



PURCHASE CONDITIONS



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1. GENERAL - SCOPE; CONCLUSION OF CONTRACT

- 1.1. The following Purchase Conditions of MV Werften Wismar GmbH (the "Yard") shall form an integral part of any and all contracts concluded with our suppliers and other contractors (the "Supplier"). Any terms and conditions of the Supplier deviating from, contrary to or in addition to the Yard's terms and conditions as put forward by the Supplier will only form part of this contract (the "Contract") if the Yard has expressly consented to it in writing.
- 1.2. Unless otherwise agreed, the terms and conditions are valid also for all future contracts with the Supplier.
- 1.3. Supplier's offers submitted to the Yard shall be binding and free of charge. The quantities, quality, design and/or any other detail stated in the Supplier's offer shall comply with the Yard's inquiry.
- 1.4. The Yard's orders (the "Purchase Order") shall only be binding on the Yard once the Yard has made them or confirmed them in writing.

2. PARTS OF THE CONTRACT

- 2.1. The following documents including the regulations, codes, standards, etc. referred to therein shall form the basis for the Supplier's fulfilment of this Contract:
 - (i) the Purchase Order;
 - (ii) the Yard's inquiry;
 - (iii) these Purchase Conditions;
- 2.2. For the purpose of interpretation, the priority of the documents shall be in accordance with the above mentioned sequence. In case of equally ranked documents the more particular document shall be decisive; no ambiguity or discrepancy shall occur if a subordinated document supplements or specifies a higher-ranked document.
- 2.3. In case of ambiguities or discrepancies between the requirements of the involved classification society and/or other authorities and the technical stipulations of this Contract, the stricter technical provision shall prevail.
- 2.4. If an ambiguity or discrepancy is found in the documents mentioned in Clause 2.1, the Yard shall after Supplier's promptly written notice issue any necessary clarification.

3. SCOPE OF SUPPLY, COMPLETENESS, SYSTEM RESPONSIBILITY

- 3.1. The Supplier shall perform any deliveries and/or services contractually agreed on, as contractually agreed, otherwise in the form of brand-new products and of a quality that is customary in trade and deliver all required documents and certificates (hereinafter together the "Works") and shall deliver them in due time and on a turn-key basis.
- 3.2. The Supplier shall fulfil its obligations under and in connection with this Contract in a duly manner in accordance with the Contract and shall remedy any defects. When completed, the Works shall be fit for purpose and the intended use.
- 3.3. The Supplier assumes the system responsibility for its Works, which includes the responsibility for all necessary calculations, engineering, design work (if any), documentation and co-ordination inter alia of all interfaces required for the proper integration of the Works in the vessel which is built by the Yard and in which the Works are to be integrated and/or for which the Works are performed (hereinafter the "Vessel"). The Supplier ensures that any deliverables which form part of the Works operate properly and interact correctly with all other components and systems of the Vessel.



- 3.4. The Supplier shall be responsible to coordinate its Works with the Yard's other subcontractors which are affected by or affect Supplier's Works. Upon the Supplier's request, the Yard shall assist the Supplier to receive the required information.
- 3.5. The Supplier's scope of supply under this Contract includes - irrespective if explicitly mentioned in the Contract's documents or not - all deliveries, materials, equipment, services as well as the provisions of all documents, certificates and permits required for the full functionality of the Works. The Supplier shall in particular be responsible for all deliveries, materials, equipment and services which are necessary in order to comply with the requirements of the involved classification society.
- 3.6. The Supplier shall scrutinize all technical requirements as well as any design criteria and calculations provided by the Yard and examine all deliveries made by or on behalf of the Yard and shall give notice to the Yard without undue delay after provision or delivery, as the case may be, in case of any omission, ambiguity, error, fault or other defect in the Yard's requirements or deliveries. Upon receipt of a respective notice, the Yard shall determine whether Clause 21 shall apply, whereby it is understood that the delivery times/deadlines or times/deadlines of performance will not be postponed or extended and an entitlement for adjustment of the contract price shall in any case be excluded, if and to the extent an experienced contractor exercising due diligence would have discovered the omission, ambiguity, error, fault or other defect prior signing of the Contract.

4. LAW, RULES AND REGULATIONS

- 4.1. The Works of the Supplier shall comply with the current state of science and technology and the requirements of the law, rules and regulations as well as the standards of the involved certifying authorities and classification societies which are announced at the date of signing of this Contract or are foreseeable to enter into force on/or before the expected delivery of the Vessel ("Law, Rules and Regulations").
- 4.2. The Supplier undertakes to inform the Yard immediately, latest within 3 working days (i.e. any day from Monday to Friday excluding public holidays in State of Mecklenburg-Vorpommern/Germany; hereinafter the "Working Day"), in case of any changes to the Law, Rules and Regulations after effectiveness of this Contract.
- 4.3. After receiving a notice as per Clause 4.2, the Yard shall determine whether the Works shall be adapted to the changes of Law, Rules and Regulations. In this event, Clause 22 shall apply.

5. PROVISION AND APPROVAL OF DRAWINGS, DOCUMENTS AND CERTIFICATES

- 5.1. The Supplier shall submit to the Yard any kind of drawings, documents and certificates or permits in accordance with the stipulations of Contract and in particular with those of the Purchase Order.
- 5.2. If the Contract does not explicitly provide for the submission of drawings, documents and certificates or permits, but if and to the extent the submission of the respective drawings, documents and certificates or permits is necessary or appropriate for the proper and timely completion of the Works, those drawings, documents and certificates or permits shall without further request be submitted to the Yard in a timely manner for its review and approval.
- 5.3. In case any deliverables forming part of the Works shall be transported, lifted or moved or if this is required for their installation, assembly, maintenance or repair, all required information shall be submitted to the Yard in good time.
- 5.4. Latest upon delivery and/or performance of the Works, the Supplier shall provide the Yard with the final drawings, documents and certificates corresponding with the actual execution of the Works as well as with all other documents as reasonably requested by the Yard (such as, but not limited to operational and maintenance manuals, weight specifications, vibration data, technical descriptions,



certificates, etc.). Operational and maintenance manuals shall as a minimum contain sufficient details for the Yard and/or the Yard's main customer to operate, maintain, dismantle, reassemble, adjust and repair the Works.

- 5.5. All drawings, documents and certificates provided by the Supplier shall contain reliable information in particular in relation to the interfaces and compatibility of the Works with any deliveries and services of other contractors of the Yard and/or of the Yard itself.
- 5.6. The Supplier shall be liable for the correctness and completeness of its drawings, documents and certificates or permits. Any kind of Yard's review and/or approval does not exempt the Supplier from its liability and responsibility.
- 5.7. The Supplier shall indemnify the Yard from any claims asserted against the Yard with regard of incorrect or incomplete drawings, documents and certificates or permits and shall reimburse the Yard for all additional costs arising from incorrect and/or incomplete drawings, documents, certificates or permits.
- 5.8. Unless otherwise agreed, any documentation to be submitted by the Supplier shall be in English language.

6. RIGHT TO USE

The Yard shall be granted by the Supplier a non-terminable, transferable and royalty-free right to use the documentation provided by the Supplier under this Contract and any information contained therein including making and using modifications of them. The license shall in particular entitle any person in proper possession of the relevant object of the Works to copy, use and communicate the documents for the purposes of completing, operating, maintaining, altering, adjusting, repairing and demolishing the respective objects of the Works.

7. CONTRACT PRICE

- 7.1. All prices are fixed prices to which the statutory V.A.T. must be added.
- 7.2. Prices include remuneration for all Works (including any required certificates, drawings, etc.) as well as all costs and expenses related to the Works (e.g. installation, fitting, commissioning starting up) and are to be understood free delivery address stated by the Yard.
- 7.3. The contract price may only be adjusted according to the provisions of this Contract.

8. INVOICES AND TERMS OF PAYMENT

- 8.1. Unless otherwise agreed, the Supplier shall submit invoices following delivery and/or performance of the Works in duplicate and in accordance with the applicable tax laws as well as stating the order number and date as well as the Yard's purchase number, the Vessel's number and the invoiced items.
- 8.2. No payment shall be made until receipt of the agreed guarantees pursuant to Clause 35.3 of these conditions (if any).
- 8.3. Following receipt of the deliverables and/or performance of the services forming part of the Works as well as receipt of a proper invoice, the Yard will pay within 14 days with 3% discount, or within 30 days without discount.
- 8.4. In the absence of a fixed date for payment, the Yard will be in default after having received a written request for payment only.



9. ASSIGNMENT, SUSPENSION AND SET-OFF

- 9.1. The Supplier shall not assign rights under this Contract without Yard’s prior written consent.
- 9.2. The Yard shall be entitled to any rights of retention, set-off or plea of non-performance by virtue of statute or contractual agreement. The Yard shall be entitled to withhold payments in a reasonable amount as far as the Yard is entitled to demand fulfilment of the contractual obligations under this Contract or to remedy and make good defective works or deliverables.
- 9.3. The Supplier shall be entitled to suspend or withhold performance of the Works or to exercise set-off rights with a counterclaim if and to the extent such claim is undisputed, judicially determined or has been accepted by the Yard in writing.

10. DELIVERY TIMES

- 10.1. The delivery times/deadlines or times/deadlines of performance agreed on with the Supplier shall commence upon conclusion of the Contract. Delivery times/deadlines or times/deadlines of performance shall be strictly observed. Amendments of delivery times/deadlines or times/deadlines of performance are only effective, if they are agreed in writing.
- 10.2. The Supplier shall promptly give notice to the Yard in the event the Supplier becomes aware of any current or future event or circumstance which may affect the Supplier’s performance, increase the contract price, or delay the execution of the Works, in particular pertaining to accidents, hazards or risks, strikes or any other absence of personnel.
- 10.3. Unless otherwise agreed, the Yard may adjust the delivery times/deadlines or times/deadlines of performance for up to 8 weeks by giving written notice according to the table below. This will not have any influence on the other terms of the Contract.

adjustment period		notice period
weeks to shorten	weeks to prolong	
up to 2 weeks	up to 2 weeks	latest 3 months prior to the Final Date
up to 4 weeks	up to 4 weeks	latest 6 months prior to the Final Date
up to 8 weeks	up to 8 weeks	latest 12 months prior to the Final Date

11. MITIGATIONS

If at any time the actual progress is too slow to timely complete and/or to perform the Works and if such a delay has been caused by or is attributable to the Supplier, the Yard shall be entitled to instruct reasonable mitigation measures at the Supplier’s risk and costs. The Supplier shall bear all costs reasonably incurred by the Yard as a consequence of the implementation of said measures.

12. CONTRACTUAL PENALTY

- 12.1. In case of default with a delivery/performance as stipulated in Clause 10.1, the Supplier shall be obliged to pay to the Yard a contractual penalty per calendar day in an amount equal to 0.2% of the Contract price.



- 12.2. The total amount of penalties in accordance with this Clause 12 shall not exceed an amount equal to 5% of the Contract price. Yard's rights to claim delay damages exceeding the penalties remain unaffected.
- 12.3. The contractual penalties foreseen in this Clause 12 shall not relieve the Supplier from his obligation to complete the Works, or from any other duties, obligations or responsibilities which he may have under the Contract.

13. USE OF YARD'S DOCUMENTS

- 13.1. All documents provided by the Yard to the Supplier, including particularly, but not limited to drawings, models, manuals and other documents shall be used by the Supplier exclusively for the purposes of this Contract. The afore-mentioned documents shall not be copied, reproduced, used or communicated to third parties without Yard's prior written consent. The Supplier shall keep all documents confidential whether explicitly marked as confidential or not. The Yard shall retain ownership, the copyright and/or any other intellectual property rights. All documents provided by the Yard including all copies or reproductions shall be promptly either returned or destroyed/deleted after completion or termination of this Contract or upon the Yard's demand.
- 13.2. All documents provided by the Yard to the Supplier shall be scrutinized by the Supplier. The Supplier shall notify the Yard promptly the Yard in case of errors, ambiguities, omission which will hinder the Supplier from the due fulfilment of the Contract.

14. PROGRESS REPORTS

- 14.1. The Supplier shall provide comprehensive and informative reports on a monthly basis, which reflect the current status of completion, the deliveries, services, and of all other Works.

15. DELIVERIES

- 15.1. The Supplier shall submit to the Yard within 7 Working Days after effectiveness of the Contract an overview of all parts and components to be delivered in accordance with the Contract.
- 15.2. Delivery shall be effected free to the delivery address indicated by the Yard according to INCOTERMS 2010, DAT; services shall be rendered at the place of performance specified by the Yard.
- 15.3. The Supplier shall provide suitable packaging at his own expense. The packaging has to be taken back at the Yard's request and at the Supplier's own costs.
- 15.4. Deliveries shall be notified by the Supplier in writing in good time prior to the dispatch. The notification shall include all necessary information, such as but not limited to the purchase number, project number, name of the Vessel, packing list, shipping documents, weights and all necessary data for transport, logistics and identification. Deliveries which do not or do not sufficiently include delivery notes and bills of freight entitle the Yard to refuse the acceptance of the delivery at Supplier's cost and risk. Unless otherwise agreed, the Yard shall not be obliged to accept partial, excess or short deliveries.
- 15.5. Unless otherwise agreed, the transport as well as loading and unloading shall be at Supplier's risk and on its account. Subject to Clause 16, any kind of lifting devices shall be provided by the Supplier at its own costs.
- 15.6. Unless otherwise agreed, the Supplier shall be responsible for any kind of customs clearance and shall bear customs duties. The Supplier shall submit all custom related information to the Yard on its request. Supplier shall comply with all German and European export control regulation.



15.7. The Supplier is obliged to submit all necessary safety data sheets related to the deliveries, such as but not limited to be foreseen in accordance with German Ordinance on Hazardous Substances – GefStoffV, Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures in written and electronic form.

16. YARD'S EQUIPMENT, WAREHOUSING

- 16.1. All tools, devices, appliances, machinery and facilities of the Yard ("Yard's Equipment") may only be used by or on behalf of the Supplier subject to Yard's allowance. The Supplier shall bear the costs for and risks of the usage. If the Yard's Equipment can only be operated by Yard's personnel such operation shall be supervised by the Supplier. Under no circumstances, the Yard guarantees availability and/or feasibility of Yard's Equipment.
- 16.2. The Supplier shall at its own cost be responsible for the provision of offices and social rooms as well as warehousing facilities. The Yard does neither provide any warehouse or other storage areas nor offices and social areas.

17. SUPPLIER'S PERSONNEL

The Supplier's Personnel shall be appropriately qualified, skilled and experienced in their respective trades or occupations. The Supplier shall immediately upon Yards reasonable demand exchange its Personnel.

18. SUPPLIER'S EQUIPMENT

- 18.1. All tools, devices, appliances, machinery and facilities which are material for Supplier's performance of the Works (hereinafter referred to as the "Supplier's Equipment") shall be provided by the Supplier at its own cost and risk. When brought to the Yard's sites or the Vessel, Supplier's Equipment shall be used exclusively for the execution of the Works and shall not be removed without Yard's prior written consent.
- 18.2. Supplier's Equipment shall be in a sound and operational condition including all required certificates, and shall be safe and fit for use. Supplier's Equipment shall only be used as intended. The Supplier shall maintain a sufficient supply of spare parts to avoid any delays in the performance of the Works.
- 18.3. The Yard shall have the right to inspect the Supplier's Equipment for the purpose of ensuring the conformity with the requirements of this Clause 18. In any case the Yard shall be notified in writing if Supplier's Equipment is intended to be used at the Yard's sites or on Vessel prior to its use and its delivery and the Yard shall give respective allowance; such allowance shall not cease Supplier's obligations.
- 18.4. Supplier's Equipment which does not comply with the contractual requirements shall be replaced promptly and at Supplier's costs and risk.

19. SUBCONTRACTORS

- 19.1. The subcontracting of any parts of the Works by the Supplier and/or any of its Subcontractors requires the Yard's prior written consent.
- 19.2. It is of utmost importance that the Subcontractor fully cooperates with the Yard, the Yard's own customer and/or any person authorized by either of them.
- 19.3. The Supplier shall ensure that the subcontractor provides the following documents upon request of the Yard (i) clearance certificates of tax authorities, health insurances, professional associations and



(ii) certificates of the social and pension insurances and as far as applicable (iii) permit of residence and work permit or equivalent documents in Supplier's company country of origin.

20. SUSPENSION

- 20.1. Upon Yard's instruction the Supplier is obliged to suspend or to decelerate progress of a part of or of all the Works and shall resume or accelerate on Yards notice without undue delay. During such suspension or deceleration the Supplier shall protect, store and secure such parts or all Works against deterioration, loss or damage.
- 20.2. If and to the extent the reasons for the suspension or deceleration have not been caused by the Supplier, the Supplier shall, subject to Clause 21, be entitled to a postponement/ extension of the delivery times/deadlines or times/deadlines of performance and/or to payment of any additional costs.

21. VARIATIONS

- 21.1. Any changes to the Works („Variations") may be initiated by the Yard at any time prior to delivery of the Works or the acceptance of the Works (if agreed or provided for by law) by a respective order (the "Variation Order"). The Supplier shall execute and be bound by each Variation Order subject to the following stipulations of this Clause 21.
- 21.2. Upon receipt of a Variation Order request by the Yard, the Supplier shall provide the Yard without delay, latest within 7 working days, with a proposal at its own costs in writing which contains a detailed description of the required changes, the effects on the delivery times/deadlines or times/deadlines of performance, the effects on functionality or quality of the Works and on all other technical aspects and the manner and method how the alteration shall be performed and which resources are required therefore (the "Proposal").
- 21.3. In the event that the Supplier promptly gives notice to the Yard in writing with supporting particulars proving that the execution of the respective Variation has an unreasonable significant impact on Supplier's business operation, the Supplier shall not be bound by such Variation Order.
- 21.4. If the Supplier considers himself to be entitled to additional payment due to the Variation, the Supplier shall submit together with the Proposal a detailed quotation supported by a verifiable calculation for the works required for the execution of the Variation based on (i) the prices and pricing principles for the Works and (ii) the specific costs of the requested deliveries and services; any agreed discount shall be considered.
- 21.5. Unless otherwise agreed, the Yard will within 28 working days after receipt of the Proposal accept or reject the Proposal. If the Supplier does not receive any response within the aforementioned time period the Proposal is deemed to be rejected.
- 21.6. If the Yard accepts or partly accepts the Proposal, the Variation shall be executed insofar as the Yard instructs the Supplier with the execution of the Variation in writing.
- 21.7. If the Parties cannot agree on the costs for the execution of the Variation in line with the principles set out in Clause 21.4 above, the Yard is entitled to instruct the Supplier to execute the Variation under the reservation of a retrospective costs adjustment. In this case, the Supplier shall commence the works for the execution of the Variation as per the Proposal and shall not be entitled to withhold or delay any Works including the works in connection with the instructed Variation, unless the Yard unreasonably denies an agreement between the parties regarding the costs for the Variation. A binding retrospective cost adjustment shall be made after the execution of the respective works for the Variation if necessary by an independent expert on whom the Parties agree in accordance with clause 41.



- 21.8. All Variation shall become part of the Contract. The Supplier shall revise all documents and drawings affected by the Variation and submit them to the Yard.
- 21.9. The Supplier shall not commence the execution of a Variation prior Yard's written instruction.

22. CHANGES IN LAW, RULES AND REGULATIONS

- 22.1. If, after signing of the Contract, there are any changes in the Law, Rules and Regulations as set out in Clause 4 or any changes in the interpretation of the Law, Rules and Regulations which are compulsory for the Works, the Supplier shall incorporate such modifications and/or changes and shall amend the Works accordingly. The Parties shall endeavour to agree on such adjustments to the Contract price, the delivery times/deadlines or times/deadlines of performance and other terms of this Contract as are a direct consequence of the change in the Law, Rules and Regulations. If the Parties fail to agree on the respective adjustments, Clause 41 shall apply.
- 22.2. If the changes in the Law, Rules and Regulations or in the interpretation of Law, Rules and Regulation are not compulsory for the Works, Clause 21 shall apply.

23. TRANSFER OF RISK AND TITLE, PLACE OF PERFORMANCE

- 23.1. Notwithstanding the stipulations regarding the transfer of title, the transfer of risk shall take place with the Yard's acceptance of the Works pursuant to Clause 27 if acceptance is agreed or provided for by law. In case no acceptance is agreed or provided for, the risk shall pass to the Yard upon proper delivery of the respective object of delivery and/or performance to the place of delivery determined by the Yard.
- 23.2. Title to all deliverables, material, equipment, documents and components included in or required for the performance of the Works shall pass to the Yard with their delivery to Yard's site or any other destined place of delivery.
- 23.3. Retention of title shall be effective only on written consent of the Yard.
- 23.4. Place of Performance shall be, unless otherwise agreed, the Yard's sites in Wismar, Stralsund and Rostock or at the place where the Vessel is located as directed by the Yard from time to time. The Place of Performance for claims of defects is the place where the Vessel is located at that time.

24. QUALITY ASSURANCE

- 24.1. The Supplier needs to be certified according to DIN EN ISO 9001 and shall operate and follow his own approved quality management system in accordance with the requirements of DIN EN ISO 9001. The Supplier shall manufacture, process and test any deliverable, items, equipment and material to be supplied under this Contract in accordance with its quality management system and further requirements as agreed. In any case the items/equipment/material shall not be released and delivered without successfully completed tests and inspections as agreed.
- 24.2. In order to verify that the Supplier is qualified to perform the Works and duly complies with the terms and conditions of this Contract, the Yard, the Yard's own customer and persons authorised by either of them shall be entitled, at any time to audit, inspect and verify the Supplier, its Works under this Contract and Supplier's documents relating thereto, including all drawings, documents and any other written information which is necessary for the due fulfilment of the Contract.

They shall also have the right to carry out reasonable quality audits and verifications of Supplier's and any Supplier's subcontractor's quality management system, including compliance with health, safety and environmental protection requirements (HSE), and of the relevant processes and performance.



For these purposes the Supplier and its subcontractor's shall grant unrestricted access to its premises and all places where the Works are performed.

24.3. The right to audit remains valid for 36 months after acceptance of the Works or delivery, as the case may be.

24.4. The Yard will give the Supplier reasonable prior notice before an audit is performed. The Supplier shall assist and cooperate in the performance of any audit by providing all the required information, documents, drawings, etc. without delay.

The auditor shall be entitled to speak to any person who works at the Supplier's, or for the Supplier, and who has knowledge or information relevant to the audit. Any audit will be carried out according to customary standards and during the Supplier's usual working hours.

24.5. As part of its quality management system the Yard may verify that materials and/or equipment supplied are sufficiently covered by insurance during production and storage at Supplier's premises and during transport to Yard's premises.

The Yard is entitled to attend at any meeting, testing, inspections and other processes regarding construction progress supervision, quality supervision, any kind of trials and test; further the Yard is entitled to have access to all documents at Supplier's premises as well as on subcontractor's premises related to the Works under this Contract.

All deliverables under the Contract shall be delivered fully tested which can be taken into operation without any delays and which are equipped in accordance with the Contract.

24.6. The Supplier has to inform the Yard by a 14 working days' notice in advance in writing about time and place of the aforementioned tests, inspections, trials and supervisions.

24.7. Any inspections, supervision, tests, audits, approvals, suggestions or instructions carried out, granted or declared by the Yard, the Yard's own customer and/or any persons authorised by either of them shall not diminish or relieve the Supplier from any obligations or responsibilities under this Contract.

25. DEFECTS PRIOR TO DELIVERY

25.1. The Supplier is obliged to continuously and directly monitor and control its whole performance process and qualities and shall inform the Yard in writing immediately after becoming aware of any kind of process disruptions or quality deviations.

25.2. The Supplier shall be obliged to rectify any defects of the Works at its own cost and risk which appeared during the execution of the Contract prior to final acceptance or delivery of the Works, as the case may be. If the Supplier does not rectify a defect within a reasonable time period given by the Yard, the Yard is entitled to rectify the respective defects at its own discretion and at Supplier's cost and risk. Irrespective of whether or not the Yard has demanded rectification of a defect as set out in this Clause, the Supplier remains responsible for the proper fulfilment of this Contract.

25.3. If the Works or part of it have already been approved and certified by a classification society and if a defect appears which affects the already approved and certified Works prior to taking over pursuant to Clause 27 or delivery, as the case may be, the defect shall be rectified by the Supplier in line with the stipulations set out in Clause 25.2 above and the classification society shall be informed by the Supplier. The approval and certification of the affected Works shall then be renewed at the Supplier's costs and risks. The Yard has to be informed by the Supplier prior to the implementation of any measure.



26. TESTS

- 26.1. If and to the extent particular tests are agreed or if and to the extent such tests are required or appropriate in order to show that the Works and/or its objects comply with the contractual requirements, the Supplier shall provide an inspection and test plan for all such tests (the "Inspection and Test Plan") within 14 working days after effectiveness of the Contract, in particular for the Factory Acceptance Test (FAT), the Harbour Acceptance Test (HAT), the Sea Acceptance Test (SAT). The Inspection and Test Plan shall contain detailed tests procedures for each test which shall be in accordance with the technical specifications and the requirements of the applicable rules and regulations of the involved classifications societies (if any).
- 26.2. The Inspection and Test Plan shall contain for each test a detailed description of its procedures, conditions and pre-requisites, including a list of the required test equipment, tools, materials and services, and shall ensure that the respective test is suitable to show that the component and/or the Works – being subject of the respective test – comply with the requirements of this Contract.
- 26.3. The Yard shall approve the Inspection and Test Plan within reasonable time. In case the Inspection and Test Plan and/or the test protocols is rejected, the Supplier shall within the reasonable time period given by the Yard submit a revised Inspection and Test Plan and/or revised test protocols for approval.
- 26.4. The Supplier shall perform all tests required under this Contract in accordance with the Inspection and Test Plan. The Supplier shall document all results and other outcomes of the respective tests in the approved test protocols and shall submit the protocol to the Yard without undue delay after completion of each test.
- 26.5. The Supplier shall provide at its own costs all necessary personnel (except for the Yard's personnel), equipment, materials, consumables as well as all documents and information which are necessary for the execution of the tests.
- 26.6. In the event that any defect or non-conformity of the Works with the specifications and/or the regulations of the involved classification society (if any) or any other authority (if any) is discovered during a test, the Supplier shall remedy such a defect or non-conformity without delay at its own cost and risk. The respective test shall be repeated as soon as possible including any previous tests which are necessary to confirm results as still valid. All costs incurred by the Yard in connection with such a repeated test(s) shall be borne by the Supplier.
- 26.7. A successfully completed test shall under no circumstances be regarded as an acceptance of the Works or part of the Works. For acceptance and taking over of the Works and part of it Clause 27 shall apply exclusively.

27. FINAL ACCEPTANCE

- 27.1. In case an acceptance is agreed or provided for by law, the following provisions of this Clause 27 shall apply.
- 27.2. The final acceptance shall only take place after completion of all Works and upon successful execution of all tests required under the Contract, such as FAT, HAT and SAT, and after handing over of the complete documentation.
- 27.3. If all prerequisites mentioned in Clause 27.2 are fulfilled, the Supplier shall inform the Yard in writing about the completion of the Works.
- 27.4. Upon receipt of the notification as per Clause 27.3 the Yard shall accept the Works by issuing a taking over certificate within 15 Working Days if all requirements as per Clause 27.2 are fulfilled.
- 27.5. If the Yard does not issue the taking over certificate within the afore-mentioned 15 Working Days although the Works are free of major defects, the Works shall be deemed to be accepted. Defects of



the Works which affect the economic or technical operation of the vessel shall in no event be regarded as minor defects and shall entitle the Yard to reject the acceptance of the System and the Works.

28. WARRANTY RIGHTS

- 28.1. The statutory provisions apply in the case of defects as to quality or title of the Works, insofar as nothing to the contrary is stated in the following.
- 28.2. The Supplier warrants that the Works are free from defects. This includes a warranty in respect of defects and damages which may appear as a result of defective design (if any), poor materials and/or defective manufacturing and/or workmanship.
- 28.3. The warranty period shall be 24 months commencing with the handover of the Vessel to the Yard's own customer, however no longer than 36 months after the passing of the risk pursuant to Clause 23.
- 28.4. The Yard is entitled to raise claims for defects if the respective defect occurred during the warranty period and if the claim is notified to the Supplier not later than 30 days after expiry of the warranty period.
- 28.5. The time limits under sales law including the extension in accordance with number 28.3 above apply for all contractual warranty claims. If the Yard also has non-contractual compensation claims due to a defect, the normal statutory time limit in accordance with sect. 195 and 199 BGB applies, if the use of time limits under sales law does not lead to a longer time limit in the individual case.
- 28.6. Should a defect appear within the warranty period the Supplier shall undertake all required measures in respect of defect detection. For the purpose of coordination, the Supplier shall immediately after receipt of Yard's defect notification submit sufficient information about how the defect shall be rectified. The Yard will support the Supplier with information about the current route and expected departure times of the Vessel.
- 28.7. All defects shall be rectified by the Supplier by replacing or repairing the defective part of the Works or by renewed service provision. The Supplier shall commence and complete detection as well as rectification of any defects within a reasonable time period as determined by the Yard.
- 28.8. The rectification of defects by the Supplier includes inter alia defect detection, supply and delivery of new material, equipment or components (if necessary by airfreight to avoid any kind of adverse impact on the Vessel and its turns, or in case Vessel's safety or functionality is endangered or more than insignificantly impaired), design works (if necessary), provision of qualified personnel in sufficient number and carrying out any workmanship as necessary. All measures, envisaged by the Supplier for the rectification of a defect require written approval of the Yard before they are carried out, which shall not be unreasonably withheld. The Supplier shall execute the necessary work including the performance of any required dismantling and reassembly with utmost dispatch.
- 28.9. In case of urgency (particularly as far as the safety or schedule of the Vessel may be affected or serious other damages or significant costs are to be feared) the Supplier shall provide sufficient information to the Yard about appropriate measures how to rectify the defect or minimize its effects.
In the event the Supplier does not duly provide sufficient information about such measures or if the proposed measures are in the reasonable opinion of the Yard not sufficient or appropriate, the Yard shall be entitled at Supplier's cost and risk to rectify the defect or to minimize its effects on its own. Such self-remedy does not relieve the Supplier from its warranty obligations under this Contract. Any further claims by the Yard shall remain unaffected.
- 28.10. The Supplier shall bear all costs required for the rectification of defects, in particular all transport, travel, work and material costs. The aforementioned costs include in particular the necessary costs



for dismantling and reassembling, getting access to a defective part, for all necessary tests and approvals, for docking and towing charges as well as all duties and taxes incurred.

28.11. In the event the Supplier does not or is not able, for whatever reason, to duly rectify defects within the reasonable time given by the Yard, the Yard or the Yard's customer shall be entitled at Supplier's cost and risk to carry out the rectification on its own or by a third party. Such self-remedy does not relieve the Supplier of its further warranty obligations under this Contract. Any claims of the Yard especially regarding reduction of the Contract price, rescission from the Contract as well as other claims remain unaffected.

28.12. During the detection and rectification of the defect the limitation period shall be suspended.

28.13. Should the same defect re-appear after replacement or improvement within the warranty period, the Supplier is obliged at his own cost to detect the reason for the defect, to eliminate the causes of the defect with appropriate measures or methods or the use of different materials/items. The Yard is entitled to demand on Supplier's costs and risk to reiterate the whole or parts of the tests and approvals or to engage a third party to perform the respective tests.

28.14. Parts of the Works which have been replaced are to be removed and returned at Supplier's cost.

29. LIABILITY

29.1. If these conditions do not provide for anything to the contrary, the Supplier is liable in accordance with the statutory provisions.

29.2. If the Supplier is responsible for any product defect the Supplier shall be obliged to hold the Yard harmless from any claims raised by third parties against the Yard to the extent the reason for such product defect lies within Supplier's sphere of organization and control and he is liable towards the third party in accordance with mandatory law.

29.3. Supplier's obligation of reimbursement as set out in Clause 29.2 above includes all costs in connection with any claims raised by third parties against the Yard.

30. ENVIRONMENTAL DAMAGE

30.1. The Supplier shall ensure that the Works do not cause any damage to the environment or endanger the environment.

30.2. In case of damage or hazard to the environment the Supplier shall indemnify and hold the Yard harmless from and against any claims raised by a third party and arising out of or in connection with an environmental damage or hazard; the Supplier shall further reimburse the Yard any damages incurred as a consequence of an environmental damage or hazard as well as all fines and penalties imposed on the Yard.

31. THIRD PARTY RIGHTS

31.1. The Supplier is obliged to procure the Works without infringing any intellectual property rights of third parties, in particular of any rights and claims third parties may have in respect of or based on intellectual property rights, patents, utility patents, registered design, copyright, trademark or the like, within Germany, the European Union and the Vessel's flag state (hereinafter "IP Rights").

31.2. In the event of a breach of IP rights as per Clause 31.1 above, the Supplier is obliged, at the Yard's choice, either to obtain and grant the Yard a sufficient right of use at its expense for the agreed or assumed use of the Works or to amend the Works in such a way that the industrial property right is not breached or to exchange the Works provided that the agreed or assumed use of the Works is not affected.



31.3. The Supplier is obliged to hold the Yard and/or the Customer harmless from all claims that third parties attempt to enforce against the Yard due to the breach of industrial property rights and shall reimburse the Yard and/or the Customer for all necessary costs incurred in connection with this attempted enforcement.

32. WEIGHTS

For the calculation of weights and centres of gravity the Supplier shall provide the Yard with detailed binding information on all single weights of the deliverables to be supplied and/or installed in the Vessel that shall not exceed the target weights stated by the Yard. The information required is to be made available to the Yard within 10 Working Days after conclusion of the Contract at the latest.

33. FORCE MAJEURE

33.1. Force Majeure means an occurrence beyond the control of the Party affected, provided that such Party could not reasonably have foreseen such occurrence at the time of entering into the Contract, including but not limited to war or warlike events, riots, revolution, sabotage, mandatory orders of governmental authorities, embargos, epidemics and extra-ordinary natural events like floods, storm tides, severe weather and landslide.

33.2. Shortage of materials, lack of transport capacity, delays by sub-suppliers do not constitute an event of force majeure.

33.3. The occurrence of a force majeure event liberate the Party concerned thereof for the duration of the interruption of the performance to the extent that such occurrence hinder the performance of obligations of the respective Party under this Contract and cannot be prevented by reasonable measures, but only if the occurrence of and the reason for the force majeure event and its consequences are reported in writing at the latest five (5) working days after occurrence of the event. If possible, the Supplier shall provide documentary proof of the force majeure event and its impact on the Scope of Supply.

33.4. In case the Supplier is liberated from its obligations under this Contract in accordance with Clause 33.3, the delivery times and times of performance are postponed and deadlines are extended by the duration of the respective event of force majeure.

34. INSURANCES

34.1. The Supplier undertakes to take out adequate insurance for the performance of the Works providing adequate cover of the risks associated therewith. As a minimum, however, the Supplier is obliged to take out and furnish proof of a liability insurance policy with a cover sum per incident for persons, materials as well as property damages to the amount of EURO 5,000,000.00 per damaging event.

34.2. The Supplier covenants to include the Yard in the insurance policies as per Clause 34.1 as co-insured and to exclude the insurance company's right to have recourse against the Yard.

35. SPARE PARTS AND TOOLS

35.1. The Supplier shall ensure availability of suitable spare parts and tools for the Works at standard commercial prices for the expected lifetime of the Vessel.

35.2. Spare parts and tools shall be supplied by the Supplier in conformity with the current state of the applicable classification rules and regulations for the Vessel or any other authority as well as any other rules and regulations applicable for this type of Vessel as set out in the Contract.



35.3. Should the Supplier or its respective Subcontractor's cease to produce and/or supply the respective spare parts the Supplier shall give the Yard seven month prior notice of such cessation of production and/or supply.

36. SURETIES TO BE PROVIDED BY THE SUPPLIER

36.1. If the Parties agreed on an advance payment, the advance payment shall only become due against delivery of an absolute suretyship ("selbstschuldnerische Bankbürgschaft") to be issued by a major German or European Bank with a rating by rating agency (Standards & Poor's, Fitch or Moody's) of not less than lower medium grade.

36.2. In order to assure the due performance of its contractual obligations, the Supplier shall provide the Yard latest within twelve (12) working days after effectiveness of the Contract with a performance bank surety in form of an absolute surety ("selbstschuldnerische Bürgschaft") issued by a major German or European Bank with a rating by rating agency (Standards & Poor's, Fitch or Moody's) of not less than lower medium grade in the amount equal to 10% of the contract price.

The Yard shall return the performance bank surety not utilized upon (i) issuance of the taking over certificate or delivery, as the case may be, and (ii) against delivery of a warranty guarantee or against retention as per Clause 36.3 and (iii) if at the time of acceptance no claim against the Supplier is still open which is secured by the performance bank surety.

36.3. To assure Supplier's warranty obligations the Yard is entitled to retain an amount equal to 5% of the Contract Price. The Supplier may substitute such retention amount by the provision of an warranty surety in form of an absolute surety ("selbstschuldnerische Bürgschaft") to be issued by a major German or European Bank with a rating by rating agency (Standards & Poor's, Fitch or Moody's) of not less than lower medium grade.

37. SAFETY AT WORK

37.1. If any works will be performed at Yard's sites or the Vessel the Supplier shall comply with the HSE requirements of the Yard as defined in Annex – HSE Requirements.

37.2. The Supplier shall procure the safety equipment and the safety clothing compulsory on the Yard's sites or on the Vessel at its own costs and shall assure that such safety equipment and safety clothing are worn respectively applied.

38. MINIMUM WAGES

38.1. The Supplier hereby warrants to remunerate all of his employees engaged in connection with the Works in accordance with the applicable statutory provisions on minimum wages, in particular the German Minimum Wages Act (Mindestlohngesetz - MiLoG). The Supplier shall only subcontract the Works to subcontractors that likewise warrant remunerating all of their employees engaged in connection with the Works in accordance with the applicable statutory provisions on minimum wages and shall likewise ensure that any further subcontractor of any tier shall do so. This also includes all temporary-work agencies assigning employees and all statutes, ordinances etc. related thereto.

38.2. Compliance with the applicable statutory provisions on minimum wages, in particular the MiLoG, shall be sufficiently documented. This includes necessary documentation as per sec. 17 MiLoG. The Yard may request the Supplier at any given time to provide suitable documentary evidence in respect to his employees or employees of a subcontractor of any tier.

38.3. The Supplier shall hold harmless from and indemnify the Yard for all claims by any employee or any third party in connection with the Works based on sec. 13 MiLoG or any similar provision under the applicable law. The term third party includes social insurance agencies and fiscal authorities. Unless



such have been wilfully caused by the management or personnel of the Yard, the term claims also comprises administrative penalties imposed by the authorities. All cost and losses arising in connection with such claims, including necessary legal fees, are to be reimbursed to the Yard. The Supplier will assist the Yard in all legal disputes arising and provide all information required in relation thereto.

- 38.4. To secure the aforementioned claims by any employee or any third party in connection with the Works, the Supplier will, upon the Yard's request, provide security in an adequate amount in the form of an unlimited, directly enforceable bank guarantee of a German or European Bank suitable to and approved by the Yard. In case of substantial changes in relation to the Works and the risks involved, the Parties will newly agree on a reasonable amount, and the security will either be increased or partially reduced, as the case may be. The security shall be fully released not later than six months after the Works have ended, provided that no claims as aforementioned have been raised in connection with the Works.
- 38.5. To the extent the claims are not validly secured, the Yard is entitled to retain payment of an amount of the remuneration as agreed to under Clause 8 to the extent he/it may reasonably be exposed to such claims, until payment of the respective outstanding amounts has been proven by the Supplier. In case of any violation of the applicable statutory provisions on minimum wages, in particular MiLoG, by the Supplier or any subcontractor of any tier, the Yard is entitled to terminate this agreement with immediate effect.

39. CONFIDENTIALITY

- 39.1. Any Information, regardless orally submitted or embodied in any documents, received by the Supplier from the Yard or the Yard's own customer relating to or in connection with this Contract ("Confidential Information"), shall be kept and treated strictly confidential. Confidential Information may only be made available to Supplier's Personnel and its subcontractors subject to a "need-to-know" for the due performance of this Contract. Confidential Information shall not be used in any other way, unless the Supplier obtained the Yard's prior written consent. This restriction in disclosure includes, but is not limited to, giving information to the press, publications, advertisement/marketing and the use of photos etc.
- 39.2. The Seller shall agree with Supplier's Personnel and its subcontractors, involved in the performance of this Contract, equivalent confidentiality obligations and will procure that its respective Supplier's Personnel and its subcontractors will also keep the aforementioned information strictly confidential.
- 39.3. The obligation as per Clauses 39.1 and 39.2 shall not apply if the Confidential Information in question:
- (i) is generally available from public sources or in the public domain; or
 - (ii) has been known by the Supplier prior to its disclosure by the Yard or is received at any time from any third party without nondisclosure obligation to the disclosing Party; or
 - (iii) enters the public domain due to a binding court order or ruling from a governmental agency/authority.
- 39.4. After completion or termination of this Contract the Supplier shall either return or destroy or delete the Confidential Information received in connection with this Contract.
- 39.5. The confidentiality obligations stipulated herein shall remain in force for three (3) years after (premature) termination or completion of this Contract.



40. TERMINATION, WITHDRAWAL

- 40.1. The Yard may terminate this Contract for good cause at any time with immediate effect in particular in case of:
- (i) a material breach of this Contract by the Supplier,;
 - (ii) if the maximum liability caps as set out in this Contract, e.g. contractual penalties are met;
 - (iii) if the Supplier fails to pass an audit;
 - (iv) a material breach by the Supplier of any laws, rules, regulations or similar, if such breach has not been remedied within the reasonable grace period set by the Yard; or
 - (v) if insolvency proceedings have been filed in respect of the Supplier, have been opened or were rejected for lack of sufficient assets by the insolvency court or respective composition or legal reorganisation proceedings or any other form of bankruptcy proceedings are filed or opened against the Supplier by a court or another public authority or an order has been passed against the Supplier appointing a receiver or trustee.
- 40.2. In case the Contract is terminated by the Yard for good cause the Supplier shall be entitled to payment for such parts of the Works, which have been performed in accordance with the terms and conditions of this Contract and which can be reasonably used by the Yard, on basis of the agreed prices and respective proof. Title to such parts of the Works paid for, if not already acquired, shall pass to the Yard upon termination of the Contract. The Supplier shall be liable for all damages and losses.
- 40.3. In the cases stipulated above under Clause 40.1 (i) to (iv) the Yard shall at its own discretion alternatively be entitled to withdraw from the Contract in whole or in part. In case of a withdrawal by the Yard, the Supplier is inter alia obliged to return to the Yard without delay all payments received under the Contract and to reimburse the Yard in respect of all losses and damages incurred due to Supplier's breach of Contract, including inter alia the costs for removing Supplier's deliveries and/or services after a withdrawal from the Contract.
- 40.4. The Yard shall be entitled to terminate the Contract in whole or part at any time without stating a specific reason by giving a respective written notice of such termination to the Supplier with the consequence that the performance of the Works shall immediately cease. Following such termination for convenience the Supplier shall be reimbursed in accordance with the principles set out in section 649 sentences 2 and 3 German Civil Code (BGB).
- 40.5. Each notice of termination or withdrawal shall be valid only if given in writing.

41. TECHNICAL EXPERT PROCEDURE

- 41.1. In case a technical disputes arises between the Parties and/or if the Parties cannot agree on the reasonable remuneration for a Variation, either Party shall - prior to initiating arbitration proceedings - give the other Party notice in writing in order to refer the dispute to an independent expert who shall issue an expert opinion.
- 41.2. After receipt of the notice as per clause 41.1 above by the other Party, the Parties shall within 2 weeks agree on an independent expert. If the Parties fail to agree on such independent expert within the afore-mentioned two weeks period, either Party may within another 2 weeks ask the Chamber of Commerce of Hamburg (Handelskammer Hamburg) in writing to appoint such an independent expert. If none of the Parties asks the Chamber of Commerce within the 2 weeks period, the dispute may be referred by each Party to the arbitral tribunal as per clause 42.4.
- 41.3. The costs for the independent expert shall be borne by both Parties in equal parts.
- 41.4. Within 4 weeks after the issuance of the expert opinion, any Party shall have the right to refer the dispute the arbitral tribunal as per Clause 42.4 below in order to seek a final and binding



decision. If none of the Parties refers the dispute to the arbitral tribunal within the afore-mentioned 4 weeks, the dispute shall be finally and bindingly settled between the Parties.

42. MISCELLANEOUS

- 42.1. This Contract completely and conclusively defines and regulates the legal relationship of the Parties.
- 42.2. All correspondence under this Contract shall be in English language unless otherwise agreed. The same shall apply to reports, drawings, specifications, calculations, invoices and the like.
- 42.3. This Contract is subject to the laws of the Federal Republic of Germany excluding the regulations of the UN Sales Convention (CISG).
- 42.4. All disputes arising out of or in connection with this contract or concerning its validity shall be finally settled by arbitration in accordance with the Arbitration Rules of the German Maritime Arbitration Association. The place of arbitration shall be Hamburg.