



General Conditions for Repair, Modification, Conversion and Drydocking of Vessels

1. INTRODUCTION AND DEFINITIONS

- 1.1 These General Conditions shall apply to all work and services performed and goods supplied by the Contractor (herein after called “Work”) unless otherwise specifically agreed in writing between the Contractor and the Principal.
- 1.2 The “Contractor” shall mean Damen Shipyards Sharjah (Fze).
- 1.3 The “Principal” shall include the owner, the master of the vessel as well as agent(s) authorized by the owner or representative(s) as referred to in clause-8.
- 1.4 The “Vessel” shall mean the vessel and any part of the vessel or any floating structure or part thereof or any other object coming within the scope of work.
- 1.5 “Delivery” shall mean the date of completion and acceptance of the work, or the vessel leaving the Contractor’s premises or the withdrawal of the Contractor’s workmen from the vessel, whichever may be the earliest.
- 1.6 Communications in writing included communications by e-mail or fax.

2. SCOPE AND PERFORMANCE OF WORK

- 2.1 The scope of work includes primarily such items, which have been specified in the Contractor’s tender with enclosures and the Principal’s order. An order is not binding upon the Contractor until the order has been confirmed by the Contractor in writing.
- 2.2 The Contractor undertakes, at the request of the Principal to carryout additional work, modifications and changes subject to the rights of the Contractor in particular to adjust the time of delivery and the price according to clauses 6 and 10. Due consideration shall further be given to other commitments of the Contractor when agreements are made for extra work. In the event of a reduction in the work specified in the Contractor’s tender and the Principal’s order as confirmed by the Contractor, a credit shall be given to the Principal equivalent to the cost saved by the Contractor thereby.
- 2.3 The Principal shall ensure that the vessel shall be available at the time, place and in the condition stipulated in the tender.
The Principal shall furthermore ensure that the vessel is in such a condition so that the work can commence immediately and can proceed continuously until the work is completed. The Principal shall also have the responsibility for obtaining and maintaining any approvals or certificates related to the vessel and the work to be performed thereon which may be required by law or by public authorities.
- 2.4 The work shall be performed in accordance with the practice and rules prevailing at the Contractor’s yard and within normal working hours. Work on overtime carried out at the request of the Principal is subject to the rules applicable at the yard with respect thereto. Extra cost due to such work on overtime shall be for the Principal’s account.
- 2.5 The Contractor shall have the right to use sub-contractors for the performance of the work.
- 2.6 Should any of the specified materials or equipment not be available at the time required for incorporation in the vessel, the Contractor shall have the right to use other suitable material or equipment in substitution thereof.
- 2.7 Steel weight shall be calculated from the maximum dimensions of each piece involved using a specific gravity of 8.

- 2.8 The Contractor shall have the right to postpone the work if the Principal should fail to fulfill any of his obligations under the contract with the Contractor, until the obligation is met. In such a case all consequences regarding time of delivery and costs caused to the Contractor shall be for the Principal's account.
- 2.9 If for the reasons beyond the control of the Contractor, the completion of the work becomes impossible, the Principal shall pay the Contractor for the work already performed.

3. DRYDOCKING

- 3.1 The Principal shall submit the docking plan of the Vessel to the Contractor, if drydocking of the Vessel is required. The Principal shall ensure that the docking plan submitted is correct, accurately scaled and legible. Drydocking shall take place only after the docking plan is received and accepted by the Contractor.
- 3.2 The maximum permissible draft for the Vessels entering the Contractor's drydocking facility is 5.0 meters. The Vessel's ballast distribution shall also be considered in relation to cradle arrangement. Vessels shall have a trim of not more than 1meter by the stern. Any trim in excess of 1meter shall be agreed between the Contractor and the Principal. All Vessels shall have zero lists.
- 3.3 Tow lines, wires or cables, if any, shall be properly secured on board the Vessel and shall not be trailing in the waters and under no circumstances may the draft of the vessel or anything attached to it (whether part of the vessel or not) exceed the above drafts.
- 3.4 Before docking, the Principal shall advise the Contractor of the docking drafts of the Vessel and submit full information regarding the loading condition of the vessel, ballast distribution and possible cargo.
- 3.5 The Principal shall be liable for any damage or delay that may occur to the Vessel, other vessels or the dock and its equipment, due to inaccurate docking plan, draft or stability calculations.
- 3.6 An agreed date for drydocking shall be subject to adjustment or change due to unexpected underwater damage or defects being found on other vessels lying in dock of which immediate and continuous repair is deemed necessary in the opinion of the Contractor. The Contractor is at all times entitled to relocate, to shift, dock or undock the Vessel.

4. PUBLIC REGULATIONS AND CLASSIFICATION SOCIETY'S RULES

- 4.1 The work shall be carried out in accordance with the regulations of the relevant domestic public authorities, the regulatory bodies as specified in the tender and the rules of the Classification Society applicable to the vessel, which have been published and are in force at the time of submitting the tender to the Principal.
- 4.2 The Contractor undertakes, at the request of the Principal and subject to clauses 2,6 and 10, to carryout such additional work, modifications and changes caused by new requirements of regulatory bodies and of the appropriate Classification Society, which were not published and in force at the time of submitting the tender to the Principal.

5. DRAWINGS AND TECHNICAL INFORMATION

- 5.1 At the request of the Contractor, the Principal shall supply to him without charge all drawings, models, descriptions of the Vessel and technical information which the Contractor may require as basis for preparing calculations, working-drawings, specifications and for prefabrication, docking and the like.
- 5.2 The Principal shall be fully responsible to ensure that the manufacturing, performance and/or supplying according to drawings, models or other instructions supplied by him, shall not infringe any trade mark, patent or similar rights of third parties. The Principal shall safeguard and hold the Contractor harmless for any claims of third parties against the Contractor in this respect.

6. PRICE

- 6.1 The tender price covers and is related only to the items which have been specified in the Contractor's tender with enclosures and the Principal's order, all as confirmed by the Contractor in writing.
- 6.2 The price for additional work, modifications and changes, including supplies not covered by the tender price, shall be determined, unless otherwise agreed, on a time and material basis according to the Contractor's standard debiting rules applicable at the time when the work is performed. This shall also apply to any and all work and supplies where a fixed tender price has not been quoted by the Contractor.
- 6.3 All prices are ex-works and are strictly net i.e. excluding any duties, storage costs, harbour and pilotage dues and cost of towage.

7. PAYMENT

- 7.1 "Unless otherwise agreed the price for the Work is due and payable at date of Delivery without prejudice to the Contractor's rights under paragraph 7.3. Payment must be made in cash, banker's draft, telegraphic transfer or in other forms acceptable to the Contractor by or on behalf of the Principal.
- 7.2 The Contractor may in its absolute discretion by express agreement in writing with the Principal accept payment for work by installments. Notwithstanding any provisions to the contrary contained herein or in any such express agreement, if any such installment shall remain unpaid after the due date of payment thereof all outstanding installments shall become immediately due and payable.
- 7.3 The Contractor reserves the right at his discretion to charge to the Principal part or interim invoices in order to cover costs incurred or to be incurred in connection with the contract.
- 7.4 Interest at one and half percent per month shall become due and payable by the Principal to the Contractor upon the amount of any unpaid invoice as from the due date of payment.
- 7.5 Payment of any invoice hereunder must be made in the currency in which the tender price was quoted without any deduction by the Principal whether in respect of discount, set off, counterclaim or otherwise.
- 7.6 Any objection by the Principal against the amount of any invoice charged by the Contractor hereunder must be made in writing and be sent by the Principal so as to be received by the Contractor within 30 days from the date of dispatch of such invoice by the Contractor, and failing Principal agree that no dispute thereof shall be raised or made thereafter in respect of such invoice. If the Principal has lodged objections in writing against the amount charged by the Contractor within the aforementioned period, the Principal must within 14 days thereafter discuss such objections with the Contractor at the latter's office, failing which the amount so charged shall be deemed to be accepted by the Principal.
- 7.7 The Contractor shall be entitled to recover from the Principal all costs of the recovery of any outstanding invoice charges including any interest thereon and also (if Contractor retains any object or causes it to be attached to enforce such recovery) the cost of maintenance, safe-keeping, insurance, harbour dues, wharfage or storage charges, as the case may be. However, in no event shall the Contractor be obliged to maintain or insure any object he retains thereunder.

8. PRINCIPAL'S REPRESENTATIVE(S)

- 8.1 The Principal shall notify to the Contractor before the work is commenced the name(s) of his representative(s) to supervise the work.
The representative(s) appointed shall be fully authorized, promptly and with binding effect on the Principal, inter alia:
 - a: to make decisions required in respect of the work to be done and the services to be rendered.
 - b: to approve drawings and documents

- c: to agree to extra work or to cancellation of items of work
- d: to accept the work and to sign the protocol of acceptance, and
- e: to approve and sign the Contractor's invoices

8.2 Should the Principal fail to notify to the Contractor the name(s) of his representative(s), the master of the vessel shall be deemed to have the authority to represent him in the matters described in this clause.

9. TESTS, TRIALS AND ACCEPTANCE OF WORK

- 9.1 The Contractor shall carry out such tests and trials as are necessary for the purpose of determining whether the delivery to the Principal complies with the contract between the Contractor and Principal.
- 9.2 The operation of the vessel, its machinery and equipment in connection with the performance of any tests and trials shall be under the sole liability and risk of the Principal subject to clause 12.
- 9.3 Defects and defaults in the performance of the contracted work under the terms of the contract shall be listed in a test protocol to be made by the Contractor and the Principal. The Contractor shall at his cost rectify any such defects and defaults before delivery.
- 9.4 On the satisfactory rectification of such defects and defaults the Principal shall be bound to accept the work, take delivery of the vessel and sign at the request of the Contractor a protocol of acceptance.
- 9.5 Any and all costs for tests and trials including the use of fuel, oils and other consumables shall be for the Principal's account.

10. LIABILITY FOR LATE DELIVERY

- 10.1 If additional works, modifications and changes to the work for which the Contractor has tendered are requested by the Principal then the time specified in the tender or otherwise shall be extended by the number of days necessary for the Contractor to prepare for and complete such additional work, modifications or changes.
- 10.2 The Contractor shall not be liable if the completion of the work is delayed directly or indirectly by the Principal, his representative(s), agent(s), employees or servants, or directly or indirectly by any Government requisition, control, intervention, requirement or interference, or by any circumstances arising out of war or preparation for war or the consequences thereof, warlike operations, mobilization, riots, civil commotion, blockades, embargoes, vandalism, sabotage, malicious damage, epidemics or abnormal sickness, by shortage of labour, reduction in working hours, strikes, combinations or lock outs, labour disputes, irregularity of or abstention from work, cessation or restriction of work or output by any of the Contractor's workmen or any of the workmen employed by subcontractors, suppliers or transport authorities whether partial or general affecting the quality, quantity or delivery of the material or services for the repair of the Vessel, by short deliveries, defective quality or defects in materials or equipment which would not have been detected by the Contractor using reasonable care by defective forgings, castings, mechanical processing of parts, whether supplied by the Contractor or his subcontractors or suppliers, by any mechanical breakdown of machinery or plant, earthquakes, landslides, floods, weather conditions, restrictions as to import or export, delay in approval of plans or any other matters where such approval is required to be given by the Principal or others, delays caused by the Classification Society or other bodies whose documents are required, or by any other cause of any kind whatsoever not within the absolute control of the Contractor whether of a kind similar to those specified in the foregoing or of a different kind or by reason of any the aforesaid causes affecting a prior contract into which the Contractor has entered.
- 10.3 All the aforesaid applies whether or not the above-mentioned circumstances causing delay occur before or after the work should have been completed or delivery should have been made.

11. GUARANTEE

- 11.1 The Contractor shall, at his own yard, replace any defective material supplied and repair any deficiency in the work performed by the Contractor in accordance with the terms and conditions of this clause.
- 11.2 The guarantee shall apply only to the work performed and materials supplied by the Contractor and/or by his sub-contractors and suppliers (hereinafter referred to in this clause as “the Contractor”) and any liability with respect to the design or suitability of such work or material is hereby excluded.
- 11.3 Notice of complaint in respect of defects in materials supplied by the Contractor or in the workmanship of the Contractor shall be given by the Principal immediately upon discovery of such defects and prior to the delivery.
- 11.4 Upon delivery, the Contractor shall be discharged from all liability for any defects except for those defects in materials and workmanship existing at the time of such delivery which the Principal could not reasonably have discovered before or at the time of delivery, provided always that notice of complaint in respect of such latent defects is given in writing to the Contractor within three months from the date of delivery.
- 11.5 The Contractor’s guarantee liability shall be limited to the above-mentioned obligations as to extent and duration. The Contractor shall have no liability whatsoever for any indirect or consequential loss, damage or expense in any way deriving from or connected with the above defects or for defects due to normal wear and tear or overloading or due to corrosion of the materials or due to accidents, fire, improper loading or stowage of or on the vessel, mismanagement or negligence in the use or maintenance of the vessel.
- 11.6 In cases when the Contractor is liable for defects as provided in this clause the Principal shall be entitled to have the repair work or the replacements effected at any other yard or workshop, if it would mean considerable inconvenience for the Principal to bring the vessel to the Contractor’s yard. The Contractor’s liability shall in such cases be limited to the payment of the actual cost of the repair works and the replacements but shall in no circumstances exceed the costs of the repair work and the replacements had they been performed by the Contractor.
- 11.7 In any case the vessel shall be taken at the Principal’s cost and responsibility to the place elected ready in all respects for the guarantee work to be commenced.
- 11.8 When repair works and replacements under this clause have been carried out, no further liability shall rest with the Contractor for the defects and the deficiencies.

12. LIMITATION OF CONTRACTOR’S LIABILITY

- 12.1 The Principal’s property as defined in paragraph 12.3 shall remain at the entire risk, liability and responsibility of the Principal at all times and the Contractor shall have no liability to the Principal for any loss or damage of whatsoever nature and howsoever arising or caused, save as otherwise provided herein.
- 12.2 The Contractor (which expression shall for the purpose of this clause be deemed to include the Contractor’s employees and servants acting within the scope of their employment, agents and subcontractors but not the employees, servants, agents or subcontractors employed or engaged by the Principal) shall only be liable to the Principal when proven that loss or damage has been directly caused by the negligence of the Contractor and such liability shall itself be subject to the limitations and exceptions hereunder.
- 12.3 The total liability of the Contractor to the Principal (including the liability under clause 11) in respect of loss or damage to the Principal’s property shall be limited in respect of any one event to the sum of US\$2,000,000 and a series of incidents which result in loss or damage to the Principal’s property arising out of the same cause, origin or event shall constitute one event. For the purpose of this clause the Principal’s property, in addition to the Vessel shall be deemed to include also cargo, machinery and equipment removed from/or delivered for the Vessel and/or

parts removed from the Vessel for the purpose of being worked upon or prefabricated for installation on or in the Vessel.

- 12.4 In no circumstances whatsoever shall the liability of the Contractor include any sum in respect of any indirect or consequential loss or damage (whether or not foreseeable) including, but not limited to demurrage, delay, loss of use of the vessel or loss of profit.
- 12.5 Any trials or movements of the vessel shall be at the Principal's sole risk in every respect and the arising out of such trials or movements. The Principal shall keep the Contractor and any sub-contractor fully indemnified in respect of any such loss or damage whatsoever claimed by third parties against the Contractor or such sub-contractor howsoever arising.
- 12.6 All liability of every kind of the Contractor shall save as provided in clause 11, cease on the delivery to the Principal.
- 12.7 The Principal acknowledges that any manager or operator for the time being and from time to time of the Contractor shall not be liable to the Principal in any way whatsoever in respect of any act or omission by him or the Contractor in connection with the work.

13. INSURANCE

- 13.1 The Contractor undertakes to have a valid ship repairers liability insurance to cover such loss and damage for which the Contractor may be held liable according to clause 12. The Contractor is not liable as against the Principal to take out any other insurances.
- 13.2 The Principal shall effect and maintain the Hull and Machinery insurance and Protection and Indemnity Insurance according to the standards of the institute clauses of London underwriters providing full coverage for injury, loss or damage and shall, at the request of the Contractor, make immediately available copies of insurance policies to the Contractor giving evidence of the Principal's insurance coverage under this clause.

14. OLD MATERIALS, PARTS AND EQUIPMENT

- 14.1 All old materials except heavy parts of machinery, propellers and tailshafts shall become the property of the Contractor without compensation to the Principal.
- 14.2 Upon delivery the Principal shall at his expense remove from the Contractor's premises any parts and equipment belonging to him. If such parts and equipment have not been removed within 30 days from such delivery, the Principal shall be deemed to have waived his rights to such parts and equipment, which shall thereupon become the property of the Contractor.

15. PRINCIPAL'S WORK

- 15.1 The Principal shall not be allowed to use any sub-contractor(s) to carryout any work on the Vessel while the Vessel is within the Contractor's premises, unless with prior written permission of the Contractor, in which case the Contractor's safety rules must be adhered to.
- 15.2 The Vessel's crew shall be allowed to carryout normal maintenance routine work, if not interfering with Contractor's programme. Contractor's safety rules must be adhered to and list of works submitted for Contractor's approval.
- 15.3 Under no circumstances are the Vessel's crew or Principal's sub-contractor(s) allowed to carryout any hot work, while the vessel is within the Contractor's premises.
- 15.4 Whenever the assistance of Maker's Representatives, Experts or Classification Society Surveyors is required, same to be arranged by the Principal and all expenses incurred shall be for the account of the Principal.
- 15.5 The Principal shall safeguard and hold the Contractor entirely harmless with regard to any work carried out by the employees, servants, crew, agents or sub-contractors employed or engaged by the Principal.

16. RULES AND REGULATIONS

16.1 The Rules and Regulations applicable at the Contractor's yard shall in all respect also apply to the Vessel, the crew of the vessel, the Principal's sub-contractor(s) and the Principal's representative(s) during the vessel's stay at the Contractor's premises.

16.2 The Principal shall be responsible for the strict observance and obedience of these Rules and Regulations by the crew, Principal's sub-contractor(s) and his representative(s).

17. ASSIGNMENT

17.1 No party shall have the right to assign the contract governed by these General Conditions or any right(s) or obligation(s) thereunder to a third party without the written consent of the other party.

18. APPLICABLE LAW AND DISPUTES

18.1 The contract governed by these General Conditions is to be construed and take effect as a contract made in the United Arab Emirates in accordance with the laws of and applicable in the United Arab Emirates.

18.2 In the event of any dispute between the Principal and Contractor, both parties agree to submit to the exclusive jurisdiction of the Civil Courts of the United Arab Emirates.

18.3 No proceedings arising out of the contract governed by these General Conditions or in any way connected therewith or with the rights, duties or liabilities of either party may be commenced by become aware of the facts constituting the cause of action.