

## General Conditions for ship repairs and conversions

of June 1967, as subsequently amended (most recently in September 2019)

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- 1(1)**  
Unless otherwise agreed in writing, these conditions shall apply in their entirety and constitute an integral part of all agreements which the shipyard concludes with the orderer ("the Customer") for work related to or supplies relating to a vessel comprised by the agreement or parts for a vessel ("the Vessel") regardless of type or use.
- 1(2)**  
These conditions shall not apply to newbuilding contracts.
- 1(3)**  
Thus, these conditions shall apply to any type of work relating to repairs, maintenance, installation and conversion, inspections, overhaul and work performed under a guarantee clause - also in respect of newbuilding constructed by the shipyard - together with the shipyard's pertinent supplies and services, including docking, hauling and laying up.
- 1(4)**  
Deviation from individual provisions shall only apply when the deviation is clearly specified.
- 1(5)**  
Apart from the owner of the Vessel, the disponent owner or the master of the Vessel, the Customer may be any other business or individual appointed by special authorization by any one of these.
- 1(6)**  
During the execution of the work, the Customer shall be represented at the shipyard by at least one representative. The representative shall have the right to act on behalf of the Customer in all questions relating to the contract, including agreements on alterations or additional work and approval of invoices carried out by the shipyard.
- 1(6)**  
During the execution of the work, the Customer shall be represented at the shipyard by at least one representative. The representative shall have the right to act on behalf of the Customer in all questions relating to the contract, including agreements on alterations or additional work and approval of invoices carried out by the shipyard.
- 2. Scope and Execution of the work**
- 2(1)**  
No order shall be binding for the shipyard, unless confirmed in writing by both parties.
- 2(2)**  
The work only includes what has been specified in writing. This shall also apply to agreements on alterations or additional work.
- 2(3)**  
The work has to satisfy laws and regulations passed or adopted by public authorities at the time the contract was entered. This shall also apply to requirements adopted by the classification society, if any such has been appointed in the contract. If the laws and regulations are amended on a later stage, the shipyard shall execute the required alterations subject to adjustments of the contract price and the time of delivery, as specified in Clause 4(4) and Clause 7(2).
- 2(4)**  
The Customer shall notify the pertinent authorities as required to ensure that the work is carried out in accordance with the applicable rules and regulations. The Customer shall defray all expenses to the classification societies and authorities. The shipyard shall provide reasonable assistance to the extent necessary.
- 2(5)**  
The work shall be carried out in accordance with the shipyard's usual practice. The shipyard is obliged to undertake the work professionally and in respect of qualified materials. The shipyard shall comply with any reasonable requests made by the Customer regarding the materials and the execution of the work to the extent to which such requests fall within the scope of the agreed work.
- 2(6)**  
Drawings, illustrations or photos serve for illustration purposes only and shall not be binding in detail with respect to execution, unless this has been specified in the agreement. Moreover, data relating to measurements, weights and volumes shall be deemed to be approximate.
- 2(7)**  
At the shipyard's option, sub-contractors may be employed for the execution of the work without the Customer's approval.
- 2(8)**  
The shipyard remains responsible for its own sub-contractors.
- 2(9)**  
If the materials specified cannot be procured in due time, the shipyard shall be entitled to use other qualified materials

without a separate approval of the Customer.

#### **2(10)**

Apart from the crew, the Customer shall not be entitled to employ any workers other than those of the shipyard unless the latter has granted the shipyard special permission. However, the shipyard shall in any event be given a written account of the nature, the scope and a time indication of the work which the Customer wishes the Vessel's crew to execute. However, the crew is not allowed to carry out any work requiring docking or hauling up on a slip. The Customer is responsible for the work carried out by the Vessel's crew and it may not disturb or delay the shipyard's work.

#### **2(11)**

The Customer shall ensure that supplies ordered by the Customer for delivery within the area of the shipyard comply with applicable rules and regulations and furthermore any special requirements and regulations applicable to the shipyard.

### **3. Safety & Approvals**

#### **3(1)**

The shipyard shall be responsible for co-ordinating protective and precautionary measures and rules of conduct as well as regulations within the area of the shipyard and on board the Vessel as long as it is placed at the shipyard, including the applicable requirements of the International Ship and Port Facility Security Code ("ISPS Code"). Should the shipyard perform work on the Vessel outside the area of the shipyard, responsibility for the above-mentioned co-ordination shall rest with the Customer.

#### **3(2)**

The Customer's personnel and business invitees shall comply with the public and local protective and precautionary measures and rules of conduct as well as their regulations and observe the instructions issued by the shipyard, including the

existing requirements of the ISPS Code. The Customer shall instruct his personnel and business invitees of the above-mentioned regulations and instructions.

#### **3(3)**

Bunkering and pumping of oil or water containing oil is subject to the shipyard's permission and shall be performed in keeping with the shipyard's instructions in this respect. Pumping shall be understood as pumping to and from the Vessel, as well as pumping between the Vessel's tanks or any other pumping operation aboard the Vessel.

#### **3(4)**

All bunkering and pumping shall be performed at the responsibility of the Customer. Unless other liability follows from legal provisions or rules, in the event damage has been caused by the Customer or persons under his responsibility, the Customer shall, irrespective of fault, indemnify the shipyard for any damage and costs in connection with oil and chemical leakages from the Vessel.

#### **3(5)**

Cleaning the Vessel's tanks using chemicals, emulsifying agents or in any other way within the area of the shipyard shall be subject to the shipyard's approval.

#### **3(6)**

Work involving paints, including sand blasting and any other type of surface treatment or treatment using other materials, which are subject to special public environmental requirements may, within the area of the shipyard, only be performed by the shipyard or its sub-contractors.

### **4. Delivery and Delivery Time**

#### **4(1)**

The Vessel shall be handed over moored and be fetched by the Customer, without any charge for the shipyard, at the shipyard's quay, in the dock of the shipyard or at a quay used by the shipyard as instructed by the shipyard.

#### **4(2)**

If a fixed period of time has been stipulated for delivery, this period shall not commence until the day on which the parties have agreed upon the scope and execution of the work and if applicable not until a stipulated payment in advance (or guarantee) has been made or issued.

#### **4(3)**

The Customer shall ensure that the Vessel is available to the shipyard at the time, place and in the condition agreed upon between the parties, and such that the work can be commenced immediately upon agreed delivery from the Customer and can proceed uninterrupted until completion. The period stipulated for delivery shall not begin to run until the Customer has discharged the above-mentioned obligations, and should delays of the above-mentioned nature occur during the execution of the work, the shipyard shall be entitled to suspend the work until such obligations have been discharged. In that event, the period stipulated for delivery shall be extended by the same number of days as the delay.

#### **4(4)**

The work shall be carried out within the shipyard's regular working hours, without working overtime.

#### **4(5)**

Should the parties agree on any alterations or additional work, the shipyard shall execute these alterations or additional work within the contract period to the extent possible. The parties may agree to extend or postpone the date stipulated for delivery by the period required for the preparation and execution of these works.

#### **4(6)**

The agreed time of delivery shall be subject to the usual force majeure clause. Force majeure shall be deemed to exist if the delivery, after the conclusion of the contract, is prevented or delayed owing to circumstances or events which the shipyard could not reasonably be expected to anticipate by the conclusion of

the contract, including - but not limited to - such unforeseeable events in or outside Denmark as war or warlike events, vandalism, civil commotion, strike, lockout, compulsory shortening of working hours, prohibition of import or export, and other public injunction or prohibition, which are beyond the shipyard's control, shortage of labour at the shipyard, natural disasters, unusual and extraordinary weather conditions, including hindrances caused by ice, fire and other accidental causes, which the shipyard could not remedy by any reasonable means. This shall also apply if the delivery is prevented or delayed owing to circumstances which the sub-contractor is expected to anticipate, if the reason for holdup should be deemed to be force majeure event under this provision, if the delay affects the shipyard or if the delay is caused by results of circumstances beyond the shipyard's control and within the control of the sub-contractor including bankruptcy, reconstruction and other financial difficulties.

**4(7)**  
In case of force majeure, the shipyard shall be entitled to extension of the delivery time by the same number of days as were lost owing to the event in question.

**4(8)**  
The right to claim extension of the period stipulated for delivery commences even if the event causing the delay in delivery does not occur until the stipulated period has been exceeded. Such extension, however, does not exclude liability for such delay in delivery, as may have taken place before the occurrence of the subsequent event.

**4(9)**  
The shipyard shall not be responsible for delay which is directly or indirectly caused by the Customer or any such person or persons which the Customer has the responsibility of, including sub-contractors of the Customer assisting in the execution of the work, cf. Clause 4(3), regarding the shipyard's right of stoppage in transit and the shipyard's entitlement to extend the

time of delivery by the same number of days as the delay.

**4(10)**  
If a fixed date of delivery has been agreed upon, preceding provisions shall apply *mutatis mutandis*.

**4(11)**  
Where circumstances occur which, in the shipyard's opinion, will cause a delay in delivery, the shipyard shall notify the Customer hereof, stating the cause of the delay and whether, in the shipyard's opinion, the delay is attributable to force majeure cf. Clause 4(5). As far as practicable, the shipyard shall also state the probable duration of the delay.

**4(12)**  
If a contract stipulates a specific time of delivery or a fixed date of delivery and no agreement has been made as to the consequences of delay, the shipyard's liability for such consequences shall be limited to the payment of liquidated damages to be fixed with due regard being paid to the duration of the delay and the amount of the contract price, however in no event more than 5 % of the contract price.

**4(13)**  
The shipyard shall be entitled to claim compensation for loss due to delay ascribed to the Customer or his personnel including the conditions specified in Clause 4(3). This includes but is not limited to loss of profit and unnecessary costs due to the shipyard being prevented from handling other orders during the duration of the delay.

## 5. Docking

**5(1)**  
The shipyard shall always be entitled to give priority of docking to Vessels in distress. These provisions shall also apply to dockings, which the shipyard could not reasonably foresee by the conclusion of the contract or which are due to subsequent agreements. Such docking is considered an obstacle arising from the force majeure

and entails a corresponding extension of the delivery time, cf. Clause 4(7).

**5(2)**  
Clause 5(1) shall also apply for vessels to be hauled up on a slip.

## 6. Materials

**6(1)**  
Parts and equipment of the Vessel, which are replaced with new material – except for heavy machinery parts, propellers, propeller shafts, etc. – as well as surplus materials – shall become the property of the shipyard free of charge.

**6(2)**  
The title over materials for the Vessel, including the risk of these materials, which are purchased by the shipyard or its sub-contractors, shall be passed to the Customer when the materials are delivered at the shipyard.

**6(3)**  
Materials and equipment that are the property of the Customer or his sub-contractors shall be removed from the area of the shipyard at the same time as the Vessel is handed over to the Customer at the initiative and at the expense of the Customer. Should these objects not be removed 30 days at the latest after the delivery of the Vessel, the Customer shall be deemed to have renounced his rights to the objects, which shall become the property of the shipyard free of charge.

**6(4)**  
Regardless of the above provisions, the shipyard shall be entitled to hold right of retention in the property of materials owned by the Customer in accordance with Clause 9.

## 7. Price

**7(1)**  
If a fixed price for the work has not been agreed, invoicing shall be made based on the shipyard's usual rules for work carried out on a current account basis.

#### **7(2)**

If a price has been agreed upon for a specific work, then the work not included in the specification shall be charged in accordance with the shipyard's usual rules for work carried out on a current account basis. Should the specific work be reduced as a consequence of agreed alterations, the Customer shall be credited with a prorated amount of the contract price.

#### **7(3)**

The shipyard's expenses rendered by sub-contractors shall be imposed in accordance with the shipyard's standard practices, unless such expenses are included in the contract price.

### **8. Payment**

#### **8(1)**

During the execution of the work, the shipyard shall be entitled to claim payment on account of 75 % of the estimated value of the work performed up to the time in question. The remainder is payable when the Vessel is handed over to the Customer.

#### **8(2)**

The due date for payment of the work carried out according to a quotation accepted by the Customer shall be the date on which the Vessel is handed over to the Customer. The due date for payment of the work carried out on a current account basis shall be 14 calendar days following the date of the invoice.

#### **8(3)**

If payment is not made on the due date, interest is chargeable as from that date and until payment is made at a rate equal to the interest on arrears according to the Danish Interest Act.

#### **8(4)**

The Customer shall indemnify the shipyard of any costs of delays caused by the Customer, his personnel or his sub-contractors.

#### **8(5)**

If the Customer fails to settle accounts within 14 calendar days after a claim in respect of an overdue claim has been made by the shipyard, the shipyard may terminate the agreement and claim reimbursement according to the contract, these general conditions and general rules of Danish law.

### **9. Lien**

#### **9(1)**

The shipyard shall be entitled to retain the Vessel as well as materials and equipment used for this purpose, until payment has been made for the entire contract sum, including alterations- and additional work as well as for all other claims the shipyard may have according to the contract, these general conditions and general rules of Danish law. This right of retention shall apply irrespectively of a claim made in accordance with Clause 8(5) or whether the shipyard has reserved its right to remedies in accordance with Clause 14.

#### **9(2)**

In the event of a dispute as to the amount payable, the Customer shall be entitled to demand an adequate bank guarantee or other security for the amount in dispute against payment to the shipyard of the amount claimed. In that event, the shipyard shall deliver the Vessel accordingly.

#### **9(3)**

If the shipyard refuses to provide a guarantee for the disputed part of the invoice, the Customer shall be entitled to claim release of the Vessel against payment of the amount on which the parties agree, and provide an adequate bank guarantee or other security for the payment of the disputed part of the invoice. The guarantee provided by the Customer shall be submitted to the shipyard for approval.

#### **9(4)**

When the guarantee has been provided, the Customer shall initiate arbitration

within three months of the date when the guarantee has been provided. If the Customer fails to do so, the amount of the guarantee shall be released for the benefit of the shipyard; if the guarantee has been provided by the shipyard, he may claim that the Customer reimburses the expenses related thereto. If the Customer initiates arbitration, the arbitral tribunal shall decide on the allocation of costs between the parties.

### **10. Drawings**

#### **10(1)**

Drawings, designs, illustrations, patterns, technical details, calculations, test results and other documents, information and data including weights and volumes, information regarding prices, etc. which have been manufactured or procured by the shipyard shall be the property of the shipyard. The Customer may not use this material to the prejudice of the shipyard's interests. This shall also apply to drawings, etc. supplied under the contract.

#### **10(2)**

The shipyard and the Customer, and any person who they are responsible for, shall not make drawings etc., as specified in Clause 10(1), available to any third party without the other party's consent.

#### **10(3)**

The Customer shall ensure that the manufacturing and/or delivery of drawings etc., as specified in Clause 10(1), do not violate any trademark, patent or other rights of any third party.

#### **10(4)**

Nonetheless, should a claim be made against the shipyard in this regard, cf. Clause 10(3), the Customer shall indemnify the shipyard for such claims including any legal costs.

### **11. Testing**

#### **11(1)**

The shipyard shall be entitled to undertake such testing as he deems necessary

to determine whether the order is contractual. The shipyard is entitled to make use of the Vessel's fuel, etc. free of charge for testing purposes. The shipyard shall give the Customer reasonable notice of the nature and time of such testing, and - if the shipyard so requests - the Customer shall be represented when such testing is made.

**11(2)**

During sea trials, the Customer alone shall bear the risk of and responsibility for the Vessel, her machinery, equipment and any damage caused by the Vessel. Moreover, the Customer shall bear the risk of repair work, except damage on this, which is caused by fault or negligence on the part of the shipyard.

**11(3)**

During sea trials, the Customer shall man the Vessel in accordance with rules and regulations, free of charge for the shipyard. However, the shipyard shall be entitled to have its own personnel operate the machinery of the Vessel.

**12. Delivery**

**12(1)**

When the shipyard finds that the order has been executed contractually, the Customer shall be notified accordingly, and the shipyard may then demand a scheduled time for an inspection of the repair work by both parties (the hand-over meeting). The shipyard shall give the Customer a timely notice, and the Customer is obliged to attend the meeting.

**12(2)**

At the hand-over meeting, potential defects of the work shall be stated in a minute book to be signed by both parties, and delivery shall not take place until the defects stated in the minute book have been remedied. However, the parties shall be entitled to agree to have some of the remedying work carried out after the delivery of the Vessel.

**12(3)**

When the defects referred to in Clause 12(2) have been adequately remedied, the Customer is obliged to accept the repair work followed by hand-over of the Vessel. At the request of the shipyard, the Customer shall sign a final protocol of delivery and acceptance in this respect. The provisions in Clause 12(1) shall apply mutatis mutandis to this meeting.

**12(4)**

After delivery-of the Vessel, the Vessel shall be fetched by the Customer at the shipyard's quay, in dock, or at a quay used by the shipyard without expenses to the shipyard.

**13. Remedy and notice of default**

**13(1)**

Defects exist in the event that the work is not executed in accordance with the contract or in a professional manner.

**13(2)**

The time of delivery is crucial to determine whether defects in the work exist, regardless of whether or not they are visible at the time of delivery.

**Defects ascertained at the time of delivery:**

**13(3)**

The shipyard is obliged and entitled to remedy any defects in the repair work, which are ascertained at delivery.

**13(4)**

In consultation with the Customer, the shipyard shall in writing fix a deadline to remedy the demonstrated defects. The length of the period shall be determined in consideration of the nature and dimension of the defect and the circumstances in general. The shipyard shall notify the Customer when the defects have been remedied.

**13(5)**

If the Customer after the expiry of the deadline – or after having received a no-

tice of when the defects have been remedied – considers that the defects to have not been remedied, the Customer shall give the shipyard notice in writing within three working days.

**Defects ascertained after the time of delivery:**

**13(6)**

The shipyard is, within six months after delivery, obliged and entitled to remedy hidden defects ascertained and reported within six months after delivery, unless the shipyard has undertaken to guarantee the work in an extended time period.

**13(7)**

The Customer shall only be entitled to invoke such defects, if the shipyard has been given a notice hereof within a reasonable time after the shortages have been or should have been ascertained.

**13(8)**

Clause 13(4) and Clause 13(5) are applicable to defects ascertained after the delivery.

**13(9)**

Subsequently, the Customer shall be precluded from making any claims in regards to errors and defects, without the Customer having duly advertised this within the deadline in accordance with Clause 13(6) or otherwise in accordance with Clause 13(7).

**13(10)**

All complaints regarding errors and defects shall be made in writing and be accompanied by specifications.

**Other remedy provisions:**

**13(11)**

The remedy shall be free of charge for the Customer.

**13(12)**

In consultation with the shipyard, the Customer shall be entitled to have the remedial work carried out at another

shipyard. If so, the shipyard's liability shall be limited to the cost of the remedial work as if the work had been executed at its own yard.

#### **13(13)**

The same remedying obligation as for the shipyard's own services shall apply to individual parts in the repair work or materials for the repair work not manufactured by the shipyard.

#### **13(14)**

In the event that the shipyard makes replacement of or performs repairs to parts of the order, a new remedying period shall commence for this part. However, the obligation to repair shall not apply to any part of (or the entire) the repair work in excess of 12 months, as from the commencement of the original remedying period.

#### **13(15)**

Materials replaced in the course of repair shall become the shipyard's property free of charge to the Customer.

### **14. Invoice related complaints**

#### **14(1)**

If the Vessel is not delivered to the shipyard at the agreed delivery time, the shipyard shall be entitled to terminate the contract. The shipyard is entitled to indemnification for any reasonable costs and expenses defrayed on the execution of the contract until its time of termination.

#### **14(2)**

If the Customer without valid reason fails to settle accounts according to the contract, the shipyard is entitled to terminate the contract provided that the shipyard has served a written notice two-day in advance, and that the Customer has not made payment within that period. The shipyard reserves the right to remedies for breach of contract, subject to the Customer's anticipated violation.

#### **14(3)**

The shipyard shall be entitled to termina-

te the contract if the Customer is deemed to be insolvent. The Customer shall be considered to be insolvent for instance when the Customer does not comply with his payment obligations as these fell due.

#### **14(4)**

The shipyard shall be entitled to terminate the contract, in the event of material damage to the Vessel or damage to the property of the shipyard during the work ordered by the Customer. Any damage leading to delay of the shipyard's work shall be deemed material.

#### **14(5)**

Additional to the reasons specified in Clause 14(1)-(4), the shipyard shall be entitled to terminate the contract if the Customer is in material breach of the contract, according to the general rules of Danish law.

### **15. The Shipyard's Liability**

#### **15(1)**

The shipyard shall be liable for any damage occurring to the Vessel, to the Vessel's materials and equipment or to other objects owned by or at the disposal of the Customer, which may occur during the Vessel's stay at the shipyard, if the damage can be imputed as negligently or intentionally caused by the shipyard or its personnel. Hence, the shipyard shall not be strictly liable.

#### **15(2)**

In no circumstances, the shipyard shall be liable to reimburse operating loss, loss of time, loss of profit or other indirect loss (consequential loss or damage).

#### **15(3)**

The liability which the shipyard may incur shall be limited to DKK 15,000,000 (in words: fifteen million Danish kroner), in respect of each individual instance of damage. A series of accidents arising out of the same fault or act of negligence shall for this purpose constitute one single instance of damage. The shipyard's total liability shall in any case be limited to the contract sum specified in the contract.

#### **15(4)**

To the extent the shipyard might be held liable in connection with the Customer's use of the repair work and/or of the Vessel repaired, the Customer shall be obliged to indemnify the shipyard for any liability, which the shipyard might incur and which exceeds the limit agreed upon. The Customer is obliged to enter into the same court or arbitration proceeding, which deal with the compensation claim process against the shipyard concerning the repair work in question.

### **16. Insurance**

#### **16(1)**

The Customer shall keep the Vessel (the subject matter of the contract) adequately insured, hull insurance as well as third-party liability insurance, during her stay at the shipyard and in connection with sea trials cf. Clause 11. The shipyard shall not take out any insurance covering the Vessel, her crew, cargo or equipment on board or any other objects whatsoever owned by, or at the disposal of, the Customer, except at the Customer's express request in writing, and in such event at the expense of the Customer.

#### **16(2)**

Under special circumstances, however, the shipyard reserves the right to take out, for the Customer's account and subject to agreement with the Customer, an additional insurance covering the shipyard's liability, if any, for damage to cargo on board the Vessel.

### **17. Applicable Law and Conflict Resolution**

#### **17(1)**

These General Conditions and any Contract entered into between the Parties shall be governed by and construed in accordance with Danish law, excluding the Convention on Contracts for the International Sale of Goods (CISG) and its provisions on conflicts of law.

**17(2)**

Any dispute arising out of or in connection with these General Conditions and/or any Contract entered into between the Parties, including any disputes regarding the existence, breach, termination or validity thereof, shall be finally settled by arbitration under the rules of arbitration procedure adopted by the Nordic Offshore and Maritime Arbitration Association (Nordic Arbitration) and in force at the time when such arbitration proceedings are commenced. Nordic Arbitration's Best Practice Guidelines shall be taken into account. The arbitration tribunal shall consist of three arbitrators. The place of arbitration shall be Copenhagen, Denmark, and the language of the arbitration shall be English.

**17(3)**

The shipyard is, irrespective of Clause 17(2), entitled to bring action or apply for arrest of property in any claim on the occasion of the contract before the ordinary courts of law in the country in which the Customer has his place of business or in the country in which the Vessel might be located.