



THE NORWEGIAN ARMED FORCES
The Norwegian Defence Logistics Organisation

2020017974 –
Assured Access Contract (AAC) regarding Strategic Sealift

General Contract Provisions

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1 Introduction

1.1 Contract parties

This Assured Access Contract ("Contract") is entered into on [date] by and between The Norwegian Defence Logistics Organisation ("NDLO") acting on behalf of the Ministry of Defence ("MoD") with its Subordinate Agencies (as defined below) (hereinafter the "Charterer") and <name of the contractor> (hereinafter the "Owner").

The Charterer and Owner are jointly referred to as the "Parties" and individually as the "Party".

1.2 Users of the Contract

The Contract may be utilised by NDLO and MoD with its subordinate agencies at any time. The MoD's subordinate agencies (the "Subordinate Agencies") are currently:

- The Norwegian Armed Forces
- The Norwegian Defence Materiel Agency (NDMA)
- The Norwegian Defence Research Establishment (FFI)
- The Norwegian Defence Estates Agency (NDEA)

Charterer may also allow a NATO or EU body or organization to manage utilisation of the Contract and/or coordinate a call off on behalf of other participating NATO or EU countries.

1.3 Purpose of the Contract

The purpose of this Contract is inter alia to meet the Norwegian Armed Forces demand for assured access for strategic sealift. In this Contract, the term sealift refers to the use of a cargo ship (RORO) for the deployment of military assets, such as weaponry, vehicles, military personnel, and supplies.

Charterer plans to utilize the Contract in situations where the ordinary transport/RORO market is not able to meet the Charterer's demands adequately. Typically, this could be situations of military or humanitarian/civilian crisis. However, the utilization of the Contract is entirely at Charterer's discretion. Owner accepts that Charterer may utilize this Contract both in times of peace, crisis, conflict or war.

Assured access to RORO capacity is a part of Charterer's responsibility towards NATO (North Atlantic Treaty Organization). Therefore, Charterer may at its sole discretion and at any time choose to utilize the Contract to make the strategic sealift capacity available to any other NATO nation.

In addition, the capacity could be made available to EU nations that are not members of NATO.

2 Duration of the Contract and options for prolongation

The Contract shall be valid from the date as first written above and for a period of two (2) years firm, unless terminated earlier.

Charterer shall have an option at its sole discretion for extension of the Contract duration by one (1) + one (1) years triggered unilaterally by Charterer.

Charterer's options must be declared with a minimum of three (3) months written notice before expiration of the firm Contract period, or expiration of the first option period as relevant. Charterer's exercise of options is made by using the Charterer's change order form.

Charterer may also, in its sole discretion, terminate the Contract in full or in part with twelve (12) months prior written notice. The twelve (12) months' time period is calculated from when the notice of termination is received by Owner. Charterer does not have to state the grounds for the termination.

3 Contract documents and annexes

3.1 Document Overview

The Contract consists of the following documents:

- Form 5101 (front page of the Contract with signatures)
- The General Contract Provisions (this document)
- The GENTIME General Time Charter Party (issued September 1999), as amended by the Rider Clauses (the "Charter Party Terms").
- Annexes specified in Article 3.2 Annexes to the Contract

3.2 Annexes to the Contract

The following annexes are a part of the Contract:

Annex		
Annex A	Technical Specification	Annex A-1 – Vessel Description Sheet Annex A-2 – Fuel and Consumption Matrix Annex A-3 – IMO Class 1 containers
Annex B	Price and payment Conditions	
Annex C	Assured Access Plan	Annex C-1 - Bidder’s response to Annex C
Annex D	Flag State and Military Guards Agreement	
Annex E	Administrative provisions	
Annex F	Contractor's Social Responsibility	
Annex G	Offer letter (template)	

3.3 Precedence of Documents

In the event of any conflict between the provisions of the contract documents, they shall be given priority in the following order:

1. Form 5101 (front page of the Contract with signatures)
2. The General Contract Provisions
3. The Charter Party Terms - GENTIME General Time Charter Party (issued September 1999), as amended by the Rider Clauses.
4. The Annexes in the order as listed in Article 3.2.

Amendment Agreements pursuant to Article 18 below shall have precedence over the other contract documents.

4 Scope of Delivery and Utilization of the Contract

4.1 Scope of Delivery

Owner shall all times during the term of this Contract provide and ensure unhindered availability of strategic sealift transportation capacity, as further detailed in the Contract, in particular Annex A – Technical Specification, including Annex A-1 – A-3, and Annex C - Assured Access Plan with Annexes C-1 (the "Scope of Delivery").

Owner shall identify a specific vessel for fulfilment of its contractual obligations, the details of which is further specified in Annex A1 (the "Vessel").

If an Activation Notice is issued by Charterer as per Article 4.2 below, Owner shall deliver the Vessel according to the requirements of the Contract. Upon delivery of the Vessel to Charterer in accordance with the requirements of the Contract, a time charter contract for hire of the Vessel shall be deemed concluded and the Charter Party Terms shall apply.

4.2 Utilisation of capacity – Charterer's Activation Notice

If vessel capacity is required by Charterer under the Contract, Charterer shall issue an activation notice by electronic mail (the "Activation Notice"). Owner is required to make delivery of the Vessel in accordance with the Activation Notice, which shall specify:

- The Contract reference number
- Type and number of vessel (CLI number)
- Place of delivery
- Date of delivery, i.e. ready to load in a port (within 15 or 30 days)
- Anticipated period of hire
- Scheduled trading area (optional)
- Place of redelivery (optional)
- Addressee of the crew list
- The entity and/or participating Nation(s) intended to use the Vessel capacity

Immediately after receipt of the Activation Notice, Owner shall submit to Charterer the crew list of the Vessel. After receipt, Charterer may request withdrawal and replacement of any of Owner's crew. All expenses related to such withdrawal and replacement shall be borne by Owner.

Charterer may issue an Activation Notice at any time during the contract period. If the duration of the time charter period (period of hire) as notified in the Activation Notice extend beyond the duration of the Contract, the time charter shall continue in full force and effect and the Charter Party Terms shall apply irrespective of expiration of the Contract.

5 Delivery Time

5.1 Assured Access

If Charterer issues an Activation Notice according to Article 4.2, Owner shall deliver the Vessel and all other parts of the Scope of Delivery to Charterer within 15 or 30 calendar days, whichever is applicable, or at such later date as requested by Charterer. Place of delivery can be any port in Europe.

5.2 Capacity for early delivery

Owner warrants at all times that he shall have the capacity to deliver the Vessel and Scope of Delivery at the respective ports earlier than the minimum delivery time required in Article 5.1. Owner will therefore be able to provide the required capacity in due time according to the request from Charterer.

In the event the Vessel is requested to meet at the given port earlier than required under the Contract, non-success will not be considered as a breach of Contract and Charterer's remedy for breach of Contract will not apply.

The latter does not release Owner from the general remedies in the Contract as the stated default regulations in any case will be effectuated after day 15 or 30, depending on the Activation Notice.

5.3 Exercises/operations

Charterer may choose to utilize the capacity required under this Contract also under military exercises or operations.

5.3.1 Tabletop exercise

The Owner shall allow for and contribute if necessary to carry out a maximum of one annual tabletop exercise. A tabletop exercise is an activity in which key personnel from both Parties assigned with emergency management roles and responsibilities are gathered to discuss and deliberate various simulated emergency or rapid response situations.

The Owner shall designate up to two staff members who shall attend the exercises for a minimum of five consecutive days each at a location designated by Charterer. The staff designated by Owner to attend those tabletop exercises shall carry the nationality of a NATO country in order not to jeopardize this contractual requirement.

All costs of tabletop exercises shall be included in the Annual Commitment Fee.

6 Exclusivity and novation

6.1 Non-exclusivity

The Contract does not give Owner exclusive rights to deliver the Scope of Delivery contemplated by the Contract. Charterer reserves the right to enter into agreements with other contractors if and when deemed desirable or appropriate.

6.2 Novation of the Contract

Charterer shall in no event have the right to novate/transport the Contract, and Charterer shall always be Owner's contractual counterparty with ordinary command lines in the event Charterer utilize the required capacity under the Contract.

7 Price and payment terms

7.1 Price

Prices are defined in Annex B – Pricing and Payment Conditions.

7.2 Payment terms

Annual Commitment Fee

The Annual Commitment Fee (as defined in Annex B) shall be paid by the Charterer in advance for one year at the time, subject to receipt of Owner's invoice as required by Annex B. Payment of first Annual Commitment Fee falls due within 30 days from the date of this Contract as first written above. The Annual Commitment Fee is paid by the Charterer for having assured access to the Vessel as determined within this Contract, regardless of the actual use of the Vessel (i.e. regardless of any Activation Notice and thus conclusion of a time charter for the Vessel) during the contract period.

Activation Premium

The Activation Premium (as defined in Annex B) constitutes the firm fixed rate to be paid by the Charterer for the Vessel as determined within this Contract, if and when Charterer issues an Activation Notice under this Contract. The Charterer shall pay the Activation Premium together with the first Hire.

Time Charter Hire

The time charter period, and accordingly the Hire or Time Charter Hire shall commence after the activation notice, on the delivery of the vessel to the Charterer at the agreed delivery location, and shall end when the Charterer redelivers the Vessel to the Owner, at the expiry of the agreed Time Charter period, at the agreed redelivery location defined in Article 11.3.

The first Time Charter Hire will be paid upon delivery of the Vessel to Charterer, and then monthly in advance upon receipt of Owner's invoices as required by Annex B .

8 Communication

Communication concerning this Contract shall be written in English or Norwegian. All correspondence shall be routed to the personnel set out as points of contact in Article 9.

9 Points of contact

Each of the Parties shall provide a contact person authorised to act on behalf of the Party in all matters relating to the completion of the Contract. Each of the Parties' contact person is stated in Annex E – Administrative provisions.

The Owner may not negotiate with one or more users regarding issues relating to the Contract without notifying the Charterer in advance.

The Parties shall respond to any enquiries from the other Party without undue delay.

10 Owner's obligations

10.1 General

Owner shall carry out all their contractual obligations in accordance with the Contract, with the professional, attentiveness and care that can reasonably be expected of the skilled workers in Owners industry, by using employees with sufficient experience and competence.

Owner is solely responsible to provide the sealift transportation capacity as required by this Contract, as well as the actual performance of any time charter on the Charter Party Terms if and when Charterer places an Activation Notice.

All efforts, costs and liabilities before the delivery of the Vessel to the port of delivery are within the sole responsibility of Owner, subject to force majeure provisions of Article 17.

10.2 Delivery

Owner shall deliver the Vessel and all other parts of the Scope of Delivery as required under the Contract, including the Charter Party Terms, and in accordance with the delivery times as detailed in Article 5.

10.3 Redelivery

Charterer shall redeliver the Vessel to the same area as where the Vessel was delivered by Owner, or where otherwise agreed, and otherwise in accordance with the Charter Party Terms.

10.4 Documentation

Owner's responsibility inter alia includes obtaining and maintaining all necessary certifications, permits, licences, authorizations, class approvals and insurances required to perform the Scope of Delivery and foroperating the Vessel in compliance with applicable laws, regulations and class rules which conform to applicable international regulations, rules, standards and recommended practices. Upon request, Owner shall submit to Charterer or its delegated authority true copies of the aforementioned documents.

10.5 Owner's social responsibility

10.5.1 Prudence

Throughout the procurement process Owner shall ensure that former or present Armed Forces personnel do not encounter situations that place former or present Armed Forces personnel at risk of violating non-disclosure agreements (with their former or present employer) or situations where conflicts of interest can arise. Owner is requested to inform Charterer with regards to whether such conflicts may arise. Charterer may at any time and at its sole discretion request changes regarding which personnel that may contribute in Owners performance under the Contract.

10.5.2 Basic conditions for social responsibility

Owner shall fulfil the basic conditions for social responsibility as defined in the signed Annex F – Charterer's Social Responsibility.

10.6 Transfer of Claims

Owner cannot transfer any outstanding claims pursuant to this Contract to any third party without Charterer's prior written approval.

Owner remains responsible for all his obligations under the Contract even if the Charterer has given such approval.

10.7 Right of inspection

Owner shall, on request from Charterer, provide access to Charterer's authorized personnel to all information, documents etc., that in the opinion of such personnel are of relevance for performing their work in relation with the execution of this Contract. Owner shall further provide access to its property and locations for Charterer's personnel if and when deemed necessary in order for such personnel to perform their work in relation with the execution of this Contract.

Charterer may request inspection in relation with quality assurance, cost control, Owner assessment, codification, security and inspection in Owner's accounts if there is suspicion of financial irregularities or similar situations.

10.8 Confidentiality

Information that the Parties become aware of or in possession of in connection with the Contract and the implementation of the Contract shall be kept strictly confidential, and shall not be disclosed to any third party without the prior written consent of the other Party.

Charterer's confidentiality obligation under this provision shall however not be wider than the obligation imposed by the Norwegian Act of 10 February 1967 relating to Procedure in Cases concerning Public Administration (The Public Administration Act), or the Act of 19 May 2006 relating to the Right of Access to Documents in the Public Administration (the Freedom of Information Act). Owner shall, if possible, be notified prior to the disclosure of such information.

The confidentiality obligation shall not prevent the information being used when there is no legitimate interest in keeping it confidential, for example, when it is in the public domain or is accessible to the public elsewhere.

The Parties shall take all necessary precautions to prevent unauthorised persons from gaining access to, or knowledge of, confidential information.

The confidentiality obligation shall apply to the Parties' employees and subcontractors, and to third parties who act on behalf of the Parties in connection with performance of the Contract. The Parties may only

share confidential information to such subcontractors and third parties to the extent strictly necessary for performance of its obligations under the Contract, and provided that they immediately sign a declaration of confidentiality in a form and content agreed between the Parties which promptly upon signing shall be shared with the other Party.

The confidentiality obligation shall not prevent the Parties from utilising experience and expertise developed in connection with the implementation of the Contract.

The confidentiality obligation shall continue to apply after the expiry of the Contract, and also if the Contract has been terminated or cancelled for any reason whatsoever, unless otherwise is agreed in writing between the Parties or governed by law. Employees or others who resign from their positions with one of the Parties shall also be subjected to a confidentiality obligation in respect of the content of this Article following their resignation.

The Parties shall obtain prior authorization if information on the Contract is to be made known to the public, for advertising purposes or otherwise. Owner undertakes to include a similar clause in all sub-contracts.

Charterer is also bound by the Norwegian Public Administration Act regarding conflict of interest.

10.9 Security

10.9.1 Protective Security Services

Owner is obliged to adhere to the Charterers guidance regarding protective security services. Reference is made to the Norwegian Act relating to Protective Security Services (the Security Act) from 01 June 2018 no. 24 with affiliated regulations.

10.9.2 Security Agreement

Owner shall commit to enter into a separate Security Agreement with Charterer, on terms determined by Charterer, cf. the Security Act § 9-2, if Charterer deems it necessary at any point during the term of the Contract.

10.9.3 Owner's security clearance

Owner shall commit to obtain a security clearance, cf. the Security Act § 9-3, if Charterer deems it necessary at any point during the term of the Contract. In case of a foreign contractor, approval under [Virksomhetssikkerhetsforskriften] Section 84 is also required.

10.9.4 Security related conditions

After entering into a Security Agreement Owner shall follow the conditions set in the Security Act with regulations as well as the instructions given by Charterer.

10.9.5 Security clearance of Owner's key personnel

Owner's key personnel who are involved with any delivery under this Contract must be able to get security clearance up to KONFIDENSIELT/NATO CONFIDENTIAL, cf. the Security Act chapter 8. Personnel not eligible for such security clearance will be required substituted by Charterer under Article 10.5.1.

10.9.6 Visiting Routines

Owner is obligated to follow Charterer's prevailing visiting routines while visiting Norwegian Armed Forces' facilities. Foreign citizens shall complete the form Request for Visit.

10.10 Owner's bank

The Owner's choice of bank must be approved by the Charterer prior to issuance of first invoice under the Contract.

10.11 Subcontractors

10.11.1 The Owner's right to use subcontractors

Owner may use subcontractors to fulfil its obligations under the Contract. Subcontractors listed in Annex E – Administrative Provisions are pre-approved by Charterer. Owner may not assign new subcontractors or change existing subcontractors without prior written consent from Charterer. Such consent shall not be unreasonably withheld.

10.11.2 Requirements for subcontractor

Owner shall ensure that all contracts with subcontractors are back-to-back in terms of Charterer's rights under the Contract, and that any requirement under the Contract applies to the subcontractors' fulfilment of the contractual obligations.

Owner may not assign subcontractors that do not accept these terms and conditions, unless approved in writing by Charterer.

Owner shall, upon request, provide Charterer with information on how the above mentioned requirements are met in any subcontract used to fulfil the Contract.

10.11.3 Subcontractor's obligations

If Owner is unable to fulfil its obligations under the Contract, Charterer may request that the subcontractor continues its fulfilment of the agreement with Owner. In such cases Charterer shall guarantee for Owner's obligations pursuant to the contract between Owner and subcontractor. Owner undertakes to ensure such right in the contract with its subcontractor(s). This provision does not exempt Charterer as a contracting party, from its contractual obligations under the Contract.

10.11.4 Status of subcontractors

Owner shall remain fully liable for the fulfilment of all its obligations under the Contract, whether Owner has subcontracted all or parts of the fulfilment of the agreement.

10.12 Transparency

Owner shall give Charterer's authorised representative access to all information, documents etc. which the representative might find relevant to Owner's performance of assignments under the Contract. This may include, but is not limited to access to Owner's quality control, contractor analyses, cost control, transaction overview as well as security.

Furthermore Owner shall give Charterer's representatives physical access to all properties and facilities when required in order for such representatives to fulfil their assignments.

10.13 Obligation to inform of insolvency

Owner shall without undue delay inform Charterer in writing if Owner is in risk of or becomes insolvent.

Owner is insolvent if it is not able to fulfil its obligations as they fall due, unless the insolvency must be considered temporary. Owner may not be considered insolvent if Owner's assets and income in total fulfil Owner's obligations. This applies even if fulfilment of these obligations are delayed due to the sale of Owner's assets.

10.14 Owner's obligations in relation to cessation of the Contract

Upon expiry of the Contract for whatever reason, Owner shall upon Charterer's request contribute with information regarding the contractual relationship in a loyal and active manner. This includes information which Charterer deems necessary in connection with the notification of or transfer to and establishment of a contract with a new contractor. Obligations pursuant to this provision shall be performed free of charge.

Owner is not obligated to provide information encompassed by section 13 of the act of 10 February 1967 (Public Administration Act).

11 Owner's breach of contract

11.1 Breach of Contract

Owner shall be deemed in breach of Contract if Owner does not fulfil all his obligations under the Contract and this is not due to force majeure as specified in Article 16 or circumstances caused by Charterer. Owner holds the burden of proof if Owner is to claim that the non-fulfilment under the Contract is caused by Charterer.

Owner shall, for its own cost, take all measures required to rectify the default and shall keep Charterer informed of the measures taken to ensure the fulfilment of the Contract.

11.2 Owner's obligation to inform of breach of contract

Should Owner be in breach of contract or prevented from fulfilling his obligations hereunder, Owner shall notify Charterer immediately and advise the effects thereof to the fulfilment of the Scope of Delivery.

Charterer shall take necessary measures to prevent and limit the effects of Owner's breach of Contract. Such measures will not limit Owner's liability.

11.3 Charterer's complaint

Charterer shall submit a written complaint within reasonable time after a breach of Contract has been discovered. If the complaint is not made within reasonable time, Charterer loses the right to put forward a claim in respect of the breach of Contract.

The stated time limits for complaints do not apply if Owner has acted with gross negligence, dishonestly or in bad faith. The claims period does not apply if Owner through a guarantee or other agreement has assumed liability for defects for a longer period.

12 Charterer's remedy for breach of contract

12.1 Delay - Liquidated damages

Subject to Article 12.2 and 12.3, if Owner fails to provide the Vessel at the port of delivery and/or within the assured period as indicated in the Activation Notice, Owner shall pay liquidated damages at the rate of 1/15 of the Activation Premium per day the Vessel is delayed if the activation notice was 15 days, or 1/30 if the activation notice was 30 days. If the liquidated damages exceed the Activation Premium, Owner shall be entitled to terminate the Activation Notice and no time charter contract will be formed. Owner shall in such case inform Charterer of the new ETA at given port, and Charterer shall have the option to demand delivery within such date as informed by Owner. If Charterer elects not to terminate, Owner shall continue to pay liquidated damages at an amount equal to the Time Charter Hire Day 1-50 per day of delay. If Owner fails to meet also such new delivery date accepted by Charterer, Charterer shall be entitled to terminate the Activation notice and no time charter contract shall be formed.

Without prejudice to the final judgement regarding the liquidated damages, Charterer shall be entitled to deduct imposed liquidated damages when paying any invoice from Owner, even in the event that claims deriving from submitted invoices have been assigned or otherwise transferred to third parties.

12.2 Default

If Owner fail at any time to keep the transportation capacity required under the Contract available for activation as required by the Contract, or if the Vessel is not available or does not fulfil the requirements agreed in this Contract when an Activation Notice is issued, or at any later time, Charterer may terminate the Contract and any time charter agreement in effect. Owner shall in such case be obliged to offer, however Charterer shall not be obliged to accept, provision of a substitute vessel. The quality of a substitute vessel has to be equal to or higher than the Vessel. If accepted, liquidated damages apply as described in 13.1, until substitute tonnage is delivered.

If Owner is in default on any other obligation under the Contract, and Owner fails to rectify such default within 60 days from the occurrence of such default, Charterer shall be entitled to terminate the Contract and any time charter agreement in effect.

12.3 Compensation

The Charterer can demand compensation for the loss Charterer suffers due to Owner's breach of Contract, including costs of hiring any substitution vessel (No: dekningskjøp).

12.4 Limitations of Liability

Any liability under this Contract shall only cover direct loss, meaning none of the Parties can be held responsible for indirect loss. This limitation cannot be claimed by a Party who may have caused or contributed to the actual breach of contract with gross negligence or intent at executive level.

12.5 Termination of the Contract

Charterer has the right to terminate this Contract by immediate written notice if one of the following conditions should occur:

- a) Owner is delayed in delivery and Charterer becomes entitled to payment of maximum liquidated damages as set out in Article 12.1;
- b) Owner is in default as described in Article 12.2;
- c) Owner fails to comply with the requirements of Article 10.5.2;
- d) Owner is found guilty by enforceable verdict of participation in a criminal organization, corruption, fraud, money laundry, or a criminal act connected to his occupational conduct;
- e) Owner's business will be subject to debt negotiations, bankruptcy or any given creditor persecution;
- f) Owner's business is dissolved, suspended or is in an equivalent process based on governing law;
- g) Owner does not fulfil the requirements for safety or security of personnel or material.

If the Contract is terminated by Charterer, any time charter contract shall be deemed terminated accordingly, and Owner shall immediately refund to Charterer any advance payments made by Charterer related to the Contract or any activated time charter contract.

12.5.1 Breach of social responsibility conditions

If Owner does not comply with the basic conditions for social responsibility as defined in Article 10.5.2 Basic conditions for social responsibility, the remedies stated in Annex F – Contractor's Social Responsibility shall apply, in addition to the remedies in Article 12 Charterer's remedy for breach of Contract.

13 Charterer's breach of contract

13.1 Breach of contract

There is a breach of Contract if Charterer does not fulfil all his obligations under the Contract and this is not due to circumstances caused by Owner. Charterer holds the burden of proof if Charterer is to claim that the non-fulfilment under the Contract is caused by Owner.

13.2 Charterer's notification obligation in the event of breach of contract

Owner shall give written notice within reasonable time after the breach of Contract has been discovered or ought to have been discovered. If the complaint is not made within reasonable time, Owner loses the right to put forward a claim in respect of the breach of Contract.

Should Charterer be prevented from fulfilling his obligations under this Contract within the agreed time, he shall notify Owner without undue delay about the event giving cause to the delay and any affect it may have on his ability to fulfil his obligations.

14 Compensation for breach of Contract

Subject to the limitations stated in the Contract, each of the Parties may claim compensation for direct loss due to the other party's breach of contract.

Direct loss is defined as reasonable additional costs related to purchase of substitute goods, costs related to the performance of a new procurement as well as any increased costs related to change of contractor. No compensation may be claimed for indirect loss unless the Party in breach or any for whom Owner is liable has acted with gross negligence or intent. Regarding what may be considered direct loss and indirect loss, reference is made to the Norwegian act of 13 May 1988 no. 27 relating to purchase, cf. section 67 first, second and third paragraph.

Each of the Parties undertakes to mitigate its losses and may not claim compensation for losses that the Party should and could have avoided.

Owner is liable pursuant to general rules relating to compensation for damage caused by Owner in relation to the fulfilment of the scope of delivery, cf. section 2-1 of the act of 13 June 1969 relating to compensation in certain circumstances (Damages Act).

15 Indemnification

15.1 Indemnification

15.1.1 Definitions

In this Article 15 “all/any Charter answers for” shall mean all personnel hired by the Norwegian Armed Forces and other governmental agencies’ personnel who are present in cooperation with the Norwegian Armed Forces, other suppliers (besides Owner) and their staff and trustees,.

In this Article 15 “Owner” shall mean Owner, his subcontractors, hereunder their staff and trustees and other assistants, owners or consultants, including staff and trustees.

15.1.2 For Owner

Subject to Article 15.2, Owner shall indemnify Charterer and all Charterer answers for from any loss, damage, expense, claim or litigation of any nature which may occur in connection with delivery under this Contract and resulting from:

- a) Loss of or damage to Owner's property, or personal damage or death to Owner's personnel, occurring in connection with Owner's delivery under this Contract. With the limitations stipulated in Article 15.3, this indemnification shall also apply in those cases where Charterer or any other Charterer answers for has contributed to the damage or loss, irrespective of cause and notwithstanding negligence of whatever kind on the part of Charterer or any other Charterer answers for;
- b) Personal damage or death or damage or loss of property /estate to any third party and which is cause by Owner; and
- c) Pollution and other environmental damages resulting from the Vessel and/or caused by Owner related to, or occurring in connection with, delivery of the work or prior to delivery of this Contract.

Owner shall without delay notify Charterer of any litigation which can provide basis for indemnification as regulated in this article.

15.1.3 For Charterer

Subject to Article 15.2, Charterer shall indemnify Owner from any loss, damage, expense, claim or litigation of any nature which may occur for Charterer or any Charterer answers for in connection with delivery under this Contract, and resulting from:

- a) Personal damage or death of Charterer's personnel or personnel of any Charterer answers for, loss or damage of Charterer's property or the property of any Charterer answers for, occurring in connection with Owner's delivery under this Contract. With the limitations stipulated in Article 15.3 indemnification shall also apply in those cases where Owner has contributed to the damage or loss, irrespective of cause and notwithstanding negligence of whatever kind on the part of Owner;
- b) Personal damage or death or damage or loss of property /estate to any third party and which is caused by Charterer or any Charterer answers for; and
- c) Subject to Article 15.1.2 c), pollution and other environmental damages caused by Charterer or any Charterer answers to related to, or occurring in connection with, delivery of the work or prior to delivery of this Contract.

Charter shall without undue delay notify Owner of any litigation which can provide basis for indemnification as regulated in this article.

15.2 Loss of right of indemnification

A Party who may have caused or contributed to the actual breach acting with gross negligence or intent at executive level, cannot claim indemnification according to Article 15.1. With "executive level" a reference is

made to persons whose actions, based on common regulations of organ responsibility, can be identified with the actual Party.

16 Force Majeure

16.1 General

In this Contract force majeure means an occurrence beyond the control of the Party affected, which the Party should not and could not reasonably have foreseen at the time of entering into the Contract, provided that the Party affected may not reasonably avoid or overcome it or its consequences.

Neither of the Parties shall be considered in breach of an obligation under the Contract if and to the extent the Party can establish that fulfilment of the obligation has been prevented or hindered by force majeure.

16.2 Regulations in situations of readiness, crisis, conflict and war

Considering the intention of the Contract is assured and robust delivery in situations of readiness, crisis, conflict and war, force majeure shall not be invoked by any Party in such situations.

16.3 Notification of force majeure

If a Party deems force majeure to have occurred, he shall immediately notify the other Party in writing specifying the relevant circumstance on which force majeure is claimed and the expected delay caused by the force majeure situations. If a Party has not notified the other Party of the force majeure situation without undue delay, then he loses the right to claim that fulfilment of the obligation has been prevented by force majeure.

16.4 Effects for costs and progress

Each Party shall cover its own costs resulting from the force majeure situation, and force majeure shall not affect the Contract Price.

16.5 Cancellation as a result of force majeure

If a force majeure situation persists without interruption for more than 30 calendar days, or the Party invoking force majeure can establish that it will do so, either Party may terminate the Contract, or alternatively an ongoing time charter contract.

17 Changes to the Contract

17.1 General

The terms and conditions of the Contract may only be changed if both Parties sign Form 5156 – Supplemental Agreement, or Charterer issues Form 5157 – Change Order. The Contract shall normally be changed by the use of an Agreement of Change. These forms (and the following) are standard documents of the Charterer, available upon request and may be subject to change.

Neither Owner nor Charterer can plead that any other statement, omissions, actions, or statements by Charterer, including minutes of meeting, correspondence, are valid changes to this Contract. This means that any statement that effects Scope of Delivery, schedule and/or price given by representatives by either Part orally in meetings, telephone conversations etc. or in writing in minutes of meeting, correspondence between the Parties or similar documents, do not change the Contract between the Parties until they have been agreed on in an Supplemental Agreement or expressed in a Change Order.

A change to the Contract may include inter alia an increase or decrease in quantity, or a change in character, quality, kind of execution of the work or any part thereof, as well as changes to the contract schedule and Scope of Delivery, if such changes fall within the scope of what the Parties could reasonably have expected when the Contract was entered into.

The terms and conditions of the Contract shall also apply to changes, unless the Supplemental Agreement or Change Order explicitly state otherwise.

Owner shall maintain a directory of the changes on an ongoing basis, and shall on Charterer's request provide an updated copy thereof.

17.2 Change of Contract by use of Supplemental Agreement

17.2.1 Charterer's right to initiate a change

Charterer has the right to initiate a change to the Contract according to the change process described in Article 17.2.3 below.

17.2.2 Owner's right and obligation to initiate a change

Owner has the right to initiate a change to the Contract according to the change process described in Article 17.2.3 below.

Owner is obligated to initiate a change to the Contract when he considers that such change will cause reduced costs, earlier delivery and/or technical improvements.

17.2.3 Process when initiating change to the Contract by the use of an Supplemental Agreement

Charterer initiates a change process by issuing a written request, which describes the desired change to the Contract. Owner shall, within a maximum of 14 calendar days of receipt of written request from Charterer describe any and all consequences of the change to the Parties obligations under the Contract. If the change has any consequences for the Contract price, Owner shall specify its claim by using Form 5351 – Specification of Pricing. Calculation of the cost shall be according to Form 5055 – General Terms for Cost Control.

Owner initiates a change process by issuing Form 5159 – Request for Change to Charterer. The proposal shall describe any and all consequences of the change. If the change has any consequences for the Contract price, Owner shall specify its claim by using Form 5351 – Specification of Pricing. Calculation of the cost shall be according to Form 5055 – General Terms of Cost Control.

The Contract is changed when the Parties have signed a Supplemental Agreement.

17.2.4 The Content of a Supplemental Agreement

The Supplemental Agreement shall include any and all consequences of the change to the Parties obligations under the Contract. The Parties may not invoke any consequences of the change not included in the Supplemental Agreement. In addition, the Supplemental Agreement shall include the accumulated effect on the contract price resulting from all Supplemental Agreements at that point in time.

17.3 Change of the Contract by use of Change Order

Charterer may at any time make changes to the Contract by issuing Form 5157 – Change Order. Owner shall immediately perform according to the Change Order, whether or not the Parties have agreed on all consequences of the change.

If a Change Order will entail adjustment of the contract price or, if relevant, the stipulated maximum cost, the date of delivery, and/or other provisions of the Contract, Owner shall notify Charterer of this in writing within 14 calendar days after receiving the Change Order. Within a time agreed between the Parties Owner shall then submit to Charterer a specified and justified proposal for adjustment by completing Form 5351 – Specification of Pricing. Calculation of the cost shall be according to Form 5055 – General Terms for Cost Control.

As soon as the Parties agree upon all consequences of the change, the Parties shall sign a Supplemental Agreement in accordance with Article 17.2.4.

Any dispute between the Parties shall be settled in accordance with Article 17.4. Disputes regarding existence of Change and Article 18 Disputes and Governing Law.

17.4 Disputes regarding existence of a Change

If Charterer claims that Owner has an obligation under the Contract, and Owner disputes such an obligation, or if Owner issues a “ Request for Change” and Charterer is of the opinion that the scope of the “Request for Change” is already covered by the obligations under the Contract, then a dispute related to the obligations under the Contract is established.

After receipt of a notice from Charterer stating that Charterer considers the obligation to part of the obligations under the Contract, Owner shall within 15 working days substantiate its position on the matter.

Charterer shall within reasonable time after receipt of Owner’s position present its view on the matter, and may issue a Change Order in Dispute by using the form “Change Order in Dispute”. The Change Order in Dispute shall describe the obligations of Owner according to the view of Charterer.

Owner shall immediately perform according to the Change Order in Dispute, even if the Parties are in dispute whether the obligation is part of the Contract. A dispute of the possible consequences of the Change Order in Dispute will not relieve Owner of the obligation to perform according to the Change Order in Dispute.

Owner shall without undue delay present to Charterer its opinion of the price for the Change Order in Dispute. The dispute between the Parties shall be settled in accordance with Article 18 Disputes and Governing Law.

18 Disputes and Governing Law

The Contract shall be governed by and interpreted in accordance with Norwegian law.

Any disputes that arise under or in connection with the Contract shall be attempted solved by negotiations between the Parties. In the event that such negotiations are unsuccessful, a Party may bring the case before the Norwegian courts with Oslo City Court as agreed legal venue.

The fact that legal proceedings are initiated does generally not in itself relieve the Parties of their obligations under the Contract.