

CONDITIONS OF TENDER FOR VESSEL MAINTENANCE AND REPAIR

The present Conditions of Tender shall form part of all contracts entered into with the Contractor. Agreements at variance with the present Conditions of Tender, including, in particular, agreements collateral hereto and provisions of the Contractor's terms of trade inconsistent herewith, require our express, written approval in order to form part of any contract between us and the Contractor.

1. Tender and Contract Formation

- 1.1 All tenders submitted to us by the Contractor are binding on the Contractor and shall be submitted free of charge to us by the specified submission deadline. The Contractor shall ensure that its tenders address all requirements regarding characteristics, work execution and completion, assembly, etc., stated in our enquiry/call for tenders and specifications and shall clearly indicate in writing any exceptions. The tender shall indicate the number of consecutive days required for repair work.

If it is necessary to put the vessel into dry dock in order to complete repair and/or overhaul work, the Contractor shall allow sufficient dry dock time to enable it to properly carry out the work agreed to in the contract (such as painting or other work as per the specification). Departures from the agreed-on repair time must be approved in writing by us and the shipowner.

The Contractor shall be bound by its tender for a validity period of at least one month.

- 1.2 The Tender must indicate all costs associated with the work specified in our enquiry/call for tenders, particularly the costs associated with cranes, scaffolding, work platforms, lighting, firefighting services, ventilation systems and work equipment. If the work involves sandblasting or painting, the Contractor shall take particular care to ensure that all ship equipment and all parts and systems essential to the functioning of the vessel, such as air ducts, steering gear, propellershaft seals, cooling water sea chests, valves to the engine room, stabilisers and bow thrusters, are fully sealed and protected before commencing the sandblasting or painting work.
- 1.3 Purchase orders and other statements, including, in particular, additions or changes to contracts once they have been concluded with us, are binding on us only if they are issued or ratified by us in writing.

2. Documentation

- 2.1 We reserve all property, copyright and/or other intellectual property rights in all drawings, samples, calculations and data. The Contractor may not without our written permission duplicate said drawings, samples, calculations or data, make them available to third parties or use them for any purposes other than those specified by us. The Contractor shall on request return said drawings, samples, calculations and data to us without delay. All documentation and data we provide to the Contractor may be used by the Contractor only for the purposes of preparing tenders for us and performing works and deliveries as ordered by us. The Contractor shall safely

store said documentation and data and protect them against access by unauthorized third parties (duty of secrecy).

- 2.2 No approval given by us regarding drawings, calculations or other technical documents shall be construed as discharging the Contractor from the due and proper performance of its contractual obligations.

3. Pricing and Compensation

- 3.1 The contract price agreed upon between the Contractor and us shall constitute full remuneration for all work done by the Contractor, including all costs and incidental expenses. We will not be required to pay any additional costs or incidental expenses unless they were indicated in the Contractor's tender or agreed upon with us in writing.
- 3.2 If we have agreed with the Contractor for certain works to be charged for on an hourly basis, then the Contractor shall furnish proof of the hours worked in the form of timesheets that have been confirmed by signature by us.
- 3.3 No overtime rates will be paid unless we or the shipowner have accepted these in writing before the corresponding works are carried out.
- 3.4 Additional works and deliveries that do not fall within the scope of the contract concluded with the Contractor may be undertaken only if and when they have been ordered in writing by us or the shipowner. Before the additional works or deliveries are undertaken, the Contractor shall notify us and the shipowner in writing whether and to what extent such additional works and deliveries will result in an increase in the contract price and whether and to what extent the additional works and deliveries will necessitate an extension of the contractually agreed-upon time for performance of the works and deliveries. The Contractor will receive no payment from us or from the shipowner for any additional works and deliveries it undertakes in contravention of the provisions of this clause 3.4.
- 3.5 If the vessel has to be moved or relocated during the shipyard lay-up period for reasons that fall within the sphere of influence of the Contractor, we shall not be required to pay any costs thereby incurred.

4. Deadlines and Time Limits

- 4.1 The Contractor shall strictly observe all contractually agreed completion deadlines and time limits for carrying out and finalisation of the agreed works and deliveries. Agreed time limits run from the time when the vessel is made available to the Contractor.
- 4.2 If the Contractor becomes aware that a deadline or time limit – especially the deadline for redelivery of the vessel – will be missed/overrun, it must notify us without delay in writing as to the cause and likely duration of the overrun.

5. Liquidated damages

If redelivery of the vessel is delayed, the Contractor shall pay us liquidated damages equal to 0.5% of the gross contract price for each calendar day of delay up to a maximum of 10% of the gross contract price. We are entitled to claim liquidated damages until final payment, even if we do not expressly reserve the right to claim liquidated damages at the time of acceptance of the works and deliveries. This is without prejudice to our right to claim damages at law (for late performance) over and above the liquidated damages. The amount of any liquidated damages already accrued will, however, be deducted from additional damages for late performance.

6. Assignment of Rights, Counterclaims and Retention/Refusal of Performance

- 6.1 The Contractor may not without our permission assign or transfer to third parties, partly or wholly, its claims and rights against us. This does not apply to claims for payment of money, particularly such claims that are the subject of an extended retention of title (verlängerter Eigentumsvorbehalt) agreement. We reserve the right to assign to third parties, particularly to insurers, any claims we may have against the Contractor.
- 6.2 The Contractor may set counterclaims off against claims by us only if the counterclaims are undisputed, have been adjudged by way of an unappealable court decision, or are fully proven to the point where a judicial ruling can be made.
- 6.3 The Contractor may exercise a right of retention/right to refuse performance only if the counterclaim on which the right is based stems from the same contract as that pursuant to which delivery/performance by the Contractor is due.

7. Handover to Contractor and Acceptance by us

- 7.1 If the Contractor wishes to undertake preparatory measures prior to receiving the vessel that are not expressly included in the contractual scope of services, it shall first obtain permission in writing from either the shipowner or ourselves for all work comprising the preparatory measures. If the Contractor fails to obtain permission, we will not be required to pay for such preparatory measures.

The shipowner and ourselves may at any time up until the arrival of the vessel at the shipyard vary the scope of services agreed upon between us and the Contractor. This includes, in particular, the right to remove from the scope of services individual sections/items of the specification previously agreed upon with the Contractor. If the scope of services is thereby diminished, then the contract price shall be reduced accordingly. If the scope of services is thereby increased, the Contractor shall have the right to demand a commensurate increase in the contract price. If, in the course of performing the preparatory/repair measures, the Contractor discovers any defects in the vessel that are not covered by the contract, it shall inform us thereof without delay. We will then have the right, but not the obligation, to extend the scope of repairs to accommodate the defects in return for a commensurate increase in the contract price.

- 7.2 As soon as the vessel has arrived at the Contractor's shipyard or, alternatively, once the vessel has been put into dry dock and we have been informed of this, the Contractor shall determine all existing measurements (e.g. steering gear, propeller shaft, ultrasonic measurements, main engine crank web deflections, etc.) and record the same in writing.
- 7.3 On completion of individual items of the contract works, the Contractor shall notify us in writing so that we can undertake acceptance thereof. Any necessary acceptance tests of completed works and deliveries must be conducted immediately in our presence and that of the shipowner.
- 7.4 The Contractor shall bear all the pertinent costs of the acceptance. Each party shall pay its own personnel costs associated with acceptance.
- 7.5 In cases where the ability to determine whether work on a system, item of machinery, etc. has been completed to the contractually required standard depends on the completion or commissioning of a downstream performance/delivery in the workflow, we will undertake acceptance of the work done only after the downstream deliverable has been successfully installed, commissioned and, where necessary, acceptance tested by the competent organizations (such as classification societies).
- 7.6 We have the right to refuse acceptance of deliverables if acceptance is rendered impossible or unreasonable as a result of force majeure or other circumstances beyond our control (including industrial disputes).

8. Final Report and invoice

- 8.1 After all deliverables have been completed and accepted in accordance with clause 7 above, but before the vessel has been redelivered to us, all deliverables/work undertaken by the Contractor will be recorded in a final report. The deliverables/work recorded in the final report will form the basis for invoicing by the Contractor.
- 8.2 The Contractor shall submit to us verifiable original invoices without delay once the contract works have been completed and accepted as being in accordance with the contractual requirements. We will aim to discuss the final invoice with the Contractor in a concluding meeting with the Contractor as soon as possible, preferably before redelivery of the vessel to us.
- 8.3 The invoice amount shall be due and payable 30 days after receipt of the verifiable invoice by us.

9. Materials and Equipment Provided by the Shipowner

- 9.1 The Contractor shall transport to the specific place of installation/use on the vessel all materials and items of equipment provided by the shipowner, irrespective of whether the materials or

items of equipment are stored aboard the vessel or delivered to the Contractor. The Contractor will be reimbursed at the agreed-upon rates for any costs incurred in relation to this.

- 9.2 Where materials and equipment so provided are delivered to the Contractor, the Contractor shall store them for us and hold them ready for use by the shipowner until such time as they are installed. The Contractor shall mark such materials and equipment as being our property and keep the same sufficiently separate from other materials at the shipyard.

The Contractor shall keep aside ready for collection by us or the shipowner any materials or items of equipment provided by the shipowner that it does not use.

- 9.3 The Contractor is liable for loss of or damage to materials and equipment provided to him from the time when the Contractor takes possession of said materials and equipment. The Contractor is not, however, liable if the loss or damage is not caused by fault on its part. The Contractor shall at its own cost and expense take out adequate and suitable insurance cover for these materials and equipment.
- 9.4 Ownership of equipment and materials removed from the ship remains with us unless otherwise agreed in writing.

10. Subcontractors, crew and external firms

- 10.1 If the Contractor uses subcontractors, it shall remain responsible for the overall organization of the work as well as for ensuring that the work itself is done in an efficient, proper and professional manner. The engagement of subcontractors shall in no way discharge the Contractor from its obligation to perform the work in a proper manner and to the standard required by the contract.
- 10.2 A subcontractor is any company and any craftsman – with the exception of the Contractor itself – who performs work on the vessel, irrespective of whether they are engaged by the Contractor or by the shipowner.
- 10.3 The vessel's crew and the employees of companies under contract to us are authorized to perform the necessary repair work aboard the vessel. We will inform the Contractor of the nature and scope of such work.
- 10.4 Save and except as provided otherwise in writing, the vessel's crew shall remain on board the vessel throughout the duration of its time in the shipyard.

11. Overhaul and dry dock

- 11.1 Wherever the term "overhaul" is used in the specifications and no other specific requirements are mentioned, the Contractor shall be permitted to charge for the following types of work: dismantling, transport to workshop, opening up, cleaning, derusting, painting, preparation for

inspection, reassembly in good working order using new bolts, nuts, joints and packings/seals, reinstalling onboard and testing to the shipowner's satisfaction.

- 11.2 Following all repairs, modifications and other work that involve the fitting of new parts (pipes, steel plates and profiles, girders etc.), all exposed machined surfaces must be sealed with a primer.
- 11.3 If, following completion of all work, it is not possible to undock the vessel in the same conditions as existed at the time of docking, we and the Contractor will jointly draw up a plan for the safe undocking of the vessel. However, this shall not constitute any acceptance of liability or responsibility on our part for the safe refloating of the vessel.

12. Performance of work, safety measures and specifications

- 12.1 The Contractor shall ensure that all work it undertakes and all materials it uses are state-of-the-art and meet the requirements of the classification societies, the health and safety requirements of Berufsgenossenschaft Verkehr (to the extent applicable) and all other applicable official rules and regulations imposed by the vessel's flag state. Compliance is required with both safety rules and with waste disposal/environmental rules. Furthermore, the Contractor guarantees that the Work (pursuant to § 631 BGB – German Civil Code) and all materials used are free of asbestos.
- 12.2 The Contractor shall by means of inspections and up-to-date certifications by suitably qualified analytical chemists establish to its satisfaction that places in which hot work is undertaken are free of gases and suitable for hot work.
- 12.3 The Contractor shall take all necessary measures to manage all direct and indirect risk of leakage arising from any work hereunder that necessitates the opening up of machinery, pipes, heat exchangers, fittings, etc. I.e. the Contractor shall check his works for leakage risks, monitor them constantly and implement any precautionary safeguards against leaks that may be necessary. Works that entail the risk of leakage may be commenced only after clearance has been given by us. The Contractor shall be liable for the full cost of any damage and consequential losses which arise as a result of leaks and for which the Contractor is responsible. Following completion of these kinds of potentially leak-prone works, the Contractor shall remove any temporary anti-leak solutions (plugs, blanks, etc.) it may have applied and shall ensure that all the systems and components it has opened are properly re-closed and sealed tight. The above-stated precautionary measures are designed to prevent any damage to the vessel and must be taken irrespective of whether the vessel is afloat or in dry dock. All costs associated with the above-stated works, checks and measures shall be paid by the Contractor unless they are itemized in the tender.
- 12.4 The Contractor shall, where necessary for the due performance of its work under the contract and at its own cost and expense, ensure that there is adequate lighting in the interior of the vessel and the surrounding areas, on deck, in the engine room and in all other places where lighting is required. We will compensate the Contractor for lighting only if it is itemized in the tender.

- 12.5 While the vessel is in the shipyard, the Contractor shall have in place proper and adequate fire protection systems and measures that comply with the applicable fire prevention standards and requirements.
- 12.6 The Contractor shall remove free of all cost to us any dirt, grime or rubbish that arises during and after the repair work while the vessel is in the shipyard.
- 12.7 The vessel delivered by us to the Contractor for repair work must not under any circumstances or at any time whatsoever be moored alongside another vessel, nor shall any other vessel be moored alongside the vessel delivered by us.

13. Liability and indemnity

- 13.1 The Contractor shall indemnify and hold us and the shipowner harmless from and against any and all claims by third parties, including claims by any of the Contractor's employees who may be injured in the course of the contract work. The Contractor shall likewise indemnify and hold us and the shipowner harmless from and against any and all claims and fines that may be made or levied against us or the shipowner on the basis of water, soil or air pollution (including sound pollution by noise emissions).
- 13.2 The Contractor shall be liable for all damage that may result from any use that it may make of the vessel's engines, machinery equipment or fittings, such as winches, ropes, pipelines etc.

14. Defects

- 14.1 The Contractor warrants that the deliverables will have the characteristics agreed upon under the contract with us, that they will accord with the state of the art (including, in particular, the applicable requirements imposed by regulatory agencies and industry associations and all applicable accident prevention regulations), and that they will be free from faults or issues that may in any way negate or diminish their value or suitability for their ordinary use or for any use provided for under the contract concluded between us and the Contractor. The Contractor further warrants that the use of the deliverables will not infringe any rights of third parties, including, in particular, rights under patents and any other intellectual property rights.
- 14.2 If the deliverables are defective or for any other reason fail to accord with the contract, we shall be entitled to all statutory claims, rights and remedies without any limitation or restriction (such as limitations or exclusions of liability) whatsoever. In case sec. 377 German Commercial Code (HGB) should apply, the time for notification of obvious defects mentioned therein shall be extended to two weeks.
- 14.3 The limitation period for claims regarding material defects and defects of legal title shall be governed by the provisions of the German Civil Code (BGB), subject to the proviso that the periods therein stated shall be extended by six months.

- 14.4 If, in order to remedy a defect, a deliverable needs to be reworked or performed anew, the Contractor shall bear all costs associated therewith, including all additional costs, such as transport, travel, labour and material costs, that may arise as a result of the vessel having to be subsequently moved to a location other than the agreed-upon place for performance.
- 14.5 Our authorized representatives and those of the shipowner shall have the right to enter the Contractor's yard during the Contractor's normal hours of work in order to satisfy themselves that the Contractor is performing the work in accordance with the contract and shall further have the right to participate in the Contractor's tests and inspections and conduct their own tests and inspections. The Contractor shall bear all costs of retests and reinspections necessary by way of follow-up on previously identified defects.

15. Liability and liability insurance

- 15.1 All claims for damages or for compensation of expenses (hereinafter referred to collectively as "compensation claims") by the Contractor against us, irrespective of legal basis, are hereby expressly excluded. Excepted from this exclusion are compensation claims that are based on the provisions of the German Product Liability Act (ProdHaftG); on deliberate or grossly negligent breach of contractual or legal obligations by us; on physical injury or impairment of health suffered by the Contractor as a result of a breach of duty for which we are at fault; on absence of characteristics warranted by us; or on breach of material contractual obligations by us. In the event of a breach of material contractual obligations by us, the Contractor's claim for compensation against us shall be limited to losses that are typical and foreseeable for the type of contract in question. Excepted from this limitation are compensation claims based on intentional or grossly negligent breach. Also excepted from this limitation are cases in which we are liable for physical injury or impairment of health or the absence of warranted characteristics.
- 15.2 Without prejudice to our statutory rights to pursue defect claims, the Contractor shall be liable to us for all losses we may suffer through fault on the part of the Contractor. The Contractor shall indemnify us and hold us harmless from and against all claims by third parties which relate to the negotiations for and the performance of the contract awarded to the Contractor and which are attributable to fault on the part of the Contractor. However, in cases where the Contractor is liable under the German Product Liability Act (ProdHaftG), it shall indemnify us and hold us harmless irrespective of whether or not it is at fault.
- 15.3 The Contractor shall throughout the term of any and each contract concluded with us maintain at its own cost and expense liability insurance for personal injury and property damage that provides adequate cover. The cover must not be less than EUR 2 million per loss event and must not contain a serial loss exclusion clause. Upon request by us, the Contractor shall furnish us with its insurer's cover note by way of proof of cover.

16. Arbitration clause

All disputes arising out of or in connection with to the contract formed on the basis of these Conditions of Tender and all disputes as to the validity of said contract shall be adjudicated exclusively by an arbitration tribunal in accordance with the arbitration rules of the German Maritime Arbitration Association (GMAA). The arbitration tribunal shall convene in Hamburg. The proceedings of the arbitration tribunal shall be conducted in English.

17. Applicable law and severability

17.1 These Conditions of Tender and any contract formed pursuant to these Conditions of Tender shall be governed by the laws of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods is hereby expressly excluded.

17.2 If any provision of a contract concluded with the Contractor that contains or incorporates these Conditions of Tender should be or become invalid or unenforceable, the remaining provisions of said contract shall continue to be valid and enforceable.

Please note that this is a translation of the German Version of the Conditions of Tender. The German version shall be authoritative and binding.