



## **ARROW SHIPBROKING GROUP GLOBAL TERMS OF BUSINESS: SHIPBROKING**

### **GENERAL**

- 1.1 These Terms apply to (and govern the relationship between) the Client and Arrow in respect of the Services, and form a legally binding agreement between the Client and Arrow.
- 1.2 In Making Use of the Services the Client agrees (from such date) to be bound by and adhere to these Terms.
- 1.3 The Client's attention is drawn in particular to Clause 7 which sets out limitations of liability in respect of the Services and these Terms.
- 1.4 These Terms do not apply to FFA broking or (other than Reports) any other activities of Arrow Futures (UK) Limited.
- 1.5 These Terms, in particular clause 6, also apply to any person who reads or receives a Report whether or not they are a Client or are otherwise Making Use of the Services.

### **BROKING SERVICES PROVIDED BY ARROW**

- 2.1 Arrow will act as a shipbroker in relation to Fixtures. The role of Arrow is to introduce Principals. Thereafter, Arrow will assist the Principals and/or their Representatives as a channel for Negotiations.
- 2.2 Arrow shall provide such Post Fixture Services and Ancillary Services as may be agreed with Arrow. Such Post Fixture Services and Ancillary Services will be subject to; (i) these Terms; and (ii) such other specific terms as may be specified by Arrow (if any). In the event of (but only to the extent of) a conflict between these Terms and any such specific provisions, the latter will prevail.
- 2.3 Unless otherwise agreed in writing: (i) Arrow will act solely as an intermediary in relation to Fixtures and will not (as a Principal) enter any Fixtures arising from the Services; (ii) the Services are provided on a Fixture by Fixture basis; and (iii) the Services are not provided on an exclusive basis and Arrow may act as a shipbroker for other parties in relation to the same or other Fixtures.
- 2.4 Client acknowledges and agrees that Arrow may use (or seek to arrange the use of) electronic signature software in connection with and/or in performing the Services.

### **ARROW OBLIGATIONS**

- 3.1 Information: Arrow will, in respect of Negotiations, use all reasonable endeavours to pass on offers, counteroffers and other analogous communications accurately and in a timely manner.
- 3.2 General: Arrow will: (i) perform the Services with the reasonable skill and care expected of a professional shipbroker in the relevant industry sector; and (ii) in the performance of the Services, comply in all material respects with applicable law.

### **CLIENT OBLIGATIONS**

- 4.1 Information. The Client shall: (i) ensure that any information or instructions given to Arrow is complete, accurate and up to date; (ii) promptly (and in any event within any reasonable timescales communicated by Arrow) provide Arrow with such information or instructions as it may from time to time require or request in connection with the Services or a Fixture; and (iii) take care to avoid misrepresentations occurring in Negotiations and promptly inform Arrow if it becomes aware of

any information communicated by Arrow on behalf of the Client which is incorrect (it being acknowledged by the Client that to the fullest extent permitted by law Arrow is not responsible for the consequences of a failure by the Client to review such communications or messages). Where actions need to be taken by a certain time (such as reply times during Negotiations) the Client will ensure Arrow has sufficient time to forward such messages prior to the relevant time limit.

- 4.2 Counterparties: The Client: (i) acknowledges and agrees that it is the sole obligation of the Principal to satisfy themselves of any counterparty risk and decide whether to enter a Fixture with the proposed counterparty and on what terms; and (ii) undertakes that it has the full legal power to enter into any Fixture brought about by the Services.
- 4.3 Representative Warranties: Where the Client is acting as a Representative it warrants that it has the Principal's authority (i) to accept these Terms on their behalf; (ii) to give instructions on the Principal's behalf and to make and accept all offers, counteroffers and representations made during Negotiations; and (iii) to agree a Fixture on their behalf.
- 4.4 General. The Client: (i) shall co-operate with, and act in good faith towards, Arrow in all matters relating to the Services and these Terms (and upon request assist Arrow in recovering Commission); (ii) not seek (or facilitate a third party) to circumvent or avoid Arrow's entitlement to Commission; (iii) shall comply in all respects with applicable law (and undertakes it knows of no reason why the Fixture or the provision of the Services would be unlawful); (iv) undertakes to Arrow that these Terms are binding on (and enforceable against) it; and (v) undertakes to Arrow that (A) neither it nor its Group is subject to Sanctions; (B) neither it nor its Group deals with counterparties subject to Sanctions; (C) no Ship the subject of a relevant Fixture is subject to Sanctions; and (D) that if any of (A)-(C) becomes untrue it will promptly notify Arrow.

## FEES

- 5.1 On Fixtures Arrow's remuneration will (unless otherwise agreed) be in the form of a commission on the freight, hire or purchase price (as applicable) ("**Commission**"). The Client shall promptly pay, or procure (if appropriate by including an obligation in the Fixture) the prompt payment of, Commission.
- 5.2 The level of Commission payable and the party responsible for payment will be as agreed between the Client and Arrow or otherwise as set out in the Fixture. Nothing in these terms will prevent Arrow from enforcing a commission clause or other clause conferring a benefit on them as a third party in accordance with the terms of the Fixture.
- 5.3 In the absence of agreement between the Client and Arrow or any specific provisions in the commission clause of a Fixture: (i) on voyage charters, Commission is payable on deadfreight and demurrage as well as on freight (and freight shall include all items that comprise the freight rate); (ii) on time charters, Commission will be payable on the hire paid under the charter (or damages for non-payment of hire) and any continuation or extension of the charter; (iii) on sale agreements, Commission is payable on gross purchase price and on delivery of the vessel or payment of the purchase price (whichever is earlier); and (iv) on new building contracts, Commission is payable on construction and commissioning costs and as and when each stage payment is made.
- 5.4 In respect of Ancillary Services and Post Fixture Services, Arrow's remuneration will be such amount as is agreed between the Client and Arrow. The Client will pay such remuneration promptly and in accordance with Arrow's reasonable requirements.
- 5.5 All sums payable to Arrow in connection with the Services and/or a Fixture and/or Ancillary Services shall be paid without delay, counterclaim, withholding or set off and are exclusive of any value added tax or other applicable sales tax.
- 5.6 If the amount (or manner of payment) of any Commission, fee or other remuneration is not specifically agreed or stated in the relevant Fixture then a reasonable commission or fee will be payable by the Client in accordance with industry standards, market practice and clause 5.3.

- 5.7 Where Services are provided the Client is deemed to have engaged Arrow in relation to any Fixture that arises in connection with those Services whether or not it is concluded via Arrow and Arrow's Commission shall be payable in full.

## **REPORTS**

- 6.1 Reports are for general information only and are not targeted at, or to be relied upon in relation to, specific persons, matters, investment objectives, financial situations or Fixtures.
- 6.2 Arrow gives no warranty as to the accuracy or completeness of any Reports and the Client or reader (as appropriate) acknowledges and agrees that Arrow shall have no liability to the Client or reader in respect of any Reports.
- 6.3 No Report is intended to be a complete statement or summary of the securities, markets or developments referred to therein. Arrow is under no obligation to update the information or views contained in any Report. While Reports (and opinions expressed in them) may have been derived from sources believed to be reliable and in good faith, they are not to be relied upon as authoritative or taken in substitution for the exercise of the reader's or Client's own commercial judgment. Any opinions expressed in a Report are subject to change without notice and may differ from opinions expressed by other members or employees of the Arrow Group. Nothing in a Report should be construed as an offer or solicitation to sell or buy any product, investment, security or any other financial instrument. All rights in Reports are reserved.
- 6.4 Reports do not constitute advice and Arrow has no liability for the consequences of any person, including the Client, purporting to rely on such Reports.
- 6.5 The Client or reader (as appropriate) shall not reproduce or share any Report (or any part thereof) with any third party without the prior written consent of Arrow. It shall then only do so in accordance with applicable law. These Terms will apply to any such third party recipient.

## **LIMITATIONS OF LIABILITY**

- 7.1 Arrow is not responsible for the performance or non-performance of Fixtures, Principals or other third parties.
- 7.2 The scope of the Services is limited to the Services set out in these Terms and in particular the Client acknowledges that Arrow shall not be required to advise on tax or regulatory matters.
- 7.3 Arrow shall not be liable to any person as a result of any act, omission, failure, fraud, delay, negligence, insolvency or default of any courier, postage service, bank, financial institution, clearing or payments system, email or internet service provider, or regulatory, governmental or supra-national body or authority. In particular, any payment obligations which Arrow may owe are subject to the rules and policies of Arrow's banking facilities and Client undertakes to provide such assistance as is required in respect of questions raised by relevant banks.
- 7.4 Arrow's total aggregate liability in respect of or in connection with: (i) a Fixture, shall not exceed (A) the Liability Amount or (B) if lower than the Liability Amount, the amount of Commission it actually receives from the Client in respect of such Fixture; (ii) the provision of Services to a Client (or otherwise under or in connection with these Terms), shall not exceed (A) the Liability Amount or (B) if lower than the Liability Amount, the amount of Commission it actually receives from the Client in connection with the Services.
- 7.5 To the fullest extent permitted by law Arrow shall not be liable in respect of a claim unless: (i) such claim is notified to Arrow in writing within 14 days of the date on which the Client becomes (or ought reasonably to have been) aware of the circumstances giving rise to the claim; and (ii) proceedings in respect of such notified claim are validly served within 12 months of the end of performance of the Fixture or in the absence of a concluded Fixture 12 months from the end of the Negotiations.

- 7.6 To the fullest extent permitted by law Arrow shall not be liable for: (i) loss of profits, business interruption, loss of reputation, indirect or consequential losses; or (ii) losses caused as a consequence of a breach by the Client of these Terms or otherwise as a result of matters outside of Arrow's control.
- 7.7 The exclusions and/or limitations set out in this Clause shall apply whether the claim against Arrow is brought in contract, tort (including for negligence) breach of statutory duty or for any other cause whatsoever. Nothing in these Terms limits Arrow's liability for (i) fraud or fraudulent misrepresentation (ii) death or personal injury caused by the negligence of Arrow.

#### **AGENCY AND COMMUNICATIONS**

- 8.1 If Arrow is acting directly for a Principal in connection with a Fixture then Arrow warrants that it has the authority of that Principal in respect of the relevant matter relating to the Fixture.
- 8.2 If at any time Arrow provides information in respect of a Principal, Representative, vessel, Fixture, or other matter (including but not limited to information regarding corporate structures or financial standing), it is understood and agreed that Arrow is providing such information in good faith but without guarantee.
- 8.3 It is understood that Arrow may be dealing with Representatives or other intermediaries rather than directly with a Principal. In such cases Arrow is dealing with such Representatives or other intermediaries in good faith as to the authority they possess but Arrow does not give a warranty as to that authority.
- 8.4 Arrow may (without incurring liability) act upon any written or verbal communication or instruction to act or refrain from acting in providing the Services or otherwise in connection with a Fixture without enquiry as to the authority or identity of the person(s) giving or purporting to give such communications and instructions.
- 8.5 Where Arrow designates a specific email address to the Client for use in connection with the Services ("**Designated Email Address**") the Client undertakes to send (or copy) all communications to such Designated Email Address. Where a Client sends any legal proceedings or a time sensitive message to the Designated Email Address (or any other email address of Arrow) that requires prompt action by Arrow, but Arrow does not provide a prompt response, the Client shall contact Arrow by a means other than email to confirm Arrow's receipt of the relevant message or proceedings. To the fullest extent permitted by law Arrow will have no responsibility for a failure to action a message or claims documentation unless it is sent timely to the Designated Email Address (to the extent it exists) and is acknowledged by Arrow.

#### **CONFIDENTIALITY**

- 9.1 Where Arrow is given information which is confidential in nature and which is expressly stated by the Client to be on a confidential basis or it is expressly agreed that a Fixture is confidential (in either case "**Client Confidential Information**") Arrow will hold that Client Confidential Information in confidence and will not disclose it to any other party outside of the Arrow Group without prior permission from the Client or otherwise in accordance with this clause.
- 9.2 Where the Client is given information by Arrow which is confidential in nature ("**Arrow Confidential Information**"), the Client will hold that Arrow Confidential Information in confidence and will not (other than to a member of the same Group) disclose it to any other party without prior permission from Arrow.
- 9.3 The obligations in clause 9 will not extend to information which (i) was already or becomes known to the receiving party through other sources not subject to such an obligation of confidentiality; (ii) is or becomes known to the market generally other than as a result of a breach of this obligation; (iii) which the receiving party is obliged to disclose pursuant to applicable law or an order of a court;

or (iv) is Client Confidential Information which Arrow discloses or combines with other information on an anonymised basis.

9.4 The Client consents to information regarding concluded Fixtures being included in Reports, being used and disclosed by or on behalf of Arrow on an anonymised basis, and being combined with other data on an anonymised basis.

9.5 In all cases, obligations of confidentiality under these Terms shall cease to apply 12 months after the end of performance of the Fixture in question or (in the absence of a concluded Fixture) 12 months from the end of the Negotiations.

#### **MISCELLANEOUS**

10.1 Any intellectual property rights in or arising out of or in connection with the Services and any data generated by Arrow in connection with provision of the Services by Arrow shall be owned (and may freely be used) by Arrow.

10.2 Arrow has a general lien on all documents in its possession or control from time to time for all sums due from the Client.

10.3 Nothing in these Terms shall require Arrow to do anything which it reasonably considers to be or would result in a breach of applicable law. In the event that Arrow in its absolute discretion believes that a Fixture or the provision of the Services may infringe applicable laws or breach Sanctions it may by written notice terminate the Services immediately. In the event of such termination Arrow will have no liability arising from such termination. The Client undertakes to indemnify Arrow in respect of any losses incurred by Arrow as a result of a breach by the Client of applicable law.

10.4 These Terms (together where applicable with those additional terms agreed between the Client and Arrow in writing) constitute the entire agreement between the parties and (save in the case of fraud) supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

10.5 No variation of these Terms shall be effective unless it is in writing and signed by the parties (or their authorised representatives). No failure or delay by a party to exercise any right or remedy shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. If a court finds that any provision of these terms and conditions is invalid, illegal or unenforceable, that provision shall, to the minimum extent required, be deemed deleted and the validity, legality and enforceability of the remainder of that and all other provisions of these terms and conditions shall not be affected.

10.6 These Terms (and any dispute or claims relating thereto) shall be governed by and construed in accordance with the laws of England, and (subject to Clause 10.7) the parties submit to the exclusive jurisdiction of the English Courts.

10.7 Arrow reserves the right to bring proceedings against the Client in any other court of competent jurisdiction. The taking of proceedings in any one or more jurisdictions by Arrow shall not preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

#### **DATA PROTECTION**

11.1 Each party may disclose to the other party Shared Personal Data for the Agreed Purposes.

11.2 Arrow will treat the Client's personal data in accordance with these Terms and its Data Policy. The Client acknowledges that it is aware of and has read the Data Policy.

- 11.3 Without prejudice to Clause 11.2, each party shall: (i) ensure that it has necessary notices and consents in place to enable lawful transfer of the Shared Personal Data to the Permitted Recipients for the Agreed Purposes; (ii) process the Shared Personal Data only for the Agreed Purposes; (iii) not disclose or allow access to the Shared Personal Data to anyone other than the Permitted Recipients; (iv) ensure that all Permitted Recipients are subject to appropriate written contractual obligations concerning the Shared Personal Data (including obligations of confidentiality); (v) ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data; (vi) not transfer any personal data received from the other party outside the EEA other than in accordance with Data Protection Legislation; (vii) assist the other in complying with all applicable requirements of Data Protection Legislation; and (viii) notify the other party without undue delay on becoming aware of any breach of Data Protection Legislation.

## DEFINITIONS

The following definitions and rules of interpretation apply in these Terms.

### 12.1 Definitions:

"**Agreed Purposes**" means providing or Making Use of the Services or complying with these Terms.

"**Ancillary Services**" means providing ship valuations and/or specific market research and/or such other ancillary services as may be agreed by Arrow.

"**Arrow**" means the relevant member of the Arrow Shipbroking Group.

"**Arrow Shipbroking Group**" means: (i) Arrow Shipping (U.K.) Limited ("**ASUK**") and each member of ASUK's Group from time to time; and (ii) Arrow Shipping (Monaco) S.A.M ("**ASM**"); and (iii) each of ASUK's and ASM's Associated Companies.

"**Associated Company**" means a company or other legal entity which directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, another entity or person; "control" (including the terms "controls", "controlled by" and "under common control with") means the possession, directly or indirectly, of more than 50% of the equity securities or equity interests in such entity or the power to direct or cause the direction of the management and policies of such entity (whether through ownership of securities, partnership interest or other ownership interests, by contract, or otherwise).

"**Broking Services**" means the services carried out by Arrow as provided for in Clause 2.1 of these Terms.

"**Business Day**" a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

"**Client**" means the person or party (including: (i) that person's employees and officers where relevant; and (ii) Principals and Representatives) Making Use of the Services. Where such party is acting as a Representative, references to Client will additionally include the Principal.

"**Data Policy**" means Arrow's privacy policy from time to time which is available on its website.

"**Data Protection Legislation**" means applicable data protection legislation in force from time to time including the General Data Protection Regulation ((EU) 2016/679) and the Data Protection Act 2018.

"**Fixture**" means a contract, agreement or arrangement including for the sale, purchase, construction, demolition, towage or charter (including bareboat, time, and voyage charter and contracts of affreightment) of a Ship (together, where applicable, with negotiations to enter such contracts, agreements or arrangements).

"**Group**" in relation to a company, that company, any subsidiary or holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company (each as defined by the Companies Act 2006).

"**Liability Amount**" means USD1,000,000.

"**Making Use**" means any of (i) requesting; (ii) receiving; (iii) making use of; or (iv) responding to Arrow in relation to the provision of, Services (as applicable).

"**Negotiations**" means exchanges (whether verbal or in writing) in relation to concluding a Fixture.

"**Permitted Recipients**" means Arrow and the Client, the employees of each of them, and any third parties engaged in connection with the Services.

"**Post Fixture Services**" means assistance with communications, operational matters and claims arising from the performance of a Fixture.

"**Principal**" means a party to a Fixture including (as applicable) the owner, operator, seller, buyer, builder or charterer of a Ship and any party guaranteeing the obligations of such a party. Principal may include the Client.

"**Reports**" means any reports, presentations, commentary, vessel sale candidate information sheets/circulars, technical vessel specifications, or (in respect of any of the preceding items) any analogous materials, in each case as published or shared by Arrow from time to time (including the "Daily Report" and similar reports issued by Arrow Research).

"**Representative**" means a person (including a ship manager, chartering department, shipbroker or other agent) who is not a Principal but who is involved in Negotiations on behalf of a Principal.

"**Sanctions**" means sanctions imposed from time to time by the United Nations, United Kingdom, United States of America, the European Union or any other applicable national government or international body.

"**Services**" means the services carried out by Arrow as provided for in these Terms (including the Broking Services, the Ancillary Services and the Post Fixture Services).

"**Shared Personal Data**" means the personal data to be shared between the Client and Arrow in connection with the Services including email addresses and telephone numbers.

"**Ship**" means any type of ship, other vessel and/or equipment used or intended to be used for any purpose on, in or over water including rigs, jack ups, submersibles, and barges.

"**Terms**" means these terms and conditions as amended from time to time.

12.2 A "**person**" includes a natural person, corporate or unincorporated body. A reference to a "**company**" shall include any company, corporation or other body corporate. Where relevant words in the singular shall be deemed to include the plural and vice versa. Any words following the terms "**including**", "**include**", "**in particular**" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms. A reference to "**writing**" or "**written**" includes e-mail and other analogous forms of electronic communication.

12.3 "**Personal data**", "**processing**" and "**appropriate technical and organisational measures**" are as set out in the Data Protection Legislation in force at the time.

12.4 Any reference to an English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall, in respect of any jurisdiction other than England, be deemed to include a reference to that which most nearly approximates to the English legal term in that jurisdiction.