERG, or other venue, then transportation from the Buyer shall be for the Buyer's cost and risk, and the return transportation to the Buyer shall be for KONGSBERG's cost and risk (the Buyer shall always provide necessary transportation to and from offshore installations, ref. Clause 7.1), in each case according to the trade term Delivered Duty Unpaid (DDU) (named place of destination of recipient) INCOTERMS 2000.

9.7 To the extent necessary to remedy the defect, the Buyer shall at its own expense arrange for dismantling and reassembly of equipment other than the Work. Defective parts that have been replaced shall be returned to KONGSBERG at Buyer's cost and shall become the property of KONGSBERG.

9.8 If the Buyer has notified KONGSBERG of a defect, and no defect is found for which KONGSBERG is liable, KONGSBERG shall be entitled to compensation for the costs it incurs and time spent as a result of the notice.

9.9 If KONGSBERG does not initiate and diligently pursue its obligations under this Clause 9 within a reasonable time, the Buyer may, by notice in writing, specify a final time for performance of such obligations. The notice shall be given at least four (4) weeks before such final time.

9.10 KONGSBERG SHALL HAVE NO LIABILITY FOR DEFECTS CAUSED BY DESIGN, MATERIAL OR PROCESSES PRESCRIBED BY THE BUYER, AND THE WARRANTY DOES NOT COVER DEFECTS CAUSED BY MISUSE, NORMAL WEAR AND TEAR, INCLUDING WITHOUT LIMITATION, CONSUMABLES OR SERVICES AND SUPPLIES WITH A REGULAR OPERATING LIFE TIME NOT EXCEEDING THE WARRANTY PERIOD, IMPROPER OR UNEXPECTED STORAGE OR WORKING CONDITIONS, IMPROPER MAINTENANCE OR REPAIR BY THE BUYER OR THIRD PARTIES, OR ALTERATIONS CARRIED OUT ON THE WORK WITHOUT KONGSBERG'S PRIOR APPROVAL IN WRITING. . KONGSBERG IS UNDER NO CIRCUMSTANCES LIABLE FOR COST RELATING TO ANY OF THE FOLLOWING: TRANSPORTATION TO AND FROM ANY VESSEL OR OFFSHORE

LOCATION, BOARD AND LODGING OFFSHORE, LIFT OPERATION OFFSHORE, WORK BELOW THE WATER LINE, OR DOCKING OF A VESSEL.

9.11 EXCEPT AS SPECIFICALLY STATED OTHERWISE IN THIS CLAUSE 9, KONGSBERG SHALL NOT BE LIABLE FOR AND HEREBY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF FITNESS FOR PURPOSE AND MERCHANTABILITY.

10 INDEMNITY

10.1 KONGSBERG SHALL INDEMNIFY AND HOLD HARMLESS THE BUYER, HIS AFFILIATED ENTITIES, CUSTOMERS, SUBCONTRACTORS, AND THEIR RESPECTIVE AGENTS AND EMPLOYEES (THE "BUYER GROUP") FROM AND AGAINST ALL CLAIMS, DAMAGES, LOSSES AND EXPENSES IN RESPECT OF (I) BODILY INJURY, SICKNESS, DISEASES OR DEATH OF ANY EMPLOYEE OF KONGSBERG GROUP, (II) LOSS OF OR DAMAGE TO THE PROPERTY OF KONGSBERG GROUP, EXCEPT FOR THE WORK, AND (III) BODILY INJURY, SICKNESS, DISEASES OR DEATH AND LOSS OF OR DAMAGE TO THE PROPERTY OF ANY THIRD PARTY CAUSED BY THE NEGLIGENCE OF KONGSBERG GROUP; ARISING FROM OR RELATED TO THE PERFORMANCE OF THE CONTRACT.

10.2 THE BUYER SHALL INDEMNIFY AND HOLD HARMLESS KONGSBERG, HIS AFFILIATED ENTITIES, KONGSBERG'S SUBCONTRACTORS, THEIR RESPECTIVE AGENTS AND EMPLOYEES (THE "KONGSBERG GROUP") FROM AND AGAINST ALL CLAIMS, DAMAGES, LOSSES AND EXPENSES IN RESPECT OF (I) BODILY INJURY, SICKNESS, DISEASES OR DEATH OF ANY EMPLOYEE OF THE BUYER GROUP, (II) LOSS OF OR DAMAGE TO THE PROPERTY OF THE BUYER GROUP, AND (III) BODILY INJURY, SICKNESS, DISEASES OR DEATH AND LOSS OF OR DAMAGE TO THE PROPERTY OF ANY THIRD PARTY CAUSED BY THE NEGLIGENCE OF THE BUYER GROUP; ARISING FROM OR RELATED TO THE PERFORMANCE OF THE CONTRACT.

10.3 AFTER DELIVERY, THE BUYER SHALL INDEMNIFY AND HOLD HARMLESS KONGSBERG GROUP, FROM AND AGAINST ALL CLAIMS, DAMAGES, LOSSES AND EXPENSES IN RESPECT OF (I) BODILY INJURY, SICKNESS, DISEASES OR DEATH OF ANY EMPLOYEE OF THE BUYER GROUP, (II) LOSS OF OR DAMAGE TO THE PROPERTY OF THE BUYER GROUP, AND (III) BODILY INJURY, SICKNESS, DISEASES OR DEATH AND LOSS OF OR DAMAGE TO THE PROPERTY OF ANY THIRD PARTY; ARISING OUT OF, IN CONNECTION WITH OR CAUSED BY THE WORK AND THE USE THEREOF UNLESS SUCH DAMAGE OR LOSS IS RESULTING FROM KONGSBERG GROUP'S WILFUL OR GROSS NEGLIGENT PERFORMANCE OF THE WORK.

11 LIMITATION OF LIABILITY

11.1 EXCEPT AS SET OUT IN CLAUSES 10.1 AND 10.2, BUYER SHALL SAVE, INDEMNIFY, DEFEND AND HOLD HARMLESS KONGSBERG GROUP FROM BUYER GROUPS OWN CONSEQUENTIAL LOSSES AND KONGSBERG SHALL SAVE, INDEMNIFY, DEFEND AND HOLD HARMLESS BUYER GROUP FROM KONGSBERG GROUPS OWN

CONSEQUENTIAL LOSSES. THIS APPLIES REGARDLESS OF ANY LIABILITY, WHETHER STRICT OR BY NEGLIGENCE, ON THE PART OF EITHER GROUP AND REGARDLESS OF ANY OTHER PROVISIONS OF THE CONTRACT. CONSEQUENTIAL LOSSES ACCORDING TO THIS CLAUSE INCLUDES, BUT ARE NOT LIMITED TO INDIRECT OR CONSEQUENTIAL LOSSES ACCORDING TO THE APPLICABLE BACKGROUND LAW, AS WELL AS ANY LOSS OF EARNINGS, LOSS OF PROFIT, LOSS OF USE, LOSS DUE TO POLLUTION, LOSS OF PRODUCTION AND LOSS OF DATA, WHETHER THEY BE DIRECT OR INDIRECT, AND WHETHER OR NOT FORESEEABLE AT THE TIME THE CONTRACT WAS ENTERED INTO.

11.2 EXCEPT AS SET OUT IN CLAUSE 10.1, THE TOTAL AGGREGATE LIABILITY OF KONGSBERG ON ANY CLAIM, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE OR FOR ANY ONE ACT, OMISSION, DEFECT, DEFAULT OR DELAY ARISING FROM OR RELATED TO THE CONTRACT SHALL NOT EXCEED THE CONTRACT PRICE.

11.3 THE BUYER AND KONGSBERG ACKNOWLEDGE THAT THEIR RESPECTIVE RIGHTS, OBLIGATIONS AND LIABILITIES AS PROVIDED FOR IN THE CONTRACT SHALL BE EXCLUSIVELY SPECIFIED HEREIN AND THUS EXHAUSTIVE OF THE REMEDIES, RIGHTS, OBLIGATIONS AND LIABILITIES THAT MAY ARISE IN RESPECT OR IN CONSEQUENCE OF A BREACH OF CONTRACT OR OF STATUTORY DUTY OR A TORTIOUS OR NEGLIGENT ACT OR OMISSION AT STATUTORY AND/OR COMMON LAW OR EQUITY.

12 INTELLECTUAL PROPERTY

12.1 The Work constitutes and contains highly valuable IP and IPR owned by KONGSBERG.

12.2 The Buyer acknowledges that KONGSBERG's IP and IPR, including any and all enhancements, modifications, improvements and changes, whether based upon Buyer's special requirements, inputs or otherwise, made hereto or to the Work by KONGSBERG prior to or after the date of the Contract, are and shall be the sole and exclusive intellectual property of KONGSBERG.

13 CONFIDENTIALITY

13.1 The Buyer shall observe confidentiality with respect to the Work and its performance and design data.

13.2 The Buyer shall treat as confidential and shall not disclose Proprietary Information received from KONGSBERG to any third party, and shall restrict access to such Proprietary Information to such of its employees who have a need to know the same to carry out work in support of the Contract. The Buyer shall not use such Proprietary Information for any other purpose than the regular or defined use of the Work.

14 FORCE MAJEURE

14.1 Either party shall be entitled to suspend performance of its obligations under the Contract for reasons of Force Majeure, which shall mean an

event beyond the reasonable control of the party affected, impeding performance or making performance unreasonably onerous, such as (but not limited to) local and general industrial dispute, fire, war (whether declared or not), armed conflict, terrorist activity, extensive military mobilization, insurrection, requisition, seizure, embargo, governmental action, export and import restrictions, restrictions in the use of power and delays or defects in deliveries by subcontractors caused by such circumstances referred to in this provision.

15 TERMINATION

15.1 Each party may terminate the Contract by thirty (30) days prior notice in writing in case the other party:

15.2 fails to carry out any of its obligations under the Contract, and fails to make good the failure within a final reasonable period after notice In Writing, which shall not be less than thirty (30) days, or

15.3 becomes the subject of bankruptcy, insolvency, liquidation, winding-up, receivership or analogous events.

15.4 KONGSBERG shall be entitled to full payment for the part of the Work performed to or for the Buyer prior to the notice of termination.

16 DISPUTES AND GOVERNING LAW

16.1 The Contract shall be governed and interpreted in accordance with the laws of Norway.

16.2 Any dispute relating to the Contract shall be sought resolved amicably through negotiations between high-level executives of the parties. If such negotiations are not successful after a period of sixty (60) days from a claim in writing for such negotiations from either party, either party has the right to bring the dispute to final settlement through arbitration pursuant to the applicable Arbitration Act of Norway. The arbitration shall be conducted using one arbitrator if the Contract value is less than one million EURO, and otherwise three arbitrators. The arbitration shall be conducted in the English language in Oslo, Norway.

16.3 The above notwithstanding, either party shall be entitled to seek an injunction in any relevant jurisdiction.

17 SEVERABILITY

17.1 The parties agree that should any provision of the contract violate any applicable mandatory laws and regulations, such provision shall be deemed severable and modified to the extent necessary for the provision to comply with such applicable mandatory laws and regulations. The modification shall be made so that the revised provision to the greatest extent possible reflects the original intent of the parties. Such modification shall not affect the validity and enforceability of the contract itself and the remaining provisions of the contract.

18 ENTIRE AGREEMENT

18.1 The Contract constitutes the entire agreement between the parties for the Work and supersedes and replaces any prior written or oral agreement, understanding or the like. Modifications, amendments or extensions to the Contract shall only be valid if made in writing and signed by duly authorized representatives of both parties.
