

GENERAL TERMS AND CONDITIONS

1 DEFINITIONS

- 1.1 'Contract' shall mean the agreement in writing between the Client and the Contractor for the provision of the Service, including therein all documents to which reference may properly be made in order to ascertain the rights and obligations of the parties, except where agreed in writing between the Client and the Contractor.

Any verbal comments made by the Contractor's staff, agents or sub-contractors, or any descriptions or illustrations contained in the Contractor's catalogues, price lists or other promotional material are intended to present a general idea of the Service and shall not form any representations or be part of the Contract.

The conditions contained herein shall constitute the entire bargain between the parties except as may be agreed in the Contract referred to above.

- 1.2 'Contractor' shall mean the person, firm or company whose offer has been accepted by the Client and shall include the Contractor's legal representatives, successors and permitted assigns.
- 1.3 'Client' shall mean the person, firm or company named as such in the Contract for which the Service is to be carried out and shall include the Client's legal representatives, successors and permitted assigns.
- 1.4 'Minimum Service Period' shall mean the minimum period stated in the Contract for which the Client shall, without prejudice to any other provisions of these Conditions, receive the Service.
- 1.5 'Service' shall mean all work to be carried out by the Contractor in accordance with the provisions of the Contract.
- 1.6 'Service Charge' shall mean the sums or rates so named in the Contract together with any additions thereto or deductions therefrom agreed in writing under the Contract.
- 1.7 'Sub-Contractor' shall mean any person (other than the Contractor) named in the Contract for any part of the Works or the Service or any person to whom any part of the Contract has been, with the consent in writing of the Client, sub-let and the legal representatives, successors and permitted assigns of such person.
- 1.8 'Force Majeure' means, in relation to either party, any circumstances beyond the reasonable control of that party (including, without limitation, failure of electro-mechanical equipment, failure of mobile or satellite phone network coverage, actions of mobile network operator, extreme weather conditions, acts of God, the consequences of enemy activity, the consequences of any terrorist incident, any strike, lockout or other industrial action).

2 SERVICE AND STANDARD OF SERVICE

- 2.1 The Service shall be in accordance with the Contract. To the extent that the standard of the Service has not been specified in the Contract, the Contractor shall execute the Contract with the care, skill and diligence required in accordance with best telecommunications and computing practice.

3 SEVERABILITY

If any provision of these standard terms and conditions is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if these standard terms and conditions had been executed with the invalid, illegal or unenforceable provision eliminated.

4 VARIATIONS

- 4.1 The Client may at any time during the Contract require the Contractor to undertake any reasonable alteration to the Service, or any part thereof (hereinafter referred to as a 'Variation'). In the event of such a Variation being required, the Client shall formally request the Contractor to state in writing the effect such Variation will have on the Service and what adjustments, if any, will be required to the Service Charge. The Contractor shall furnish such details within 14 days of receipt of the Client's request or such other period as may be agreed. The Contractor shall not vary the Service in any respect unless instructed in writing to do so by the Client.

- 4.2 A Variation under Sub-Clause 4.1 shall not invalidate the Contract. If such Variation or the revised terms applicable to such Variation are not agreed within 14 days of receipt by the Client of the details to be furnished by the Contractor pursuant to Sub-Clause 4.1 above then the Variation shall be deemed to be withdrawn.

5 CONTRACTOR'S DEFAULT

- 5.1 If the Contractor shall fail to provide the Service or any part thereof with due diligence and expedition, or shall refuse or fail to comply with any reasonable order given to it in writing by the Client in connection with such default, or shall contravene any provisions of the Contract, the Client may immediately give notice in writing to the Contractor to make good such failure or contravention.

- 5.2 Should the Contractor fail to comply with the notice referred to in Sub-Clause 5.1 either within 7 days from receipt of such notice of failure or contravention capable of being made good within that time, or otherwise within such time as may be reasonably necessary for making it good, then without prejudice to any other right it may have under the Contract the Client may cancel the Contract where after any sum paid in respect of a period beyond the cancellation date shall be repayable by the Contractor.

- 5.3 Nothing in this Clause shall, in the event of a malfunction, prevent emergency action being taken by the Client to meet its operational requirements but, if such action results in the Contractor incurring additional costs in providing the Service, such reasonable costs shall be reimbursed to the Contractor by the Client provided such emergency action is not taken as a result of failure by the Contractor.

6 SPARE

7 INDEMNITY AND INSURANCE

- 7.1 Subject to the Specific Terms and Conditions, to the Appendix and to Sub-Clause 7.4 below the Contractor shall indemnify and keep indemnified the Client, against injury (including death) to any persons or loss of or damage to any tangible property which may arise out of the default or negligence of the Contractor, its employees or agents, and against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto, provided that the Contractor shall not be liable for nor be required to indemnify the Client against any compensation or damages for or in respect of injuries loss or damage resulting wholly from any act, default, or negligence on the part of the Client, its employees or contractors (not being the Contractor or employed by the Contractor). For the avoidance of doubt the Contractor shall not be liable in any way for any fatality, injury or harm or loss of any sort suffered by a User whether arising from accident or attack by a third party.
- 7.2 Subject to Sub-Clause 7.4 below the Client shall indemnify and keep indemnified the Contractor and insure with a reputable insurance company against injury (including death) to any persons or loss of or damage to any tangible property which may arise out of the default or negligence of the Client or any contractor employed by the Client (other than the Contractor) and against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto.
- 7.3 Without thereby limiting its responsibilities under Sub-Clause 7.1, the Contractor shall insure with a reputable insurance company against all loss of and damage to property and injury to persons (including death) arising out of or in consequence of the Contractor's obligations under the Contract and against all actions, claims, demands, costs and expenses in respect thereof, save only as is set out in the exceptions in Sub-Clauses 7.4 and 7.5.
- 7.4 Injury (including death) to any person or loss of or damage to any property not belonging to the Client or the Contractor, the respective liability of the Contractor and the Client under Sub-Clauses 7.1 and 7.2 in respect of any one act or default shall not exceed the value of the contract or £1m whichever is the smaller.

7.5 Contractor's Liability

- 7.5.1 Subject to the provisions of Sub-Clauses 7.1 to 7.4 above, the Contractor's entire liability to the Client, whether for any breach of its contractual obligations or any representations statements or tortious act or omission including negligence, shall be limited in the aggregate to an amount equal to the total of all sums paid by the Client to the Contractor in respect of the current year of the Contract.
- 7.5.2 Save for damage suffered by the Client as a result of any breach by the Contractor of the condition as to title or the warranty as to quiet possession implied by Section 12 of the Supply of Goods and

Services Act 1982, the Contractor shall not be liable to the Client in respect of any breach of its contractual obligations arising hereunder or any representations statements or tortious act or omission including negligence for loss of profits and goodwill or any type of indirect or consequential loss (including loss or damage suffered by the Client as a result of the action brought by any third party) even if such loss was reasonably foreseeable or the Contractor had been advised of the possibility of the Client incurring the same.

8 CHARGES

- 8.1 The Client shall pay the Service Charge at the time and in the manner specified in the Contract. Any variation to the Service Charge will be subject to three months' written notice in advance by the Contractor. Before such variation is implemented, the Contractor shall satisfy the Client that the variation proposed is reasonable.
- 8.2 If additional costs are incurred by the Contractor as a result of any mal-operation, default or negligence of the Client or any third party other than a Sub-Contractor, the Contractor shall have the right to make a reasonable additional charge in respect thereof.

9 TERMS OF PAYMENT

9.1 The Contractor shall invoice the Service Charge at the time and in the manner specified in the Contract and these charges shall be payable within 30 days from receipt by the Client of a correct invoice, time being of the essence. Payments shall be made in British Pounds Sterling by wire transfer to Dryad Maritime Intelligence Service Ltd.

9.2 All other charges under the Contract shall be payable within 30 days from receipt by the Client of a correct invoice, time being of the essence.

9.3 If at any time at which any payment would fall to be made under the Contract, there shall be any defect in any portion of the Service in respect of which such payment is claimed, the Client may retain the whole of such payment. Any sum retained under this Sub-Clause shall be paid to the Contractor upon the said defect being made good.

9.4 Out of Pocket Expenses

The Client will pay directly all reasonable expenses for the consultants incurred whilst engaged any activity on behalf of the client, including but not limited to:

Communications costs including telephone calls

Stationary and clerical assistance

Any expenses incurred associated with these activities that are not paid directly will be invoiced to Clients at cost.

All liability, warranty, legal or other claims are limited to the value of the assignment.

9.5 If payment of any sum under the Contract is delayed by the Client other than in accordance with Sub-Clause 9.3 the Contractor reserves the right to charge interest at 3% over the then current NATWEST Bank PLC Base Rate on the amount of the delayed payment for the period of the delay. In the event that payment is unduly delayed, the Contractor shall have the right to defer the provision of the Service until

such payment is received, subject to its giving notice in writing to the Client of its intention so to do and after giving the Client adequate opportunity to rectify the situation.

10 RECOVERY OF SUMS DUE

10.1 Whenever under the Contract any sum of money shall be payable by the Contractor to the Client, the same may be deducted from any sum then due or which at any time thereafter may become due to the Contractor under this or any other Contract with the Client.

10.2 Exercise by the Client of its rights under this Clause shall be without prejudice to any other rights or remedies available to the Client under the Contract.

11 STATUTORY AND OTHER REGULATIONS

11.1 The Contractor shall in all matters arising in the performance of the Contract conform with all Acts of Parliament and with all orders, regulations and bye-laws made with statutory authority by Government Departments or by local or other authorities that shall be applicable to the Contract save as modified or restricted herein. The Contractor shall not, in the performance of the Contract, in any manner endanger the safety or unlawfully interfere with the convenience of the public. The cost to the Contractor of meeting the requirements of this Sub-Clause shall be included in the Service Charge as appropriate, except as provided under Sub-Clause 11.2.

11.2 If the cost to the Contractor of the performance of the Contract shall be increased or reduced by reason to the making after the date of the Contract of any law or order, regulation or bye-law having the force of law that shall be applicable to the Contract (other than any tax upon profits or revenue), the amount of such increase or reduction shall be added to or deducted from the Service Charge as appropriate.

11.3 In the event that the Contractor does not fulfil its responsibilities and obligations under Clause 11 and the Client thereby incurs costs to which it would not otherwise be liable due to any law or any order, regulation or bye-law having the force of law, the amount of such costs shall be reimbursed by the Contractor to the Client.

12 WAIVER

No delay, neglect or forbearance on the part of either party in enforcing against the other party any term or condition of the Contract shall either be or be deemed to be a waiver or in any way prejudice any right of that party under the Contract.

13 CONFIDENTIALITY

13.1 The Contractor and Client shall keep confidential any information obtained under or in connection with the Contract and shall not divulge the same to any third party without the consent in writing of the other party.

13.2 The provisions of this Clause shall not apply to:

- (i) any information in the public domain otherwise than by breach of Contract;
- (ii) information in the possession of the receiving party thereof before divulgence as aforesaid;
- or** (iii) information obtained from a third party who is free to divulge the same.

13.3 The Contractor and Client shall divulge confidential information only to those employees who are directly involved in the Contract or use of the Equipment and Software and shall ensure that such employees are aware of and comply with these obligations as to confidentiality.

13.4 The Contractor shall ensure that its Sub-Contractors are bound by the requirements of this Clause.

13.5 The provisions of this Clause shall continue in force notwithstanding the termination of the Contract.

14 BANKRUPTCY

14.1 If the Contractor shall become bankrupt or have a receiving order made against it or compound with its creditors or commence to be wound up not being a members' voluntary winding up for the purpose of reconstruction or amalgamation, or carry on its business under a receiver for the benefit of its creditors or any of them, the Client shall be at liberty either to terminate the Contract forthwith by notice in writing to the Contractor or to the receiver or liquidator or to any person in whom the Contract may become vested or to give such receiver, liquidator or other person the option of carrying out the Contract subject to his providing a guarantee for the due and faithful performance of the Contract up to an amount to be agreed.

14.2 If the Client shall become bankrupt or have a receiving order made against it or compound with its creditors or being a corporation commence to be wound up not being a members' voluntary winding up for the purpose of reconstruction or amalgamation, or carry on its business under a receiver for the benefit of its creditors or any of them, the Contractor shall be at liberty to terminate the Contract forthwith by notice in writing to the Client or the receiver or liquidator or to any person in whom the Contract may become vested. In the event of termination under this Sub-Clause the Contractor shall have the right, by prior notice to the Client, to enter the Premises for the purpose only of removal of the Equipment and Software and any other items of equipment or materials which are the property of the Contractor.

14.3 The exercise of rights under this Clause shall not prejudice any other rights or obligations of either party.

15 LENGTH OF AGREEMENT AND TERMINATION

The contract will run for an initial 12 month period, and may be renewed by the Client for subsequent 12 month periods at any time prior to the commencement of such 12 month period, at prices then current. Without prejudice to any other provisions of the Contract, the Contract may be terminated

- (i) by the Client giving to the Contractor 3 months notice in writing, expiring at the end of the 12 months Minimum Service Period or at the end of any subsequent service period entered into;
- (ii) by the Contractor giving to the Client 3 months notice in writing, expiring at the end of the Minimum Service Period or at the end of any subsequent service period entered into.

16 FORCE MAJEURE

- 16.1 If either party is affected by Force Majeure it shall promptly notify the other party of the nature and extent of the circumstances in question.
- 16.2 Notwithstanding any other provision in this Contract neither party shall be deemed to be in breach of this Contract, or otherwise liable to the other, for any delay in performance or non-performance of any of its obligations hereunder to the extent that the delay or non-performance is due to any Force Majeure of which it has notified the other party, and the time for performance of that obligation shall be extended accordingly.

17 TRAINING

The Contractor shall provide instruction in the use of the Service for the Client's personnel in accordance with the requirements of the Contract. Unless otherwise specified no charge shall be made for such instruction but the Client shall be responsible for paying any travel or living expenses necessarily incurred by the Client's personnel attending such instruction. If the extent of such instruction is not detailed in the Contract, the Contractor shall provide adequate instruction for a sufficient number of the Client's personnel to secure the satisfactory operation of the Service.

18 PUBLICITY

Neither the Contractor nor its Sub-Contractor(s) shall without the prior written consent of the Client advertise or publicly announce that it is undertaking work for the Client.

19 ARBITRATION

Except where otherwise provided, if any dispute or difference arises between the Client and the Contractor in connection with or arising out of the Contract and provided that either of them shall have given to the other notice in writing thereof, such dispute or difference shall be referred to a single arbitrator to be agreed between the Client and the Contractor or, failing such agreement within fourteen days from receipt of such notice in writing, to be nominated by the President for the time being of the British Computer

Society on the application of either party and any such reference shall be deemed to be a submission to arbitration within the meaning of the Arbitration Act 1996 (unless otherwise specified in the Contract) or any statutory re-enactment or amendment thereof for the time being in force.

20 LAW

Unless otherwise agreed in writing between the parties, the Contract shall be subject to and construed and interpreted in accordance with English Law and shall be subject to the exclusive jurisdiction of the Courts of England.

21 TERMINATION FOR BREACH

21.1 The Client shall be deemed to have repudiated this Contract and the Contractor may at any time by written notice to the Client accept that repudiation and terminate this Contract if

22.1.1 the Client fails punctually to pay on their due date any sums due under this Contract or

22.1.2 the Client breaches any other term of this Contract which is capable of remedy but fails to remedy the breach within twenty one days after service of a notice from the Contractor or

22.1.3 the Client shall have a receiver administrative receiver or administrator appointed or shall enter compulsory or voluntary liquidation or

21.2 If the Client shall repudiate this Contract and the Contractor shall accept such repudiation so as to terminate this Contract the Client shall pay to the Contractor all arrears of Service Charges and other sums due under this Contract and if such repudiation shall occur during the Minimum Service Period or any subsequent agreed service period, a sum representing 90 per cent of all service charges which would have been payable for the remainder of the Minimum Service Period or any subsequent agreed service period

22 DEFAULT

In the event that either party:

makes default in or commits any breach of its obligations hereunder which in the case of a default or breach which can be remedied has remained outstanding for a period of 14 days after service of a notice in writing by the party not in default or breach

then the other shall immediately and without prejudice to its other claims under this Contract become entitled to:

- i) suspend further performance of these Conditions of Contract for such a time (not exceeding 6 months) as it shall in its absolute discretion think fit (whether or not notice of such suspension shall have been given),
- or ii) treat the Contract as wrongfully repudiated,
- or iii) suspend or terminate the performance of its obligations under these Conditions of Contract within a reasonable time of its becoming aware of the act or default giving rise to its rights under this condition.

23 NOTICES

Any notices or other documents to be given hereunder shall be given by sending the same by recorded delivery, registered post or by hand delivery to the registered address of the relevant party or to such other address as that party may have notified in writing to the other. Any notice sent shall be deemed (in the absence of evidence of earlier receipt) to have been delivered at the time of hand delivery or in the case of postal service 72 hours after despatch and in proving the fact of despatch it shall be sufficient to show that the envelope containing such notice was properly addressed, stamped and posted.

SPECIFIC TERMS AND CONDITIONS

Dryad Intelligence and Operations Support Services

DRYAD has devised and runs Intelligence and Operations Support Services for vessels transiting high risk areas. This cannot of itself provide a safe environment vessels or prevent physical attacks or accidents. It is additional to and is not a substitute for comprehensive safety procedures and techniques, which remain the responsibility of the employer. In particular, it does not replace or reduce the need for lone workers to be fully trained in their jobs and in the risks associated with them.

Definitions and Interpretations

The expressions in the table below have the meanings shown next to them, unless inconsistent with the context:

Outage	Any period when the Service is not available
Planned Outage	Outage scheduled by DRYAD for the servicing, maintenance, repair or upgrade of the Service
Planned Outage Notice	Five days notice of any Planned Outage within Normal Working Hours, including the day of notice and the first day of the Planned Outage
Quotation	The formal quotation supplied to the Client before this agreement was formed
Senior Client Contact	The Client Representative nominated to receive details of all Service-Affecting Faults and Service Unavailability, and all Code Reds
Service-Affecting Fault	Any matter which is or ought to be under DRYAD' control and which causes Outage, but excluding any Planned Outage
User	Any employee of the Client with authorised access to the Service

Purpose and Effect of these Specific Terms and Conditions

These Specific Terms and Conditions set out the service to be provided and each party's areas of responsibility.

The Contracts (Rights of Third Parties) Act 1999 does not apply to this agreement. In particular, no User or other employee of the Client, nor anybody claiming for or under them, will have any rights under it.

Client Responsibilities

The Client must make sure that its employees:

- Are appropriately trained in accordance with the ship's security plan.
- Know and fully understand what the DRYAD service can and cannot do.
- Supply details included in the new client information form.
- Report their position daily to Dryad's Ops room.

This information must be correct and up-to-date, and the Client must notify DRYAD of all changes as soon as they occur.

DRYAD will not be liable for the consequences of the Client's failure to notify it of all such changes as soon as they occur.

The Client must pay for:

- the cost of all calls from the DRYAD Ops room to the vessel.

The Client must fully indemnify DRYAD against all claims made by other parties (including users and anybody claiming for them or under them) in respect of any failure by the Client or a user to implement and follow the appropriate procedures for using the Service at any stage.

DRYAD Responsibilities

DRYAD will register information about the vessel to assist in advice to the Captain in the event of an incident.

Users will be registered as appropriate for access to the Clients Secure Area on the Dryad Website.

DRYAD will send email a daily Situation Report (SITREP) to the vessel providing commentary on the specific threat to the Client vessel.

DRYAD will provide a periodic invoice for the calls made by the DRYAD Ops room to the Client vessel. Calls are charged at cost.

Planned Outage

If a Planned Outage is necessary, DRYAD will give a Planned Outage Notice unless it cannot do so despite reasonable efforts.

A Planned Outage Notice will give a description of the Planned Outage, including:

- its date, time and estimated duration
- whether the Service will be wholly or only partly interrupted
- any changes that will occur to the functionality of the Service

Fault Reporting Procedure

As soon as the Client knows that a Service-Affecting Fault has occurred, the Client must give full details to the DRYAD Ops room by email or telephone call.

The Client must provide the following information

- the Client's organisation or vessel name
- details of the problem, including the date and time when it occurred
- the name and contact details of the person to be updated with the fault status and resolution

DRYAD will seek to eliminate the fault as soon as possible after receiving a fault report.

If DRYAD identifies a problem affecting the service (excluding problems relating to the user's mobile or satellite phone/coverage), DRYAD will email the Senior Client Contact with details of the problem and when DRYAD expects to resolve it.

The Senior Client Contact must then notify users and take other steps to monitor their safety.

Summary

No system is absolutely foolproof. DRYAD can monitor a vessel by way of reports promulgated by the vessel, provide advice and commentary on risk and its avoidance. It does not guarantee that the vessel will be free from harm. The service depends on the Vessel's Captain and crew following the stipulated procedures and guidelines, and on all the necessary communications and computer equipment doing its job.

DRYAD has done everything it can reasonably think of to make sure that the system works properly. DRYAD will improve the system and the safeguards as opportunities arise. However, DRYAD is not adopting the Captain or vessel manager's duty of care towards its vessel, crew or employees. Any service by DRYAD does not replace or reduce any other precautions that a Captain, management company or crew member should take. In no circumstances will DRYAD be liable for any harm that befalls a vessel or its crew as a result of the service not working as intended.