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## STANDARD TERMS AND CONDITIONS OF SALE AND SERVICES

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## STANDARD TERMS AND CONDITIONS OF SALE AND SERVICES

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### 1. INTERPRETATION

1.1 In these Standard Terms and Conditions of Sale, unless the context otherwise demands:-

“Sale” means the UAE Civil Code, Article 489.

“ALATAS” refers to ALATAS Middle East FZE and ALATAS Middle East LLC;

“Business Day” means a day (other than a Friday, or a public holiday) when banks in the United Arab Emirates are open for business;

“Customer” means the party named as the Customer in ALATAS’ Quotation (“Quotation”) and the person who placed the order for the Product(s) and/or Service(s) (if different from the person named as Customer in the Quotation);

“Customer’s Group” means its subsidiaries, related companies and associated companies (and shall where applicable, include the subsidiaries, related companies and/or associated companies of such subsidiaries, related companies and associated companies) and shall also where the context requires or permit, refer to any one or more or all of the said companies;

“The/This Contract” means this contract for the sale and purchase of the Product(s) and/or provision of Service(s) by ALATAS made between ALATAS and the Customer upon and subject to and constituted by the Special Conditions and these Terms and Conditions;

“Delivery Place” means the port or place to which Products are delivered or are to be delivered under this Contract;

“Equipment” means the Customer’s equipment at the Delivery Place;

“Other Contract” means any contract or agreement made and/or from time to time made between the Customer and/or the Customer’s Group or any of them and ALATAS and/or ALATAS’ Group or any of them;

“Pre-delivery Documents” means the documents prepared by ALATAS and signed by or on behalf of ALATAS and the Customer confirming agreement by the Customer to the conditions and procedures under which physical delivery of the Products shall take place;

“Product(s)” means the goods or products described in the Quotation issued by ALATAS (including any instalment or portion or part of the goods or products) which ALATAS is to sell, sells and/or purports to sell and/or is to supply, supplies and/or purports to supply pursuant to this Contract;

“ALATAS’ Group” means ALATAS, its subsidiaries, related companies and associated companies (and shall where applicable, include the subsidiaries, related companies and/or associated companies of such subsidiaries, related companies and associated companies) and shall also where the context requires or permits, refer to any one or more or all of the said companies;

“Service(s)” means services provided or rendered by ALATAS or ALATAS’ Group to the Customer or the Customer’s Group, including but not limited to assembly, installation, erection, repairs and similar services.

“Special Conditions” refers to any specific terms and conditions agreed in writing between the Customer and ALATAS in their contract of sale, including the terms and conditions



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contained in ALATAS' Quotation, which are apart from the standard terms and conditions of sale set out herein.

"Terms and Conditions" means the standard terms and conditions of sale set out herein (as the same may be amended, varied or modified from time to time) and (unless the context otherwise requires) includes any Special Conditions agreed in writing between the Customer and ALATAS.

"Working Hours" means ALATAS' ordinary working hours from 08:00 to 18:00 (Gulf Standard Time) for office work and 8:00 to 18:00 (Gulf Standard Time) for field work on Saturdays to Thursdays, excluding public holidays.

- 1.2 Any reference in this Contract to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.
- 1.3 The headings in this Contract are for convenience only and shall not affect their interpretation.
- 1.4 References to a party in this Contract shall be deemed to include its successors-in-title and permitted assigns. Words denoting the singular shall include the plural and vice versa. References to a person or persons shall be deemed to include firms and/or corporations. Where a word or phrase is defined, its other grammatical forms used herein have a corresponding meaning. Any reference to a document or agreement shall include any amendments, variations, modifications or supplements thereto.

## 2. APPLICATION

- 2.1 ALATAS shall sell the Products and render its Services, and the Customer shall purchase the Products, in accordance with and subject to all the Terms and Conditions of this Contract. For the avoidance of doubt, these Terms and Conditions shall form part of this Contract, and this Contract shall govern the sale and purchase of the Products and /or the provision of Services to the exclusion of any other terms and conditions subject to which any order is made or purported to be made, by the Customer. Without prejudice to the generality of the foregoing, this Contract shall supersede any other terms, conditions and/or provisions appearing elsewhere, including pre-contractual discussions or correspondence, other than the Quotation, and shall override and prevail over any terms, conditions and/or provisions stipulated or appearing in or referred to in the Customer's order or similar document or elsewhere. Without prejudice to any of the other terms, conditions and/or conditions herein contained, the Customer's performance or execution (which shall include part-performance and/or part-execution) of this Contract or any part thereof (including but not limited to the payment of any part of the purchase price of the Products or costs of the Services rendered or any part thereof or acceptance of the Products and/or the Services rendered or any part thereof) shall be deemed and be construed to be unconditional confirmation by the Customer of its acceptance of this Contract and these Terms and Conditions.
- 2.2 The Customer shall place orders for the purchase of Products in writing by issuance of a Purchase Order transmitted by fax or email to ALATAS' fax number or email address, in which case the Customer may elect to either collect the Products at ALATAS' collection point(s) as provided in the Quotation, or request for ALATAS to deliver the Products to a Delivery Place. The Customer may, further to the above or in the alternative, place orders for the purchase of Products by sending ALATAS a Purchase Order by mail to ALATAS' address as follows:



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Addresses : ALATAS Middle East FZE  
Office # 110, G+3 Office Bldg 1, Plot # S10122A1,  
Jebel Ali Free Zone – South, PO Box 263007, Dubai, UAE

ALATAS Middle East LLC  
Warehouse W2P2, Musaffah M44 Sector 14  
P.O. Box 32689, Abu Dhabi, UAE

Attn : The Sales Department

All orders for the purchase of Products shall be Ex-Works (EXW/Incoterms 2010) unless otherwise stated in writing.

- 2.3 Customer shall place orders for the provision of Services, such as the assembly or installation of a Product, repairs, hydraulic services or any other requested services, in writing by way of a Purchase Order (“Order”) transmitted by fax or email to ALATAS’ fax number or email address. The Customer may also place orders for the Services by sending ALATAS a Purchase Order by mail to ALATAS’ address as follows:-

Addresses : ALATAS Middle East FZE  
Office # 110, G+3 Office Bldg 1, Plot # S10122A1,  
Jebel Ali Free Zone – South, PO Box 263007, Dubai, UAE

ALATAS Middle East LLC  
Warehouse W2P2, Musaffah M44 Sector 14  
P.O. Box 32689, Abu Dhabi, UAE

Attn : The Services Department

- 2.4 ALATAS retains the discretion to act or to decline to act on orders placed verbally or orally by telephone or otherwise, which are not supported by a written Purchase Order. Where ALATAS accepts verbal or oral orders from Customer, such acceptance shall be on the basis that these Terms and Conditions are incorporated into the Contract and ALATAS is under no duty to verify the identity or authority of the person or persons making the orders or the authenticity of such orders.
- 2.5 An Order for purchase of Products or provision of Services, once confirmed by ALATAS, may not be cancelled or withdrawn for any reason whatsoever unless otherwise agreed to by ALATAS, in which case the Customer agrees to and shall promptly pay ALATAS the cancellation charges or the re-stocking charges as set out in Clause 5.5 (f), as applicable.
- 2.6 No variation to this Contract shall be binding unless agreed in writing between and signed by the authorized representatives of ALATAS and the Customer.
- 2.7 ALATAS’ employees, servants and/or agents are not authorized to make any representations or warranty whatsoever concerning the Products unless confirmed by ALATAS in writing. In entering into this Contract, the Customer acknowledges that it does not rely on, and waives any claim for breach of, any such representations, warranties and/or statements which are not so confirmed.
- 2.8 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance offer, invoice or other document or information issued by ALATAS shall be subject to correction without any liability on the part of ALATAS.



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- 2.9 ALATAS makes no representation and gives no warranty (whether express or implied) in respect of the sources or origin of manufacture or production of the Products or any part thereof and, without prejudice to the foregoing, it is hereby expressly agreed that ALATAS may at its absolute discretion produce, manufacture or howsoever supply the Products or any part thereof either by its own plants or via any third party.

### 3. PRODUCTS

- 3.1 The Customer shall be responsible for giving ALATAS all and any necessary information relating to the Products within a sufficient and reasonable time to enable ALATAS to perform this Contract in accordance with its terms.
- 3.2 The quantity, quality and description of and any specification for the Products shall be those set out in this Contract. Drawings, illustrations and photographs are intended for illustrative purposes and unless included in the contract by means of express reference are not binding in relation to the detailed performance of the contractual work. Lists of dimensions, weights and volumes should be considered to be approximate unless there is an express agreement or clear presumption to the contrary.
- 3.3 Where the Products are to be manufactured or any process is to be applied to the Products by ALATAS in accordance with a specification/instructions submitted by the Customer, it shall be incumbent on the Customer to ensure that all patents, copyrights, designs, trademarks or other industrial or intellectual property rights of any other person are not infringed. In the event of any infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person resulting from ALATAS' use of and/or compliance with the Customer's specification/instructions, the Customer shall indemnify ALATAS against all loss, damages, costs and expenses awarded against or incurred by ALATAS in connection with or paid or agreed to be paid by ALATAS in settlement of any such claim.
- 3.4 ALATAS reserves the right to make any changes in the specification of the Products which are required to comply with or conform to any applicable standards, statutory rules, order or requirements or, where the Products are to be supplied to ALATAS' specification, which do not materially affect their quality or performance.
- 3.5 In the event that any licence, approval or consent of any governmental or other authority is or becomes required for the sale and purchase of the Products comprised in this Contract, the Customer shall, at its own cost and expense, obtain all such licences, approvals and consents and shall produce to ALATAS satisfactory evidence that the same have been obtained. If such evidence is not produced within 30 days or such time as may be extended by ALATAS, ALATAS shall (without prejudice to any of its other rights and/or remedies) be entitled to cancel this Contract by written notice to the Customer insofar as it remains unperformed, in which case any deposit or monies paid by the Customer shall be forfeited.
- 3.6 ALATAS shall be under no obligation to give notice for insurance of goods. Agreed incoterm shall apply. It is further hereby agreed that the provisions of UAE Civil Code, Article 514 shall not apply to this Contract or to the sale of the Products (or any delivery thereof).
- 3.7 ALATAS reserves the right to make delivery in instalments. Where the Products are to be delivered in instalments, each delivery shall constitute a separate contract and failure by ALATAS to deliver any one or more of the instalments in accordance with these Terms and Conditions or any claim by the Customer in respect of any one or more instalments shall not entitle the Customer to treat this Contract as a whole as repudiated.





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### 4. PROVISION OF SERVICES

- 4.1 ALATAS shall provide and/or render such Services as requested by the Customer and as ALATAS is agreeable to providing. The Order for Services must specify the time and place for carrying out such Services and the estimated duration of such Services. Where, prior to the issuance of the Quotation, the Customer specifies a time, place and duration which is different from that specified in the Quotation or, after having placed the Order, specifies a different time, place and duration of Services from that as stated in the Order, ALATAS shall at its full discretion be entitled to accept the changes subject to additional charges, and if the Customer does not agree to such charges, ALATAS shall at its option cancel the Order without any liability whatsoever.
- 4.2 It shall be the responsibility of the Customer to ensure that ALATAS is granted access to all locations, manpower and equipment and to provide ready and safe means of access to all places where work and/or services are to be and/or are being performed on the vessel and where materials and equipment are stored. The Customer shall not and agrees not to obstruct or unreasonably deny ALATAS access to the aforesaid places.
- 4.3 The Customer shall assist ALATAS in the performance of Services by providing, at its sole expense and at such time and place as ALATAS may request, such number and types of auxiliary personnel, equipment and any other type of goods or support (e.g. winches, rails, electricity, etc.) as may be necessary to perform the Services. The above undertaking of the Customer applies irrespective of whether or not the erection and assembly of the Products have been included in the contract price or a lump sum has been agreed in the Contract. Any on-site infrastructure necessary for the provision of Services (e.g. foundations, energy supply, etc.) shall be completed prior to the arrival of the ALATAS personnel at the work site. It shall be the Customer's sole responsibility to effect and maintain such adequate security measures on the work site as may be necessary to properly protect such personnel and equipment as has been provided pursuant to this provision. ALATAS assumes no liability whatsoever with respect to the acts or omissions of any auxiliary personnel assigned to it for the purpose of the performance of its Services or for any damages to or damages caused by the equipment and any other goods put at ALATAS' disposal by the Customer.
- 4.4 Unless otherwise agreed in writing, the times indicated in orders for the completion of Services shall be considered estimates only. Where a fixed time or deadline for completion has been expressly agreed upon in writing, ALATAS shall not be held liable in the event of delays arising out of circumstances beyond ALATAS' control. Where the delay caused by reasons beyond ALATAS' control lasts for 1 month, ALATAS and the Customer shall be entitled to cancel the Order by way of written notice without any liability whatsoever. Where the delay is caused by reasons within ALATAS' control, the Customer shall be entitled to cancel the Order if the delay extends beyond 1 month by way of written notice without any liability on the part of ALATAS whatsoever.

### 5. CHARGES

- 5.1 The price of the Product shall be as stated in this Contract.
- 5.2 ALATAS reserves the right, by giving notice to the Customer at any time before delivery, to increase the price of the Products to reflect any increase in the cost to ALATAS which is due to any factor beyond the reasonable control of ALATAS (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labor, materials or other costs of production), any change in delivery dates, quantities or specifications for the Products which is requested by the Customer, or any



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delay caused by any instructions of the Customer or failure of the Customer to give ALATAS adequate information or instructions.

- 5.3 The price of the Product is exclusive of cost of packaging and any applicable taxes, duties, tariffs and/or fees prevailing from time to time (including but not limited to Goods and Services Tax and customs fees), which shall be for the sole account of the Customer and for which the Customer shall additionally be liable to pay to ALATAS. In the event that any taxes, duties, tariffs, fees and/or other charges are paid by ALATAS on behalf of the Customer, the Customer hereby undertakes to forthwith on ALATAS' demand pay/repay the same to ALATAS and hereby agrees to indemnify ALATAS and keep ALATAS fully indemnified in respect thereof.
- 5.4 Without prejudice to the foregoing, if any tax, duty, tariff or any other such imposition or any increase in any existing tax, duty, tariff or any other such imposition is charged in respect of the Products, and if the same is to be paid by ALATAS, then ALATAS shall be entitled to add the amount of such imposition to the price of the Products and the Customer hereby agrees to bear and pay the same.
- 5.5 In addition and without prejudice to the foregoing provisions of this Clause, the Customer shall also pay the following charges (where applicable):-
- 5.5.1 Any expenses incurred as a result of the Customer, its representatives, agents, servants or officers rejecting the whole or any part of the delivery under this Contract;
- 5.5.2 Any mooring or unmooring charges or port dues which may be incurred by ALATAS in connection with any vessel to which the Products are delivered or to be delivered hereunder;
- 5.5.3 Any duties, taxes (other than taxes on profits), impositions, charges, freights, premiums, or other costs incurred by ALATAS, or for which ALATAS is accountable, in respect of deliveries of the Products under this Contract;
- 5.5.4 If ALATAS (not having duty-free stocks available, and the Customer first having been advised that this is the case) delivers to the Customer from duty paid stocks, the amount of such duty; and/or
- 5.5.5 Any additional costs incurred by ALATAS in respect of deliveries made under this Contract including payments for overtime.
- 5.5.6 Upon cancellation of a confirmed Order, Order cancellation charges amounting to 100% of the value of the cancelled Order shall be paid by the Customer to ALATAS. In the event that some or all of the ordered Products can be re-stocked and ALATAS agrees to re-stock the same, the Customer shall pay re-stocking fees instead of Order cancellation charges at the value of 10% of the Product(s) as stated in the Order (subject to the minimum amount of USD 200) and the costs and expenses of transporting the Product(s) to ALATAS' warehouse.
- 5.6 Unless otherwise stated, ALATAS shall charge its current hour rates for Services provided and/or rendered to the Customer during ALATAS' working hours, including but not limited to time spent for the purpose of travelling to and from the work site and the waiting time spent at the work site. For Services provided or work undertaken by ALATAS outside of ALATAS' working hours, overtime surcharges shall apply. Time spent in or incidental to the provision of Services, including travelling and waiting time, shall be recorded in timesheets and/or work-done reports duly endorsed by the Customer, its representative, agent, servant or



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officer. Prices indicated in quotations or tenders for the execution of an order shall be considered estimates only. The Customer shall, in addition to the above, compensate ALATAS of:-

- 5.6.1 all additional disbursements or expenses, including travel and accommodation expenses, arising in the course of ALATAS' provision of Services;
- 5.6.2 all additional surcharges, including Shipyard surcharges; and
- 5.6.3 all taxes and levies imposed by the authorities in the country of Service, including withholding taxes.
- 5.7 ALATAS' invoiced total price shall be final and conclusive and binding on the Customer.
- 5.8 For the avoidance of doubt, all terms and conditions contained in ALATAS' service rates sheet(s) shall form part of these Terms and Conditions and shall govern the Contract insofar as an order for Services is concerned.

### 6. INVOICES AND PAYMENT

- 6.1 All monies owed by the Customer under this Contract shall be paid to ALATAS in the manner set out in this Contract.
- 6.2 Unless otherwise provided in this Contract, ALATAS shall be entitled to invoice the Customer for the price of the Products on or at any time after delivery of the Products unless the Customer wrongfully fails to take delivery of the Products, in which case ALATAS shall be entitled to invoice the Customer for the price at any time after ALATAS has tendered delivery of the Products. ALATAS shall be entitled to issue its interim or final invoices to the Customer for the Services rendered by ALATAS to the Customer at any time, whether in the course of ALATAS' provision of Services, in which case ALATAS shall issue to the Customer an interim invoice, or after the Services have been rendered to the Customer, in which case ALATAS shall issue the Customer a final invoice. At the option of ALATAS, the invoice may be submitted to the Customer by telegraphic or electronic means.
- 6.3 Unless otherwise agreed in writing between ALATAS and the Customer, all payments hereunder or remainder thereof shall be due within seven (7) days from the date of the invoice and in the same currency as invoiced. The time of payment of the invoice price shall be of the essence of this Contract. Receipts for payment will be issued only upon request.
- 6.4 All payments to be made by the Customer, whether under this Contract and/or any Other Contracts, and by the Customer's Group under any Other Contract shall be made promptly and without withholding, set-off, counterclaim or any other deduction of any nature whatsoever.
- 6.5 Should the Customer fail to make payment of any Invoices by the stipulated due date (or where the sum is payable on demand, on ALATAS' demand) then, without prejudice to any other right or remedy available to ALATAS, ALATAS shall be entitled to at any time:-
  - 6.5.1 cancel this Contract and/or any Other Contracts or suspend any further deliveries or any provision of Services to the Customer under this Contract and/or any Other Contracts made between ALATAS and the Customer; and/or





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- 6.5.2 charge the Customer interest (both before and after any judgment) on the amount overdue and unpaid, at the rate of 1.5% above the Prime Lending Rate set by Hong Kong Shanghai Bank Corporation, Singapore, per annum but in no event less than an interest rate of 5.33% of the past due balances, too be compounded monthly, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).
- 6.6 Without prejudice to any other right or remedy which ALATAS may have, ALATAS shall be entitled (without suffering any penalty whatsoever and without being in breach of this Contract or any Other Contract) to withhold the delivery of the Products or the provision of Services or any part thereof at any time should the Customer:-
- 6.6.1 fail to observe any of the terms, conditions and/or provisions of this Contract and/or any Other Contract; or
- 6.6.2 fail to make any payment under this Contract and/or under any Other Contract.
- 6.7 Delivery documents may be provided to the Customer if requested, but payment shall not be conditional upon the Customer's receipt of such documents.
- 6.8 The Customer will execute any documentation required by ALATAS in order to allow for an electronic wire payment to be made to the bank account specified on ALATAS' invoice.
- 6.9 In addition to any right of lien to which ALATAS may by law be entitled, ALATAS shall be entitled to a general lien on the property of the Customer in ALATAS' possession for the unpaid price of any Products and/or sums due for Services rendered or any other monies owing by the Customer or the Customer's Group to ALATAS and/or ALATAS' Group under the same or any Other Contract.
- 6.10 Without prejudice to any other terms and conditions contained herein, if the Customer should fail and/or neglect too pay the whole or any part of the price of the Products or ALATAS' charges for Services rendered or be in breach of any of the terms and conditions of this Contract, ALATAS shall be entitled to resell the Products or any part thereof without any liability to the Customer or any third party and without prejudice to any claim which ALATAS may have against the Customer for damages or otherwise.

## 7. DELIVERY

- 7.1 Where delivery is requested, the Customer shall give ALATAS at least fourteen (14) days prior notice of the proposed delivery date of the Products and the place the Products are to be delivered to. Where the Delivery Place is a vessel, the Customer shall provide ALATAS with the vessel's particulars, including the name of the vessel and the main terms of the charterparty or contract of carriage entered into or to be entered into with shipowners or carrier, the identity of the vessel's agents, and the approximate date of delivery of the Products at least fourteen (14) days prior to the proposed delivery date of the Products for ALATAS' approval. ALATAS shall revert to the Customer with their approval or refusal or other comments within three (3) Business Days after the receipt of the relevant information from the Customer. ALATAS shall at all times act in a reasonable manner and shall not raise any unreasonable objections or unreasonably withhold its approval to the proposed carrying vessel or the terms of the charterparty or other contract of carriage. The Customer or the vessel's local agents shall also give ALATAS advance notice of at least two (2) Business Days of the vessel name and exact date, place and time at which delivery is required.



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- 7.2 The Customer agrees to reimburse ALATAS for overtime and/or other additional expenses incurred due to the failure of the Customer, its servants or vessel's local agents to provide ALATAS with sufficient prior notice of amendments of delivery time, quantity changes or cancellations provided that ALATAS shall not be liable in any way or manner for any delay in delivery of the Products howsoever caused by or arising from such failure by the Customer, the Customer's servants or agents, or the vessel's local agents as aforesaid.
- 7.3 Notwithstanding Clause 7.8 below, any delivery dates quoted are approximate only and shall not be a term of the contract and ALATAS shall not be liable in any way or manner for any delay in delivery of the Products howsoever caused. Time for delivery shall not be of the essence. The Products may be delivered by ALATAS in advance of the quoted delivery date upon ALATAS giving reasonable notice to the Customer.
- 7.4 If the Customer fails to take delivery of the Products or requests a delay in the delivery of the Products or fails to give ALATAS adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Customer's reasonable control or by reason of ALATAS' fault) then, without prejudice to any other right or remedy available to ALATAS and without being liable in any way or manner to the Customer, ALATAS may:-
- 7.4.1 store the Products until actual delivery and charge the Customer for the reasonable costs (including insurance) of storage at the Customer's sole risk; or
- 7.4.2 sell the Products at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Customer for the excess over the price under this Contract or charge the Customer for any shortfall below the price under this Contract; or
- 7.4.3 (where there is no ready Customer for the Products) howsoever otherwise dispose of the Products and after deducting all reasonable costs and expenses and charge the Customer for any shortfall below the price under this Contract.
- 7.5 The Customer shall have a representative present throughout Delivery and ALATAS shall be entitled to assume the person or persons present during Delivery is/are Customer's duly appointed representative(s).
- 7.6 The Customer's representative shall stamp and endorse all Delivery Orders presented by ALATAS. Notwithstanding that the Customer's representative omits to stamp or endorse any Delivery Orders for any reason whatsoever, such Delivery Order shall be deemed to be in good order.
- 7.7 Delivery shall be made during ALATAS' normal working hours unless required at other times and permitted by regulations, in which event the Customer shall reimburse ALATAS for all overtime and other additional expenses incurred by ALATAS.
- 7.8 Where applicable, the Products will be delivered and Services rendered as promptly as circumstances permit, subject to Clause 7.3. ALATAS shall not be liable for any cancellation, loss, expense, damage, delay or demurrage whatsoever which may be suffered by the Customer as a result of any delay howsoever caused or from any other circumstances beyond the control of ALATAS.
- 7.9 ALATAS shall not be required to deliver the Products for the export of which a Government permit is required and has not been obtained by the Customer or the Customer's accredited representative.



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- 7.10 The Customer shall be fully responsible for the proper use, maintenance and repair of the Products.

### 8. DOCUMENTS

The Master of the vessel or the Customer's representative (as applicable) shall, on delivery of Products under this Contract, give ALATAS a signed cargo delivery receipt in such form as may be required by ALATAS.

### 9. RISK AND TITLE

- 9.1 Where the Products are sold EXW, risk shall pass from ALATAS to the Customer upon the arrival of the Products at the designated collection point, at which point ALATAS's risk shall cease and the Customer shall assume all risk of loss, damage and/or deterioration of the Products so delivered. Where the Products are sold on terms other than EXW, risk shall pass in accordance with the stipulated terms of sale.
- 9.2 Notwithstanding delivery and the passing of risk in the Products, or any other provision of this Contract, the property and title in the Products shall not pass to the Customer until ALATAS has received in cash or cleared funds payment in full of the price of the Products and all other Products agreed to be sold by ALATAS to the Customer, under this Contract or another Contract, for which payment is then due. Until such time as the property in the Products passes to the Customer, the Customer shall hold the Products as ALATAS' fiduciary agent and bailee, and shall keep the Products separate from those of the Customer and third parties and properly stored, protected and insured and identified as ALATAS' property.
- 9.3 If the retention of title as set forth in Clause 9.2 herein is not enforceable in accordance with the laws of the country where the Products are located, then the Customer and ALATAS will enter into a corresponding security instrument in the form and of the substance permissible in that country. The Customer will execute (and/or support ALATAS in the execution or any other action necessary for or in relation to the establishment) upon request of ALATAS any document necessary to perfect such security instrument.
- 9.4 If the laws of the country where the goods are located permit agreements for the retention of title (or other similar security instruments) that provide a broader form of security to the benefit of ALATAS (such as, without limitation, the right of the parties to generally assign the proceeds of a possible re-sale of the goods by the Customer to ALATAS), then the Customer shall promptly inform ALATAS thereof and shall execute upon request by ALATAS any documents necessary to perfect such broader form of security to the benefit of ALATAS.
- 9.5 Until such time as the property in the Products passes to the Customer (and provided the Products are still in existence and have not been resold), ALATAS shall be entitled at any time to require the Customer to deliver the Products to ALATAS and to, at its discretion, retain or resell any Products repossessed from Customer. The Customer agrees that if any judgment or order against the Customer is made for the payment of any amount due under the Contract, the Customer shall indemnify ALATAS of any losses, costs and expenses whatsoever including legal costs on a Solicitor and Client basis incurred in procuring the judgment or order.



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- 9.6 The Customer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Products which remain the property of ALATAS, but if the Customer does so, all monies owing by the Customer to ALATAS shall (without prejudice to any other right or remedy of ALATAS) forthwith become due and payable.
- 9.7 The Customer shall forthwith notify ALATAS of any seizure, confiscation or the imposition of any other form of rights on the goods to the benefit of third parties (whether by contract or operation of law) until the Customer has performed in full all of its obligations hereunder.
- 9.8 The Customer undertakes to effect and maintain, until such time as the title and property to the Products remains with ALATAS, a broad and comprehensive form of insurance coverage for the goods. Such insurance coverage shall name ALATAS a co-insured and shall be on an 'all risk' basis (including but not limited to theft and breakdown) and shall cover the goods for their full replacement value. Upon request of ALATAS, the Customer shall provide ALATAS with the insurance policies or such form and type of evidence with respect to the existence of such insurance coverage as ALATAS may request.

### 10. QUALITY

- 10.1 ALATAS makes no representations or guarantees whatsoever with respect to the Products or any part thereof or Services rendered, whether by its employees, agents, servants or any other representatives, unless such representations or guarantees have been accepted by ALATAS in writing.
- 10.2 Upon delivery of the Products and/or completion of the Services, the Customer shall thoroughly inspect the Products and/or Services completed. Any damages, defect or other noncompliances with the Customer's order that the Customer notices as a result of such inspection shall be immediately, but in no event later than within forty-eight (48) hours after delivery of the Products and/or completion of Services, be notified to ALATAS. Any damages, defects or other non compliances with the Order that the Customer could not reasonably have detected in the course of such thorough inspection and that becomes apparent thereafter, shall be notified to ALATAS immediately upon their detection, but in no event later than within forty-eight (48) hours after such detection. In its notification, the Customer shall specify the damage, defect or other non-compliance with the Order, the number and date of the respective delivery documents and/or invoice and the circumstances under which such damage, defect or other non-compliance became apparent. Should the Customer fail to comply with any of the above requirements, the respective Products or Services shall be deemed to have been accepted by the Customer. The Customer shall compensate ALATAS for any losses, costs or expenses whatsoever incurred as a result of or in relation to any non-justified claim and/or any claim that does not comply with the above requirements.
- 10.3 ALATAS warrants the Products and Services to be free from defects in material and workmanship at the time of delivery (where Products are purchased) or the completion of ALATAS' performance of Services (where Services are rendered). The warranty period for Products shall be of either six (6) months after delivery or of two hundred and fifty (250) service hours, whichever occurs first, and the warranty period for Services shall be of three (3) months following the completion of their performance. The burden of proof with respect to any defects asserted or claimed by the Customer as being covered under the warranty shall rest with the Customer.



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## STANDARD TERMS AND CONDITIONS OF SALE AND SERVICES

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- 10.4 ALATAS' obligation and the Customer's sole remedy under the warranty extended in clause 10.3 above is limited to either the repair or replacement, at ALATAS' option and expense, of any Products or Services (or part thereof) found to be defective by ALATAS (hereinafter referred to as "**Remedies**"). The transport costs of the defective Products from the Customer to ALATAS for remedy and the transport costs incurred by ALATAS in supplying a replacement or repaired item to the Customer's location shall be on the Customer's account. If ALATAS repeatedly fails in its performance of the Remedies and the Customer so requests, ALATAS undertakes at its option to either grant the Customer a reasonable price reduction or, provided the non-remedied defect is of such nature and substance that the Customer is materially impaired in the use of the Product or Service, to grant the Customer the right to cancel the respective contract. These Remedies shall be the only remedies available to the Customer. Title to the Products or parts thereof replaced by ALATAS in the course of the performance of the Remedies shall pass to ALATAS. The costs of corrective actions performed by the Customer or third parties mandated by the Customer shall not be reimbursed by ALATAS.
- 10.5 Without limiting any other obligation of accountability that the Customer may have pursuant hereto or otherwise, the Customer shall account for (and prove) as part of any warranty claim (but only to the extent that such information may be of relevance with respect to a given defect) the following:-
- 10.5.1 The exclusive use of original ALATAS spare parts;
  - 10.5.2 The receipt of a written approval from ALATAS prior to the use or operation of any attachment used in connection with the Products;
  - 10.5.3 The performance of modification or repair work on the Products exclusively by authorised personnel; and
  - 10.5.4 The performance of services on the Products, if any, were carried out exclusively by ALATAS service technicians in accordance with the applicable manufacturer's service manuals.

Unless otherwise agreed, the Customer shall send any replaced parts to the nearest ALATAS service office/agency for examination, at the Customer's cost. Should the Customer fail to comply with any of the above obligations, then the Customer shall be deemed to have waived its rights under the above warranty and any warranty claim of the Customer shall be excluded.

- 10.6 The warranty shall not apply in any of the following circumstances:-
- 10.6.1 Used or second-hand goods;
  - 10.6.2 Normal wear and tear of Products (including parts thereof) and any consequential loss or damage caused as a result of such wear and tear;
  - 10.6.3 Normal maintenance services, including but not limited to the normal maintenance services required to the parts, fuel and auxiliary materials used in the performance of the Products;
  - 10.6.4 Damages caused to the Products (including parts thereof) by reason of improper operation, abuse or misuse;





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- 10.6.5 Damages caused to the Products (including parts thereof) as a result of the use of improper means used for the proper functioning of the Products (such as, without limitation, improper application or installation, contamination, overheating of lubricating oil, excessive pressure, lack of lubrication and/or other misuse or abuse);
- 10.6.6 Consequences of the use of apparatus or modifications to the Products that have not been approved by ALATAS;
- 10.6.7 Damages to or destruction of the Products as a result of or in relation to sales of third parties or sales of Good;
- 10.6.8 Where the Customer has discovered a defect, damages resulting out of or in relation to the operation of the Products prior to the completion of repair works by ALATAS, as well as damages arising from the operation of the defective Products by the Customer;
- 10.6.9 Where the Customer has discovered a defect, damages resulting out of or in relation to improper repair of the Products (including parts thereof) by parties other than ALATAS;
- 10.6.10 Infringement of any foreign copyright, trademark or patents;
- 10.6.11 Non-compliance of the Products (including parts thereof) or Services with any foreign regulation or laws as well as the lack of customer specific modifications that have not been explicitly agreed to by ALATAS in writing;
- 10.6.12 Deviations of the Products (including parts thereof) or Services from the agreed measures, weights or quality, which are usually tolerated in trade or by common standards;
- 10.6.13 ALATAS' warranty herein expressly excludes damages and losses, and consequential losses in particular, arising from the incorrect use or operation of the Products or troubleshooting at site.
- 10.7 The Customer shall grant ALATAS a remedy period of fourteen (14) calendar days from the date of receipt of a written request from the Customer for ALATAS to carry out such corrective actions pursuant to the warranty as it deems fit at ALATAS' chosen service office/agency. The Customer shall not institute any claim against ALATAS for any defects under the warranty before the expiry of this remedy period and ALATAS will not be liable for the same. This period may be extended at the request of ALATAS as ALATAS deems fit and the Customer shall agree to such extension.

Unless otherwise expressly stated in the Special Conditions, ALATAS makes no representation or warranty whatsoever as to the quality or condition of the Products to be supplied in the Order. This Clause constitutes the whole of ALATAS' obligations with respect to the quality of the Products supplied or to be supplied and (save to the extent that exclusion thereof is not permitted or is ineffective by operation of law) all statutory or other conditions, guarantees and/or warranties, express or implied, with respect to the description or quality of the Products or its merchantability, suitability or fitness for any purpose (regardless of whether or not such purpose is known to ALATAS), including the UAE Civil Code, Article 489 or such similar statutes, are hereby excluded and negated to the fullest extent permitted by law.



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### 11. CLAIMS

- 11.1 ALATAS shall be discharged from all liability whatsoever in respect of the Products and Services supplied unless a complaint is made in writing to ALATAS or brought against ALATAS within one (1) month after the date of delivery or the date of completion.
- 11.2 Any dispute as to the quality of the Products delivered under this Contract shall be determined in accordance with Clause 19 of these Terms and Conditions.

### 12. RESTRICTIONS

To the extent that the Products are sold or are to be sold to the Customer on a duty or tax exempt basis, the Customer shall comply with all local requirements and shall execute all such documents necessary to permit the sale on such basis, including any declarations on use of the Products. To the extent that a claim is made by any authorities against ALATAS on the basis that such Products were liable for duty or taxes and such claim arose partly or wholly due to the action, omission or fault of the Customer (including any use of the Products in domestic waters), then the Customer shall indemnify ALATAS against any claims, losses, costs (including costs as between Solicitor and Client), damages, liabilities, fines, penalties and expenses attributable to such action, omission or fault of the Customer.

### 13. INDEMNITY/LIABILITY

- 13.1 The Customer will indemnify ALATAS against any claims, losses, costs (including costs as between Solicitor and Client), damages, liabilities, fines, penalties and expenses incurred or sustained arising out of or in connection with a breach of Contract and/or duty by the Customer except to the extent that such claims, losses, costs, damages, liabilities and expenses arise through the negligent act of ALATAS.
- 13.2 ALATAS shall not in any circumstance have any liability whatsoever to the Customer under or in connection with or in respect of or arising from this Contract and/or the sale or supply of the Products and/or the supply of Services for:
- 13.2.1 Loss of actual or anticipated profit;
- 13.2.2 Losses caused by business interruption;
- 13.2.3 Loss of goodwill or reputation; or
- 13.2.4 Any indirect, special or consequential cost, expense, loss or damage, even if such cost, expense, loss or damage was reasonably foreseeable or might reasonably have been contemplated by ALATAS and whether arising from breach of contract, tort, negligence, breach of statutory duty or otherwise.
- 13.3 Where a Customer has a valid claim in respect of any of the Products or Services rendered based on any defect in the material and workmanship of the Products or any part thereof or their failure to meet specifications arising out of negligence or otherwise and such a valid claim is notified to ALATAS in accordance with this Contract, ALATAS shall be entitled, at its sole and absolute discretion, to within fourteen (14) days of the receipt of such notice thereof either:-



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- 13.3.1 Replace the Products (or the defective part thereof) free of charge; or
- 13.3.2 Repair the Products (or the defective part thereof) free of charge, subject to clause 10.7; or
- 13.3.3 Refund to the Customer the price of the Products (or a proportionate part of the price); or
- 13.3.4 Compensate the Customer in accordance with Clause 13.5 of these Terms and Conditions;

but, save as expressly provided herein, ALATAS shall have no further or other or any liability (including but not limited to liability for any direct, indirect or consequential loss howsoever caused or for any other loss whatsoever whether caused by ALATAS' negligence or otherwise) to the Customer whether in respect or as a result of or arising out of any breach by ALATAS of the Contract or otherwise **PROVIDED ALWAYS** that in no event shall ALATAS be liable in any way or manner for any defects whatsoever arising out of or as a result of materials provided, or a design stipulated or specified, by the Customer.

- 13.4 Without prejudice to the above provisions, ALATAS' maximum aggregate liability to the Customer under or in connection with any Products old or delivery made or Services rendered pursuant to this Contract howsoever arising, including negligence and/or any intentional act by ALATAS, shall not exceed in aggregate the price paid by the Customer under the Contract.
- 13.5 The Customer is fully aware and cognizant of the meaning and effect of the provisions of this Clause 13 and of the effect of the Unfair Contract Terms Act, UAE Civil Code, Article 296 and hereby declares that these provisions are fair and reasonable in relation to the terms of this Contract and the relationship between the Customer and ALATAS.

## 14. TERMINATION

- 14.1 In the event that:-
  - 14.1.1 the Customer defaults on or commits any breach of this Contract, any Other Contract and/or any of its obligations to ALATAS;
  - 14.1.2 the Customer's officers or employees or representatives (whether employees or otherwise) represents to ALATAS orally or in writing that the Customer is not able to pay or has difficulty in paying its outstanding debts (whether the same be debts due to ALATAS or otherwise);
  - 14.1.3 the Customer becomes insolvent or makes or threatens to make any assignment for the benefit of its creditors or enter into any arrangement or composition for the benefit of its creditors or (being an individual or firm) has a Statutory Demand presented against it or becomes bankrupt or (being a company) goes into liquidation or has an application presented or resolution passed for winding up or judicial management whether voluntary or compulsory (otherwise than for the purposes of amalgamation or reconstruction);
  - 14.1.4 an encumbrancer takes possession, or a receiver or judicial manager is appointed, of any of the Customer's business or any undertaking, property or assets of the Customer;
  - 14.1.5 anything analogous to any of the events described in paragraphs (c) or (d) happens to or in relation to the Customer in any jurisdiction;



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- 14.1.6 one or more final judgments from which no further appeal or judicial review is permissible under applicable law are awarded against the Customer in an aggregate amount in excess of USD 500,000.00
- 14.1.7 the Customer ceases, or threatens to cease, to carry on business;
- 14.1.8 there is a Change of Control of the Customer; or
- 14.1.9 ALATAS reasonably apprehends that any of the events mentioned above is about to occur in relation to the Customer,

then, without prejudice and in addition to any other right or remedy available to ALATAS, ALATAS shall be entitled to cancel this Contract with immediate effect or suspend any further deliveries under this Contract and/or any Other Contract without any liability to the Customer, and if the Products and/or any other goods under any Other Contract have been delivered but not paid for, the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

- 14.2 Subject to Clause 14.3, a Change of Control shall occur for the purposes of these Terms and Conditions where:-
  - 14.2.1 a person acquires Control off the Customer where no person previously had Control of the Customer; or
  - 14.2.2 the ultimate parent company of the Customer ceases to have Control of the Customer; or
  - 14.2.3 a person acquires Control off the ultimate parent company of the Customer; or
  - 14.2.4 a person who is not under the Control of the ultimate parent company of the Customer acquires Control of the Customer.
- 14.3 For the purposes of these Terms and Conditions, Control means, in relation to any company, having legal and beneficial ownership of not less than fifty percent (50%) of the voting rights attached to the issued share capital of that company.

## 15. FORCE MAJEURE

- 15.1 ALATAS shall not be liable to the Customer or be deemed to be in breach of this Contract by reason of any delay in performing, or any failure to perform, any of ALATAS' obligations in relation to the Products, if the delay or failure was or is due to any cause beyond ALATAS' reasonable control. Without prejudice to the generality of or in any manner limiting the foregoing, the following shall be included as causes beyond ALATAS' reasonable control:-
  - 15.1.1 Act of God, explosion, flood, tempest, fire or accident;
  - 15.1.2 war or threat of war, sabotage, insurrection, civil disturbance or requisition;
  - 15.1.3 acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
  - 15.1.4 import or export regulations or embargoes;



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- 15.1.5 stop-orders issued by any governmental authority, agency or body;
- 15.1.6 strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of ALATAS or of a third party);
- 15.1.7 any restriction on or loss of ALATAS' licence or authorisation to collect, process, store, sell and/or howsoever deal with the Products (or any of them);
- 15.1.8 difficulties in obtaining raw materials, labor, fuel, parts or machinery;
- 15.1.9 power failure, power curtailment or breakdown in machinery;
- 15.1.10 any interruption in or to ALATAS' business howsoever caused; and/or
- 15.1.11 in the event that ALATAS obtains the Products (or any part or component thereof) from any third party (whether or not the third party is part of ALATAS' Group), any delay, failure and/or inability of ALATAS to perform any of its obligations under this Contract and/or in relation to the Products by reason and/or as a result of any delay, failure and/or inability of any third party to collect, manufacture and/or supply the Products to ALATAS for any reason whatsoever.
- 15.2 If the sale and/or delivery of the Products or any part thereof shall be delayed of not less than thirty (300) days on account of any of the causes listed in the immediately preceding clause, the time for delivery shall be so extended until the operation of the cause(s) preventing delivery has ceased or, at the option of ALATAS, this Contract may be terminated or cancelled either in full or, if this Contract has been partly performed, in respect of the unperformed portion thereof. In the latter situation, the Customer shall make payment to ALATAS in respect of that portion of this Contract that has been performed.
- 15.3 ALATAS reserves the right to increase the price charged for the Products (whether the price was originally determined by reference to ALATAS' prices or separately agreed in writing) if there is any increase in the costs incurred or to be incurred by ALATAS in making the relevant supply due to factors which are beyond the control of ALATAS. These factors include without limitation any increased taxes, duties, the making of any law, order, bye-law or other regulation and/or the occurrence of any currency fluctuation.
- 15.4 ALATAS shall not be liable for any damage, loss, expense, claim or costs incurred by the Customer or any other party as a result of any termination or cancellation of this Contract by ALATAS under Clause 15.2. Such termination shall be without prejudice to any right, obligation or liability of any party which has accrued prior to the effective date of such termination. Shipments of the Products or any portion thereof, the delivery or acceptance of which has been prevented by any of the causes referred to in Clause 15.1, shall be deducted from the amount required to be delivered and received hereunder unless otherwise agreed.

## 16. CHANGES IN REGULATION

- 16.1 It is understood by the parties that the parties are entering in to this Contract in reliance on the laws, rules, regulations, decrees, agreements, concessions and arrangement (hereinafter called "Regulations") in effect on the date hereof with governments, government instrumentalities or public authorities affecting the Products sold hereunder including, but without limitation to the generality of the foregoing, those relating to the production, acquisition, gathering, manufacturing, transportation, storage, trading or delivery thereof, insofar as such Regulations affect ALATAS.





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- 16.2 In the event that at any time and from time to time during the term of this Contract any Regulations are changed or new Regulations become effective whether by law, decree or regulation or by response to the insistence or request of any governmental or public authority or any person purporting to act therefore, and the effect of such changed or new Regulations has a material adverse economic effect upon ALATAS, then ALATAS shall have the option to request renegotiations of the prices or other pertinent terms provided for in these terms and conditions or to terminate the Contract without any liability whatsoever.

### 17. NOTICES

- 17.1 Except where expressly stated otherwise, a notice, demand, request, statement, complaint, claim or other communication under or in connection with this Contract must be in writing in the English language and shall be delivered at or sent by local prepaid registered post, by overseas courier or facsimile transmission and shall be deemed to be duly served:-

17.1.1 if it is delivered by hand, at the time of the delivery;

17.1.2 if it is sent by local prepaid registered post, three (3) Business Days after posting thereof;

17.1.3 if it is sent by overseas courier, five (5) Business Days after sending thereof; and

17.1.4 if it is sent by facsimile transmission before 6.00 p.m. (Gulf Standard Time), immediately after transmission thereof if transmitted error-free and the date of transmission is a Business Day, and if the transmission is received after 6.00 p.m. (Gulf Standard Time) or the date of transmission is not a Business Day, then the notice by facsimile transmission (if transmitted error-free) shall be deemed to be served on the next Business Day.

- 17.2 All notices, demands, requests, statements, complaints, claims and/or other communications under or in connection with this Contract shall be sent to:-

17.2.1 ALATAS, at the number and address set out below, or to such other number and/or address as ALATAS may designate by notice in writing to the Customer:-

Addresses : ALATAS Middle East FZE  
Office # 110, G+3 Office Bldg 1, Plot # S10122A1,  
Jebel Ali Free Zone – South, PO Box 263007, Dubai, UAE

ALATAS Middle East LLC  
Warehouse W2P2, Musaffah M44 Sector 14  
P.O. Box 32689, Abu Dhabi, UAE

Facsimile : +971 (0) 488 572 29

Attn : The Managing Director

17.2.2 the Customer, at the Customer's registered address or such other address as the Customer may designate by notice in writing to ALATAS.

- 17.3 No notice given under or in connection with this Contract may be withdrawn or revoked except by notice given in accordance with this Clause.

- 17.4 Where this Contract is made by an agent acting for the Customer then notice may be given either to the agent or to the Customer at the option of ALATAS.



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### 18. MISCELLANEOUS PROVISIONS

- 18.1 No exercise or failure to exercise or delay in exercising any right, power or remedy vested in ALATAS shall constitute a waiver by ALATAS of that or any other right power or remedy. Any waiver by ALATAS of a breach of any provision of this Contract shall not be considered as a waiver of any subsequent breach of the same or any other provision thereof.
- 18.2 If any provision of this Contract is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of this Contract and the remainder of the provision in question shall not be affected thereby. If as a result of a specified declaration any of the rights or obligations of a party are materially affected, then the parties shall meet and negotiate in good faith in order to arrive at an amendment of the provision(s) of this Contract so affected, in such manner as will most closely and accurately reflect the intents and purposes of this Contract.
- 18.3 This Contract shall inure to the benefit of and be binding upon the parties and their respective successors and assigns. The Customer shall not assign all or any part of the benefit of, or any rights or benefits under, this Contract without the prior written consent of ALATAS.
- 18.4 ALATAS may at any time assign all or any part of the benefit of, or its rights or benefits under this Contract. ALATAS may at any time sub-contract or enter into any arrangement whereby another person is to perform any or all of its obligations under this Contract.
- 18.5 Nothing in this Contract and no action taken by the parties under this Contract shall constitute a partnership, association, joint venture or other co-operative entity between any of the parties.
- 18.6 Data supplied, whether personal or otherwise, by a Customer and/or which relates to a Customer's account will be held and processed by computer or otherwise by ALATAS to operate the Customer's account(s); to confirm, update and enhance ALATAS' customer records; for statistical analysis; to establish any identity or otherwise as required under applicable legislation; to assess each Customer's credit status on an ongoing basis; and otherwise as considered necessary or appropriate by ALATAS. In each case the processing may continue after this Contract has ended. Alternatively, the Customer may be requested to complete or fulfill other checks as may be necessary to satisfy credit assessments, money laundering or fraud detection requirements.
- 18.7 Without prejudice to any other provisions for termination contained in these Terms and Conditions, all monies due and owing by the Customer to ALATAS shall become due and payable forthwith if ALATAS discovers that any information provided by the Customer to ALATAS is materially inaccurate.
- 18.8 It is intended that the undertakings and obligations of the Customer herein are taken by ALATAS for its own benefit and also for the benefit of members of ALATAS' Group and, subject to the provisions of Clause 18.10, are intended to be enforceable by such parties by virtue of the Contracts (Rights of Third Parties) Act, UAE Civil Code, Article 252. Save as otherwise hereinbefore provided, no term or condition contained herein shall be enforced, by virtue the Contracts (Rights of Third Parties) Act, UAE Civil Code, Article 252 or otherwise, by any person who is not a party to this Contract.
- 18.9 Notwithstanding Clause 18.8 above, this Contract may be varied or terminated by the parties hereto without notice to or the consent of any third party.



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## STANDARD TERMS AND CONDITIONS OF SALE AND SERVICES

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- 18.10 In addition and without prejudice to the rights which ALATAS may have under this Contract and/or any other rights of set-off and/or any similar express or implied rights under common law or equity, ALATAS may at any time, without notice or demand as a continuous right, where the Customer and/or any member of the Customer's Group has incurred any liability, whether prior to or under this Contract or otherwise, whether by way of a debt or otherwise, whether arising under the same transaction contemplated by this Contract or otherwise, whether by way of an indemnity and/or guarantee, whether such liability is liquidated or contingent (hereinafter referred to as the "Liability"), set-off or deduct such amount of the Liability against any sum that would otherwise be due to the Customer under this Contract or otherwise.
- 18.11 The Customer hereby expressly agrees that ALATAS shall be entitled at any time and from time to time, without notice and as a continuous right, to set-off any monies owing by ALATAS and/or any member of ALATAS' Group to the Customer and/or any member of the Customer's Group from any monies owed by the Customer to ALATAS.
- 18.12 The Customer undertakes that it shall at all times keep confidential (and shall procure that its employees and agents shall keep confidential) any confidential information which it may acquire hereunder and shall not use or disclose such information except with the consent of ALATAS or in accordance with the order of a court of competent jurisdiction.
- 18.13 Without prejudice to any of the other terms, conditions or provisions of this Contract, it is hereby expressly agreed and declared that:
- 18.13.1 if the Customer and/or any member of the Customer's Group shall default in payment of any sums payable under any existing agreement or instrument or any agreement or instrument executed or from time to time executed between the Customer and/or any member of the Customer's Group and ALATAS and/or any member of ALATAS' Group or shall fail to observe or perform any of the other terms and conditions of the said agreements or instruments, then such default or failure shall constitute and be deemed to be a default by the Customer under this Contract and thereafter ALATAS shall have all the remedies specified herein; and
- 18.13.2 if the Customer shall default in payment of any of the sums payable hereunder or shall fail to observe or perform any of the other terms and conditions of this Contract, then such default or failure shall constitute and be deemed to be a default by the Customer and/or the Customer's Group under all other existing agreements or instruments made between the Customer and/or the Customer's Group and ALATAS and/or ALATAS' Group and ALATAS and/or the respective members of ALATAS' Group shall have all the remedies specified in the said agreements or instruments without being liable in any way or manner whatsoever or howsoever to the Customer or any member of the Customer's Group.
- 18.14 No provision of this Contract will be construed against or interpreted to the disadvantage of ALATAS by reason only of ALATAS having drafted or proposed such provision.
- 18.15 If this Contract is made by an agent acting for or on behalf of the Customer, whether such agency is disclosed or undisclosed, then such agent shall be liable (as well as the Customer) not only as agent but also as principal for the performance of all the obligations of the Customer.
- 18.16 If any term or provision, in whole or in part, is illegal, void or otherwise unenforceable, the remaining terms or provisions of this Contract shall continue with full force and effect.



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## STANDARD TERMS AND CONDITIONS OF SALE AND SERVICES

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- 18.17 ALATAS shall be entitled to exercise any one or more of the rights and remedies given to it under the terms of this agreement and the termination, expiration or completion of this Contract shall not affect or prejudice such rights and remedies. The Customer shall be and remain liable to perform all outstanding liabilities under this Contract notwithstanding that ALATAS may have exercised one or more of the rights and remedies against it.

### 19. GOVERNING LAW AND JURISDICTION

- 19.1 This Contract shall be governed by and construed in all respects in accordance with the laws of the United Arab Emirates.
- 19.2 Subject to Clause 19.3, the parties agree that any dispute arising out of or in connection with this Contract, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration administered by the Singapore Chamber Of Maritime Arbitration ("**SCMA**") in accordance with the Arbitration Rules of the Singapore Chamber Of Maritime Arbitration ("**SCMA Rules**") for the time being in force, which rules are deemed to be incorporated by reference in this clause. In addition, parties hereby agree that:
- 19.2.1 The seat of the arbitration shall be Singapore.
- 19.2.2 The Tribunal shall consist of a sole arbitrator.
- 19.2.3 The language of the arbitration shall be English.
- 19.3 Notwithstanding Clause 19.2 and for the exclusive benefit of ALATAS, the Customer irrevocably agrees for the benefit of ALATAS that any dispute arising out of or in connection with the Contract and these Terms and Conditions may, at ALATAS' sole and absolute discretion be resolved by the courts of the United Arab Emirates and the Customer hereby irrevocably submits to the non-exclusive jurisdiction of such courts. The submission to such jurisdiction shall not (and shall not be construed so as to) limit or exclude the right of ALATAS to take proceedings against the Customer or any of its assets in any other jurisdiction as shall to ALATAS seem fit, nor shall the taking of proceedings in any one or more other jurisdiction preclude the taking of proceedings in any other jurisdiction, whether concurrently or not.
- 19.4 The Customer waives any objection it may now or hereafter have to the venue of any action or proceeding arising out of or in connection with this Contract in any jurisdiction and any claim it may now or hereafter have that any such legal action or proceeding has been brought in an inconvenient forum.
- 19.5 The Customer irrevocably waives any immunity from suits and proceedings and from all forms of execution or attachment to which it and/or its property is now or may hereafter become entitled under the laws of any jurisdiction and declares that such waiver shall be effective to the fullest extent permitted by such laws.