

STANDARD TERMS AND CONDITIONS OF BUSINESS FOR CONSULTANCY**1 DEFINITIONS**

“BMT” means BMT Limited, a company incorporated and registered under the laws of England with company registration number 02326885 whose registered office is at Level 5, Zig Zag Building, 70 Victoria Street, London, SW1E 6SQ. “Client” means the corporate entity for which Work is undertaken by BMT. Both Client and BMT each separately referred to as “Party” or collectively as “Parties”. “Conditions” means these terms and conditions which shall, unless and to the extent otherwise specifically otherwise agreed in writing, govern the Contract. “Contract” means the formal agreement entered into between BMT and the Client for BMT to undertake the Work on behalf of the client, which comes into force upon acceptance by BMT of the Client’s Purchase Order and is formed of these Conditions, BMT’s Proposal, the Client’s Purchase Order and any subsequent Contract Variation Form agreed between the Parties. “Contract Variation Form” means the form detailing any variation proposed in respect of; the Work and/or; where there is expected to be an impact on the agreed programme / delivery schedule; and/or Price. “End Customer” means the party with whom the Client has entered into a prime contract for the provision of services and BMT is providing support to the Client in respect of that prime contract. “Proposal” refers to the document prepared or provided by BMT for a current or prospective Client detailing the Work. “Purchase Order” means the order placed by the Client requesting BMT undertake the Work. “Work” means the scope of work to be undertaken by BMT as detailed in the Proposal.

2 GENERAL

Any contractual terms proposed by the Client to govern contractual relations between BMT and the Client, whether appearing on a Purchase Order or otherwise, are expressly excluded from the Contract and the Client is deemed to have accepted these Conditions when submitting a Purchase Order to BMT. These Conditions, together with BMT’s Proposal, the Client’s Purchase Order which has been accepted on behalf of BMT and any subsequently agreed Contract Variation Form fully executed by both Parties, comprise the entire agreement between the Parties with respect to the undertaking of the Work and any representations or statements whether made orally or written elsewhere are hereby excluded. In the case of a conflict between BMT’s Proposal and these Conditions, BMT’s Proposal shall prevail. This Clause shall not exclude or limit any liability or any right which either Party may have in respect of pre-contractual statements made or given fraudulently or dishonestly or in circumstances where there has been wilful concealment.

3 ALTERATIONS

Any alterations to these Conditions shall be deemed to be inapplicable unless agreed in writing by the Parties.

4 PROPOSAL VALIDITY

All Proposals issued remain valid for a period of 30 days unless stated otherwise. The Client shall not be entitled to the Price stated where BMT agrees to vary the scope of Work. Any change to the Price arising from a variation to the time for delivery of the Work as stated in the Proposal, will be at the discretion of BMT.

5 EXCLUSIONS

Classification Society and National Authority Approval fees and as-fitted drawings are not included in the Price quoted by BMT, if applicable to the Work set out in the Proposal.

6 COMPLETION OF WORK

Any time or date specified for completion of Work is an estimate only and is not guaranteed unless confirmed in writing by BMT. BMT endeavours to comply with agreed completion dates. The Client shall have no right to terminate the Contract for failure for any cause to meet any time agreed for delivery or performance and any damages payable shall be limited in accordance with Clause 18.

7 BMT’S STANDARD OF CARE

BMT will carry out the Work for the Client with all reasonable skill, care and diligence to be expected from a professional consulting firm in performance of similar services under similar conditions. BMT shall have no other contractual responsibility.

8 WARRANTY

- a) Any results or recommendations given in reports are based upon the instructions and information provided by the Client and are correct to the best of the knowledge of BMT at the time the report is issued.
- b) BMT provides no warranty or guarantee relating to any report, advice, or information. BMT shall not be liable in any way for any claims actions or consequential damage, including damage to reputation suffered by the Client (whether caused by the negligence of BMT, its employees, agents or otherwise) by the use of such reports or the adoption of such information or the advice, or as a result of anything omitted from such advice.
- c) The Client will indemnify and keep indemnified BMT against any claim, action, costs (including legal costs), loss or damages arising as a result of the Client’s and any third party’s use of the BMT report, advice or information.

9 INTELLECTUAL PROPERTY

BMT shall retain full intellectual property rights including copyright, patent and registered design rights resulting from the performance of the Work. Subject to clause 23b) the Client shall have the irrevocable right to use such intellectual property solely in connection with the Work. Nothing in the Contract shall affect the rights of BMT in respect of any intellectual property rights held prior to the commencement of the Work under the Contract. The Client agrees to indemnify BMT against infringement of third party intellectual property rights or patents. In this context, “intellectual property” shall include inventions, designs, methods, processes, computer software, manufacturing data, results and other works together with all know-how, proprietary rights, and information, whether patented or not and whether or not susceptible to patent, registered design, copyright or like protection.

10 PRICE

Work will be charged on a Firm Price, fixed rate, hourly or daily rate and/or royalty basis as agreed, the “Price”. In the event there are significant changes to the Work agreed to be undertaken, BMT reserves the right to re-negotiate the Price. When hourly rates are quoted, they refer to time spent working unless otherwise agreed.

11 PAYMENT

BMT will submit invoices at the end of each calendar month or on completion of the Work in accordance with the deliverables detailed within the Proposal. Invoices must be paid within 30 days of the date of the invoice. If any part of an invoice is genuinely in dispute, the Client shall pay the undisputed part thereof promptly within 30 days of the date of the invoice and shall notify BMT immediately of any part of the invoice which is in dispute, giving full reasons as to why that proportion of the invoice is disputed. The Parties shall endeavour to resolve the disputed proportion without delay. BMT shall be entitled to charge interest on a daily basis at the rate of 8% per annum above the LIBOR rate pertaining at the time, on any overdue or undisputed proportion of an invoice. Where an invoice is more than 60 days overdue, BMT is entitled to stop the Work or withhold any deliverables on the Contract which relates to the overdue invoice.

12 VALUE ADDED TAX & TAXES

The quoted Price is payable by the Client to BMT exclusive of any and all Taxes, to the extent such taxes are required under applicable law. For the avoidance of doubt, the term “Taxes” includes any indirect taxes (e.g., VAT or Sales Tax), any applicable levies or duties (e.g., customs duty, local taxes or stamp duty or its equivalent) or any withholding tax which is required to be made. If the Client deems that withholding tax is required, the Client undertakes that it will gross up the payment to BMT so as to ensure that the full quoted Price is received by BMT net of any tax withheld. Should the Client require a certificate of fiscal residence in order to apply a reduced Double Tax Treaty rate of withholding tax, BMT undertakes that it will arrange to provide this.

13 EXPENSES

Unless otherwise agreed, BMT shall charge for legitimate expenses incurred in connection with the Contract. These may include travel and subsistence costs in accordance with BMT’s Travel and Expenses policy.

STANDARD TERMS AND CONDITIONS OF BUSINESS FOR CONSULTANCY**14 VARIATIONS**

Where a variation is proposed in respect of; the Work or there is expected to be an impact on the agreed programme / delivery schedule and or Price (a 'Contract Variation'), either Party is permitted to detail such variation in a Contract Variation Form (Appendix 1). BMT shall not be obliged to perform the Contract Variation until the Contract Variation Form has been agreed by the Parties. Where the Contract Variation would affect other Work to be performed by BMT, BMT shall be entitled to stop the Work until the Contract Variation Form has been agreed and signed by both Parties and BMT shall be entitled to an extension of time to reflect the period of the stoppage. Where Contract Variations are numerous or are likely to have a consequential effect upon production of drawings and/or other information or deliverables, the Parties shall discuss how best to introduce such Contract Variations in a timely manner. Where Contract Variations are agreed, any extra Work arising may be charged at the Price agreed on the Contract Variation Form. BMT shall be entitled to an extension of time as specified in the Contract Variation Form relating to the delivery of deliverables and / or completion of the Contract or if no extension of time is specified on the said form, to a reasonable extension of time.

15 CONTRACT ACCEPTANCE

BMT will not commence any Work until a Purchase Order is received from the Client and returned to the Client as accepted by BMT, at which time the Contract shall be formed.

16 HEALTH & SAFETY LEGISLATION

The Parties agree to comply with all legislation relating to Health and Safety.

17 DEFECTIVE AND / OR INCOMPLETE WORK

Subject to the provisions of sub-clauses 18 a) and 18 d) BMT shall remedy any defective or incomplete Work without charge if notified of defect(s) in writing within one month of completion of the Contract. Clause 18 shall not apply when the Contract is for BMT to supply a resource and that resource is accepting instructions only from the Client. If BMT's Work or part thereof is repeated as a result of the Client's notification that it is defective incomplete or unsatisfactory and it is subsequently discovered that the original Work was in fact satisfactory, the Client shall reimburse BMT for the additional Work performed.

18 LIMITATION AND EXCLUSION OF LIABILITY

- a) BMT's total liability (including the cost of repeating the Work in accordance with Clause 17 above) whether in contract or in tort or otherwise shall not exceed the Price paid for the Work. This clause shall not apply in respect of any liability or class of liability which may not be so limited by virtue of any applicable statute or other law, or those in relation to personal injury;
- b) If the limitation of liability in sub-clause 18 a) above shall be found by a court of law to be unreasonable then any higher limit which is reimbursable to BMT under BMT's relevant insurance policy shall be substituted and shall apply in place thereof;
- c) In no circumstances shall BMT be liable in contract, in tort (including negligence or breach of statutory duty) or otherwise, howsoever, and whatever the cause thereof:
 - i) for costs or expenses incurred as a consequence of errors in the Work, which exceed the Contract Price (except in the circumstances of sub-clause 18 b) above);
 - ii) for any loss of profit, business, contracts, goodwill, revenues or anticipated savings or;
 - iii) for any special losses, indirect losses or consequential losses of any nature whatsoever.
- d) BMT accepts liability for direct physical damage to tangible property to the extent caused by the proven negligent acts or omissions of BMT and its employees and consultants. BMT's liability shall be limited to £2 million;
- e) BMT accepts liability for death or injury to persons to the extent caused by the proven negligent acts or omissions of BMT and its employees and consultants;
- f) The extent to which any loss or damage will be recovered from BMT by the Client will also be limited so as to be in proportion to BMT's contribution to the overall fault for such loss or damage, taking into account any contributory negligence by the Client, the Client's other consultants and/or other advisers and/or any other third parties responsible to the Client and/or liable in respect of such loss;

- g) Should BMT discover that the Client is/was acting for someone else, or if the Client discloses to BMT that the Client is/was acting for someone else, then BMT reserves the right to continue treating the Client as "principal" and also reserves the right not to provide or to stop providing services to the Client or to that person. If the Client fails to make such a disclosure to BMT, BMT shall not be liable to the Client or to that other person for any damage arising, directly or indirectly, in connection with any services provided by BMT to the extent that damage arises as a result of the Client acting on behalf of that other person or relates to damage suffered by that other person.
- h) Each of the foregoing sub-clauses 18 a) to 18 g) is to be construed as a separate limitation (applying and surviving even if for any reason one or other of the said clauses is held inapplicable or unreasonable in any circumstances) and shall remain in force notwithstanding termination of the Contract.

19 SUPPLY AND CONFIDENTIALITY OF INFORMATION

The Client shall supply to BMT in a timely manner all information which is or hereafter becomes available to the Client which is relevant to the performance of the Work and which the Client is contractually and legally permitted to disclose. BMT undertakes that it will not disclose to third parties, confidential information relating solely to the Client which comes to the knowledge of BMT in the course of carrying out the Work but reserves the right to carry out similar work for other Clients.

20 INSTRUCTIONS AND SCOPE OF BMT'S CONTRACT WITH THE CLIENT

BMT shall be entitled to act upon the instructions of any of the Client's apparently authorised employees or agents and to rely on any information provided to BMT by such employees or agents. BMT shall not be responsible for any failure to advise or comment upon any matter which falls outside of the scope of the Contract.

21 DELAY AND FORCE MAJEURE**a) Excusal of Performance**

Either Party shall be excused from the performance of any of its obligations under these Conditions if and in so far and for so long as such performance is:

- i) delayed or prevented by the other Party's acts or omissions, or the acts or omissions of its employees, agents or other subcontractors, including but not limited to, failing to provide timely information, supplying incomplete or defective information, delaying the start of Work on the Contract, or
- ii) delayed or prevented by circumstances beyond its reasonable control, including but not limited to, delays on the part of Classification Societies or other bona fide bodies in granting or giving approval to design drawings or other documentation which requires approval, or
- iii) delayed or prevented by strikes, lock-outs or labour disputes of any kind (whether relating to its own employees or others), fire, flood, explosion, natural catastrophe, military operations, blockade, sabotage, revolution, riot, civil commotion, war or civil war, adverse weather conditions, epidemics or pandemics, or prolonged power failure, provided that in such circumstances, the Party affected shall make reasonable efforts to try to overcome, mitigate or dispel the effect of the event of force majeure, where possible.

b) Government or Regulatory Authority Action

A Party shall not be liable if its performance is delayed or prevented by and shall have no liability for any acts, decrees or restraints of any UK Government institution or regulatory body or for any changes in Classification Society class rules or regulations introduced subsequent to the Contract being entered into.

c) Entitlements of BMT where there is Client delay

Where delays are caused by the circumstances set out in sub-clause 21 a) i) above which causes the Work to be delayed, BMT shall be entitled to increase the Price for the Work, to reflect extra costs incurred by BMT. BMT also be entitled to a reasonable extension of time to reflect not only direct delays but any consequential delays caused in order to complete the Work. Where the Client or a third party the Client is reliant upon, has caused the delay, BMT shall also be entitled to re-schedule the Work in order to avoid a conflict with work for other clients. BMT shall also be entitled to re-deploy any of its resources to work for other Clients and / or to lay off and then re-hire resources to work on the re-scheduled Work and to charge for any additional costs incurred thereby to the Client.

STANDARD TERMS AND CONDITIONS OF BUSINESS FOR CONSULTANCY**22 CHANGES IN SPECIFICATIONS**

Where changes in the specifications are made by the Client and accepted by BMT, BMT shall be entitled to a Contract Variation amending the Price to reflect the changes.

23 BREACH OF CONTRACT BY CLIENT

- a. BMT may without prejudice to any other rights it may have hereunder, terminate the Contract forthwith by giving notice in writing to the Client:
 - i) if the Client shall commit any breach of the terms of the Contract on its part to be observed or performed;
 - ii) in the event of war, hostilities, civil war, rebellion, revolution, insurrection or other disturbance occurring in the Client's country;
 - iii) if the Client compounds with or negotiates for any composition with his creditors generally or permits any judgment against the Client to remain unsatisfied for 21 days;
 - iv) the Client shall call a meeting of its creditors or have a receiver appointed over all or any of its assets or enter into any liquidation or be subject to an administrative order, administrative receivership, a winding up order or similar event. Any termination by BMT shall be without prejudice to any right of action by BMT including the right to recover any monies due from the Client.
- b. In the event that the Client shall be in breach of its obligations under the Contract, BMT shall have the following options (i) to claim for all Work done including Work in progress and for all costs irrevocably incurred and for loss of profits, (ii) to terminate the Contract by giving 14 days' notice in writing to the Client of its intention to do so (iii) to claim compensation from the Client in respect of the breach and in respect of any additional costs incurred as a result thereof and an extension of time to complete the Contract where appropriate (iv) to renegotiate the Contract.

24 SUSPENSION OF THE CONTRACT

In the event of a suspension of the Contract for reasons of breach by the Client, force majeure or for the convenience of the Client, BMT shall be entitled to payment by the Client of the following costs:

- The full costs of laying off (and re-hiring if necessary) any employees and consultants employed or hired specifically for the purposes of the Contract, such full costs to include any costs which BMT has necessarily paid to an employment agent;
- The costs irrevocably committed relating to the period of suspension by subcontractors, under a subcontract which relates to the Contract;
- Any other costs which BMT or its employees or agents have irrevocably committed in respect of the period of the suspension;
- Loss of BMT's anticipated profit under the Contract for the period of the suspension.

Without prejudice to its rights hereunder BMT shall be entitled, at its option but shall not be obliged, to give notice of termination of the Contract if any period of suspension continues for a period of more than 30 days.

25 TERMINATION OF THE CONTRACT

In the event of Termination of the Contract for any reason whatsoever, BMT shall be entitled to payment by the Client for all irrevocably committed costs associated with the Work. Unless otherwise specified and agreed in writing, the term "irrevocably committed costs" shall include but not be limited to the following items:

- the cost incurred to the end of period of notice in developing any Work;
- the full cost, including overhead, of employing and/or hiring any employees/contract staff specifically for the purposes of and for the period of the Contract;
- the full costs of Terminating the employment of, or laying off of any employees;
- the costs irrevocably committed by subcontractors specifically for the purposes of the Contract, including where those irrevocably committed costs extend beyond the expiry of the period of notice;
- recovery of the costs of all Work properly completed and delivered to the Client;
- recovery of the costs of Work completed but not yet delivered and Work in progress;
- recovery of any costs irrevocably committed by BMT, including where those irrevocably committed costs extend beyond the expiry of the period of notice;
- recovery of any monies due to BMT;

26 PUBLICITY

Unless agreed otherwise, BMT is entitled to refer to Work carried out under the Contract in publicity material. Any press release relating to Work undertaken shall be submitted to the Client for approval, which shall not unreasonably be withheld or delayed. Where any of BMT's Work is used by the Client for publicity purposes, such Work shall be acknowledged as that of BMT.

27 PRIVACY OF CONTRACT

The Contract is intended to be a private contract between the Parties and it is not intended to confer any rights of enforcement on any third party (other than on a permitted assignee to whom the Contract is assigned) even where any of the Contract terms purport to confer a benefit on a third party.

28 BMT EMPLOYEE RESTRICTIONS

For the duration of the Contract and for a period of six months after its Termination, neither the Client nor any affiliate will directly or indirectly solicit, seek or procure the services of any of the employees of BMT without the prior written consent of, and upon terms and conditions specified by, BMT. If at any time during the period of the Contract or for six months after its Termination, the Client offers a BMT employee permanent employment which he/she accepts, the Client shall pay BMT the equivalent of six months' gross salary, based upon the final salary paid to that employee whilst in the employment of BMT. The Parties agree this sum to be a fair and reasonable.

29 SEVERABILITY

If any part of these Terms and Conditions is found by any court or authority of competent jurisdiction to be illegal, invalid or unenforceable, then that provision shall, to the extent required, be severed and shall be ineffective, but shall not affect any other provision of these Conditions which shall remain in full force and effect.

30 EXPORT CONTROL

Each Party shall abide by and comply with, all applicable international import and export control rules, laws and regulations governing any information relating to the Work and be responsible for ensuring that it complies with all relevant export and import licensing requirements including the United Kingdom Export Control Act 2002 and the United States International Traffic in Arms Regulations ('ITAR'). The provision of any such information for which an export or import license, or other controls, are required shall be identified and marked accordingly by the disclosing Party at the time of disclosure. Protection, use and handling thereof shall remain subject to such restrictions as may be imposed by the disclosing Party's Government.

31 DISPUTE RESOLUTION

Any question or disagreement which may arise concerning the construction, meaning or effect of the Contract or concerning the rights or liabilities of the Parties under the Contract shall be referred to a single arbitrator to be agreed between the Parties. Any arbitration shall take place in England. In the event the Parties are unable to agree a single arbitrator within 30 days of the request by one Party to the other that the matter be referred to arbitration in accordance with this clause, the Parties shall request an arbitrator is appointed by the President of the Institute of Marine Engineering Science & Technology. The decision of such arbitrator shall be final and binding upon the Parties. Any reference under this clause shall be deemed to be a reference to arbitration within the meanings of the Arbitration Act 1996.

32 LAW

- a) These terms and conditions and the Contract shall be governed by the laws of England and both Parties irrevocably agree to submit to the exclusive jurisdiction of the English courts. The Client irrevocably undertakes and agrees that it shall not take action against BMT in any legal forum outside of England, nor join or attempt to join BMT in respect of any action against the Client in a court outside of England. The Client shall indemnify BMT against all losses, damages or costs (including legal costs) in this regard.
- b) Nothing in this clause shall prevent either Party from enforcing in any country, any award made by the English courts.

33 ANTI CORRUPTION COMPLIANCE

The Parties undertake to comply with all applicable UK laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the UK Bribery Act 2010 and those relating to Modern Slavery and Human Trafficking.

**COMMERCIAL-IN-CONFIDENCE****APPENDIX 1****CONTRACT VARIATION FORM**

PROJECT TITLE		PURCHASE ORDER NO.	
CONTRACT VARIATION NO.		DATE	
REQUEST FOR VARIATION TO:			
WORK			
AGREED PROGRAMME / DELIVERY SCHEDULE			
FEES / PRICE			
REASON[S]			
The Parties agree the Contract Variation[s] requested in accordance with clause 14 of the Conditions, will have the following effect[s]:			
EFFECT OF VARIATION TO:			
WORK			
AGREED PROGRAMME / DELIVERY SCHEDULE			
FEES / PRICE			
	£ (GBP / USD / EURO) excluding VAT		
Any Contract Variation which has an effect on the Price shall be subject to clause 10 of the Conditions.			
NAME		NAME	
SIGN		SIGN	
DATE		DATE	
TITLE		TITLE	
Signed for and on behalf of Client		Signed for and on behalf of BMT	
UPON SIGNATURE BY BOTH PARTIES, THIS CONTRACT VARIATION FORM IS INCORPORATED INTO THE CONTRACT AND CONSTITUTES A PART OF THE ENTIRE AGREEMENT IN ACCORDANCE WITH CLAUSE 2			
	PM Approval		PM Approval
	Commercial Approval		Commercial Approval
			Contract Variation request declined

COMMERCIAL-IN-CONFIDENCE