

PROTEA LTD – TERMS OF RENTAL

1. Period of Rental

1.1

The Rental Period commences upon the day the Equipment is despatched by the Company or collected by or on behalf of the Customer from the Company's premises or such other premises as specified by the Company and shall continue until the Equipment is returned thereto between the hours of 8.30a.m and 5.00p.m Mondays to Fridays and a receipt is issued by the Company or is collected by the Company; the foregoing shall apply even if the Company has agreed to cease Rental Charges.

1.2

Where the Equipment is lost during the Rental Period or is returned or collected other than in good repair and full working order and/or is damaged the period of rental shall continue for such period as is necessary in the circumstances for the Equipment to be repaired, restored to full working order or replaced (as considered necessary by the Company, acting reasonably) or the Replacement Value is received by the Company whichever is the earlier.

1.3

If the Customer is an individual within the meaning of the Consumer Credit Act 1974 the maximum Rental Period shall not exceed three months.

2. Rental and other Charges

2.1

Rental Charges will be calculated weekly with part weeks being charged as full weeks.

2.2

Rental Charges relate solely to the rental of the Equipment and additional charges will be paid by the Customer for installation and transportation of the Equipment where this is undertaken by or on behalf of the Company. Where applicable, these additional charges are detailed in the Quotation.

2.3

Where the Equipment is returned or collected and is found not to be in the same condition (fair wear and tear being excluded) that it was at the time of delivery then the Customer shall be responsible for the costs of the Company returning the Equipment to its condition at the time of delivery, including any necessary cleaning, disinfecting and like charges, plus an administration charge of fifteen per cent (15%) of such costs. Where the Equipment is incapable of being restored to its previous condition, the Customer shall be responsible for, and shall pay on demand, the full list price of the Equipment (on a full indemnity basis).

2.4

Where the Equipment is lost during the Rental Period the Customer shall pay to the Company on demand the full list price of the Equipment (on a full indemnity basis).

2.5

Where applicable the Customer shall be responsible for payment of the Engineer charges specified in clause 8.

2.6

Except where otherwise provided for in the Contract, the Customer agrees to pay all costs (including export and import costs), taxes (including withholding tax), levies, and duties assessed by any foreign government or body against the Equipment and associated apparatus in connection with temporary importation and/or exportation of the same and the Customer shall indemnify the Company from and against any such costs, taxes, levies and duties.

2.7

Except where otherwise provided for in the Contract, the Customer agrees to pay all costs, taxes, levies, or duties assessed by any foreign government in respect of the salary and other payments made by the Company to any Engineer and the Customer shall indemnify the Company from and against any such costs, taxes, levies, or duties.

2.8

The Customer shall obtain and pay for all and any permits, licences and other consents and permissions required to enable the Equipment and the Engineer to perform the work required by the Customer and shall indemnify the Company and the Engineer from and against any claims, losses or damages (including, without limitation, all mobilisation and other Company costs) suffered by them arising from a failure to obtain the same.

2.9

Mobilisation and demobilisation expenses including Engineer's air fares and other travel costs, subsistence and hotel charges, freight charges and all other reasonable expenses associated with the mobilisation and demobilisation of the Company's personnel and Equipment will be recharged to the Customer at cost.

2.10

The Customer agrees to pay all charges arising under clauses 8.5 and 8.6 of Part A.

3. Payment Terms – Rental

3.1

Subject to the provisions of General Terms and Conditions, invoices for Rental and other charges will be issued at the end of each calendar month and/or at the expiration of the Rental Period.

4. Warranties and Limitations of Liability

4.1

The Company warrants that at the time the Equipment is collected or delivered it will substantially perform the functions specified in the manufacturer's specification. Any description, illustration, specification, drawing and material contained in any catalogue, price list, brochures, leaflets and other descriptive matters of the Company represent the general nature of the Equipment described therein but do not form part of this Contract.

4.3

The Company warrants it has the right to rent the Equipment to the Customer.

4.4

The warranties stated above are the only warranties made by the Company in respect of the Hire of the Equipment. All other representations, warranties, conditions or terms relating to fitness for purposes, merchantability or condition of the Equipment and whether implied by statute or common law or otherwise are expressly excluded.

4.5

The Company shall not in any circumstances be under liability for any loss of use, loss of profit or loss any contract or for any indirect or consequential loss or damage howsoever caused. Except in respect of death or personal injury resulting from the Company's negligence the Company's liability in respect of all causes of action arising in contract, tort or otherwise shall not exceed the retail value of the Equipment

5. Title

5.1

Nothing in the Contract shall convey to the Customer any title to or any right in the Equipment including but not limited to all proprietary rights or ownership of any modifications. The Customer's sole right in relation to the Equipment or any modifications is to possess and use the same in accordance with the terms and conditions herein contained.

5.2

Upon the termination of the Contract all rights in and to the Equipment shall automatically revert to the Company. The Company shall have the right to enter any premises (including any vessel whether at sea or at port) to take immediate possession of the Equipment without further notice or demand.

6. Obligations of the Customer

Without prejudice to the obligations expressed in other clauses of these terms and conditions, during the continuance of the Contract the Customer shall:

6.1

arrange and maintain at its expense all prudent insurance cover, including but not limited to third party liability and cover against loss or damage to the Equipment for its full Replacement Value and:

(a)

such insurance shall commence from the time and date of delivery for the period of hire up to and including the date when the Equipment is delivered back to and received by the Company and acknowledged by it in writing;

(b)

the Customer shall produce on demand to the Company a copy of the policy or policies;

(c)

the Customer shall hold on trust for the Company all policy proceeds in or towards satisfaction of the Customer's obligations hereunder;

6.2

give the Company immediate written notice of any loss, damage or claim relating to the Equipment and shall on demand reimburse the Company in respect thereof

6.3

ensure that the Equipment is located at the delivery address (or vessel) stated in the Contract or such other address as may be expressly agreed between the parties in writing;

6.4

maintain effective control of the Equipment and maintain the Equipment in a secure location when not in use;

6.5

ensure that the Equipment will only be operated in a proper manner by persons competent to operate said Equipment in accordance with the manufacturer's recommendations and where appropriate with valid calibration and/or certification for the duration of the Rental Period;

6.6

at the Customers expense arrange that the Equipment is kept in good repair and condition, undertake routine maintenance and maintain and effect all necessary repairs in accordance with the manufacturer's specification including making good any loss or damage to the Equipment due to any occurrence whatsoever (fair wear and tear only excepted);

6.7

permit the Company, or an authorised representative of the Company, on reasonable notice to inspect and/or repair the Equipment;

6.8

preserve on the Equipment any of the Company's or any manufacturer's identification number or mark or any nameplate that is or should be upon the Equipment;

6.9

ensure that at the Customer's expense, the Equipment is kept safe and without risks to health;

6.10

ensure that its use of the said Equipment conforms with the terms and conditions laid down in the Health and Safety at Work Act 1974 and in particular, sections 2(2)(b) and (2)(c) thereof and to any other European, national and local Health and Safety Regulations which may be applicable until the Equipment is collected or returned;

6.11

obtain at the Customers expense all necessary licences, certificates, permits, authorisations required for the operation of, or in connection with, the Equipment and shall maintain the same in full force until the Equipment is collected or returned in accordance with clause 1.1;

- 6.12 punctually pay all duties concerning the Equipment;
- 6.13 not by any act or default render the Equipment liable to any distress, execution or other legal process;
- 6.14 immediately notify the Company by telephone and subsequently confirm in writing if the Equipment is involved in any accident resulting in injury to persons or damage to property. The Customer shall not admit liability or compromise any claim relating to the Equipment without the prior express consent of the Company in writing;
- 6.15 not do or fail to do, any act whereby the Equipment or its use would as a result contravene any statute, rule, regulation, or byelaw or any such licence, certificate, permit authorisation for the time being in force pertaining to the possession use, maintenance or safety of the Equipment;
- 6.16 not assign, sell, mortgage, pledge, let on hire or rental, part with possession, or otherwise deal with the Equipment or with any interest therein, or attempt to do any of the foregoing;
- 6.17 not assign the Contract without the express prior written consent of the Company;
- 6.18 not permit the Equipment to be used by any other party than the Customer and its employees without the express prior written consent of the Company;
- 6.19 indemnify the Company Group from and against all claims, losses, damages, costs (including legal costs), expenses and liabilities incurred in any way by reason of the Customer's breach of any of these terms and conditions including but not limited to all such costs, expenses and liabilities incurred in ascertaining the location of the Equipment and uplifting the Equipment therefrom;
- 6.20 procure that by the terms of any mortgage, charge or debenture of or in respect of its assets or any premises or vessel in which the Equipment may be installed or stored no rights whether present, future or contingent may be created or become exercisable in respect of the Equipment. The Customer acknowledges the right on the part of the Company to notify any mortgagee or chargee from time to time of the Equipment and of such of these terms and conditions as the Company shall consider appropriate;
- 6.21 pay all invoices in accordance with clause 3 and General Terms and Conditions of Sale;
- 6.22 upon expiry of the period of hire, return the Equipment in accordance with these terms and conditions.

7. Inspection

The Customer shall permit and grant an appointed representative of the Company the right and facilities to enter upon the delivery address or such other address at which the Equipment may be located (including but not limited to business premises and vessels) at all reasonable times in order to inspect, maintain, repair, test and, where the Customer's right to possession has terminated, recover, the Equipment.

8. Company Supplied Engineers

8.1

Where the Company supplies an Engineer, the Customer:

8.1.1

shall provide at its own cost all necessary power sources and other support equipment necessary to enable the Equipment to be operated in a safe and satisfactory manner;

8.1.2

acknowledges that the work intended to be carried out by the Customer shall remain the sole responsibility of the Customer;

8.1.3

shall provide at its own cost reasonable sleeping and living accommodation and food for the Engineer;

8.1.4

shall provide at its own cost:

(i)

an appropriate operating environment for the Equipment in accordance with the manufacturers recommendations and any applicable laws or regulations; and

(ii)

a safe operating environment to allow the Engineer to provide the services in accordance with any applicable laws or regulations.

8.2

The Company shall have the right at its sole discretion from time to time to substitute both the Equipment and/or the Engineer upon giving reasonable notice to the Customer and the Customer shall co-operate with and assist the Company in effecting such substitutions.

8.3

The Customer shall ensure that the Engineer will remain at the worksite for a period of time not longer than is considered to be appropriate in terms of best industry practice, applicable health and safety legislation and any applicable limits set by the Engineer of the worksite. The Customer shall pay for the cost of replacing the Engineer in accordance with these standards together with an administration charge of 15% of the costs of doing the same ("the Substitution Costs"). The Substitution Costs shall without limitation include airfares and other travel costs to and from the Company's offices together with subsistence and all other reasonable expenses. The Company will use reasonable endeavours to ensure that the Engineer (and any substitute Engineer(s)) is available to be replaced (or substituted) in line with the Customer's normal working patterns and personnel rotations.

8.4

The Company shall be responsible for the payment of the salaries and all UK social security and other payments and taxes in respect of the Engineer whilst engaged in work under the Contract.

8.5

In so far as practicable the Engineer will use reasonable endeavours to service and repair the Equipment at the worksite. However, both parties acknowledge that due to the complex technical nature of the Equipment and the fact that the Service Personnel may not have the competency to carry out repairs to the Equipment, it may not be practicable to repair the Equipment at the worksite. Any servicing or repair of the Equipment requiring return of any vessel to port or return of any Equipment to the Customer's premises or the Company's premises will be made known as soon as is reasonably practicable to the Customer's designated representative. The costs of returning the Equipment will be borne by the Customer who shall reimburse the Company on a full indemnity basis.

8.6

Where it is agreed between the parties that an engineer designated by the Company should visit the Customer's site to attempt to repair the Equipment, the Customer shall be responsible for, and as such shall reimburse the Company on a full indemnity basis for, payment of the engineer's charges together with all travel costs, subsistence and related expenses.

8.7

Transit time including without limitation any delays to and from port or to and from the Company's premises after discovery of a malfunction will be classed as Consequential Loss and not constitute cause for reduction in payments to the Company.

8.8

All work undertaken by the Engineer shall be under the direction of the Customer but the actual operation of the Equipment and the manner of performance of work in connection therewith shall be under the direction and control of the Company. The Company is an independent contractor and is not for the purposes of the Contract acting as an agent of the Customer. The Engineer will co-operate with the Customer's personnel with a view to operating the Equipment in accordance with their reasonable requirements. Employees of the Customer shall not be under the direction and control of the Company or its Engineers.

8.9

The Company and its Engineers may from time to time be involved in the operation of a vessel or equipment other than the Equipment. Where this is the case, Service Personnel will be under the supervision of the Customer and the Customer shall be responsible for and shall indemnify the Company Group from and against all claims, losses, damages, costs (including legal costs), expenses and liabilities in respect of (i) personal injury including death or disease of any member of the Customer Group and/or any third party or (ii) loss of or damage to the property of the Customer Group and/or any third party (whether owned, hired, leased or otherwise) which arises from, relates to or is in connection with the operation of any such vessel or equipment irrespective of cause and notwithstanding the negligence or breach of duty (whether statutory or otherwise) of the Company Group or any other entity or party and this indemnity shall apply irrespective of any claim in delict, under contract or otherwise at law.

8.10

Periods during which the Equipment is being repaired or maintained will not constitute cause for reduction in payments to the Company.

02/02/18