



General Terms & Conditions for Services

Subject to agreement as to the Services, as set out in Article 4) below, the following terms and conditions together with the details overleaf shall constitute the entire terms and conditions between the parties hereto (hereunder called the "Agreement") and shall supersede and override all other warranties, representations and terms and conditions whether express or implied, oral or written, including the Client's standard terms.

1) Definitions

"Client" means the party at whose request or on whose behalf the Company provides services.

"Company" means Maritime Technical GmbH and all respective departments, sister and/or daughter companies as described in Annex 01.

"Vessel" means the Ship's, Barges, Structures and/or Platforms Owned, Operated and/or Managed by the Client

"Fees" means the fees charged by the Company to the Client and including any value added tax or equivalent where applicable and any Disbursements.

"Expenses" means the cost of all reasonable photography, reproduction of drawings, diagrams, sketches and printing, duplicating and, where applicable, electronic transmission fees, and all reasonable and appropriate expenses including travel, refreshments and hotel accommodation where an overnight stay is necessary. Office charges are scaled to invoice value.

Subject to any contrary definition of the Services which may be agreed in accordance with clause 4 hereof, "Services" means the Services and/or Supply of Goods identified on the front of this Agreement.

"Report" means any report or statement supplied by the Company in connection with instructions received from the Client.

2) Scope & Applicability

- a) The Company shall provide the Services solely in accordance with these General Terms & Conditions. The Company will provide the Services utilizing the knowledge of Maritime Technical GmbH, its Departments, Sister & Daughter companies, its parent company TSideHaan GmbH as well as its registered partners with and/or for whom it works as listed in Annex 02 in accordance with Maritime Technical GmbH philosophy.
- b) These General Terms & Conditions shall apply to all offers by and contracts with the Company for the execution of the Services by the Company. Wherever these General Terms & Conditions refer to execution of Services this term shall include delivery of the Services as defined in article 4) and/or other goods and/or service, unless the provisions concerned show otherwise.
- c) All other Terms & Conditions whatsoever shared, whether written and/or oral, and/or contained in any of the Client's Request for Quotation, Order Forms, Purchase Orders, Communications, Purchasing Terms & Conditions and/or Otherwise, are hereby excluded. The Client has accepted our Terms & Conditions under the Conditions as mentioned in Article 7) and therefore the Client shall be deemed to waive any & all other conditions and/or stipulations even if the same are expressly referred to and/or are stated expressly in or on any offer, acceptance or other documents. Such other conditions and stipulations are hereby expressly repudiated by the Company.
- d) Acceptance of these conditions by Client shall be deemed to also extend to all future offers and agreements with the Company.
- e) The Company's costs for preparing the Tender, Schemes, Drawings, Specifications & Reports requested by the Client but not leading to an order of the same scope as such Tender, Schemes, Drawings, Specifications & Reports shall be charges to the Client as per the Company's Fees & Expenses which are mentioned in article's 8) & 9) of this document.



3) Offers, orders and agreements

- a) Any offer made by the **Company** shall be without engagement.
- b) Orders & Acceptances by **Client** shall be deemed irrevocable offers.
- c) The **Company** shall only be bound if & insofar as it has accepted the offer in writing or has begun implementation thereof. Verbal promises by or arrangements with its personnel shall not bind the **Company** except if & insofar as the **Company** has confirmed the same in writing.

4) Services & Delivery

- a) The **Client** will set out in writing the Services which it requires the **Company** to provide. The **Company** will confirm in writing acceptance of those instructions, or alternatively, what Services the **Company** is willing to perform in accordance with the **Client's** instructions. An initial dialogue with the **Client** may be necessary, prior to the issue of written instruction, to enable the **Company** to fully understand and set out the scope of the Services.
- b) In the event that it is intended that any vessel inspection or survey report is to be used, or relied upon by a third party, in order to make a decision on or to provide money for, the purchase of a vessel then these General Terms & Conditions shall not apply in full, and the **Company** shall issue an Engagement Letter type of contract with specific Terms & Conditions which shall apply in place thereof. In such circumstances the **Client** shall not be entitled to use any report issued by the **Company** in any way until such Engagement Letter has been signed and returned by the **Client**. Even then, any disclosure of the report to a third party shall be subject to the restrictions and further requirements of the Engagement Letter.
- c) The Services (Work, Materials & Equipment's) shall be deemed Completed (delivered):
 - i) when the Services are accepted & approved by **Client**.
Or
 - ii) if **Client** does not cooperate in acceptance & testing on the time notified by the **Company** for delivery, or wrongfully or without proper motivation refuses to approve;
 - iii) if the Vessel (and/or Materials/Equipment) has left the **Company** or **Client** appears to have in fact taken control of the Vessel or, respectively, the part of the Vessel upon which was worked;
 - iv) if **Client** does not immediately inform the **Company** of possible shortcomings at the time of delivery and/or does not give a written confirmation thereof within **Forty-Eighth (48)** hours thereafter.
- d) Minor or usual shortcomings are no reason for refusal of Acceptance & Approval. These shortcomings shall be recorded in writing by **Client** and presented to the **Company**, in addition to which the **Company** will state if they are acceptable and within which period of time the remedying of these shortcomings will take place.
- e) The **Company** is entitled to partially deliver the Services (Work, Materials & Equipment's) if the delivery of the rest of the Services (Work, Materials & Equipment's) is rendered (temporarily) impossible or hindered by Force Majeure.

5) Execution & Variations

- a) Once the **Company** and the **Client** have agreed what Services are to be performed ;
 - i) The **Client** shall enable the **Company** to execute the Services unhindered. **Client** shall place the **Vessel** or other object upon which or for the benefit of which the Services is to be executed on time and ready for the execution of the Services, at the **Company's** disposal.
 - ii) The **Company** shall be entitled to relocate the **Vessel** and other goods of the **Client** if required for the proper execution of the project (including shifting, launching, drydocking & undocking).
 - iii) The **Company** is entitled to assign third parties to the execution of the Services.
 - iv) The work commences at the agreed time. The **Company** shall be entitled to suspend the commencement until the **Company** disposes of all goods, information & particulars to be supplied by **Client** and/or until advance payment, if agreed, is received or payment to the **Company** is guaranteed.



- v) The **Company** shall only be bound by express, written agreed upon delivery dates. The exceeding of the delivery date by the **Company** gives **Client** the right to collect liquidated damages insofar as these are agreed upon in writing. The amount of such liquidated damages shall never exceed **Five Percent (5%)** of the agreed upon rate for the delayed Services. Delay by the **Company** shall otherwise not entitle **Client** to indemnification, rescission of the contract, or non-performance of any of his contractual obligations. The **Client**, however, is entitled to terminate the contract in respect of the non-performed part, if the Services are not delivered within a final reasonable period notified to the **Company** in writing. In case of such termination, **Client's** right to claim liquidated damages is waived.
- vi) The time for delivery as agreed or notified by **Client** as provided in clause 5) v), shall be extended by the period of delay, caused by Force Majeure, irrespective of whether the circumstances causing Force Majeure to have occurred prior to or after the time the Services should have been completed. The time for delivery shall also be extended by the amount of time any payment or the discharge of any other obligation of **Client** is later than agreed or later than the **Company** could reasonably expect irrespective of whether or not **Client** is in default
- vii) In addition to the customary & agreed tolerances in measure, performance or otherwise, such variations as are necessary to achieve the desired results, or that are the result of a changed method of working and/or changed manufacturing process shall also be permitted.
- viii) any subsequent variations must be promptly agreed in accordance with a procedure agreed between the parties. This shall be the means of a contract variation form specifying technical & commercial details, any variation of the delivery date and/or the deliverables as well as any additional costs involved. In the event of any delay in the **Client** signing the contract variation form, the **Company** shall be entitled to stop work until the contract variation has been signed and returned to the **Company**. E-mail confirmation will be accepted in lieu of a signed agreement.

6) Environment, Safety & Rules of the Company

- a) The **Client** shall assure safe working conditions and shall at all times comply with the current environmental & safety regulations including but not limited to the rules of the **Company** as stated in **Annex 03**. The **Client** shall inform the **Company**, prior to commencement of the Services, of the presence of hazardous materials including but not limited to asbestos, chemical and/or radioactive waste. Including the measures that have been taken in the last **Ninety (90)** days in this respect.
- b) The **Client** shall lend its cooperation to the investigation by the **Company** of safe working conditions. The **Company** is entitled to suspend and/or to end the Services if there is reasonable doubt as to the safety of these conditions and/or to take (or have taken) measures for improvement. All costs and damages arising therefrom shall be for the account of **Client**.
- c) It is recognized by **Client** that removal of asbestos and/or other hazardous materials is subject to strict regulations of the German law and/or the local law at the location of work which ever regulation is more stringent.

7) Effectiveness and Validity of General Terms and Conditions

- a) These **General Terms & Conditions** shall take effect on the earliest of the following events:
 - i) When the **Client** acknowledges receipt of the Terms & Conditions with the offer, and/or the **Company** accepts the full work scope, as instructed by the **Client** and/or both parties have signed this Agreement.Or;
 - ii) When the performance of the work has commenced by the **Company**, unless the **Client** objects to these Terms & Conditions within **TwentyFour (24)** hours of the **Company** starting to provide the Services.
- b) These **General Terms & Conditions** will remain Valid for an undetermined time & may be updated pending requirement of the **Company** these updated version will be shared on our Website & Attached to our offers towards our (potential) **Client's**.
 - i) any changes to the by both the **Company** & the **Client** signed **Dedicated Terms & Conditions** Validity and/or Content are to be requested **Three (3)** Months prior anniversary date of the document.



8) Fees

- a) Fees set by or agreed to with the **Company** are net, therefore exclusive of taxes and duties or charges levied by any Governmental body or authority, including V.A.T. They shall apply only with respect to execution of the Services at regular working hours on and/or off the **Company** premises.
- b) If practical, the **Company** may agree at the outset a fixed fee (net of VAT & disbursements) with the **Client**.
- c) If not practicable, the **Company** will offer to perform the Services on an hourly or daily rate.
- d) If the costs of execution increase after the closing of the Agreement the **Company** shall be entitled to charge **Client** a Fee increase if and to the extent that such increase is reasonable.
- e) The **Company** reserves the right to increase its hourly or daily rates at any time and shall give the **Client** reasonable notice of such increase.
- f) Where delays by the **Client** cause the Services to be extended beyond the time specified or the time originally anticipated and/or for Services NOT included in the original quote/agreement then the cost of the Services charged to the **Client** may be increased with the "short term" rates value in Euros per Hour/Day of delay and/or extra Services done as mentioned in the specific **Appendix** pending the function, excluding expenses & hardship fees related to the region.

Appendix A; 2021	-	Tariff Rates for General Labour
Appendix B; 2021	-	Tariff Rates for Port Engineer
Appendix C; 2021	-	Tariff Rates for Superintendency
Appendix D; 2021	-	Tariff Rates for Project Management
Appendix E; 2021	-	Tariff Rates for Survey's

9) Expenses

- a) Unless otherwise agreed, the **Company** shall charge for legitimate expenses incurred in connection with the Services plus a **Ten Percent (10%)** administrative fee to the **Client**. These may include travel and subsistence costs, reproduction of drawings, photography, courier charges and the hire of specialized equipment. Car mileage will be charged at **Seventy-Five Euro Cents (€0.75)** per KM.

Appendix A; 2021	-	Tariff Rates for General Labour
Appendix B; 2021	-	Tariff Rates for Port Engineer
Appendix C; 2021	-	Tariff Rates for Superintendency
Appendix D; 2021	-	Tariff Rates for Project Management
Appendix E; 2021	-	Tariff Rates for Survey's
- b) In case off, any unplanned/not forecasted Supply of Equipment's, Materials, Consumables etc. for the vessel during the project a surcharge of **Twenty Percent (20%)** will be added to the actual cost of these Materials, Consumables etc.
- c) The **Company** is entitled to charge extra the costs connected with the treatment and/or collection and/or sample taking and/or removal, storage, transportation & destruction of materials, waste, scrap & the like including a **Twenty Percent (20%)** mark-up to cover the administrative fees & other expenses related to the arranging of this required Services.

10) Payment Terms & Security

- a) The **Client** shall pay the **Company's** fees (together with any associated bank charges) punctually & in any event not later than **Fourteen (14)** days following the relevant invoice date.
- b) The Client is to provide;
 - i) For contracts with a value of more than **Two-Hundred Thousand (≥ 200,000.00)** Euro an official Bank Guarantee letter.
 - ii) For contracts with a value of more than **One Million (≥ 1,000,000.00)** Euro an official Bank Guarantee letter & the **Client** is to transfer **Thirty Percent (30%)** of the Contract Value to an dedicated Project Bank Account at & Controlled by the **Company's** House Bank as security. Which will be transferred at Project Completion to the **Company**.



- c) If any part of an invoice is genuinely in dispute, the **Client** shall notify the **Company** immediately upon, and no later than **Five (5)** days after receipt of the invoice as to any part of the invoice which is in dispute giving full reasons as to why a portion of the invoice is disputed and nevertheless pay the undisputed part within **Fourteen (14)** days of the invoice date, if the notification is not sent within **Five (5)** days after receipt of the Invoice it is considered to be accepted in full & therefore undisputed as a whole. The parties shall endeavour to resolve the disputed portion without delay.
- d) In case of default the **Client** shall pay the out of court expenses. These costs shall be deemed to amount to no less than **Fifteen Percent (15%)** of the amount due.
- e) The **Company** shall be entitled to charge interest on a daily basis at the rate of **Eighth Percent (8%)** above the LIBOR rate per month on any overdue invoice or on any undisputed part thereof as appropriate. In any case where an invoice is more than **Thirty (30) days** overdue, the **Company** may stop work or withhold any deliverables on the contract which relates to the overdue invoice.
- f) Without prejudice to any rights of recovery which the **Company** might have against a third party, the **Company** shall treat the **Client** identified in the signed Agreement as the person responsible for paying for the work done, therefore the **Company** shall not need to be concerned as to whether the **Client** considers itself to be principal or agent nor shall the **Company** need to concern itself as to whether the **Client** is, or is not, paid by a third party.
- g) If the **Company's** advice or Services relate to a claim or a defence which may result in protracted discussions and/or litigation or any other protracted matter, the **Company** will submit interim invoices or pro forma invoices at regular intervals.
- h) Unless the **Client** can clearly show that the **Company** has performed its duties or the Services negligently, the **Client** must pay in full even though the outcome of negotiations, arbitration or legal proceeding was worse than the **Client's** expectations, or not in the **Client's** favour.
- i) Invoicing terms - Service at Hour/ Day rate will be invoiced at;
- i) Short Term Project – **Thirty or Less (≤ 30)** Working Days
One-Hundred Percent (100%) at completion of Services Provided
- ii) Long Term Project – **more than Thirty (> 30)** Working Days;
One-Hundred Percent (100%) of the worked month at the end of the month, every month or at completion of Services Provided whichever comes first.
- j) Invoicing Terms - Lump Sum Quoted Projects with a valued Service Fee higher than **Fifty-Thousand Euro (€ 50,000.--)** will be invoiced at;
- i) Short Term Project - **Thirty or less (≤ 30)** Working Days:
Twenty Percent (20%) - at Contract Signing (prior start of works)
Twenty Percent (20%) - at Start of Work
Sixty Percent (60%) - at Completion of Work
Balance of "out of scope" works & expenses if any at actual Project Completion.
- Or
- ii) Long Term Project - **more than Thirty (> 30)** Working Days:
Twenty Percent (20%) - at Contract Signing (prior start of works)
Twenty-Five Percent (25%) - at **One-Third ($1/3^{\text{rd}}$)** of the initial estimated Project Completion time
Twenty-Five Percent (25%) - at **Two-Thirds ($2/3^{\text{rd}}$)** of the initial estimated Project Completion time
Thirty Percent (30%) - at **Three-Thirds ($3/3^{\text{rd}}$)** of the initial estimated Project Completion time
Balance of "out of scope" works & expenses if any at actual Project Completion.
- k) The **Company** has, however, at all times the right to demand full or partial payment in advance, and/or to demand advance guarantee of payment. An agreed credit period does not diminish this right.
- l) The **Company** is entitled to retain the goods and documents belonging to the **Client**, which are or will be in the **Company's** custody, until all the **Client** owes to the **Company** shall have been received by the **Company**. If at delivery of the aforementioned goods and documents, a claim is not yet payable by the **Client**, the **Company** is entitled to retain such goods and documents until payment is sufficiently guaranteed. The **Company** shall be compensated by the **Client** for the costs made in connection with the retention of the goods and/or documents.



- m) All goods of the **Client** which the **Company** or third parties may have and in connection with which work is executed by the **Company**, shall constitute collateral for all debts, including those concerning damage, costs and interest, which are receivable from the **Client** in connection with the underlying agreement and/or other agreements with the **Client**.
- n) Old Materials removed from the Vessel of the **Client** substituted or not by new, shall become the property of the **Company** without compensation.
- o) Upon delivery of the Vessel to the **Client**, the **Client** shall at his own expenses remove all materials including but not limited to Empty Paint can's and/or equipment belonging to the **Client** from the **Company's** premises. If such Materials & Equipment's have not been removed within **Thirty (30)** calendar days after Vessel departure from the **Company's** premises. The **Client** shall be deemed to have waived his rights to such Materials & Equipment's and the ownership of these are automatically transferred to the **Company**. If & When these Materials & Equipment's are to be disposed of due to their hazardous nature any & all costs for this will be claimed at the Client at cost with an **Twenty Five Percent (25%)** mark-up, the **client** herewith is committing themselves to pay these costs without exception.

11) Obligations & Responsibilities

- a) The **Client** undertakes to;
 - i) ensure that full information & instructions are provided free of charge to the **Company** and in sufficient time & without request to enable the required services to be performed effectively & efficiently;
 - ii) procure all necessary access for the **Company's** staff to goods, premises, vessels, installations & transport
and
 - iii) ensure that all appropriate safety measures are taken to provide safe and secure working conditions.
- b) All information made available, or likely to be made available, to the **Company** is or will be deemed to be reliable and accurate and may not significantly mislead the **Company**. The **Company** shall rely on this information and shall not verify the accuracy and completeness of said information or the supporting documents supplied, unless the information provided is clearly inaccurate or not exhaustive and must be reported as such to the **Client**. Therefore, the consequences of errors & lacunae therein and in design or specifications provided by the **Client** are at the **Client's** risk & costs.
- c) The **Client** agrees to actively cooperate on a regular basis during the performance of this **Agreement** and the **General Terms & Conditions**.
- d) The **Client** shall be responsible for determining whether the definition & scope of the Services stipulated in the Request for Quotation/Agreement/Purchase Order issues by the **Client** and consequent Offer under these **General Terms & Conditions** as provided by the **Company** is covering its needs and the **Client** shall be solely liable for the results that must be obtained from the use of the Services.
- e) The quality of the Services provided by the **Company** shall fully depend on the **Client's** compliance with its obligations. In light of the non-compliance by the **Client** with its obligations, the **Company** and the **Client** may enter into a supplemental agreement setting out new terms & conditions for the performance of the Services.
- f) If the **Client** becomes aware of any claim or circumstances which might involve litigation or arbitration concerning or connected with the subject matter of this Agreement, the **Client** shall inform the **Company** immediately.
- g) The **Company** shall procure that its staff shall use reasonable care and skill in the performance of the Services in accordance with good Maritime & Offshore Maintenance/Repair/Surveying/Consulting practice.
- h) The **Company** shall procure that its staff shall submit interim reports, site situation reports and a final report to the **Client** during and following completion of the agreed services describing the findings, assessments and inspection relating to the purpose of the **Client's** instruction, unless otherwise expressly instructed by the **Client** not to do so.



- i) Confidentiality Neither Party shall disclose the Confidential Information of the other Party to any other party for the duration of this **Agreement** and for **Three (3) years** after termination except as permitted below. A Party may disclose the Confidential Information to any employee, sub-contractor, or adviser, of the receiving Party where necessary to provide the Services.

Confidential Information means information or documents which the **Company** receive or produce for the purposes of providing the Services, and which are marked confidential or are manifestly confidential.

Confidential Information shall not include information that:

- i) is publicly available other than through breach of this Agreement;
 - ii) is lawfully in the possession of the receiving Party before disclosure under this Agreement;
 - iii) has been obtained from a third party who is free to disclose it;
 - iv) is independently developed without access to the Confidential Information;
- or
- v) a Party is required to disclose by law or regulatory authority.
- j) Unless otherwise agreed in writing, all goods delivered by the **Company** shall remain the property of the **Company** until such time as **Client** has paid in full all that is owed to the **Company** in connection with the underlying agreement, and in-so-far-as is permitted by law, in connection with other Agreements with **Client**.
- k) The industrial & intellectual property rights to or associated with the work remain with the **Company** or third parties entitled thereto and are never transferred to **Client**.

The **Client** shall be entitled to use the Report pursuant to a license that enables it to use said the Report in accordance with this clause, under which it shall also qualify for an exclusive and non-transferable license to use Report for its internal use and solely for the purpose for which they were provided.

The **Client** hereby agrees not to provide copies of the Report to third parties, unless previously authorized in writing by the **Company** to do so or to a third party for whose benefit the instruction/contract was specifically commissioned and clearly named in the **Agreement** and/or Purchase Order of the Services.

- l) Conflict of Interest the **Company** shall promptly notify the **client** of any matter, including conflict of interest, which would render it undesirable for the **Company** to continue its involvement with the appointment. The **Client** shall be responsible for payment of the fees due, to the **Company** up the date of notification.

12) Liability & Indemnification

- a) All the tasks performed by the General Labour/ Service-Engineer(s)/ Port-Engineer(s)/ Superintendent(s)/ Surveyor(s)/ Consultant(s)/ Project Manager(s) of the **Company** under the direct responsibility of the **Client**. Then the **Client** shall Unless explicitly agreed & documented, ensure that he has contracted the proper insurance for the Health & Safety as well as civil liability for the account of the General Labour/ Service-Engineer(s)/ Port-Engineer(s)/ Surveyor(s)/ Consultant(s)/ Project Manager(s) of the **Company**.
- b) The risk in respect to the **Vessel** and other goods of **Client**, or to be supplied by **Client** shall be for **Client**. The risk in respect of goods to be delivered by the **Company**, shall be for **Client** upon installation in, respectively upon incorporation in, goods of **Client**.
- c) The **Company's** liability in connection with any shortcomings in the executed work is limited to the fulfilment of the guarantee described in the Article 18.
- d) The **Client** shall hold harmless and indemnify the **Company** and its employees for each claim by third parties in connection with the performance by the **Company** of the **Agreement**, in-so-far-as those claims exceed or differ from the liability of the **Company** towards **Client**.
- e) The **Company** shall not be liable for damages, except if and in-so-far-as the **Company** shall inflict damages intentionally or through gross negligence. However, except in the case of intent on the part of the **Company**, the liability of the **Company** for loss of profit, consequential and/or indirect damages is, at all times excluded. In this clause gross negligence or intent of the **Company** means gross negligence or intent of the **Company's** officers and of managing officials identifiable with the **Company**.



- f) In all cases in which the **Company** despite the previous provision of article 12) d) is obliged to pay damages, this liability shall never exceed the lesser of;
- i) **Twenty-five Percent (25%)** of the price of the executed Services as a consequence of which or in connection with which the damage was caused
- Or
- ii) The sum of **One-Million-Three-hundred-Thousand Euro (€ 1,300,000.--)**.
- g) In no event the **Company** will be liable to the **Client**, during Consultancy/ Interim assignment/ Surveying/ provision of riding squads whether in contract, negligence, or otherwise, for any amount in excess of:
- i) The Professional Fees excluding any expenses paid by the **Client** to the **Company** under the terms of these **General Terms & Conditions** (but limited to an maximum of **Three-Hundred-Thousand Euro [€ 300,000.--]**)
- Or
- ii) **One-Hundred-Thousand Euro (€ 100,000.--)**
- whichever is the higher.
- h) Stipulations which limit, exclude or determine the liability towards the **Company** in connection with goods or services supplied by the **Company's** suppliers or subcontractors can also be asserted against **Client** by the **Company**.
- i) Where there is more than one **Client**, the limit of liability specified in clause f) & g) above will have to be allocated between **Client's**. Such allocation will be entirely a matter for the **Client's**, who will be under no obligation to inform us of it; if for whatever reason no such allocation is agreed, no **Client** will dispute the validity, enforceability or operation of the limit of liability on the grounds that no such allocation was agreed.
- j) Subject to the aggregate limit of liability specified in clause f) & g) above, any liability the **Company** may have in connection with the Services (whether in contract, negligence or otherwise), will be limited to that proportion of **Client's** actual loss which was directly and solely caused by the **Company** or, where the loss was caused by a number of persons, is proportionate to **Company's** degree of responsibility taking into account the responsibility of all who contributed to loss of **Client** (whether or not they are able to meet any liability they may have to the **Client**).
- k) Any exclusion or limitation of liability of any person is only valid to the extent that it:
- i) does not arise from death or personal injury,
 - ii) may by law be excluded or limited,
- and
- iii) does not arise from fraud or dishonesty of that person.
- l) This clause does not in any way confer greater rights than the **Company** or the **Client** would otherwise have at law.
- m) In the event that the Services involves the survey of a vessel or any work or services to or concerning a product or article any of which contain latent defects which were not apparent at the time that the vessel was surveyed and could not reasonably have been expected to have been discovered by such survey (either by reason of lack of access to a vessel part, limited availability of time or otherwise) then the **Company** shall have no liability therefor.
- n) In any event, and notwithstanding anything contained in this **Agreement**, in no circumstances shall the **Company** be liable, in contract, tort (including negligence or breach of statutory duty) or otherwise, how-so-ever, and whatever the cause thereof;
- i) for any increased cost or expenses (except in respect of non-conforming Services, where the **Company's** liability shall be limited in accordance with sub-clause a) above).
 - ii) for any loss of profit, business, contracts, goodwill, revenues, or anticipated savings,
- or;
- iii) for any special indirect or consequential damage of any nature whatsoever (other than direct physical damage to tangible property where the **Company's** liability shall be limited in accordance with clause f). ii) above.
- o) The **Client** is liable for any and all damages caused to the **Company** by the **Vessel** or other goods of customer by the **Vessel's** crew, by his personnel, and/or by third parties employed by him, regardless whether such damage was caused by any fault of **Client**.



- p) The **Client** shall indemnify the **Company** for all claims by the **Vessel's** crew, his personnel and/or by such third parties, for damage related to their presence at the **Company**, regardless whether such damage was caused by any fault of the **Company**.

13) Time Bar

- a) Any claims against the **Company** shall be deemed to be waived and absolutely time barred upon the expiry of **Twelve (12)** Months from the submission date of the report and/or the delivery of Services as stipulated in article 4) to the **Client**. Except those which have been expressly acknowledged in writing by the **Company**.

14) Breach

- a) The **Company** or the **Client** may without prejudice to any other rights it may have hereunder terminate this **Agreement** forthwith by giving notice in writing to the other party.
- In the event of war, hostilities, civil war, rebellion, revolution, insurrection or other disturbance occurring in the **Client's** or **Company's** country or at a location where the work is to be performed.
 - If the other party shall commit any material breach of the terms of this **Agreement** on its part to be observed or performed.
 - If the other party compounds with or negotiates for any composition with his creditors generally or permits any judgement against the said "other party" to remain unsatisfied for **Seven (7)** days.
 - Being a company, the **Client** or **Company** shall call a meeting of its creditors or to have a receiver appointed over all or any of its assets or enter into any liquidation.
 - Being an individual, the **Client** shall die or have a receiving order made against them or become bankrupt.
- b) In the event that the **Client** shall be in breach of its obligations under this **Agreement**, the **Company** shall have the following options:
- without prejudice to its entitlement to claim compensation for all work done (including work in progress) for all costs irrevocably incurred and for loss of profits, to terminate this Agreement by giving **Fourteen (14)** days' notice in writing to the **Client** of its intention so to do
- Or
- alternatively, to claim compensation from the **Client** in respect of the breach and in respect of any additional costs incurred as a result thereof and an extension of time to complete the Services where appropriate
- OR
- to renegotiate this **Agreement**.
- c) The **Client** is authorized to terminate only in the cases referred to in Articles 5).v) & 17) of these conditions, and in such case only after payment to the **Company** of all amounts owed to the **Company** at that time, whether or not payable.

15) Suspension

- a) In the event of a suspension of this Agreement for reasons of breach by the **Client**, force majeure or for the convenience of the **Client**, the **Company** shall be entitled to payment by the **Client** of the following costs:
- The full costs of laying off (and re-hiring if necessary) any employees and/or consultants employed or hired specifically for the purposes of this Agreement such full costs to include any costs which the **Company** has necessarily paid to an employment agent.
 - The costs irrevocably committed relating to the period of suspension by subcontractors, under a subcontract which relates to this Agreement.
 - Any other costs which the **Company** or its employees or agents have irrevocably committed in respect of the period of the suspension.
 - Loss of the **Company's** anticipated profit under this **Agreement** for the period of the suspension
- b) Without prejudice to its rights hereunder the **Company** shall be entitled, at its option but shall not be obliged, to give notice of termination of this **Agreement** if any period of suspension continues for a period of more than **Thirty (30)** days.



16) Termination

- a) In the event of termination of this **Agreement** for any reason whatsoever, the **Company** shall be entitled to payment by the **Client** for all irrevocably committed costs associated with the Services. Unless otherwise specified and agreed in writing, the term "irrevocably committed costs" shall include but not be limited to the following items:
- i) the cost incurred to the end of period of notice in developing any Services
 - ii) the full cost, including overhead, of employing and/or hiring any employees/contract staff specifically for the purposes of and for the period of the said **Agreement**.
 - iii) the full costs of terminating the employment of or laying off of any such employees,
 - iv) the costs of buying and/or hiring any materials, goods, plant, machinery or equipment specifically for the purposes of this **Agreement**,
 - v) the costs irrevocably committed by subcontractors specifically for the purposes of this **Agreement**, even if this commitment extends beyond the expiry of the period of notice
 - vi) recovery of the costs of all Services properly completed & delivered to the **Client**.
 - vii) recovery of the costs of Services completed but not yet delivered and work in progress
 - viii) recovery of any costs irrevocably committed by the **Company** even if this commitment extends beyond the expiry of the period of notice
 - ix) recovery of any monies due to the **Company**
 - x) any removal costs or setting up costs

17) Force Majeure

- a) The **Company** shall not except as otherwise provided in these **Terms and Conditions**, be responsible for any loss, damage, delay or failure in performance resulting from any of the circumstances defined in clauses b), c), d) & e) below or by the occurrence of a force majeure event as defined by standard case law.
- b) The **Company** shall be excused from the performance of any of its obligations under this **Agreement** if and in-so-far and for-so-long as such performance is delayed or prevented by the **Client's** acts or omissions (including, but not limited to failing to provide timely information, supplying incomplete or defective information, delaying the **Agreement** and/or Project start date, failing to provide material or facilities required by this **Agreement**), or by circumstances beyond its reasonable control including but not limited to delays on the part of Classification Societies or other bona-fida-bodies in granting or giving approval to any documentation or inspection or survey which requires approval, strikes, lock-outs or labour disputes of any kind (whether relating to its own employees or others), fire, flood, explosion, natural catastrophe, military operations, blockade, sabotage, revolution, riot, civil commotion, war or civil war, adverse weather conditions or prolonged power failure.
- c) The **Company** is entitled to invoke Force Majeure if the execution of the work is, in whole or in part, temporarily or not, prevented or hindered by circumstances reasonably to be considered beyond its will, including but not limited to, requirements of civil or military authorities, fire, accidents of any nature, damage to the work, failure of metal casting and/or forging work, unworkable weather conditions, delay in the supply of parts, goods or services by third parties, transportation difficulties, business or labor disturbances, illness of personnel and strikes. In the event of such occurrence the **Company** may invoke Force Majeure with respect to any work execution of which is prevented or hindered, irrespective of whether the occurrence is directly connected to that same work. The **Company** may also invoke Force Majeure if execution of the work is delayed due to priority given to other work if such priority is reasonably required.
- d) In case of Force Majeure on the part of the **Company** its obligations are suspended. If the **Company** invokes Force Majeure for a period longer than **One (1)** month, the **Company** and **Client**, without prejudice to the provision of Article 15), are both authorized to rescind the agreement in as far as not yet executed, by a written declaration to the other party, without being liable for any damage.
- e) In conducting any survey, the **Company** shall rely in good faith upon any information with which it is provided by any ships broker or yacht broker and /or any Classification Society or bona-fida third party body and/or upon the instructions and information received from any apparently authorized employees or agents of the **Client** and the **Company** shall not be liable in respect of any act or omission or failure to advise or comment upon any matter which falls outside the scope of the Services or for any recommendation based upon the information or instructions with which it has been provided directly or indirectly by the persons or organizations referred to above.



18) Insurance & Guarantee

- a) The **Company** maintains normal insurance policies for the kind of risks which it undertakes, appropriate to the size of the **Company**, including insurance required by law as well as Professional Indemnity Insurance.
- b) On delivery, all liability of the **Company** ends, except for the guarantee pursuant to this Article.
- c) The **Company** shall repair free of charge at its "own" (selected) location all defects not visible at delivery and due to faults in material, workmanship or design which become apparent within the guarantee period, provided that the defect is notified to the **Company** in writing within **Seven (7)** Calendar Days after its discovery.
- d) The obligation to repair is limited to repair of the defective part and shall not extend to consequential damages.
- e) All costs & expenses to be incurred by **Client** in taking the Vessel to and keeping the same at the **Company's** "own" (selected) location shall be for **Client's** account.
- f) If reasonable, the **Company** shall allow the **Client** to have the repair work executed by another Contractor IF the **Company** is unable execute the repair works either by its own employee's or directly appointed third party partner. If so, the **Company's** liability shall be limited to the amount of costs & expenses that the **Company** would have incurred in executing the repair work within the guarantee period at its "own" (selected) location.
- g) The guarantee period shall be for **Three (3)** months.
- h) All guarantee obligations lapse if **Client** fails in the performance of any obligation pursuant to this agreement.
- i) No guarantee applies to objects supplied or prescribed by **Client**. All painting & coating are likewise excluded from this guarantee.
- j) In regard to objects supplied by & work executed by third parties to, for & on behalf of the **Company**, the guarantee obligations of the **Company** shall never be greater or of longer duration than the guarantee obligations of the supplying party towards the **Company**. The **Company** shall be discharged with respect thereto when it transfers to **Client** its possible claims against the third party (parties).
- k) Work, including inspection, performed upon unjustified guarantee demands by the **Client**, shall be charged to the **Client**, as per our "Short Term" Hourly and/or Day Rates in accordance with article 8) & 9) of these **Terms & Conditions** shall apply.

19) Sub-contracting & Assignment

- a) The **Company** may sub-contract any of the Services provided under these conditions, to our registered partners as listed in **Annex 2** without prior information to or approval from the **Client**. All other companies are subject to the prior **Client's** information. In the event of such a sub-contract, the **Company** shall remain fully liable for the due performance of its obligations under these **Terms & Conditions**.
- b) Without written consent of the **Company** the **Client** is not entitled to carry out or order to carry out work on or to the **Vessel** or other goods on or adjacent to the **Company's** location for Execution of the Assigned Project, other than daily routine work of the **Vessel's** permanent crew.
- c) This **Agreement** may not be assigned in whole or in part by the **Client** without the specific written approval of a director of the **Company** which will not be unreasonably withheld.

20) Relationships with other clients

- a) The **Company** can provide services to other Clients, some of whom may be in competition with the **Client** or have interests which conflict with the **Client**. The **Company** will not be prevented or restricted by virtue of the relationship with **Client** under these **Terms & Conditions**, from providing services to other clients, but the **Company** will not use confidential information for the advantage of such clients. Similarly, the **Company** will not use to advantage of **Client** information received in confidence in connection with another engagement.



21) Personal Data

- a) In accordance with the provisions of the **General Data Protection Regulation** (EU) 2016/679 (**GDPR**) the personal data included in the files are protected by law. Anyone is entitled to access, correct and object to the data under the conditions provided by law.

22) Document retention

- a) The **Company** shall retain all data, correspondence, documents and records that have a bearing on the Services provided to the **Client** for a period of **Five (5)** years after completion of the Services. The **Client** will be given the right to have their own disclosed documentation returned by the **Company** at the **Client's** cost or destroyed upon completion of the Service.

23) Privacy of Contract

- a) This **Agreement** is intended to be a private contract between the parties hereto and it is not intended to confer any rights of enforcement on any third party (other than on a permitted assignee to whom it is actually assigned) even if any of the contract terms purport to confer a benefit on such a third party.

24) Alterations

- a) Any alteration made by the **Client** or an Employee of the **Company** that is not the Managing Director to these **Terms & Conditions** shall not be effective unless agreed in writing by authorized persons of both parties.

25) Severability

- a) If any part of these **Terms & Conditions** is found by any court or authority of competent jurisdiction to be illegal, invalid or unenforceable under the Governing Law as stated in article 26), then that provision shall, to the extent required, be severed and shall be ineffective, but shall not affect any other provision of these **Terms & Conditions** which shall remain in full force and effect.

26) Governing Law - Jurisdiction

- a) This **Agreement** shall be governed by and construed in accordance with German Law.
 - i) this will be under French Law when the contract has been in full signed with and appointed Solely & Directly to the French Entity **Maritime Technical Superintendency SASU**
- b) The Parties shall keep each other informed in relation to any difficulties resulting from the interpretation or performance of this **Agreement** and take all steps to resolve them. The Parties undertake to resolve amicably any disputes relating to the validity, interpretation or performance of this **Agreement**.
- c) In the absence of an amicable agreement, any dispute concerning the validity, interpretation or performance of this **Agreement** will be submitted to the Landgericht HANNOVER in Niedersachsen - Germany, as its exclusive jurisdiction over the **Company** registered headquarters.
 - i) For **Maritime Technical Superintendency SASU** this will be submitted to the Tribunal de Commerce de MARSEILLE in Bouches du Rhône - France, as it has exclusive jurisdiction over the company's registered French subsidiary. (However, this will apply only if the contract is in full directly with the French Subsidiary. if not the German Law & Court will be leading)

Nothing herein shall prevent the **Company** from enforcing in any country an award made by the above exclusive jurisdiction.

These Terms & Conditions for Services are valid as of the 1st of January 2021 unless an updated version is provided prior to and/or with the Request for Quotation send and/or Purchase Order received.

Willem de Haan
Managing Director