

## Liferaft Rental (LRE) Standard Terms and Conditions

### 1 DEFINITIONS AND INTERPRETATION

1.1 Terms set out in the Key Terms apply hereto. In addition, the following terms shall have the following meanings:

"**Agreed Schedule**" means the schedule for the Initial Delivery and performance of the Exchange or Service as agreed between the Parties in accordance with Condition 2.

"**Annual Charges**" means the annual charges per Vessel identified in the table in the Schedule

"**Applicable Laws**" means the requirements of SOLAS (the International Convention for Safety of Life at Sea 1974) and the Governing Bodies relating to the Service and the Liferafts, as amended from time to time.

"**Annual Inspection**" means the inspection of an ESR which shall be performed by the crew of the Vessel in accordance with the Applicable Laws at intervals not exceeding (i) 12 months from the last Annual Inspection or (ii) 12 months from the date of the last Service and inspection of the ESR or (iii) 12 months from the manufacturing date of the ESR, whichever of (i), (ii) or (iii) comes later.

"**Business Day**" means any day which is not a Saturday, Sunday or a bank or public holiday in Norway.

"**Collection**" means the collection of the Liferaft by SURVITEC at the Location before the Service.

"**Control**" means that a person possesses, directly or indirectly, the power to direct or cause the direction of the affairs and policies of the other person (whether through the ownership of share capital, possession of voting power, ability to appoint directors, contract or otherwise) and "**Controlled**" shall be interpreted accordingly.

"**Delivery Charge(s)**" means the port related additional charges as referenced in the Schedule.

"**Due Date**" means the ultimate date of the validity of the inspection certificate of a Liferaft pursuant to the Applicable Laws.

"**Exchange**" or "**Exchanged**" means the exchange of a Liferaft at the Location with another liferaft, as described in Conditions 2 and 3.

"**Export Controls and Sanctions Laws**" means any applicable export control, trade or economic sanctions, embargo or similar laws, regulations, rules, licences, orders or requirements including without limitation those of the U.K., U.S. and the EU.

"**Force Majeure**" means any event outside the reasonable control of either Party affecting its ability to perform any of its obligations (other than payment) under the Agreement including but not limited to act of God, fire, flood, war, act of terrorism, riot, strikes (except in the work force of the affected Party), lock-outs or other industrial action.

"**Governing Bodies**" means each and any of the International Maritime Organisation and the flag state of the Vessel on which the Liferaft is installed, provided that the Vessel is registered in a flag state as specified in the Schedule.

"**Group**" means in relation to any company, that company and every subsidiary or holding company of that company or a subsidiary or holding company of any such subsidiary or holding company (in each case from time to time) and the terms "**subsidiary**" and "**holding company**" shall have the meanings given to them by Section 1159 of the Companies Act 2006.

"**Indemnity Losses**" means any claims, demands, suits, proceedings, costs (including reasonable costs, fees and expenses arising from dispute resolution or legal proceedings), expenses, damages, penalties, fines and losses whatsoever.

"**Initial Delivery**" means the delivery of the Liferafts by SURVITEC at the Location, as described in Conditions 2 and 3.

"**Intellectual Property**" means any patent, copyright, right in databases, moral right, right in design, trademark, service mark or trade name, image right, right in an invention, right relating to passing off, domain name, know-how, utility model and all similar or equivalent rights in each case whether registered or not.

"**Liferaft(s)**" means the liferafts that are to be rented to the CUSTOMER by SURVITEC and which are specified in the Schedule. A Liferaft includes all its components, including the container, the emergency pack, the inflatable raft and the cylinder(s). A Liferaft does not include the hydrostatic release unit ("HRU") and the cradle or the tools referred to in Condition 3.12. The Liferafts are either: (i) the extended service interval type, with a maximum period pursuant to the Applicable Laws, of thirty (30) months between a Service or Exchange "**Extended Service Interval Liferaft**" or "**ESR**"; or (ii) the standard service interval liferafts that require a Service or Exchange every twelve (12) months "**Standard Service Interval Liferaft**" or "**ASR**", and it will be at SURVITEC's discretion whether to rent (i) or (ii).

"**Location**" means the agreed place for Initial Delivery, Exchange, Collection or Redelivery of the Liferafts by SURVITEC or for any return of Liferafts by CUSTOMER, as appropriate, and which shall always be land based and easily accessible by truck, unless agreed otherwise by SURVITEC in writing.

"**Manufacturer**" means the manufacturer of the Liferaft.

"**Party**" or "**Parties**" means one or both of Survitec and the Customer as the context requires.

"**Redelivery**" means the delivery of the Liferaft by SURVITEC at the Location following completion of the Service.

"**Return Port**" means a port where the Liferafts shall be returned to SURVITEC pursuant to Condition 11.1 or 15.3(a), as referenced in the Schedule.

"**Service Port**" means a port for the Initial Delivery, the Exchange or the Service of the Liferafts as referenced in the Schedule.

"**Service**" or "**Serviced**" means the periodic servicing of the Liferafts as described in Conditions 2 and 3.

"**Services**" means the rental of the Liferafts and the provision from time to time of Exchange or Service of a Liferaft during its Rental Term, or to all Liferafts during the Term.

"**Start Date**" means the start date of the relevant Rental Term of each Liferaft and the date on which SURVITEC will commence to provide the Services in respect of such Liferaft. The Start Date will be either (i) the next occurring anniversary of the Initial Delivery date following the Commencement Date, where the Liferafts have been delivered to the CUSTOMER prior to the Commencement Date; or (ii) the Initial Delivery date of each Liferaft if delivered on or following the Commencement Date.

"**Surcharges**" means any charges in addition to the Annual Charges, which are payable by CUSTOMER under the Agreement.

"**Vessel Owner**" means the owner of the Vessel or any other party other than the CUSTOMER on whose behalf the CUSTOMER manages or operates the Vessel.

"**Vessels**" means vessels on which the Liferrafts will be installed and which are specified in the table in the Schedule. The Vessels are either owned or managed by CUSTOMER.

"**Working Day(s)**" means any day (other than a weekend or a bank or public holiday) in the country or region of the Location when the banks are open for business

## **2 THE INITIAL DELIVERY, THE EXCHANGE AND THE SERVICE OF THE LIFERRAFTS**

2.1 At the Initial Delivery, SURVITEC shall deliver the Liferaft to CUSTOMER, and during the Rental Term for each Liferaft, SURVITEC shall provide the Exchange or the Service provided that, prior to the Initial Delivery, and to each Exchange or Service, the Parties have agreed an Agreed Schedule and provided that, in respect of an Exchange or a Service, CUSTOMER makes the Liferrafts available to SURVITEC

2.2 The Agreed Schedule will be agreed in writing and include as a minimum:

- (a) the type of operation: Initial Delivery, Exchange or Service;
- (b) a list of the related Liferrafts;
- (c) the Location, date and time the Initial Delivery, the Exchange or the Collection and Redelivery shall take place. The Location shall be within a distance of 50km from a Service Port unless the Parties agree otherwise in accordance with Condition 3.5; and
- (d) for a Service, the latest date and time when the Redelivery of the Liferrafts shall be made. This date and time shall be not less than 48 hours after the date and time of Collection of the Liferrafts, unless otherwise agreed in writing by both Parties.

The Agreed Schedule may be in the form of a purchase order issued by CUSTOMER and an acknowledgement of order issued by SURVITEC but for the avoidance of doubt the provision of the Services shall be subject to the terms of the Agreement to the exclusion of all other terms and conditions.

2.3 In respect of the Exchange or the Service of a Liferaft, the Parties agree that Exchange is the preferred option. After consultation with the CUSTOMER if, in SURVITEC's opinion, Exchange is not possible, a Service will be provided. Survitec will Exchange a Liferaft with another Liferaft of the same original capacity and type but it will be at SURVITEC's discretion whether to substitute an ESR or ASR provided that any substitution complies with the requirements of the Applicable Laws.

2.4 Initial Delivery, Exchange, Collection and Redelivery shall take place when the Liferaft is exchanged, collected or unloaded at the Location specified in the Agreed Schedule. SURVITEC shall use reasonable endeavours to effect Initial Delivery, Exchange, Collection and Redelivery by the date and time specified in the Agreed Schedule. For the purposes of this Condition 2.4, time of delivery shall not be of the essence. CUSTOMER shall arrange for a duly authorised representative to be present at the Initial Delivery, Exchange, Collection and Redelivery of the Liferrafts, who will sign confirmation of acceptance of the Liferrafts.

2.5 It is CUSTOMER's responsibility to take Initial Delivery and Redelivery and to ensure that SURVITEC is able to make the Exchange or Collection as agreed in the Agreed Schedule. SURVITEC accepts no responsibility for any delay or failure in carrying out the Initial Delivery, the Exchange or the Service to the extent that this delay or failure is attributable in whole or in part to CUSTOMER. If any of the events as set out in this Condition 2.5 occurs, SURVITEC shall be entitled to recover its wasted costs from CUSTOMER.

## **3 SCOPE OF SERVICES**

3.1 Subject to Condition 3.5, each Exchange shall include the collection of the Liferaft, and the delivery of a replacement liferaft of the same capacity and type specified in the Schedule, as agreed in the Agreed Schedule. At each Exchange, the replacement liferaft will automatically become the Liferaft under the Agreement. The Rental Term of the Liferaft will not be affected by such Exchange.

3.2 Subject to Condition 3.5, each Service shall be inclusive of the following:

- (a) the Collection and Redelivery of the Liferaft as agreed in the Agreed Schedule;
- (b) all tests and inspections as per the Manufacturer's instructions and Applicable Laws, and the issuance of a certificate of Service;
- (c) replacement or repair of items which are expired, damaged or which are required to be replaced as per the Manufacturer's instructions and Applicable Laws. This may include the replacement of the entire Liferaft. Such replacement liferaft will then automatically become the Liferaft as per the definition and under the terms of the Agreement.

3.3 CUSTOMER shall at all times be responsible for the removal of the Liferaft from the Vessel, for the transportation of the Liferaft between the Vessel and the Location, for the installation of the Liferaft on the Vessel and for all associated costs.

3.4 Subject to Condition 3.5, SURVITEC shall be responsible for the transportation and associated costs in respect of the Initial Delivery, the Exchange and the Collection and the Redelivery of the Liferaft at the Location, as per the Agreed Schedule.

3.5 Parties may agree a Location which is not within a distance of 50 km from a Service Port. In such case, all charges resulting from the Initial Delivery, Exchange or Service at such Location will be at the expense of CUSTOMER as Surcharges.

3.6 For each Initial Delivery, Exchange or Service, if a Delivery Charge applies at the Service Port which is most nearby the Location specified in the Agreed Schedule, then such Delivery Charge shall be charged to CUSTOMER as Surcharges. For a Service, SURVITEC will decide at its discretion at which service station the Liferaft will be Serviced, and the applicable Delivery Charge will still be charged if such service station is not located at that Service Port.

3.7 If an Initial Delivery, an Exchange or a Service cannot be performed on a Working Day, then the weekend charge shall be charged to CUSTOMER as Surcharges as specified in the Schedule.

3.8 In respect of the Initial Delivery, the Exchange, the Service or Redelivery of the Liferrafts, the following will be at the expense of CUSTOMER as Surcharges

- (a) customs duties, export and/or import duties, and

- (b) any other kind of taxes, duties and fees (including, but not limited to, port entry fees, port management fees, yard management fee) plus a handling fee of ten percent (10%).

- 3.9 At the Initial Delivery, and at each Exchange and each Service of a Liferaft, SURVITEC will deliver a HRU. For each such HRU, CUSTOMER shall pay a Surcharge as specified in the Schedule. If the CUSTOMER does not require SURVITEC to deliver a HRU, the CUSTOMER shall instruct SURVITEC accordingly in writing, prior to the Initial Delivery, Exchange or Service.
- 3.10 In the event that, at the Initial Delivery, the Liferaft does not fit the existing cradles on the Vessel, SURVITEC will, upon request of CUSTOMER deliver a suitable cradle. For each cradle, CUSTOMER shall pay a Surcharge as specified in the Schedule.
- 3.11 Any mandatory modification to a Liferaft, or any Service, in part or in full, or any Exchange, which is required as a consequence of any breach of the CUSTOMER responsibilities set out in Conditions 2, 3 and 7 or any change of Applicable Laws following the Commencement Date or any change to the Manufacturer's specifications and instructions required as a result of changes in Applicable Laws following the Commencement Date or any change of the flag state of the Vessel shall be at the expense of CUSTOMER as Surcharges.
- 3.12 For any Vessels with ESR upon request by the CUSTOMER, SURVITEC shall, at no extra charge, provide on-line training by way of a link to a website as well as a training DVD to enable the crew of the Vessels to be trained to conduct the Annual Inspections. SURVITEC shall, at no extra charge, provide to each Vessel with ESRs, one standard set of ATEX approved tools for the Annual Inspections. This standard set of tools will become the property of CUSTOMER upon delivery. If such tools are lost or damaged at any time, or break down after the one year warranty period, CUSTOMER will have to replace them at its own expense and the cost set out in the Schedule will be charged as Surcharges.

#### **4 OWNERSHIP OF THE LIFERAFTS**

- 4.1 The Liferrafts shall remain the property of SURVITEC. CUSTOMER shall have no right, title or interest in or to the Liferrafts (save the right to possession and use of the Liferrafts per the Agreement).
- 4.2 During the Rental Term:
- (a) CUSTOMER shall hold the Liferrafts on a fiduciary basis as SURVITEC's bailee;
- (b) CUSTOMER shall ensure the Liferrafts are stored at its premises or on the Vessel in a proper manner in conditions which adequately protect and preserve the Liferrafts;
- (c) if any sum due to SURVITEC from CUSTOMER under the Agreement is not paid when more than three (3) months overdue, SURVITEC may at any time, on demand and without prior notice, require CUSTOMER to deliver the Liferrafts up to SURVITEC and SURVITEC (or SURVITEC's agents or employees) may enter the Vessel or premises where the Liferrafts are situated (whether or not owned or controlled by CUSTOMER) to repossess the Liferrafts; and
- (d) CUSTOMER will ensure that all of the Vessel Owners are aware of the provisions of this Condition 4 and will agree in writing to comply with the obligations contained therein

#### **5 RISK AND INSURANCE**

- 5.1 The risk of loss, theft, damage or destruction of the Liferrafts shall pass to CUSTOMER at the Start Date in respect to each Liferaft. The Liferrafts subsequently provided, shall remain at the sole risk of CUSTOMER, and CUSTOMER shall, at its own expense, obtain and maintain appropriate insurance cover to protect against loss, theft or damage of the Liferrafts and against third party or public liability risks.
- 5.2 CUSTOMER shall provide SURVITEC with evidence of insurance coverage upon request. If CUSTOMER fails to effect or maintain any of the insurances required under this Condition 5, SURVITEC shall be entitled to effect and maintain the same, pay such premiums as may be necessary for that purpose and recover the same as a debt due from CUSTOMER.
- 5.3 In respect of each Exchange, risk in the relevant Liferaft shall pass to SURVITEC at the time of the Exchange, and risk in the replacement liferaft shall pass to CUSTOMER at the time of the Exchange. In respect of each Service, risk in the Liferaft shall pass to SURVITEC on Collection of the Liferaft and shall pass back to CUSTOMER on Redelivery of the Liferaft.
- 5.4 CUSTOMER shall give immediate written notice to SURVITEC in the event of any loss, theft, damage or destruction of a Liferaft.

#### **6 SURVITEC WARRANTIES**

- 6.1 SURVITEC warrants that at the Initial Delivery, and at each Exchange and Redelivery, all Liferrafts will be delivered with all necessary approvals, licenses and permits in accordance with the Applicable Laws.
- 6.2 SURVITEC warrants that each Service shall be carried out at a servicing facility which is authorised by the Manufacturer and by the Governing Bodies.
- 6.3 SURVITEC warrants that each Service shall be performed with all due skill, care and diligence and to such standard of high quality and performance as it is reasonable for CUSTOMER to expect from a fully qualified and experienced provider of such services and that it shall engage appropriately skilled and qualified employees or contractors in the provision of the Services.

#### **7 CUSTOMER RESPONSIBILITIES**

- 7.1 CUSTOMER shall provide such assistance as SURVITEC requests in order to enable SURVITEC to perform its obligations pursuant to the Agreement.
- 7.2 During the Rental Term CUSTOMER shall be responsible for any loss of or damage to the Liferrafts or for any Exchange or for any Service in whole or in part which is required as a consequence of or arises out of or in connection with any damage to the container of the Liferaft, any opening of the container of the Liferaft, any abnormal intrusion of water inside the container of the Liferaft, any negligence, misuse, mishandling, intentional or accidental inflation or activation of the Liferaft; except in case such occurs during the time between Collection and Redelivery of the Liferaft when the Liferaft is in the possession and control of SURVITEC.
- 7.3 During the Rental Term CUSTOMER shall ensure that:

- (a) the Liferrafts are made available to SURVITEC to enable SURVITEC to carry out an Exchange or a Service to each Liferraft in accordance with the Due Date of such Liferraft;
- (b) for any ESR, the crew undertake training to conduct Annual Inspections and that such Annual Inspections are made as per SURVITEC's instructions and in accordance with the Applicable Laws and that the CUSTOMER notifies SURVITEC immediately in writing if any ESR fails to pass the Annual Inspection;
- (c) the Liferrafts are used only for the purposes for which they were designed, and are stored and operated by trained competent staff in accordance with all operating instructions provided by SURVITEC;
- (d) all safety and usage instructions provided by SURVITEC are complied with so as to ensure that the Liferrafts are at all times safe and without risk to health when they are being used, cleaned or maintained by anyone under its control;
- (e) all written instructions and guidelines concerning the storage, application, installation, repair, maintenance and use of the Liferrafts are complied with;
- (f) no unauthorised servicing or repair or alteration to the Liferrafts will be carried out and no existing component(s) will be removed from the Liferrafts and no parts or accessories will be fitted without the prior written consent of SURVITEC;
- (g) the Liferrafts are installed and dismantled from the Vessel in accordance with the written instructions that are provided by SURVITEC, and the Liferrafts are only installed by appropriately trained personnel under the direct supervision of the Vessel's safety officer or a person designated by the Vessel's safety officer;
- (h) the Liferrafts are not moved from one Vessel onto another Vessel without prior written agreement from SURVITEC.

7.4 CUSTOMER will refer its employees, contractors, and all of the Vessel Owners to all instructions and guidelines provided by SURVITEC or the Manufacturer and shall ensure that all of the Vessel Owners will specifically agree with CUSTOMER in writing to comply with the obligations in Conditions 7.3(c) to 7.3(h) inclusive.

7.5 In addition to any other remedy available to SURVITEC, CUSTOMER shall indemnify, defend and hold harmless SURVITEC, the members of SURVITEC's Group, and their respective directors, officers, employees, sub-contractors and agents in full and on demand (with no duty to mitigate their loss) from and against all direct or indirect liabilities, claims, demands, actions, proceedings, damages, losses, costs and expenses (including legal and other professional advisers' fees), interest, penalties made against or incurred or suffered by any of them howsoever arising whether wholly or in part resulting directly or indirectly from any claims by any Vessel Owner or any officer, employee, agent, sub-contractor, visitor, passenger of either CUSTOMER or the Vessel Owner, or any other third party arising as a result of CUSTOMER's failure to comply with its obligations set out in this Condition 7 or Conditions 2 and 3, whether or not such losses or the consequences of such failure were foreseeable at the date of the Agreement.

## **8 WITHDRAWAL OF LIFERAFTS**

- 8.1 If CUSTOMER exercises its right of withdrawal as set out in the Key Terms, CUSTOMER shall, within ninety (90) days of the date of giving notice, return the Liferrafts in accordance with Condition 11.1. The Rental Term for each of the relevant Liferrafts will expire on the date that the Liferraft is returned and all Annual Charges and Surcharges for the Liferraft will be payable until that date.
- 8.2 In the event of the withdrawal of a Liferraft, CUSTOMER shall have the option to purchase a replacement liferaft pursuant to Condition 11.3. If CUSTOMER does not purchase such replacement liferaft then he shall pay the early termination compensation Surcharge as specified in the Schedule.
- 8.3 In the event of a withdrawal, instead of returning the Liferrafts pursuant to Condition 11.1, CUSTOMER may request a transfer of its rights and obligations under the Agreement to the new owner of the Vessel with respect to the Liferrafts that are installed on-board such Vessel. If SURVITEC agrees to this request, a novation agreement and/or a new agreement will need to be executed between both Parties and the new owner of the Vessel. In such case, the early termination compensation Surcharge, as set out in Condition 8.2, shall be zero.

## **9 LOSS OF LIFERAFTS**

- 9.1 In the event that any Liferraft is lost, stolen, destroyed or damaged beyond repair whilst risk in the Liferrafts is with CUSTOMER, then CUSTOMER shall immediately pay to SURVITEC, in respect of the relevant Liferraft, the loss compensation Surcharge as specified in the Schedule. In the event that the relevant Liferraft is not replaced as set out in Condition 9.2, the Rental Term of the Liferraft will end at the date that payment of the loss compensation Surcharge is received by SURVITEC and all Annual Charges and Surcharges for the relevant Liferraft will be payable until that date.
- 9.2 If CUSTOMER requests that the relevant Liferraft is replaced, SURVITEC will provide a replacement liferaft upon a date and at a Location to be agreed between the Parties, which will then automatically become the Liferraft. CUSTOMER shall still pay the loss compensation Surcharge as referred to in Condition 9.1 and all transport and related charges in respect of the provision of the replacement liferaft will be at the expense of CUSTOMER as Surcharges.

## **10 ANNUAL CHARGES, SURCHARGES AND PAYMENT**

- 10.1 The Annual Charges in respect of a Liferraft will be invoiced by SURVITEC to the CUSTOMER as specified in the Schedule.
- 10.2 In addition to the Annual Charges, CUSTOMER shall pay to SURVITEC any Surcharges if they occur. Surcharges will be invoiced by SURVITEC to CUSTOMER when they occur.
- 10.3 SURVITEC shall adjust the Annual Charges and Surcharges of the Agreement in accordance with the inflation adjustment and currency exchange rate adjustments as set out in the Schedule.
- 10.4 CUSTOMER shall pay the Annual Charges and Surcharges in accordance with the Payment Terms in the Key Terms. The Annual Charges and Surcharges are exclusive of all applicable value added taxes or other similar taxes or levies.
- 10.5 In the event that CUSTOMER shall fail to make payment of any sums due in accordance with the terms of the Agreement, SURVITEC shall be entitled to either cancel or suspend, in whole or in part, its performance of the Agreement or any Agreed Schedule, until arrangements as to payment or credit have been established to SURVITEC's satisfaction; and/or charge CUSTOMER interest calculated on a daily basis on all overdue amounts (before and after judgement) at the rate of 5% per annum above the Bank of England's base rate from time to time, from the date when payment became due until the overdue amounts are paid.
- 10.5 CUSTOMER shall make all payments without deduction whether by way of set-off, withholding, counterclaim, discount, abatement or otherwise.

- 10.6 Notwithstanding any other provision, all payments payable to SURVITEC under the Agreement shall become due immediately upon termination of the Agreement for whatever reason.

## **11 OPTIONS UPON EXPIRY OF THE RENTAL TERM OR UPON TERMINATION**

- 11.1 Upon the final expiry of the Rental Term of each Liferaft, (unless the Rental Term has been ended as a consequence of a withdrawal of such Liferaft or of a loss of such Liferaft in which case the provisions of Conditions 8 and 9 shall apply), and in the event of termination of the Agreement for whatever reason CUSTOMER shall return the Liferrafts to SURVITEC. The Parties shall agree a schedule for the return of the Liferaft which shall include the Location, date and time at which CUSTOMER shall make the relevant Liferaft available for collection by SURVITEC. The Location for the return of the Liferaft shall be at a Return Port. If the Liferaft is returned at a Return Port where a Delivery Charge applies, then such Delivery Charge shall be charged to CUSTOMER as Surcharges. Customs duties, and any other kind of taxes, duties and fees in respect of the return of the Liferaft will be at the expense of CUSTOMER as Surcharges.
- 11.2 In the circumstances set out in Condition 11.1, the relevant Liferrafts shall be returned to SURVITEC no later than two (2) months after the expiry of the Rental Term or the termination of the Agreement whichever is sooner. In the event that CUSTOMER fails to return the Liferaft within this two (2) month period, then CUSTOMER shall pay the loss compensation Surcharge as specified in the Schedule plus SURVITEC's wasted costs.
- 11.3 In all cases other than where the Agreement has been terminated CUSTOMER shall have the option to purchase from SURVITEC a replacement for the returned Liferaft. This will be an un-serviced ASR, which may be new or used (at the discretion of SURVITEC) and will be of the same capacity and type as the returned Liferaft. For each such replacement liferaft, CUSTOMER shall then pay the replacement liferaft purchase price as specified in the Schedule. The replacement liferaft will be sold subject to SURVITEC's standard terms and conditions of sale of new or used liferafts (as applicable). It will be delivered at the same Location, date and time as agreed between the Parties for the return of the Liferaft.

## **12 FORCE MAJEURE**

- 12.1 A Party shall not be in breach of the Agreement nor liable for any failure or delay in performance of any obligations (except as to payment) under the Agreement as a result of an event of Force Majeure, provided that such Party complies with the obligations set out in this Condition 12.
- 12.2 The Party affected by an event of Force Majeure shall immediately notify the other Party in writing of the event of Force Majeure and shall keep that Party fully informed of its continuance and of any change of circumstances whilst such event of Force Majeure continues.
- 12.3 The Party affected by the event of Force Majeure shall take all reasonable steps available to it to minimise its effects on the performance of its obligations under the Agreement.
- 12.4 If the event of Force Majeure continues for longer than ninety (90) days, then either Party may immediately terminate the Agreement by written notice to the other Party.

## **13 CONSEQUENCES OF TERMINATION.**

- 13.1 Notwithstanding any suspension, cancellation or termination of the Agreement, SURVITEC shall be entitled to submit invoices and CUSTOMER shall pay SURVITEC for all Annual Charges and Surcharges payable up to and including the date of suspension, cancellation or termination.
- 13.2 On expiry or termination of this Agreement (for any reason whatsoever) CUSTOMER shall (at its sole cost, expense and risk) be responsible for arranging the return of, and shall return, the Liferrafts to a Return Port in accordance with Condition 11.1 and any provision that expressly or by implication is intended to come into or continue in force on or after termination of the Agreement shall remain in full force and effect.

## **14 LIABILITY**

- 14.1 This Condition and Conditions 7, 17 and 19 set out the entire liability of either Party arising under or in connection with the Agreement.
- 14.2 Nothing in the Agreement shall exclude or limit either Party's liability to the other for: (a) death or personal injury caused by its negligence; (b) fraud or fraudulent misrepresentation; (c) for the indemnities set out in Conditions 7.5, 17.6 or 19.4; or (d) for any liability which cannot legally be limited or excluded.
- 14.3 Subject to Condition 14.2, SURVITEC shall not be liable, whether in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise in connection with the Agreement for any loss of profits, loss of anticipated savings or loss of business (in each case whether direct or indirect, or for any indirect, special or consequential loss or damage howsoever arising)
- 14.4 Subject to Condition 14.2 above, SURVITEC shall not be liable for defects or faults in the Liferrafts arising from CUSTOMER'S use or maintenance or possession of the Liferrafts in breach of its obligations under the Agreement.
- 14.5 Subject to Condition 14.2 above, SURVITEC shall not be liable for any loss (including loss of profit), costs, damages, charges or expenses caused by or otherwise incurred by CUSTOMER (whether directly or indirectly) as a result of any delay in the provision of the Initial Delivery or the performance of the Services, nor will any delay entitle CUSTOMER to terminate or rescind the Agreement.
- 14.6 Subject to Condition 14.2, SURVITEC's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise in connection with the Agreement shall in no event exceed one hundred and twenty five percent (125%) of the total Annual Charges paid or payable (had the Agreement not been breached) under the Agreement:

## **15 SAFETY AND RECALL**

- 15.1 If SURVITEC notifies CUSTOMER in writing of any defect in the Liferrafts or an Exchange or Service previously performed at any time, or any error or omission in the instructions for the use and/or installation of the Liferaft which exposes or may expose consumers to any risk of death, injury or damage to property, CUSTOMER shall co-operate fully and promptly with any steps taken by SURVITEC under Condition 15.2.



15.2 SURVITEC may at its discretion recall any Liferrafts (whether for a refund or credit or for replacement of the Liferrafts at SURVITEC's option) and/or issue any written or other notification to CUSTOMER about the manner of use or operation of the Liferrafts and/or offer to re-perform an Exchange or Service previously provided to CUSTOMER.

#### **16 SUBCONTRACTING, ASSIGNMENT AND THIRD PARTY RIGHTS**

- 16.1 Subject to Condition 16.2, neither Party shall be entitled to assign, transfer, charge or otherwise dispose of all or any of its rights and responsibilities under the Agreement or any part of it (except to another member of its Group) without the prior written consent of the other.
- 16.2 SURVITEC may assign, charge or transfer any of its rights or obligations under the Agreement or any part of it in connection with any sale, transfer or other disposition of part or all of its business or assets but only if the assignee assumes all of SURVITEC's rights and obligations.
- 16.3 SURVITEC may, without the consent of CUSTOMER, subcontract any or all of its rights and obligations under the Agreement as it in its absolute discretion sees fit. SURVITEC will, however, continue to remain liable to CUSTOMER for the performance of all of its rights and obligations under the Agreement.
- 16.4 A person who is not a Party to the Agreement (including any employee, officer, agent, representative or sub-contractor of either Party to the Agreement) has no rights (whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise) to enforce any provisions of the Agreement.

#### **17 EXPORT TERMS**

- 17.1 Each Party shall comply with all Export Control and Sanctions Laws that are applicable to it in the performance of the Agreement and shall not do anything to cause the other Party to be in breach of Export Control and Sanctions Laws.
- 17.2 CUSTOMER shall be solely responsible for complying with any legislation or regulations governing the CUSTOMER's obligations in the Agreement so as to enable SURVITEC to perform the Services as well as any legislation or regulations which relate to the importation, use sale, transport or storage of the Liferrafts in the country of destination.
- 17.3 CUSTOMER shall provide to SURVITEC upon request information regarding the Vessel Owners, Vessel operators or managers, the end user and location of the Liferrafts and/or the Vessel and such other information as SURVITEC may require so as to ensure its compliance with Export Control and Sanctions Laws.
- 17.4 CUSTOMER shall immediately notify SURVITEC in writing in the event that CUSTOMER or the Vessel Owners, Vessel operators or managers or any person having ownership or Control of any of them, is designated a sanctioned person pursuant to any Export Control and Sanctions Laws.
- 17.5 CUSTOMER will procure that all Vessel Owners as well as the Vessel operators and managers also comply with the obligations set out in this Condition 17.
- 17.6 CUSTOMER shall indemnify and hold SURVITEC harmless from and against any and all Indemnity Losses arising from CUSTOMER'S breach of Conditions 17.1 to 17.5.
- 17.7 If SURVITEC, in its sole discretion, determines that performance of any obligation under the Agreement (in full or in part) would be in violation of Export Control and Sanctions Laws (including as a result of a delay in or refusal of any export licence or as a result of CUSTOMER, Vessel Owners, Vessel operators or managers or a person having ownership or Control of any of them being designated as a sanctioned person, or which might otherwise give rise to a violation of Export Control and Sanctions Laws), then SURVITEC may at its option and without being liable for any damages or costs of any kind, either suspend performance and/or terminate the Agreement.

#### **18 NOTICES**

- 18.1 Unless specified otherwise in the Agreement, all notices between the Parties about the Agreement must be in writing and delivered by hand or sent by pre-paid first-class post or prepaid international air postal service or email to the persons at the addresses detailed in the Key Terms or such other addresses as shall be notified by one Party to the other in accordance with this Condition 18.
- 18.2 Notices shall be deemed to have been received if sent by pre-paid first class post domestic delivery service, two (2) Business Days after posting; if sent by pre-paid international air postal service, five (5) Business Days after posting; if delivered by hand, on the day of delivery provided delivery is between 9.00am and 5.00pm on a Business Day and in all other circumstances the first Business Day after delivery; and if sent by email, at the time the email is sent, provided this is between 9.00am and 5.00pm on a Business Day and in all other circumstances at 9.00am on the first Business Day after the email is sent.
- 18.3 To prove service of any notice delivered by hand or sent by pre-paid first-class post or prepaid international air postal service it shall be sufficient to show that the same was properly addressed and delivered in the manner set out in this Condition 18 and by email it shall be sufficient to show that the same was dispatched in a legible and complete form to the correct email address without any error message.

#### **19 COMPLIANCE**

- 19.1 Each Party shall comply with all applicable laws relating to anti-bribery and anti-corruption including but not limited to the US Foreign Corrupt Practices Act 1977 and the UK Bribery Act 2010 and shall have, maintain in place and enforce its own policies and procedures to ensure compliance with any anti-bribery and anti-corruption legislation.
- 19.2 Each Party shall comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015 and will not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4, of the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the UK.
- 19.3 The Parties represent and warrant that they shall comply with all applicable taxation laws and shall not commit an offence of cheating the public revenue or an offence consisting of being knowingly concerned in, or in taking steps with a view to, the fraudulent evasion of a tax by itself or any other person.
- 19.4 Either Party may terminate the Agreement immediately upon written notice to the other Party where it determines in good faith that the other Party has breached this Condition 19, and each Party shall indemnify the other Party from all damages, penalties, fines and/or costs of any kind arising from, or relating to, any breach of this Condition 19.

## **20 GENERAL**

- 20.1 Both Parties shall keep the Agreement and its contents confidential.
- 20.2 Any Intellectual Property created by SURVITEC in the course of the performance of the Agreement or otherwise in the manufacture of the Liferrafts or the provision of the Services shall remain SURVITEC's property. Nothing in the Agreement shall be deemed to have given CUSTOMER a licence or any other right to use any of the Intellectual Property of SURVITEC.
- 20.3 Nothing in the Agreement shall create or be deemed to create a partnership or joint venture or relationship of employer and employee or principal and agent between the Parties.
- 20.4 The rights and remedies of either Party in respect of the Agreement shall not be diminished, waived or extinguished by the granting of any indulgence, forbearance or extension of time by such Party to the other nor by any failure of, or delay in ascertaining or exercising any such rights or remedies. The waiver by either Party of any breach of the Agreement shall not prevent the subsequent enforcement of that provision and shall not be deemed to be a waiver of any subsequent breach of that or any other provision.
- 20.5 If at any time any part of the Agreement is held to be or becomes void or otherwise unenforceable for any reason under any Applicable Law, the same shall be deemed omitted from the Agreement and the validity and/or enforceability of the remaining provisions of the Agreement shall not in any way be affected or impaired as a result of that omission.
- 20.6 The Parties acknowledge that the Agreement has not been entered into wholly or partly in reliance upon any warranty, statement, promise or representation by the other Party and neither CUSTOMER nor SURVITEC shall have any liability to the other Party for any pre-contractual statement or representation that is deemed to be a misrepresentation of the terms of the Agreement. Nothing in this Condition 20.6 will exclude any liability in respect of misrepresentations made fraudulently.
- 20.7 Save as expressly provided for in this Agreement, no amendment or variation to the Agreement shall be effective unless it is in writing and signed by the Parties.
- 20.8 The CUSTOMER shall comply at all times with the Data Protection Act 2018 and the General Data Protections Regulations (EU) 2016/679 (or analogous legislation in other jurisdictions) and shall ensure that it has all appropriate rights and consents to pass personal data to SURVITEC for SURVITEC to process in accordance with the terms of the Agreement.
- 20.9 The express provisions of the Agreement are in place of all warranties, representations, conditions, terms, undertakings and obligations implied by statute, common law, custom, trade usage, course of dealing or otherwise, all of which are hereby excluded by SURVITEC to the maximum extent permitted by mandatory law.

## **21 LAW AND JURISDICTION**

- 21.1 The Agreement and any issues, disputes or claims arising out of or in connection with shall be governed by and be construed in accordance with English law. All disputes or claims arising out of or in connection with the Agreement shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with such rules. Such arbitration shall take place in the English language in London, UK. The seat of arbitration shall be in England
- 21.2 Nothing within this Condition 21 shall prevent SURVITEC seeking provisional or protective remedies against any Vessel or Vessel Owner at any port of call in respect of any dispute arising during the Term.
- 21.3 The Parties agree that the United Nations Convention on Contracts for the International Sale of Goods 1980 (Vienna Convention) shall not apply to the Agreement.