

STS AND PILOTAGE RESPONSIBILITY FORM (“the Form”)

“FCM” shall mean Fender Care Marine Ltd, the STS Superintendent and or any other Company forming part of the James Fisher & Sons plc group of companies and or any other affiliate of FCM notified to myself by FCM from time to time.

FCM has been instructed by its Client to provide services in support of the planned STS Transfer between your vessel/tanker (“vessel”) and another. As part of this service FCM may place an STS Superintendent onboard your vessel and/or provide other related equipment and/or services including pilotage services in order to ensure the safe completion of the STS Transfer (“the Services”).

I hereby request the Services to be provided by FCM and in consideration of FCM providing the Services I hereby accept on behalf of my Owners and/or Operators and/or Ship Managers and/or Demise Charterers (together known as “Owner”) the terms and conditions of this Form. This Form sets out the terms and conditions on which FCM provides Services to any vessel and is deemed to form part of Checklist Number 1 “the Ship Standard Questionnaire”. Acceptance of the Services from FCM shall also constitute acceptance of this Form regardless of whether or not the Ship Standard Questionnaire is signed.

RESPONSIBILITIES

I hereby accept as the Master of the vessel that I have full responsibility for the safe and proper navigation of the vessel at all times including under pilotage and for the safe and proper conduct of all STS Transfer operations on board the vessel and am satisfied that adequate P&I insurance is in place for the vessel. I also recognize that while FCM’s role is to help reduce risk to the vessels involved in any STS Transfer, FCM’s role whilst providing the Services remains an advisory one. I hereby accept that the requirements set out in the FCM STS Transfer Safety Checklist (“the Checklist”) are based on safe working practices widely accepted by the oil and gas tanker industries and I expect all under my command to strictly observe them throughout every STS Transfer operation.

If I or my personnel observe that either the other vessel or the support craft is not complying with the safety requirements, I will promptly bring the matter to the attention of FCM.

If at any time I feel there is a threat to the safety or security of the Tanker of which I am Master, from whatever source, I hereby acknowledge and agree that FCM is fully entitled to require an immediate stop to the STS Transfer operations or any associated pilotage services.

If FCM observes any infringement of the Checklist FCM will immediately bring this to the attention of either myself or my deputy. If corrective action is not taken within a reasonable time the STS Transfer will be stopped until the situation has been safely remedied. In taking this action I may be advised by FCM to unmoor the vessels.

CONDITIONS FOR SERVICES

1. In all circumstances the Master of the vessel concerned shall remain solely responsible on behalf of the Owner for the safety and proper navigation of the vessel and for all aspects of any STS Transfer and the Services.
2. The STS Superintendent shall act solely in an advisory capacity in order to assist the Master as necessary in the mooring, cargo transfer and unmooring operations related to the STS Transfer and in respect of any associated pilotage services. The presence of the STS Superintendent shall not relieve the Master of his responsibility as stated above, and whilst performing the Services the STS Superintendent shall be deemed to be acting in the capacity of employee or agent of the Owner as applicable under the control of the Master or other person in charge of the vessel.
3. FCM, the pilot and/or any other person employed or engaged by FCM in connection with the performance of Services, shall not be liable to the Master, Owner, or to any other party for any loss, damage, or delay to the vessel, her crew and/or her cargo, arising, whether directly or indirectly, from any cause whatsoever, even if such loss, damage or delay is caused by the negligence, breach of contract, breach of duty or otherwise of FCM or any other such person.
4. Whilst piloting and/or providing the Services, or whilst at the request, express or implied of the Owners, rendering any service other than the Services or piloting, the pilot and/or any other person employed or engaged by FCM shall be deemed to be the servants of the Owner and/or the master of the vessel, notwithstanding that the pilot and/or other person employed or engaged by FCM may be employed and/or paid by the FCM, and the Owner and/or master of the Vessel shall accordingly be vicariously liable for any act or omission by any such person so deemed to be the servant of the Owner and/or the master of the vessel.
5. The Owner of the vessel shall be responsible for, pay, defend, indemnify and hold harmless FCM, the pilot and any other person employed or engaged by FCM in connection with the Services against:
 - a) all and any Claim(s) brought or sustained by the Owner (whether directly or by way of compensating others); and
 - b) all and any Claim(s) brought or sustained by any third party claiming directly against FCM;

regardless of whether FCM, the pilot or any person employed or engaged by FCM are passively, concurrently or actively negligent or at fault or otherwise and regardless of whether or not liability may or may not be imposed upon them without fault.

“Claim(s)” for the purposes of this Form shall mean all actions, claims, demands, proceedings, damages, awards, payments, losses, costs, expenses, penalties, fines, compensation or other liabilities (including without limit direct, indirect, special, incidental, consequential loss or otherwise including without limit for delay, loss of profit, business, turnover or market share), legal and or professional costs and or expenses, howsoever and whatsoever arising from or connected with any performance or non-performance under contract, including but not limited to a breach of contract (including under an indemnity), warranty, representation, statement, guarantee, promise, statutory indemnity, tort (including without limit negligence, gross negligence and/or breach of statutory duty), strict liability, wilful misconduct or otherwise.

6. This Form including all disputes (whether contractual or non-contractual) shall be subject to English Law. Any contractual and non-contractual disputes arising out of, or in connection with, this Form shall be resolved initially by informal negotiations between the Directors of the parties in dispute and failing resolution by such informal negotiations within a period of 60 days from the date that either party initially gives notice of dispute to the other party, by arbitration in London under the Rules of Arbitration of the International Chamber of Commerce by three arbitrators appointed in accordance with the said Rules. The decision of the Arbitrator shall be final and without appeal to the courts.