

## General Terms

Please note that no products or services will be ordered or shipped until a Purchase Order covering the full cost has been completed and returned to Scenic Acoustic & Vibration Engineering Ltd (SAVE).

1. Delays to the proposed work scope will be charged at the hourly rates detailed in this proposal.
2. Delays to the proposed work scope which result in prolonged equipment hire will be charged at the daily hire rates detailed in this proposal.
3. Replacement cost of the Hired equipment is £55000.
4. Quotation valid for 90 days.

## Expenses

### Travel/Sustenance

Travelling time associated with this work will be charged by the day at the agreed rate. Travelling expenses including, flights, taxi fares, car hire, etc. will be charged at cost. Mileage allowance is charged at 55 pence per mile. Accommodation including meals will be charged at cost + 5%.

### Materials

Consumable Materials will be charged at cost plus 5%.

### Other

All other costs incurred during the course of the work will be charged at cost. Delivery costs will be charged at cost + 5%.

## Payment

Full payment should be made by banker's transaction to Scenic Acoustic & Vibration Engineering Ltd within 30 days of the invoice being issued.

### Bank Account Details

Barclays Bank (Sort Code: 200468; Acc No: 90695629)  
IBAN: GB78 BARC 2004 6890 6956 29  
Company Registration No: 6371897  
VAT Registration No: 920 5362 49  
UTR No: 1914414526

We understand and will exercise our right to claim interest and compensation for debt recovery costs under the late payment legislation if payment is not paid according to the agreed credit terms.



Company Registration No:  
6371897  
VAT Registration No:  
920 5362 49  
IOA Membership No : 44037  
BINDT PCN No : 300054

QAF 150 Rev 0  
Page 1 of 14

**Aberdeen Office:**  
Scenic Acoustic & Vibration Engineering Ltd.  
'Beechwood', Oyne,  
Nr. Inch,  
Aberdeenshire  
AB52 6QT  
Tel: +44 (0) 1229 871171  
Mob: +44 (0) 7795 505352  
Web: [www.scenicacoustic.co.uk](http://www.scenicacoustic.co.uk)  
Email: [conmon@scenicacoustic.co.uk](mailto:conmon@scenicacoustic.co.uk)

**Head Office:**  
Scenic Acoustic & Vibration Engineering Ltd.  
41 Clarence Road,  
Barrow-in-Furness,  
Cumbria  
LA14 5LS  
Tel: +44 (0) 1229 871171  
Mob: +44 (0) 7855 253458  
Web: [www.scenicacoustic.co.uk](http://www.scenicacoustic.co.uk)  
Email: [conmon@scenicacoustic.co.uk](mailto:conmon@scenicacoustic.co.uk)

## Equipment Purchase and Hire - Terms and Conditions

1.	<u>Interpretation</u> .....	2
2.	<u>Basis of the Sale</u> .....	3
3.	<u>Orders and Specifications</u> .....	4
4.	<u>Price of the Goods</u> .....	4
5.	<u>Terms of Payment</u> .....	4
6.	<u>Delivery</u> .....	5
7.	<u>Risk and Property</u> .....	5
8.	<u>Warranties and Liability</u> .....	6
9.	<u>Default or Insolvency of Buyer</u> .....	6
10.	<u>General</u> .....	7
11.	<u>TERMS &amp; CONDITIONS OF RENTAL</u> .....	7
12.	<u>PRICE</u> .....	7
13.	<u>RENTALS DELIVERY</u> .....	8
14.	<u>CANCELLATION and DELAYS</u> .....	9
15.	<u>RISK</u> .....	9
16.	<u>TITLE TO EQUIPMENT</u> .....	9
17.	<u>SAVE'S OBLIGATIONS</u> .....	10
18.	<u>LIABILITY</u> .....	10
19.	<u>CUSTOMER'S OBLIGATIONS</u> .....	11
20.	<u>INDEMNITIES</u> .....	12
21.	<u>TERMINATION</u> .....	13
22.	<u>CONSEQUENCES OF TERMINATION</u> .....	13
23.	<u>FORCE MAJEURE</u> .....	13
24.	<u>GENERAL PROVISIONS</u> .....	14

### Interpretation

#### 1.1 In these Conditions:

"SAVE" means Scenic Acoustic & Vibration Engineering Ltd

"Buyer" means the person whose order for the Goods is accepted by SAVE

"Conditions" means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and SAVE

"Contract" means the contract for the purchase and sale of the Goods;

"Goods" means the goods as set out in SAVE sales quotations.

1.2 Any reference in these Conditions to any provision of a statute shall be a reference to that provision as amended, re-enacted or extended at the relevant time.

1.3 The headings in these Conditions are for convenience only and shall not affect their interpretation.

1.4 The expression "person" shall mean any person, firm, company or other legal entity, words importing the singular number shall include the plural and vice versa and words importing one gender shall include all genders.

## Basis of the Sale

- 2.1 SAVE shall sell and the Buyer shall purchase the Goods in accordance with any oral or written order of the Buyer which is accepted by SAVE subject in either case to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions introduced or purported to be introduced by the Buyer.
- 2.2 No variation to these Conditions shall be binding unless agreed in writing between the Buyer and a Director of SAVE.
- 2.3 SAVE employees or agents are not authorised to make any representations concerning the Goods unless confirmed by SAVE in writing. In entering into the Contract the Buyer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.
- 2.4 Any advice or recommendation given by SAVE or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in writing by SAVE is followed or acted upon entirely at the Buyer's own risk, and accordingly SAVE shall not be liable for any such advice or recommendation which is not so confirmed.
- 2.5 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, Order Acknowledgement, invoice or other document or information issued by SAVE shall be subject to correction without any liability on the part of SAVE.
- 2.6 In these Conditions "Incoterms" means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when the Contract is made. Unless the context otherwise requires, any term or expression which is defined in or given a particular meaning by the provisions of Incoterms shall have the same meaning in these Conditions, but if there is any conflict between the provisions of Incoterms and these Conditions, the latter shall prevail.
- 2.7 The Buyer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties thereon, including but not limited to obtaining any licences or permits and the Buyer's obligation to accept and pay for the Goods shall survive any cancellation, revocation or expiration of any such permit or licence.
- 2.8 SAVE accepts all orders subject to any necessary export licences being granted. On receipt of all information from the Buyer SAVE will apply for any such export licences but accepts no responsibility or liability of any kind in the event of failure or delay to obtain them.

## Orders and Specifications

- 3.1 The Buyer shall be responsible to SAVE for ensuring the accuracy of the terms of any order (including any applicable specification or reference number) submitted by the Buyer, and for giving SAVE any necessary information relating to the Goods within a sufficient time to enable SAVE to perform the Contract in accordance with its terms.
- 3.2 The quantity, quality and description of and any specification or reference number for the Goods shall be those set out in SAVE sales quotations.
- 3.3 If the Goods are to be manufactured or any process is to be applied to the Goods by SAVE in accordance with instructions submitted by the Buyer, the Buyer shall indemnify SAVE against all loss, damages, costs and expenses awarded against or incurred by SAVE in connection with or paid or agreed to be paid by SAVE in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from SAVE compliance with the Buyer's instructions.
- 3.4 No order which has been accepted by SAVE may be cancelled by the Buyer except with the agreement in writing of SAVE and on terms that the Buyer shall indemnify SAVE in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by SAVE as a result of cancellation.

## Price of the Goods

- 4.1 The price of the Goods shall be the price set out in SAVE Sales Quotations.
- 4.2 SAVE reserves the right to increase the price of the Goods to reflect any increase in the cost to SAVE which is due to any factor beyond the control of SAVE or in the event of SAVE making a general price increase before delivery of the Goods or any change in delivery dates, quantities or specifications for the Goods requested by the Buyer, or any act or omission of the Buyer.
- 4.3 The price is exclusive of any applicable value added tax, and any other duties, imposts and taxes which the Buyer shall be additionally liable to pay to SAVE.

## Terms of Payment

- 5.1 SAVE shall be entitled to invoice the Buyer for the price of the Goods at any time after the Goods are available for despatch.
- 5.2 If the Buyer has an account, in credit, with SAVE the Buyer shall pay the price of the Goods in the currency specified in the Sales Quotation without any deduction or set off within the period specified in the Sales Quotation, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer. In all other cases the Buyer shall pay the price of the Goods with its order and SAVE reserves the right to withhold delivery of the Goods until it has received cleared funds. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.
- 5.3 If the Buyer fails to make any payment by the due date then, without prejudice to any other right or remedy available to SAVE, SAVE shall be entitled to:
  - 5.3.1 cancel the Contract or suspend any further deliveries to the Buyer;
  - 5.3.2 appropriate any payment made by the Buyer to such of the Goods (or the goods supplied under any other contract between the Buyer and SAVE) as SAVE may think fit (notwithstanding any purported appropriation by the Buyer); and
  - 5.3.3 charge the Buyer interest (both before and after any judgement) on the amount unpaid, at the rate of 3 per cent per annum above National Westminster Bank PLC base rate from time to time until payment in full is made.

## Delivery

- 6.1 Delivery of the Goods in the United Kingdom shall be made by SAVE delivering the Goods to the address on the Buyer's Purchase Order or by the buyer collecting the goods at SAVE premises or named forwarder, at any time after SAVE has notified the buyer that the goods are ready for collection. Delivery of the goods outside the United Kingdom shall be made by SAVE delivering the Goods to an air or seaport in the country named in the Order Acknowledgement or to the premises named in the Order Acknowledgement (if delivery is made by road).
- 6.2 SAVE will endeavour to deliver the Goods on the date specified in the Sales Quotation but SAVE shall not be liable for any delay in delivery of the Goods howsoever caused. Time for delivery shall not be of the essence. The goods may be delivered by SAVE in advance of the quoted delivery date upon giving reasonable notice to the Buyer.
- 6.3 Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by SAVE to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.
- 6.4 If the Buyer fails to take delivery of the Goods or fails to give SAVE adequate delivery instructions then, without prejudice to any other right or remedy available to SAVE, it may;
  - 6.4.1 store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or
  - 6.4.2 sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the Contract.

## Risk and Property

- 7.1 Risk of damage to or loss of the Goods shall pass to the Buyer:
  - 7.1.1 in the case of goods to be delivered to the buyer at the time of delivery or if the Buyer wrongfully fails to make delivery of the goods, the time when SAVE has tendered delivery of the goods, or
  - 7.1.2 in the case of goods to be collected by the buyer at the time when SAVE notifies the buyer that the goods are available for collection.
- 7.2 Notwithstanding delivery and the passing of the risk to the Buyer both legal and beneficial title ("title") to the Goods will remain with SAVE until such time as SAVE has received in full payment of the price for the Goods and of the purchase price of any other goods or services, previously or subsequently supplied by SAVE to the Buyer.
- 7.3 In the event that SAVE has not received any such payment as referred to in condition 7.2 SAVE may recover at any time from the Buyer any of the goods in the buyer's possession, power or control and for that purpose SAVE, its servants and agents may enter any land or buildings upon which such Goods are situated.

## Warranties and Liability

- 8.1 The Buyer must notify SAVE of any claim within the following time limits:
- 8.1.1 partial loss or damage to the Goods, within 7 days of delivery;
  - 8.1.2 non-delivery of the Goods in the United Kingdom, within 7 days of the date of the invoice;
  - 8.1.3 non-delivery of the Goods outside the United Kingdom, within 21 days of the date of the invoice;
  - 8.1.4 defect in the quality or condition of the Goods, within 7 days of delivery or, where such defect or failure was not apparent on reasonable inspection, within 7 days of discovery of such defect or failure.
- 8.2 Where any valid claim in respect of any of the Goods which is based on any defect in the quality or condition of the Goods or their failure to meet specification is notified to SAVE in accordance with these Conditions, SAVE shall be entitled to replace the Goods (or the part in question) free of charge or, at SAVE sole discretion, refund to the Buyer the price of the Goods (or a proportionate part of the price), but SAVE shall have no further liability to the Buyer.
- 8.3 Except in respect of death or personal injury caused by SAVE negligence, SAVE shall not be liable to the Buyer by reason of any representation, or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the contract, for any consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for consequential compensation whatsoever (and whether caused by the negligence of SAVE, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their use or resale by the Buyer, except as expressly provided in these Conditions.
- 8.4 SAVE shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of SAVE obligations in relation to the Goods, if the delay or failure was due to any cause beyond SAVE reasonable control.

## Default or Insolvency of Buyer

- 9.1 This Condition applies if:
- 9.1.1 the Buyer commits any breach of any of the Conditions and in the case of a breach which SAVE regards as capable of remedy, fails to remedy the same within 14 days after receipt of written notice giving particulars of the breach and requiring it to be remedied;
  - 9.1.2 the Buyer, being a company, shall pass a resolution for winding up or a court shall make a winding up order in respect of it or it shall have a receiver, administrative receiver, manager or administrator appointed of all or part of its undertaking or assets;
  - 9.1.3 the Buyer, being a partnership, shall be dissolved or, being an individual, shall have a bankruptcy petition presented or shall die;
  - 9.1.4 the Buyer ceases, or threatens to cease, to carry on business or is unable to pay its debts or becomes insolvent (within the meaning of the Insolvency Act 1986) or makes or proposes any composition or arrangement with its creditors;
  - 9.1.5 anything analogous to any of the events set out in this Condition occurs;
  - 9.1.6 SAVE reasonably believes that any of the events mentioned above is about to occur in relation to the Buyer.
- 9.2 If this Condition applies then, without prejudice to any other right or remedy available to SAVE it shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

## General

- 10.1 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing and delivered by hand or sent by first class recorded delivery or registered post addressed to that other party at its registered office if a company or principal place of business if another trading entity.
- 10.2 No waiver by SAVE of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 10.3 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.
- 10.4 The Contract shall be governed by the laws of England and Wales

## TERMS & CONDITIONS OF RENTAL

### 11.1 SPECIFICATION OF EQUIPMENT

- 11.2 All Equipment shall be required only to conform to the specification in Customer's purchase order. For the avoidance of doubt no description, specification or illustration contained in any SAVE product, pamphlet or other sales or marketing literature and no representation written or oral, correspondence or statement shall form part of the Contract.
- 11.3 SAVE gives no undertaking that the Equipment is fit for any particular purpose and the Customer, having greater knowledge of its own requirements, relies entirely on its own skill and judgement in evaluating the suitability of the Equipment for its purpose.

## PRICE

- 12.1 Subject to Clause 2.3, Equipment will be on-hire and rental charges be applied when each piece of Equipment departs SAVE's premises and will continue until the same Equipment is returned to the same store location or an alternative point designated by SAVE (the "Rental Period").
- 12.2 All rental charges are on a daily basis for a 24-hour day (Customer shall be charged a full calendar day's rental for any portion of a calendar day which day shall end at midnight).
- 12.3 The returned Equipment will be inspected by SAVE within seven (7) days of the date of delivery Customer and Customer will be informed in writing of any Equipment found to be damaged during inspection. In the event of Customer being notified of such damage Customer will have three (3) working days from receipt of the damage notice to enter SAVE's premises and inspect the Equipment. The Equipment will go back on-hire from the date of discovery of the Rental Period for damaged equipment will be extended until SAVE and Customer have agreed the value of monetary damages payable by Customer, such damages to include but not be limited to all associated costs of transportation and inspection. For the avoidance of doubt all Equipment deemed to be damaged beyond repair will be charged to Customer at full reinstatement value.
- 12.4 In the case of power unit rentals, such Equipment the minimum Rental Period will be as follows:
  - a) Seven (7) days for all offshore and overseas rentals plus any specific onshore projects. Rates to include 24/7 call out cover and unlimited running time for Equipment; or
  - b) Five (5) days (Monday-Friday) for all other rentals. Rates are based on Equipment running for 60 hours per week and do not include 24/7 call out coverage.
- 12.5 Should there be any increase in the price and costs of raw materials, labour and overhead expenses that were not taken account of by SAVE in any estimate, quotation or order acknowledgment form signed by SAVE then SAVE reserves the right to increase the price upon giving written notice of such increase to the Customer at any time before completion of the Contract.

- 12.6 If SAVE and the Customer agree any variation to the Contract whereby additional work is to be undertaken by SAVE then SAVE reserves the right to reflect any increase in price and cost of raw material, labour and overhead expenses that may have taken place since the commencement of the original Contract works in the price of such additional work.
- 12.7 Any variation by the Customer in the design, quantification or specification of the Equipment following any instruction by the Customer in accordance with the provisions of the Contract shall allow SAVE to increase the price to reflect any additional costs that SAVE may incur as a result thereof. Unless otherwise agreed in a Contract, SAVE shall not be bound to accept any request for variation.
- 12.8 The price and all prices quoted are strictly net.
- 12.9 In addition to the price the Customer shall pay all relevant charges (including but not limited to):
- (i) delivery, freight, carriage and labour charges;
  - (ii) all insurance costs;
  - (iii) all associated sundry items including but not limited to fuels, spares, oil, lubricants;
  - (iv) any sales or withholding taxes, customs duties, import and export local and any other taxes where applicable at the appropriate rate prevailing at the time payment is due; and
  - (v) charges related to transportation or other services supplied by an outside contractor and purchased by SAVE in connection with providing the Equipment to the Customer, which may be charged to the Customer at a minimum of cost plus 15%.
  - (vi) In the event of Equipment failure Customer will be responsible for covering all transportation costs of returning the failed Equipment to a designated SAVE site if such Equipment cannot be repaired at Customer worksite or is located out with a radius of 150 miles from a designated SAVE site.
- 12.10 Weather or other factors which prevent satisfactory operation of the Equipment (including loss of or damage to the Equipment) shall not relieve the Customer of the responsibility for paying the Price during the Rental Period.

## RENTALS DELIVERY

- 13.1 Unless otherwise agreed, delivery of Equipment shall take place at the address specified in the Customer's purchase order.
- 13.2 Rentals will commence from the date notified in the mobilisation notice or as otherwise contractually agreed.
- 13.3 Any date or time given by SAVE for delivery of Equipment shall be an estimate only. Time for delivery shall not be of the essence of the Contract.
- 13.4 If for any reason the Customer fails to accept delivery of any of the Equipment when it is ready for delivery, or SAVE is unable to deliver the Equipment on time because the Customer has not provided appropriate instructions, documents, licenses or authorisations:
- a) all risk in the Equipment shall be borne by the Customer (including for loss or damage caused by SAVE's negligence);
  - b) the Equipment shall be deemed to have been delivered
- 13.5 The quantity of any consignment of Equipment as recorded by SAVE on despatch from SAVE's place of business shall be conclusive evidence of the quantity received by the Customer on delivery unless the Customer can provide conclusive evidence proving the contrary.
- 13.6 SAVE shall not be liable for any non-delivery of Equipment (even if caused by SAVE's negligence) unless the Customer gives written notice to SAVE of the non-delivery within (7) seven days of the date when the Equipment would in the ordinary course of events have been received.



13.7 Any liability of SAVE for non-delivery of the Equipment shall be limited to replacing the Equipment within a reasonable time or issuing a credit note at the pro rata Price against any invoice raised for such Equipment.

## **CANCELLATION and DELAYS**

- 14.1 Purchase orders once placed and accepted by SAVE may be cancelled only with SAVE's consent.
- 14.2 Any cancellation at Customer's request made within a 48 hour period prior to the agreed delivery date will result in a cancellation charge equal to
- 20% of the first 7 days of rental; and
  - 100% of the full Contract price for non-standard or special Equipment.
- 14.3 Cancellation charges for accessories and components sourced from third parties will be charged at full price. SAVE shall, at its sole discretion, adjust the price and delivery dates or make such other amendments as may be required as a result of any change order agreed to be issued by the Customer and SAVE. No amendment to the Contract shall be valid unless agreed in writing by SAVE (at its sole discretion).
- 14.4 In the event Customer requests a delay in the agreed delivery date for any power unit as per the Contract Customer shall be charged 60% of the agreed daily rental rate per day until the actual date of delivery.

## **RISK**

15.1 All risk in the Equipment shall pass to the Customer upon dispatch and shall remain with the Customer throughout the Rental Period and the Customer shall keep the Equipment insured against this risk. The Customer shall, if required by SAVE, provide written evidence of such insurance.

## **TITLE TO EQUIPMENT**

- 16.1 Unless otherwise agreed in writing between the parties the property and title in the Equipment shall not pass to the Customer but shall remain vested in SAVE throughout the Rental Period.
- 16.2 The Customer shall not do or permit or cause to be done any matter or thing whereby the rights of SAVE in respect of the Equipment are or may be prejudicially affected and shall not assign, let, pledge, mortgage, charge, encumber, or part with possession of or otherwise deal with the Equipment or any interest therein.
- 16.3 SAVE shall have the right, to be wholly exercised at their discretion, without prejudice to any other remedies to enter, any premises owned or occupied by the Customer:
- to search for, inspect and examine the condition of the Equipment on reasonable notice to the Customer; and/or
  - without prior notice, to search for and recover the Equipment in any one or more of the following circumstances:-
    - any sum due by the Customer to SAVE in respect of the Equipment or any part thereof becomes overdue for payment;
    - the Customer:
      - enters into liquidation (other than for the purpose of effecting a reconstruction or amalgamation) whether compulsorily or voluntarily;
      - compounds with or convenes a meeting of its creditors or has a receiver appointed of all or any part of its assets;
      - takes or suffers any similar analogous action to those listed at 1) - 2) above in consequence of a debt; or
      - ceases for any reason to trade or carry on business;
    - on termination of the Contract, and the Customer shall be responsible for all costs, charges and expenses incurred by SAVE in ascertaining the location of and re-taking possession of the Equipment.

## SAVE'S OBLIGATIONS

- 17.1 SAVE warrants that where appropriate the Equipment, as at the commencement of the Rental Period, shall comply with the manufacturer of the Equipment's guidelines and instructions as in force at the commencement of the Rental Period.
- 17.2 Subject to Clause 17.3, where the Equipment is found to be defective or not to comply with the terms of Clause 17.1, SAVE shall, in its sole discretion, repair or replace the defective Equipment free of charge or, if in its sole discretion such repair or replacement is impossible or uneconomical, SAVE shall refund the price paid by the Customer in relation to the defective item(s) of Equipment.
- 17.3 In the event of Equipment breakdown or failure SAVE will at Customer's request send an SAVE engineer to Customer's worksite to carry out any repairs. Any Services undertaken by SAVE will be done so in accordance with the SAVE Terms and Conditions of Sale & Service. If the Equipment is deemed unrepairable SAVE will not be liable for sourcing replacement equipment from third parties.
- 17.4 The obligations of SAVE contained in Clauses 17.1 and 17.2 shall be conditional upon:-
- notice being given of the defect within twenty four (24) hours of the defect becoming apparent;
  - such notice in 17.4(a) to be served no later than seven (7) days from the date of delivery;
  - the defect not having arisen because the Customer failed to follow SAVE's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Equipment or in accordance with good trade practice.
- 17.5 Where the Equipment is found to be defective for any other reason other than described in Clause 17.2, SAVE shall, at Customer's option, repair or replace the defective Equipment at the Customer's cost unless otherwise agreed. For the avoidance of doubt all damaged Equipment shall be charged in accordance with Clause 2.
- 17.6 Any Equipment to be repaired or replaced in accordance with Clause 17.2 or 17.5 shall be delivered to SAVE at the Customer's expense.
- 17.7 Subject to this Clause 17 and to Clause 18 all other conditions, warranties or other stipulations concerning the Equipment whether express or implied by common law or under statute are excluded to the fullest extent permitted by law, and in particular, but without limiting the foregoing generality, SAVE grants no warranties regarding fitness for purpose, use, quality or nature of the Equipment whether express or implied by statute or common law. This Clause 9 sets out Customer's only right of recourse to SAVE for failed or broken down equipment. ATR will not be liable for any costs relating to third party repairs arranged by Customer.

## LIABILITY

- 18.1 SAVE's cumulative liability to the Customer under any Contract howsoever arising shall be limited to 100% of the Contract price.
- 18.2 SAVE will not have any liability whether contractual or in tort, for any indirect or Consequential Loss, costs, damages, charges or expenses arising out of or in connection with any Contract. For the purpose of this Clause 10.2 and Clause 12.5 "Consequential Loss" shall mean vessel and/or installation downtime, loss and/or deferral of production, loss of profit, loss of use, loss of revenue, profit or anticipated profit (if any), in each case whether direct or indirect and whether or not foreseeable at the date of the Contract.

## CUSTOMER'S OBLIGATIONS

- 19.1 The Customer shall keep the Equipment in good repair and condition (fair wear and tear excepted as to what constitutes fair wear and tear SAVE shall decide).
- 19.2 The Customer undertakes not to dress, change, alter or modify (or obtain services of any other party to dress, change, alter or modify) the Equipment in any way without SAVE's prior written approval.
- 19.3 Subject to Clause 21.2, all Equipment lost or damaged beyond repair during the Rental Period including whilst being transported to and from the Customer's worksite except to the extent resulting from fair wear and tear or latent defect, shall be paid for in full by the Customer at the reinstatement value (i.e. replacement cost NEW) documented or applicable at the time of loss, plus the cost of freight charges, customs duty and cost of exporting/importing such Equipment. SAVE
- 19.4 Unless otherwise agreed in writing Customer will be solely responsible for all maintenance, servicing and certification of Equipment during the Rental Period to ensure compliance with all applicable laws.
- 19.5 If Customer requests replacement Equipment from SAVE such replacement Equipment will be provided subject to Customer agreeing in writing that it will immediately return the failed Equipment to SAVE's premises for inspection by SAVE.
- 19.6 The Customer accepts all responsibility for the monitoring and measurement of equipment supplied under the Contract for the presence of Low Specific Activity (LSA) Scale also referred to as Normal Occurring Radioactive Scale (Norm).
- 19.7 The Customer accepts all responsibility for the treatment and decontamination of equipment supplied under the Contract where the presence of Low Specific Activity (LSA) Scale also referred to as Normal Occurring Radioactive Scale (Norm) has been detected.
- 19.8 In the event of Equipment being supplied by SAVE in lifting frames duly certified to relevant industry standards, Customer shall be responsible for carrying out all inspections at the appropriate time. All costs in relation thereto shall be for Customer's account.
- 19.9 The Customer accepts all responsibility for the monitoring and measurement of Equipment supplied under the Contract for the presence of Low Specific Activity (LSA) Scale also referred to as Normal Occurring Radioactive Scale (Norm).
- 19.10 The Customer agrees to return all Equipment supplied as part of the Contract free from contamination with Low Specific Activity (LSA) Scale also referred to as Normal Occurring Radioactive Scale (Norm). All such Equipment must be accompanied with a written declaration that the Equipment has been cleaned down and is free from any NORM contamination.

## INDEMNITIES

- 20.1 Without prejudice to the provisions of Clause 17.2, 17.6, 19.3 and 22.2, the Customer shall be responsible for and shall save, indemnify and hold harmless SAVE Group from and against:-
- a) all claims, losses, damages, proceedings, causes of action and expenses (including court costs and other litigation costs arising in respect of/or as a result of loss or damage to the Equipment during the Rental Period;
  - b) personal injury including death or disease to any person employed by the Customer Group arising from or relating to the performance of the Contract or the use of the Equipment;
  - c) loss of or damage to the property of the Customer Group whether owned, leased, hired or otherwise provided by the Customer Group arising from or relating to the performance of the Contract and/or the use of the Equipment;
  - d) personal injury including death or disease or loss of or damage to the property of any third party caused by the performance of the Contract.
- 20.2 The Customer shall be responsible for and shall save, indemnify and hold harmless the SAVE from and against and against all claims, losses, damages, proceedings, causes of action and expenses (including court costs and other litigation costs) of whatsoever nature arising from:-
- a) pollution and/or contamination (including without limitation pollution or contamination emanating from any reservoir or in-hole below the rotary table or above the rotary table);
  - b) any non-compliance or contravention of law or regulation; or
  - c) without prejudice to Clauses 20.1 and 20.2:
    - (i) the loss or damage to any well or hole;
    - (ii) blow out, fire, explosion, cratering or uncontrollable oil condition (including the costs to control a wild well and the removal of debris);
    - (iii) damage to any reservoir, geological formation or underground strata or the loss of oil or gas therefrom;
    - (iv) the use of radioactive tools in relation to the use of the Equipment or any contamination resulting therefrom (including retrieval and/or containment and clean up), which arise(s) from the performance of the Contract.
- 20.3 If Customer receives a claim or otherwise becomes aware that any Equipment or part thereof manufactured by SAVE infringes or allegedly infringes a patent or other intellectual property right, Customer shall notify SAVE immediately in writing and give SAVE information, assistance and exclusive authority to evaluate, defend and settle such claim or potential infringement, SAVE shall then at its own expense and option
- a) settle such claim;
  - b) procure for Customer the right to use such Equipment; or
  - c) replace or modify it to avoid infringement or
  - d) remove it and refund the purchase price (including transportation and installation costs) less a reasonable amount for depreciation; or
  - e) defend against such claim.
- 20.4 The Customer shall save, indemnify, defend and hold harmless the SAVE Group from all claims, losses, damages, costs (including legal costs), expenses and liabilities of every kind and nature for, or arising out of, any alleged infringement of any patent or proprietary or protected right arising out of or in connection with the performance of the obligations of the Customer under the Contract.
- 20.5 Notwithstanding any provision to the contrary elsewhere in the Contract and except to the extent of any agreed liquidated damages (including without limitation any predetermined fees) provided for in the Contract, the Customer shall save, indemnify, defend and hold harmless the SAVE from the Customer Group's own Consequential Loss and SAVE shall save, defend, indemnify the Customer Group from the SAVE's own Consequential Loss, arising from, relating to or in connection with the performance or non -performance of the Contract.
- 20.6 All exclusions and indemnities given under this Clause 12 shall apply irrespective of cause and notwithstanding the negligence or breach of duty of the indemnified party or any other entity or party and shall apply irrespective of any claim under contract or otherwise at law.

## TERMINATION

- 21.1 SAVE may terminate any Contract forthwith by notice in writing to the Customer;
- a) by giving notice of the same to the Customer; or
  - b) if the Customer:
    - (i) commits a material breach of this Contract which in the case of a breach capable of remedy shall not have been remedied within thirty (30) days of the receipt by the party in default of a notice from the innocent party identifying the breach and requiring its remedy;
    - (ii) is unable to pay its debts as they fall due or enters into liquidation (other than for the purpose of effecting a reconstruction or amalgamation) whether compulsorily or voluntarily or compounds with or convenes a meeting of its creditors or has a receiver appointed of all or any part of its assets or takes or suffers any similar action in consequence of debt, or ceases for any reason to carry on business; or
    - (iii) fails to pay any sums due to SAVE within the thirty day period provided for in Clause 3, without prejudice to SAVE's right to receive interest for non-payment.

## CONSEQUENCES OF TERMINATION

- 22.1 Upon the termination or expiry of any Contract howsoever arising:
- a) SAVE shall be entitled to invoice the Customer for the price payable under that Contract until the Equipment is returned to SAVE's premises as directed by SAVE and the Customer shall pay such invoice in accordance with these Terms and Conditions; and
  - b) the Customer shall deliver the Equipment relating to that Contract to SAVE's premises as directed by SAVE.
- 22.2 Equipment which is returned at the end of the Rental Period shall be inspected by the SAVE in accordance with industry recognised standards with all costs to the Customer's account unless stated otherwise. If any piece of Equipment is downgraded for any reason other than due to normal wear and tear Customer shall pay damaged for such items As set out in Clause 2 hereof.

## FORCE MAJEURE

- 23.1 If performance of the Contract by SAVE shall be delayed by any circumstances or conditions beyond the control of SAVE including (but without prejudice to the generality of the foregoing) any war, intellectual dispute, strike, lockout, riot, malicious damage, fire, storm, flood, act of God, accident, failure of production equipment, any statute, rule, byelaw, order, regulation or requisition made or issued by any government department, local or other duly constituted authority, then SAVE shall have the right to suspend further performance of the Contract until such time as the cause of delay shall no longer be present.
- 23.2 If performance of the Contract by SAVE shall be delayed by any such circumstances or conditions beyond the control of SAVE for a period of three (3) months, then SAVE shall have the right to be discharged from further performance of and liability under the Contract.

## GENERAL PROVISIONS

- 24.1 Any notice to be given under, or in connection with the matters contemplated by, these Terms and Conditions shall be in writing and signed by or on behalf of the party giving it and shall be served by delivering it personally or sending it by facsimile, e-mail or pre-paid recorded delivery or registered post (or registered airmail in the case of an address for service outside the United Kingdom) to the address and for the attention of the person stated in the Contract (or as otherwise notified by that party hereunder). Any such notice shall be deemed to have been received:-
- (i) if delivered personally, at the time of delivery;
  - (ii) in the case of pre-paid recorded delivery or registered post, forty-eight (48) hours from the date of posting;
  - (iii) in the case of registered airmail, five (5) days from the date of posting; and
  - (iv) in the case of fax, at the time of transmission; and
  - (v) in the case of electronic mail, forty-eight (48) hours after the time of sending. If deemed receipt occurs before 9am on a business day the notice shall be deemed to have been received at 9am on that day and if deemed receipt occurs after 5pm on a business day, or on a day which is not a business day, the notice shall be deemed to have been received at 9am on the next business day. For the purpose of this Clause, a "business day" means any day which is not a Saturday, a Sunday or a public holiday in the place at or to which the notice is left or sent.
- 24.2 No failure or delay by any party in exercising any right, power or privilege under any Contract shall operate as a waiver nor shall any single or partial exercise preclude any further exercise of any right, power or privilege under any Contract or otherwise.
- 24.3 Nothing in these Terms and Conditions shall be construed as establishing or implying any partnership or joint venture between the parties as the agent of the other. Nothing in these Terms and Conditions shall be construed as establishing or implying an employer/employee relationship between ATR and any employees of the Customer and/or its affiliates.
- 24.4 These Terms and Conditions and the documents referred to herein set out the entire agreement of the parties and supersede all prior agreements relating to the subject matter.