

# Terms and conditions for hire or sale of equipment

## 1. DEFINITIONS

In these terms and conditions the following words and expressions shall have the following meanings: -

- "the Company" means Seatronics Pte Limited a company registered in Singapore number 200003393W whose registered office is ; 4 Robinson Road, 05 - 01, Singapore, 048543
- "the Customer" means the customer of the Company who is hiring or purchasing the equipment pursuant to the Contract;
- "the Contract" means the Contract between the parties for the hire or sale of the Equipment, evidenced by a Quotation or an Order and acceptance by the Company as the case may be and including these terms and conditions;
- "the Equipment" means the equipment hired or sold by the Company to the Customer under the Contract;
- "Quotation" means a quotation of the Company; and
- "Order" means an order of the Customer.

## 2. GENERAL

- 2.1 The Company agrees to hire or sell the Equipment as the case may be in accordance with the Contract (which incorporates these terms and conditions).
- 2.2 All Quotations and the acceptance by the Company of any Order is on the understanding that the Customer accepts these terms and conditions. These terms and conditions shall form the basis of the Contract notwithstanding anything to the contrary in any other terms and conditions of, or referred to by, the Customer (unless expressly varied in writing by an authorised representative of the Company). A list of authorised representatives will be supplied if required.
- 2.3 Subject to sub-clause 2.2 hereof no employee, agent or other representative of the Company shall be empowered to waive the rights of the Company hereunder or vary these terms and conditions orally or otherwise. Orders whether received as a result of a Quotation or otherwise are subject to acceptance by the Company in writing.

## 3. HIRE OF EQUIPMENT

- 3.1 The period of hire shall commence from the time and date when the Equipment is delivered in accordance with Clause 5 and shall terminate when the Equipment is returned to the Company's premises.

### 3.2 Hire Charges

Hire charges shall be at the rates shown in the Company's Equipment hire list for the time being applicable. The Company reserves the right to alter the hire charge for Equipment once it is on hire by written notice to the Customer. The increased hire charge shall take effect 5 days after the date of notification.

There is a minimum hire charge of forty- (100) Singapore Dollars per item of Equipment.

Quotations are subject to confirmation upon receipt of an Order and the Company reserves the right to amend any accidental errors and/or omissions in Quotations or invoices.

Hire charges are at the discretion of the Company. Subject to paragraph (a) above and (c) below the Company will not, however, alter the hire charge quoted on a Quotation provided that an Order is received within thirty (30) days from the date of Quotation unless the Company has specified in writing to the contrary.

The Company reserves the right to revise hire charges where conditions change between the date of Quotation and the date of delivery.

Hire charges quoted "FOB Foreign Port" shall not include CIF, clearance charges, Value Added Tax or any other taxes or duties or delivery which shall be charged in addition.

The Customer waives any and all existing and future claims and rights of set off against hire charges or other payment (including interest) due hereunder and agrees to pay the hire charges and any other amounts payable hereunder regardless of any set off or cross claim on the part of the Customer against the Company.

### 3.3 Ownership

Where the Equipment is hired by the Company to the Customer the Equipment shall remain the property of the Company and is provided to the Customer solely on a rental basis.

### 3.4 Customer's Obligations

During the continuance of the Contract (where the Equipment is hired) the Customer shall:

Keep the Equipment at the delivery address (or vessel) as specified in the Contract and in its own possession and not remove the same from such address without first giving written notice to the Company of its destination and in any event, not allow the Equipment to be transferred to any country prohibited by the Department for Business Enterprise and Regulatory Reform (or any successor thereof)].

Permit an authorised representative of the Company at all reasonable times to enter upon premises or vessels where the Equipment may be inspected, maintained, repaired or tested.

Indemnify the Company for all costs, charges and expenses incurred in any way by reason of the Customer's breach of any of these terms and conditions including but not limited to all costs, charges and expenses incurred in ascertaining the location of the Equipment and uplifting the Equipment therefrom.

Take all reasonable and proper care of the Equipment, keep the Equipment in good condition and not subject the same to any misuse (normal wear and tear excepted).

Ensure that any instructions or manuals supplied by the Company for use of the Equipment will be fully observed.

Take all necessary steps to ensure that the Equipment will be safe and without risks to health and safety when used by it.

Ensure that the Equipment is operated in a skilful and proper manner and by persons who are competent to operate the same.

Permit the Company on reasonable notice to inspect and/or repair the Equipment.

Preserve on the Equipment the Company's and any manufacturer's identification number or mark or any nameplate that is or should be upon the Equipment.

Arrange and maintain at its expense adequate insurance for the Equipment.

Such insurance shall be in joint names of the Company and the Customer, shall name the Company as loss payee and shall cover all loss and damage to the Equipment and also all risks to third parties in connection therewith. 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.

Notify the Company in writing of any loss, damage or claim relating to the Equipment and on demand, reimburse the Company in respect thereof within thirty (30) days of the occurrence. The Company shall continue to charge the Customer the full hire charge for the Equipment until such payment is received. The Customer shall be liable under this clause for the full cost of replacing the Equipment where replacement is required.

Not sell, assign, sub rent, transfer or charge the Equipment, or any part thereof, or the benefit of the Contract, or part with possession of the Equipment, or any part thereof at any time during the period of hire.

Not make any alterations, modifications or technical adjustments or do or, subject to sub-clause 3.6 attempt any repairs to the Equipment

without the prior written consent of the Company and the Customer acknowledges that any items or non-expendable material not returned to the Company will be charged to the Customer at full replacement cost.

Not by any act or default render the Equipment liable to any distress, execution or other legal process.

Punctually pay all duties and taxes concerning the Equipment.

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 are created or become exercisable in respect of the Equipment notwithstanding that the Equipment may be or have become a fixture thereof. 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.

Upon expiry of the period of hire, return the Equipment at its expense to the Company unencumbered and in good repair and condition.

### **3.5 Cancellation**

The Customer shall not cancel the Contract or any part thereof prior to commencement of the hire of the Equipment unless the Company gives written consent.

### **3.6 Maintenance**

The Customer shall notify the Company if any maintenance of the Equipment is required. The Customer shall undertake routine maintenance but shall first obtain the Company's written consent in respect thereof. Other maintenance and repairs shall be undertaken by the Company (subject to the Company's right to charge the Customer where the same arises as a result of the Customer's failure to observe these terms and provided that the Customer at its expense returns the Equipment to the Company).

## **4. SALE OF EQUIPMENT**

### **4.1 General**

Subject to Clause 8, the Company gives no warranty in respect of the Equipment. In particular, all warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.

### **4.2 Retention of Title**

Where the Company agrees to sell the Equipment to the Customer ownership of and title to the Equipment shall remain with the Company and shall not pass to the Customer until the whole sale price has been paid to the Company notwithstanding delivery of the Equipment to the Customer or to any independent carrier or any other third party.

### **4.3** Until ownership of the Equipment has passed to the Customer (in accordance with clause 4.2 above), the Customer shall:

Store the Equipment (at no cost to the Company) separately from all other goods of the Customer or any third party in such a way that they remain readily identifiable as the Company's property;

Not destroy, deface or obscure any identifying mark or packaging on or relating to the Equipment; and

Maintain the Equipment in satisfactory condition and keep them insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company. On request the Customer shall produce the policy of insurance to the Company.

### **4.4** The Customer's right to possession of the Equipment shall terminate immediately if:

The Customer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Customer or notice of intention to appoint an administrator is given by the Customer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding up of the Customer or for the granting of an administration order in respect of the Customer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Customer; or

The customer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe or perform any of his/its obligations under the Contract or any other contract between the Company and the Customer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Customer ceases to trade; or

The Customer encumbers or in any way charges any of the Equipment.

## **5. FOREIGN TRADE CONTROLS**

### **5.1** In connection with the purchase or rental of the Equipment from the Company, the Customer agrees to comply with all applicable laws and regulations related to export controls, economic sanctions, and import/Customs requirements. Export, reexport, transfer, diversion, import, or use contrary to applicable law is prohibited.

### **5.2** Without limiting the foregoing, and regardless of whether Customer purchases or rents the Equipment, the Customer agrees not to - directly or indirectly - sell, export, reexport, transfer, divert, import or otherwise dispose of the Equipment to or via any person, firm, entity, or country or countries that are subject to trade or economic sanctions under the laws of the United Kingdom, the United States, or other applicable law, including entities or persons in or acting on behalf of such countries, or for any activity or use prohibited by such laws or regulations without obtaining prior authorization from the competent government authorities as required by those laws and regulations. The Customer acknowledges that the Customer has the responsibility to obtain any such required government license or authorization after the delivery of the Equipment to the Customer, unless advised by Company that section 5.4(f) is applicable.

### **5.3** When informed by the Company, the Customer is responsible for complying with any conditions set forth in an export, reexport, or in-country transfer authorization issued by any applicable government authority.

### **5.4** In the case of purchase or rental of Equipment that is subject to U.S. export and reexport control (U.S. origin Equipment and Equipment purchased or rented from the U.S. regardless of origin), the Customer agrees as follows:

(a) The Equipment will be used solely for oil and gas exploration, construction, maintenance and production, hydrographic surveys, oceanography, and civil engineering purposes;

(b) Vessels hosting the Equipment must not enter the territorial waters of, be registered in, or make port in Cuba, Iran, North Korea, Sudan or Syria;

(c) When not in use, the Equipment must be securely stored and must remain under the supervision of the Customer;

(d) Any loss of the Equipment must be reported in writing to the Company promptly, and not to exceed 30 days of the loss with details and location of the loss and a report of attempts made to recover the lost Equipment;

(e) The Equipment is not to be used by nuclear end users or for nuclear end uses or by military end users or for military end uses; and

(f) Where Customer receives Equipment under the authority of license or other authorization granted to the Company, in addition to the

requirements set forth herein, Customer agrees as follows:

- (1) Customer must maintain the Equipment in its possession at all times, except when repairs are made by the Company or by the Equipment manufacturer;
- (2) All repairs of the Equipment are to be made by the Company or by the Equipment manufacturer; and

(3) All loading or offloading of the Equipment for purposes of shipment must be performed under the supervision of the Customer's employees who are not nationals of Afghanistan, Berarus, Burma, Central African Republic, China (PRC), Cote d'Ivoire, Cuba, Cyprus Democratic Republic of Congo, Eritrea, Fiji, Haiti, Iran, Iraq, Lebanon, Liberia, Libya, North Korea, Somalia, Sri Lanka, Sudan, Syria, Venezuela, Vietnam, or Zimbabwe.

- 5.5 Breach of this provision shall constitute cause for immediate suspension or termination of the Contract. The Customer agrees to indemnify and hold harmless Seatronics for any noncompliance with these controls by the Customer or caused by the Customer in connection with the Equipment. This provision shall survive termination or cancellation of the Contract. Notwithstanding any other provision of the Contract, neither the Company nor the Customer shall take or be required to take any action prohibited or penalized under the laws of the United Kingdom, the United States, or any other applicable jurisdiction.

## **6. DELIVERY AND RISK**

Delivery shall be deemed to take place when the Equipment leaves the Company's premises and is placed in transit to the Customer when the whole risk shall pass to the Customer. The Company shall endeavour to adhere to delivery dates but time shall not be deemed to be of the essence and the Company shall not be liable for any loss, damage or claim occasioned by, or consequential on, the non-delivery on the expected date or for delayed delivery. Deliveries offered ex-stock are subject to the Equipment being available at the date of receipt of the Order. In case of unforeseen delay in delivery, the Company will notify the Customer as soon as reasonably practicable.

## **7. CARRIAGE**

In addition to hire charges or sale prices, the Company may make a separate charge for outward delivery and/or collection as the case may be. The Company's packaging materials are chargeable in full if not returned upon completion of hire. All carriage and packing charges will be invoiced to include an administration charge at cost plus ten (10) percent unless agreed by the Company in writing to the contrary.

## **8. PAYMENT**

All invoices for hire charges or sale prices are payable within thirty (30) days of the invoice date. Hire charges and sale prices are net and no deduction or settlement discounts are allowed. The Company may charge and the Customer shall pay interest on any overdue payment at a rate of 10 per cent above the base rate of the local banking directive from time to time.

## **9. DEFECTS**

- 9.1 Whether the Customer is hiring or purchasing the Equipment, it shall notify the Company of any defects in the Equipment within twenty-four (24) hours of receipt by it. Failing such notification, it shall be conclusively presumed as between the Company and the Customer that the Equipment has been received in good condition and in every way satisfactory for the Customer's purposes. The Company does not give any warranty as to the quality of the Equipment nor as to its fitness for the purposes of the Customer. The Company does not warrant that the Equipment corresponds with any description or specifications either contained in catalogues or given verbally.

- 9.2 If the Customer notifies the Company of any defects in the Equipment within the period specified in Clause 8.1 the Company will repair or replace the Equipment or any part thereof (excluding installation) provided that the Equipment or any part thereof is returned by the Customer at its expense to the Company's premises for inspection and provided further that such of the Equipment or any part thereof is accepted by the Company as defective from the time of delivery.

## **10. Liability and indemnity**

- 10.1 Nothing in these conditions excludes or limits the liability of the Company:

for death or personal injury caused by the Company's negligence;  
for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability; or  
for fraud or fraudulent misrepresentation.

- 10.2 Subject to conditions 8 and 9.1:

the Company's total liability in contract, delict (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Contract price; and the Customer shall be responsible for and shall save, indemnify, defend and hold harmless the Company from and against all claims, losses, damages, costs (including legal costs), expenses and liabilities in respect of personal injury including death or disease or loss of or damage to the property of any third party which arises from, relates to or is in connection with the performance or non-performance of the Contract irrespective of cause and notwithstanding the negligence or breach of duty (whether statutory or otherwise) of the Company or any other entity or party and this indemnity shall apply irrespective of any claim in delict, under contract or otherwise at law.

## **11. CONSEQUENTIAL LOSS**

- 11.1 For the purposes of this Clause 10 the expression "Consequential Loss" shall mean:

consequential or indirect loss under Singapore law; and  
loss and/or deferral of production, loss of product, loss of use, loss of revenue, profit or anticipated profit (if any), in each case whether direct or indirect to the extent that these are not included in (a), and whether or not foreseeable at the date of commencement of the contract. Notwithstanding any provision to the contrary elsewhere in the contract the Company shall save, indemnify, defend and hold harmless the Customer from the Company's own Consequential Loss and the Customer shall save, indemnify, defend and hold harmless the Customer from the Customer's own Consequential Loss, arising from, relating to or in connection with the performance or non-performance of the Contract.

- 11.2 The indemnities in 10.1 shall apply irrespective of cause and notwithstanding the negligence or breach of duty (whether statutory or otherwise) of the indemnified party or any other entity or party and shall apply irrespective of any claim in delict, under contract or otherwise at law.

## **12. FORCE MAJEURE**

The Company reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Goods ordered by the Customer (without liability to the Customer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Company including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials (each being a "force majeure event").

The Company shall not be liable to the Customer for any loss, damage or claim suffered by the Customer directly or indirectly as a result of the Company's failure or delay in performing any of its obligations under these terms and conditions where such failure or delay is caused by such a force majeure event. In the event that the Company is unable to fulfil its obligations because of such a force majeure event it shall give written notice to that effect to the Customer stating the particulars and the period of time that it is likely to be unable to perform its obligations.

**13. SEVERANCE**

If any provision is or becomes illegal, invalid or unenforceable in any respect, it shall to the extent of such illegality, invalidity or unenforceability be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.

**14. WAIVER**

- 14.1 Failure or delay by the Company in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of its rights under the Contract.
- 14.2 Any waiver by the Company of any breach of, or any default under, any provision of the Contract by the Customer shall only be valid if in writing and shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.

**15. TERMINATION OF CONTRACT**

If the Customer shall make default in payment, or commit any breach of the Contract or if any distress or execution shall be levied upon the Customer's property or assets, or if the Customer shall make or offer to make any arrangement or composition with creditors or become apparently insolvent or a resolution or petition to wind up such company (other than for the purposes of amalgamation or reconstruction) shall be passed or presented, or if a liquidator or receiver or administrator or administrative receiver of the Customer's undertaking property, assets or any part thereof shall be appointed, the Company shall have the right to terminate the Contract immediately or, at its option, upon notice and to declare all sums due and to become due hereunder either for the full term of the rental period or the sale price of the Equipment as the case may be immediately due and payable.

The Company may demand that the Customer returns all Equipment in the same condition as delivered, ordinary fair wear and tear excepted, at the Customer's risk and expense to such location as the Company may designate.

The Company may enter upon any premises where the Equipment is located and take immediate possession of and remove the same, all without court order or other process of law and all without any liability but without prejudice to all rights or remedies available to the Company in respect of the non-payment or any other breach of the Contract of these terms and conditions by the Customer.

**16. HEADINGS**

The headings in these terms and conditions are inserted for convenience only and shall not affect the construction hereof.

**17. NOTICES**

Any notice required to be given hereunder shall be in writing addressed to the other party as its registered office or principal place of business or such other address as may have from time to time been notified for this purpose. Notice shall be deemed to have been received:

- if sent by pre-paid first class post, two days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting);
- if delivered by hand, on the day of delivery; or
- if sent by fax on a working day prior to 4pm, at the time of transmission and otherwise on the next working day.

**18. ASSIGNATION**

- 18.1 The Company may assign the Contract or any part of it to any person, firm or company.
- 18.2 The Customer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Company.

**19. LAW**

These terms and conditions and the Contract shall be governed by the law of Singapore and the parties submit to the jurisdiction of the Singapore Courts.