

FMS

FIRST MARINE SOLUTIONS

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TERMS & CONDITIONS

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1. GENERAL TERMS & CONDITIONS

1. These General Terms and Conditions for the Performance of Services, Rental of Equipment and Sale of Goods together with the applicable Particular Terms and Conditions and any special terms and conditions referenced in the quotation shall apply to all Services (as hereinafter defined) performed or Rental Equipment (as hereinafter defined) provided or Goods (as hereinafter defined) sold by First Marine Solutions Limited or the affiliated company specified in the quotation ("First Marine Solutions") and accepted by the person firm or company ("Company") identified in First Marine Solutions quotation to the Company.
2. These Terms and Conditions shall continue for the period necessary to ensure completion of the Services to be performed by First Marine Solutions, or for the period of rental specified by the Company, or until delivery of the Goods sold by First Marine Solutions to the Company.
3. Company shall, in consideration of the performance of the Services, or provision of Rental Equipment or sale of Goods by First Marine Solutions in accordance with First Marine Solutions quotation, pay to First Marine Solutions the prices set out there in within 30 days of the date of receipt of First Marine Solutions invoice unless an alternative payment structure has been agreed.
4. In the event of late payment Company shall pay interest on overdue amounts at the Bank of England Base Rate plus eight percent from the date on which payment became due.
5. Notwithstanding the foregoing, First Marine Solutions reserves the right to require the Company to provide an irrevocable Letter of Credit with an international bank in terms acceptable to First Marine Solutions or an advance payment deposited into a First Marine Solutions nominated account for the estimated final value of the goods/services.
6. Each party shall be responsible for and shall release, defend, indemnify and hold harmless the other party including, as may be applicable, the other party's client, contractors, subcontractors, vendors, sub-vendors and the officers, directors, employees, servants and agents of any of the foregoing (hereinafter referred to as "Group") from and against any and all claims, liabilities, costs (including legal costs), damages and expenses of every kind and nature howsoever arising in respect of (i) personal injury to or sickness, illness, disease or death of any employee of the indemnifying party and its respective Group; and, (ii) loss of or damage to any property procured, owned, hired or leased by the indemnifying party and its respective Group; and (iii) indirect or consequential losses including but not limited to business interruption, loss of facility, loss of production, loss of product, loss of use, loss of revenue, loss of profit or anticipated profit, as a result of or arising out of or relating to or in connection with the performance of Services, Equipment Rental, or sale of Goods hereunder, irrespective of cause and irrespective of the sole or contributory negligence or breach of duty (contractual, statutory or otherwise) or any liability in tort, contract, statute or otherwise at law, of the indemnified party or its respective Group.
7. The Company shall release, defend, indemnify and hold harmless First Marine Solutions and associated companies from and against any and all claims, liabilities, costs (including legal costs), damages and expenses of every kind and nature howsoever arising in respect of (i) loss of or damage to the Company's, or Company's client's, well (including casing and associated materials and services), any subsurface reservoir, geological formation or strata and for loss of any oil or gas or other minerals or liquids there from; and, (ii) blow-out, fire, explosion and/or killing or control of any well which shall have become out of control for any reason, including but not limited to debris removal; and, (iii) pollution or seepage emanating from the reservoir or from the property of the Company Group and its removal and clean up as a result of or arising out of or relating to or in connection with the performance of Services, Equipment Rental or

sale of Goods hereunder, irrespective of cause and irrespective of the sole or contributory negligence or breach of duty (contractual, statutory or otherwise) or any liability in tort.

8. Each party shall be responsible for and shall release, defend, indemnify and hold harmless the other party and its Group from and against all claims, proceedings, damages, expenses, liabilities and losses, including (without limitation) costs and legal fees arising out of or in connection with (a) personal injuries to, including death of, and (b) loss or damage suffered by any third party, not being a member of either the Company Group or First Marine Solutions and associated companies, including damage to property arising out of or in connection with the performance of Services, Equipment Rental or sale of Goods hereunder, to the extent that such injury or death, loss or damage was attributable to the negligence of a Party or to its Group.
9. Except as otherwise provided herein or in the quotation, First Marine Solutions warranty against manufacturing defects in the permanently installed products or Goods that become the property of the Company is for a period of 12 months calculated from the date of installation by First Marine Solutions of such products or 12 months from the date of delivery of the Goods to the Company. The warranty given by First Marine Solutions herein does not apply to:
 - a. used products or products that have been repaired or worked over;
 - b. products that have been modified or subjected to improper handling, storage, installation, operation or maintenance by Company, including use of unauthorized replacement parts;
 - c. component parts not manufactured by First Marine Solutions, whether procured by Company or supplied by First Marine Solutions, such parts being subject to any applicable manufacturer's warranty;
 - d. parts requiring replacement because of natural wear and tear; or
 - e. the design on those jobs where First Marine Solutions prepared drawings or lists from designs furnished by others.

First Marine Solutions liability for breach of this warranty is expressly limited to the repair or replacement, at its sole option, of any equipment or parts of equipment that prove to be defective during the warranty period. This limited express warranty, and the stated remedies for breach thereof, shall be in lieu of any and all other warranties, express or implied, including without limitation, warranties for merchantability or fitness for any particular purpose. Except as otherwise specifically agreed in writing by First Marine Solutions this warranty is not transferable to any person, firm or company to whom the Company may subsequently sell the permanently installed products. Except as provided above, First Marine Solutions warranty in respect of the provision of Services (including the installation of permanently installed products) is limited to a period of thirty days calculated from the date of completion of the Services.

10. In the event that First Marine Solutions is required to repair or replace defective permanently installed products or Goods or re-perform the Services Company shall continue to provide, at no cost to First Marine Solutions, those materials, personnel, equipment and services normally provided by the Company in connection with the performance of the Services.
11. Except as provided herein, neither party shall be entitled to assign or sub-contract any part of any order issued hereunder without the prior written approval of the other party. First Marine Solutions may sub-contract the procurement and fabrication of component parts of the permanently installed products or the Goods from recognised sources of supply.
12. Except as otherwise provided herein, each party shall, in respect of any taxes of any nature whatsoever incurred, due or owing by such party in the country of operations, indemnify and hold harmless the other party from and against any claims, penalties, expenses, liabilities, costs (including legal costs) arising out of or in connection with the performance of the Services, the provision of Rental Equipment or sale of Goods hereunder.

13. First Marine Solutions hereby indemnifies the Company from and against any and all liability for infringement of the intellectual property rights of any third party associated with the provision of permanently installed products to the Company except to the extent that such products have been modified at Company's request or manufactured to Company's specification. Nothing herein contained shall entitle the Company, or any end user, to assert any claim of any nature whatsoever in respect of the patent rights, copy right, trademarks, intellectual or other property rights in respect of the permanently installed products, Rental Equipment or Goods designed or provided by First Marine Solutions.
14. These Terms and conditions for the performance of Services, provision of Rental Equipment or sale of Goods shall take precedence over and shall exclude any terms and conditions provided by the Company, or implied by trade, custom or practice in the country of operations.
15. In the event any act required under these Terms and Conditions is inconsistent with, penalised by or prohibited under the Laws of England or any country having jurisdiction over the performance of the Services, the provision of Rental Equipment or sale of Goods and/or either of the parties hereto, the party obligated hereunder to perform such act shall be excused from such performance and these Terms and Conditions construed as if such obligation had not been set forth herein.
16. Any provision of these Terms and Conditions that is now or hereafter prohibited, illegal or unenforceable in any applicable jurisdiction shall be ineffective to the extent of such prohibition, illegality or unenforceability without invalidating the remaining provisions hereof.
17. These Terms and Conditions, together with any quotation and acceptance thereof shall be governed, construed and interpreted, and shall take effect in accordance with English Law. Any unresolved dispute shall be submitted to the exclusive jurisdiction of the English Courts.
18. Acceptance of orders against quotations or proposals is deemed accepted in its entirety by Company based upon First Marine Solutions receiving either; a) signed and dated copy of the proposal, or b) Company Purchase Order, or c) upon First Marine Solutions receiving written confirmation to perform the service under a call-off order or related document from Company, or d) First Marine Solutions providing the quoted services or goods to Company.
19. Cancellation of orders by Company after acceptance of the order will only be accepted if confirmed in writing. Cancellation charges in such cases will be based on the cost accrued to First Marine Solutions at the time of cancellation plus 15%.
20. All prices quoted are net prices in stated currency, except any tax, with-holding tax, VAT, levy, duty of whatsoever nature.
21. All proposals are valid for thirty (30) days from date of quotation unless otherwise stipulated.

2. PARTICULAR TERMS & CONDITIONS FOR THE PROVISION OF SERVICES

1. "Services" shall mean the materials, equipment, or permanently installed products and personnel to be provided by First Marine Solutions as specified in First Marine Solutions quotation.
2. The date of and designated point for delivery of the materials, equipment or permanently installed products shall be as specified in First Marine Solutions quotation or, if not specified in the quotation, shall be at First Marine Solutions base in the country of operations. The Company will be responsible for the carriage and full insurance costs associated with the delivery and return of all materials, equipment and permanently installed products supplied by First Marine Solutions, based on Ex Works – Incoterms 2012 for deliveries and DDP – Incoterms 2012 for returns, unless agreed otherwise. Carriage and handling arranged by First Marine Solutions arranged on behalf of company shall be billed at cost +10%. Import duties and other taxes in the country of delivery or operations shall be borne by the Company.
3. Company shall provide and shall be responsible for the collection and delivery of the materials, equipment, or permanently installed products to and from First Marine Solutions operational base, unless otherwise specified in the quotation. At the request of the Company, First Marine Solutions will, subject to reimbursement of costs incurred, organize delivery to and/or collection of the materials, equipment and permanently installed products to/from the Company's designated base.
4. Permanently installed products shall be adequately packed, palletised and protected to withstand transit and short-term storage in the manner specified in the quotation. Packages shall be clearly marked with First Marine Solutions quotation number and a packing note shall be enclosed in the package. Where permanently installed products are delivered Ex-Works packaging and transport shall be for the account of and/or organised by the Company.
5. Title to the permanently installed products shall remain with First Marine Solutions and shall only pass to the Company following payment of the purchase price. Risk in the permanently installed products shall pass to the Company on delivery of such products at the delivery point specified in First Marine Solutions quotation.
6. All materials and equipment provided by First Marine Solutions other than permanently installed products, at all times, remain the property of First Marine Solutions. First Marine Solutions shall ensure that all equipment is fully certified and will meet all relevant governmental standards and will not have any known damage or defect. Company shall indemnify and hold First Marine Solutions harmless from and shall keep First Marine Solutions materials and equipment free and clear of all liens, claims, assessments, fines and levies incurred, created, caused or committed by the Company Group.
7. Materials and equipment belonging to First Marine Solutions and used in the performance of the Services shall be adequately packed in baskets or containers, or shall be palletised and protected to withstand transit and short-term storage in the manner specified in the quotation. First Marine Solutions shall ensure that applicable certification accompanies all baskets, containers or slings.
8. The costs of post rental inspection repair and/or redress of equipment shall be borne by the Company unless otherwise specified in the quotation. The extent and costs of post rental repair and/or redress shall be subject to approval of the Company, which approval shall not be unreasonably withheld.

9. In the event that First Marine Solutions equipment is lost or damaged beyond repair whilst in hole and/or in the care, custody or control of the Company Group then the Company shall reimburse the replacement costs new of such equipment. Where a "lost-in-hole" charge is specified in the quotation such charge shall be paid in full. Company shall insure, or shall self-insure, First Marine Solutions equipment whilst in the care, custody or control of the Company Group.
10. First Marine Solutions shall provide all personnel and supervision necessary to perform the Services detailed in First Marine Solutions quotation. First Marine Solutions personnel shall be appropriately skilled and qualified for the work that such personnel will perform and will have been medically examined and pronounced fit for working offshore/onshore and shall have required offshore survival and firefighting certificates. Client will be liable for FMS's increased costs, losses and expenses resulting from delay in carrying out Services and the performance of its other obligations where delay is caused by any of the following:
 - a. Inability to access to client site/location;
 - b. any negligent act or omission of Client or Client Group, to the extent that such act or omission is directly attributable to the increased costs, losses or expenses incurred by FMS as a result of the delay;
 - c. A client variation Order/Request;
 - d. A suspension and/or delay due to weather or 3rd party supplied transport;
 - e. A Force Majeure Event
11. Payment for rental of equipment utilised by First Marine Solutions in the performance of the Services shall be calculated from the time and date that such equipment leaves First Marine Solutions base in the country of operations or such other location until return thereto. Payment for personnel shall be calculated from the time and date that such personnel depart their normal work location whether in the country of operations or elsewhere until return of such personnel to their point of departure. Rates for rental of equipment are based on a 24-hour day. Rates for personnel assume a 12-hour working shift at the rig location and 7.5 hour day at main Aberdeen office location for Aberdeen based personnel – Personnel travel days will be charged at full offshore rate. Personnel required at 'offsite' locations for meetings, preparation, or courses will be charged at typical offshore rate.
12. Company shall, if applicable, be responsible for obtaining all necessary customs clearances and any other permits required in respect of the importation/exportation of the permanently installed products and/or First Marine Solutions equipment into and from the country of operations.
13. All third party services out with normal agreed contract rates will be subject to 10% administration charge.

3. PARTICULAR TERMS & CONDITIONS FOR RENTAL OF EQUIPMENT

1. "Rental Equipment" shall mean all equipment to be hired by Company from First Marine Solutions as specified in First Marine Solutions quotation.
2. The hire of Rental Equipment shall, except as hereinafter provided, continue for the period from delivery to the Company until return of the Rental Equipment to First Marine Solutions operational base from which the Rental Equipment was originally delivered, unless an alternative location for delivery and return of Rental Equipment is specified in the quotation. Client will be liable for FMS's increased costs, losses and expenses resulting from delay in carrying out Services and the performance of its other obligations where delay is caused by any of the following:
 - a. Inability to access to client site/location;
 - b. any negligent act or omission of Client or Client Group, to the extent that such act or omission is directly attributable to the increased costs, losses or expenses incurred by FMS as a result of the delay;
 - c. A client variation Order/Request;
 - d. A suspension and/or delay due to weather or 3rd party supplied transport;
 - e. A Force Majeure Event
3. Company shall provide and shall be responsible for the collection and delivery of the Rental Equipment to and from First Marine Solutions operational base, unless otherwise specified in the quotation. At the request of the Company First Marine Solutions will, subject to reimbursement of costs incurred, organize delivery and/or collection of the Rental Equipment to/from the Company's designated base.
4. All Rental Equipment provided by First Marine Solutions will, at all times, remain the property of First Marine Solutions. First Marine Solutions shall ensure that all Rental Equipment is fully certified and will meet all relevant regulatory oilfield standards and will not suffer any known damage or defect. Company shall indemnify and hold First Marine Solutions harmless from and shall keep First Marine Solutions Rental Equipment free and clear of all liens, claims, assessments, fines and levies incurred, created, caused or committed by the Company Group.
5. Rental Equipment shall be adequately packed or shall be palletised and protected to withstand transit and short-term storage in the manner specified in the quotation. First Marine Solutions shall ensure that applicable certification accompanies all baskets, containers or slings.
6. Company shall use the Rental Equipment in accordance with instructions provided by First Marine Solutions or in accordance with normal industry practice and OEM guidelines and shall carry out routine maintenance on such Rental Equipment during the period of hire in accordance with instructions given by First Marine Solutions.
7. In the event of breakdown of the Rental Equipment, the Company shall return the Rental Equipment to First Marine Solutions and First Marine Solutions shall, at the Company's request, endeavour to provide substitute Rental Equipment. The rental charges shall be suspended from the time and date of failure of the Rental Equipment until such time as the Rental Equipment is repaired or replaced. All costs of repair of Rental Equipment, unless due to the default or acts or omissions of First Marine Solutions shall be borne by the Company.
8. The costs of post rental inspection repair and/or redress of the Rental Equipment shall be borne by the Company unless otherwise specified in the quotation. The extent and costs of post rental repair and/or redress shall be subject to approval of the Company.

- 9. In the event that the Rental Equipment is lost or damaged beyond repair whilst in the care, custody or control of the Company then the Company shall reimburse the replacement costs new of such Rental Equipment. Where a "lost-in-hole" charge is specified in the quotation such charge shall be paid in full. Company shall insure, or shall self-insure, the Rental Equipment whilst in the care, custody or control of the Company.
- 10. Company may, without any liability for payment of early termination charges to First Marine Solutions, terminate the hire of any item of Rental Equipment for any reason by giving written notice of termination to First Marine Solutions. Such termination shall be effective at the time and date the Rental Equipment is returned to First Marine Solutions base.
- 11. Pre-hire surveys of the Rental Equipment will be undertaken by independent inspection authorities at the Company's request and cost and the Company must immediately intimate to First Marine Solutions in writing any faults or defects in the Rental Equipment revealed thereby. If such surveys are not requested the Rental Equipment shall be deemed to be in good order and condition and to the Company's satisfaction on delivery. But it is expressly stated that First Marine Solutions gives no warranty as to the condition of the Rental Equipment any part thereof.

I agree to the terms and conditions set out in this document

Print Name:

Job Title:

Signature:

Date:

