



GENERAL TERMS & CONDITIONS OF SALES FOR; Materials, Equipment & Parts

These Terms & Conditions apply to all contracts for the sales & supply of Materials, Equipment & Parts ("Goods") by the Companies within the Maritime Technical Group. ALL Services & Rentals provided/Supplied by the Companies within the Maritime Technical Group are excluded from these Terms & Conditions as they have their own specific Terms and Conditions. A general concept or category utilized in these terms & conditions will not be limited by any specific examples or instances utilized in relation to such a concept or category. If a Clause of these terms and conditions is determined by any court or other competent authority to be unlawful and/or unenforceable, the other Clauses of these terms and conditions will continue in effect.

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**.

"**Goods**" shall mean the Materials, Equipment's, Spares, Products, Articles or Items, which are Listed in the **Company's** pricelist, Quoted to and/or Ordered by and/or Delivered to the **Client**.

The "**Buyer**" shall mean the persons referred to herein purchasing **Goods** from the **Company** for and on behalf of the **Client** as their Authorized Representative in engaging in to contracts on their behalf.

"**Persons**" or "**Agents**" include individuals, companies, partnerships, limited liability partnerships, unincorporated associations, and/or trusts.

"**Disbursements**" 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.

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

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

"**Contract**" the binding agreement formed between the **Company** and the **Buyer** of the **Client** when the **Company** has Received the Purchase Order from the **Buyer** of the **Client** or the by them Signed & Accepted Offer committing in writing to Purchase the offered as per the conditions of the offer presented by the **Company** to the **Buyer** of the **Client**.

2. COMMENCING THE CONTRACT

- a. The **Company's** Sales-Engineers, Sales/Marketing-Agents are not authorized representatives of the **Company** and are therefore not authorized to enter into any binding commitments on behalf of the **Company** or to give and/or accept any representation and/or promise on the **Company's** behalf and no such representation or promise shall be binding on the **Company** unless confirmed by an authorized representative (whose Name's and Function's will be presented to you in due time) of the **Company** in writing. In entering into the Contract, the **Buyer/Client** acknowledges that he/she/it does not rely on and waives any claim for any breach of any such representation not so confirmed.
- b. The Estimate/Quotation, which comprises an invitation to Order/Purchase, is open till the "Valid till" date as mentioned in the Quote but never more than Thirty(30) days from the "Issue Date" stated on the Quote. Thereof, provided that the **Company** has not previously withdrawn it's offer by written notice to the **Buyer**.
- c. Any order issued by the **Buyer** is subject to acceptance by the **Company** and a **contract** will only be formed when the **Company** has accepted the **Buyer's** Purchase Order in writing. Any Purchase Order made by the **Buyer** verbally must be confirmed in writing by the **Buyer**.



- d. These conditions shall apply to all contracts for the Sale of **Goods** by the **Company** to the **Client**. And therefore superseding any & all prior terms & conditions, including any terms or conditions of the **Client** which the **Buyer** may purport to apply under any Purchase Order, confirmation of order, or similar document, or which a **Buyer** might seek to impose even if such other terms & conditions may be submitted in a later document and/or purport to exclude or supersede any terms or conditions inconsistent with them or may be contained in any offer acceptance or counter offer made by the **Buyer** for and on behalf of the **Client**.
- e. All orders for **Goods** shall be deemed to be a commitment by the **Buyer/Client** to purchase **Goods** pursuant to these conditions.
- f. Request for and/or Acceptance of delivery of the **Goods** and/or payment (in full or partial) for the **Goods**, whichever is first, shall be deemed conclusive evidence of the **Buyer's/Client's** acceptance of these terms & conditions.
- g. Any variation to these conditions (including any special terms & conditions agreed between parties) shall be inapplicable unless agreed, Signed & Stamped in writing by the **Company**.
- h. The **Buyer** shall be responsible towards the **Company** for ensuring the accuracy of the information in any Request and/or Order submitted by the **Buyer** and for giving the **Company** any necessary additional information required relating to the Goods, its delivery location and timeframe etc. within sufficient time to enable the **Company** to perform the **Contract** in accordance with its terms.
- i. The quantity, quality & description of any specifications for the **Goods** offered shall be those set out in the **Company's** Quote. If these differ from the Request made by the **Buyer** it is to be Accepted or Rejected by the **Buyer** in writing to the **Company**. IF rejection is not made in due time it is considered that the **Buyer** has accepted the proposed and therefore committed to the Purchasing of the proposed **Goods**.

3. CANCELLATION

- a. once a contract has been formed under condition **2**. no cancellation by the **Buyer** is permitted except where expressly agreed by a Director of the **Company** in writing.
- b. In the event of any cancellation accepted by the **Company** the **Buyer** shall indemnify the **Company** in full against all losses (including loss of profit), costs, damages, charges and/or expenses incurred by the **Company** as a result of the cancellation.

4. PRICE

- a. All prices Quoted & Invoiced are those which are the current prices at the date of issue and/or delivery. in the event of any difference between prices quoted and prices at the date of delivery, the prices at the date of delivery shall prevail and will be invoiced as per actual unless clearly agreed in advance differently.
- b. Unless otherwise stated all prices quoted are; net. Ex. works exclusive of VAT & any other duties/costs and are in EURO (€).
- c. The **Company** reserves the right at any time prior to delivery of the **Goods** on notice to the **Buyer** to adjust the price to take account of any increase in the cost of raw materials, parts, labor, services and duties or any currency fluctuations affecting the cost of imported materials and products.
- d. When the **Company** gives an estimation or indication of price it exercises skill and judgment in doing so. Such estimates are based on the information available at the time and do not include the costs of additional labor, Goods or other works found necessary to complete the Delivery of the **Goods** comprised in the Quote such as arising from matters identified on the Delivery location or as a result of a delay or change in the **Buyer's** instructions.
- e. The **Company** will inform the **Buyer** promptly of any proposed increase in estimated pricing and will only proceed with the written consent of the **Buyer**. If the **Buyer** does not provide such consent. The **Company** may cancel the contract without liability to the **Buyer/Client** for cancellation and the **Buyer/Client** remains liable to pay for all Works undertaken, Expenses made and/or Goods delivered up to the date of termination.



5. TERMS OF PAYMENT

- a. The **Buyer/Client** Shall pay all sums due to the **Company** before delivery of the **Goods**, unless otherwise agreed by both parties.
- b. Time for payment shall be of the essence.
- c. 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.
- d. The **Company** reserves the right to charge the **Client** a late payment administrative fee not exceeding **€ 200** Nett. for any overdue invoice.
- e. The **Buyer** shall have no right of set off, statutory or otherwise.
- f. The **Company** reserves the right at any time at its discretion to demand security for payment before continuing with or delivering off any Order.
- g. If the **Buyer/Client** fails to make any payment on the due date then without prejudice to any other right or remedy available to the **Company**, the **Company** shall be entitled to cancel any Contract or suspend any further deliveries to the **Client**.
- h. The **Company** shall at any time be entitled to appropriate any payment made by the **Client** in respect of any **Goods** in settlement of such invoices or accounts in respect of such **Goods** as the **Company** may in its absolute discretion think fit notwithstanding any purported appropriation to the contrary by the **Client**.

6. DELIVERY/COMPLETION

- a. All **Goods** quoted for delivery shall be delivered to the **Buyer's/Client's** address appearing in the quotation or order form accepted by the **Company**. Delivery to a carrier appointed by the **Company** shall be treated as delivery to the **Client**.
- b. The **Company** shall not be liable for any damage to **Goods** in transit and/or in unloading and/or any loss whatsoever and/or howsoever arising by non-delivery and/or by the failure to make **Goods** ready for collection on the due date. Unless otherwise agreed by the **Company**, it is the **Buyer's** responsibility to arrange insurance for any damage or loss of **Goods** in transit or unloading.
- c. If the **Buyer** believes that any **Goods** were damaged prior to delivery under condition 6.a., it must notify the **Company** of this fact within **48** hours of delivery and afford the **Company** all reasonable opportunity to inspect the **goods** to ascertain how and when such damage may have occurred.
- d. The **Company** reserves the right to make delivery of **Goods** by instalments and to tender a separate invoice in respect of each instalment.
- e. Where any **Goods** are to be delivered in instalments each delivery shall constitute a separate Contract and failure by the **Company** to deliver any one or more of the instalments in accordance with these conditions or any claim by the **Buyer/Client** in respect of any one or more instalments shall not entitle the **Buyer/Client** to treat the Contract as a whole as repudiated.
- f. Deviations in quantity of the **Goods** delivered (representing not more than 15 per cent by value) from that stated in these terms and conditions shall not give the **Buyer/Client** any right to reject the **Goods** or to claim damages and the **Client** shall be obliged to accept and pay at the contract rate for the quantity of the **Goods** delivered.
- g. If the **Buyer/Client** fails to take delivery of the **Goods** or fails to give the **Company** adequate delivery instructions at or by the time stated for delivery (otherwise than by reason of any cause beyond the **Buyer's/Client's** reasonable control or by reason of the **Company's** fault) then without prejudice to any other right or remedy available to the **Company** the **Company** may:



- i. store the **Goods** until actual delivery and charge the **Buyer/Client** for the reasonable costs (including insurance) of storage; or
- ii. sell the **Goods** at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the **Buyer/Client** any excess over the price under the Contract or charge the **Buyer/Client** for any shortfall below the price under the Contract.

7. RETURNS/REFUNDS

- a. The **Buyer** has **14** days from the date **Goods** are received at the by the **Buyer** indicated delivery address whether it be Final or Transshipment location, within which to seek the consent of the **Company** to accept the return of **Goods** unless otherwise agreed in writing by the **Company**.
- b. The **Company** will only accept **Goods** being returned by the **Buyer** if prior consent has been given by the **Company**. In the event of the **Buyer** wishing to return **Goods**, the **Buyer** must contact the **Company** to obtain a 'Returns note' which then must be completed and returned with the **Goods**. The **Company** reserves the right to refuse to accept **Goods** being returned by a **Buyer**. In cases where the **Company** does agree to accept a return of **Goods** the **Company** reserves the right to charge a handling/restocking fee of **20%**
- c. The **Company** will not accept the return of non-stock items.
- d. Excluding circumstances where **Goods** are being returned for the reason of damage or are subject to a warranty claim, **Goods** being returned to the **Company** must be returned to the **Company's** premises in a saleable condition. In the event that returned **Goods** are not in a saleable condition the **Company** reserves the right to withdraw any agreement for credit with the **Buyer** or to charge an additional handling fee.
- e. It is the **Buyer's** responsibility to notify the **Company** should they wish to return 'sale or return' **Goods**, this must be within any agreed timescale. It is wholly the **Buyer's** responsibility to ensure any returns are submitted within the timescale of the sale or return agreement.
- f. The **Buyer/Client** is responsible for any shipping costs that are incurred in the return of **Goods** unless otherwise agreed in writing by the **Company**. The **Company** will cover the costs of shipping for the return of **Goods** under a valid warranty claim or which were damaged prior to delivery to the **Buyer/Client** or which were, subject to condition **6.**, incorrect **Goods** when delivered.

8. RISK

- a. Risk in the **Goods** shall pass to the **Buyer/Client** when the **Goods** are delivered to, or collected by, the **Buyer/Client** and/or its Agent.
- b. Notwithstanding risk in the **Goods** passing in accordance with condition **8.a.** hereof title in the **Goods** shall not pass to **Client** until provisions of condition **9.** hereof have been satisfied.

9. RETENTION OF TITLE PROVISION

- a. In spite of delivery having been made property in the **Goods** shall not pass from the **Company** until:
 - i. the **Buyer/Client** shall have paid the price plus VAT & any additional charges in full; and
 - ii. no other sums whatever shall be due from the **Client** to the **Company**.
 - iii. Until property in the **Goods** passes to the **Client** in accordance with clause **9.a.** the **Buyer/Client** shall hold the **Goods** and each of them on a fiduciary basis as Bailee for the **Company**. The **Buyer/Client** shall store the **Goods** (at no cost to the **Company**) separately from all other **Goods** in its possession and marked in such a way that they are clearly identified as the **Company's** property.



- b. Notwithstanding that the **Goods** (or any of them) remain the property of the **Company** the **Buyer/Client** may sell or use the **Goods** in the ordinary course of the **Buyer's/Client's** business at full market value for the account of the **Company**. Any such sale or dealing shall be a sale or use of the **Company's** property by the **Buyer's/Client's** own behalf and the **Buyer/Client** shall deal as principal when making such sales or dealings. Until property in the **Goods** passes from the **Company** the entire proceeds of sale or otherwise of the **Goods** shall be held in trust for the **Company** and shall not be mixed with other money or paid into any overdrawn bank account and shall be at all material times identified as the **Company's** money.
- c. The **Company** shall be entitled to recover the price for the **Goods** (plus VAT) notwithstanding that property in any of the **Goods** has not passed from the **Company**.
- d. Until such time as property in the **Goods** passes from the **Company** the **Buyer/Client** shall upon request deliver up to the **Company** such of the **Goods** as have not ceased to be in existence or manufactured into other **goods** or resold. If the **Buyer/Client** fails to do so the **Company** may enter upon the premises owned occupied or controlled by the **Buyer/Client** where the **Goods** are situated and repossess the **Goods**. On the making of such request the rights of the **Buyer/Client** under condition 9.c shall cease.
- e. The **Buyer/Client** shall not pledge or in any way charge by way of security for any indebtedness any of the **Goods**, which are the property of the **Company**. Without prejudice to the other rights of the **Company**, if the **Buyer** does so all sums whatever owing by the **Buyer** to the **Company** shall forthwith become due and payable.
- f. The **Buyer/Client** shall insure and keep insured the **Goods** to their full price against 'all risks' to the reasonable satisfaction of the **Company** from delivery until the date that property in the **Goods** passes from the **Company**, and shall whenever requested by the **Company** produce a copy of the policy of insurance. Without prejudice to the other rights of the **Company**, if the **Buyer/Client** fails to do so all sums whatever owing by the **Buyer/Client** to the **Company** shall forthwith become due and payable.

10. INSPECTION/SHORTAGES

- a. The **Buyer/Client** is under a duty wherever possible to inspect the **Goods** on delivery or on collection as the case may be, any discrepancies should be notified to the **Company** within **48** hours of receipt
- b. Where the **Goods** cannot be examined, the carrier's note or such other note as appropriate shall be marked 'not examined'
- c. The **Company** shall be under no liability for any defects or shortages that would be apparent on careful inspection if the terms of this clause are not complied with, and, in any event will be under no liability if a written complaint is not made to the **Company** within two (2) days of delivery detailing the alleged defect or shortages.
- d. In all cases where defects or shortages are complained of the **Company** shall be under no liability in respect thereof unless an opportunity to inspect the **Goods** is provided to the **Company** before any use is made thereof or any alteration or modification is made thereto by the **Buyer/Client**.
- e. Subject to conditions 6.g, 10.c and 10.d, the **Company** at the option of the **Company** shall either make good any shortage in the **Goods** and where appropriate replace any **Goods** damaged in transit as soon as it is reasonably able to do so, or shall credit any such shortage or damaged **Goods** but otherwise shall be under no liability whatsoever or howsoever arising for such shortage or damage.

11. WARRANTY

- a. The **Company** warrants that it has title to and the unencumbered right to sell the **Goods** and that the **Goods** shall, subject to these conditions, conform with the Contract in all material respects and be of satisfactory quality.



- b. All other terms, conditions and warranties (whether implied or made expressly) whether by the **Company** or its servants or agents or otherwise relating to the quality and/or fitness for purpose of the **Goods** or any of the **Goods** are excluded to the fullest extent permitted by law and the **Buyer/Client** shall satisfy himself in this respect and shall be totally responsible therefore, excepting where the **Company** has prior to supply and in writing provided advice specific to the **Goods** purchased and where the **Buyer** has in writing provided sufficient details of the purpose of the **Goods** and made it clear he is relying the **Company's** skill and judgment, this applies only to the Goods in question and not the whole contract.
- c. In addition to non-excludable statutory rights provided by German law and insofar as it is able and permitted to do so the **Company** will pass on to the **Buyer/Client** such warranties and guarantees as the **Company** may receive from others who have supplied **Goods** and other materials to the **Company** as relate to the Contract between the **Company** and the **Buyer/Client**.

12. LIABILITY

- a. The **Company** shall not be liable for any loss or damage caused by events or circumstances beyond its reasonable control (such as severe weather conditions, the actions of third parties not employed by the Company or any defect in a Buyer's or third party's property); this extends to loss or damage to vessels, gear, equipment or other property left with the Company for work or storage, and harm to persons entering the Company's premises or using any of our facilities or equipment.
- b. The **Company** shall take reasonable and proportionate steps having regard to the nature and scale of its business to maintain security at its premises, and to maintain its facilities and equipment in reasonably good working order; but in the absence of any negligence or other breach of duty by the **Company** vessels/Equipment and other property are left with the **Company** at the **Buyer's/Client's** own risk and the **Buyer/Client** should ensure that his own personal and property insurance adequately covers such risks.
- c. The **Company** shall not be under any duty to salvage or preserve a **Buyer's/Client's** vessel or other property from the consequences of any defect in the vessel or property concerned unless the **Company** has been expressly engaged to do so by the **Buyers** on commercial terms. However, the **Company** reserves the right to do so in any appropriate circumstances, particularly where a risk is posed to the safety of persons, property or the environment. Where the **Company** does so the **Company** shall be entitled to charge the **Buyer/Client** concerned on a Maritime Salvage Terms Basis.
- d. The **Buyer/Client** may himself be liable for any loss or damage caused by him, his crew or his vessels and while his vessel or other property is on the **Company's** premises he shall be obliged to maintain adequate insurance, including third party liability cover for not less than €5,000,000, and, where appropriate, Employer's Liability cover in respect of any employee. A **Buyer/Client** shall be obliged to produce evidence of such insurance to us within **7** days of a request to do so.
- e. Nothing in these Terms of Business shall limit or exclude the Company's liability for death or personal injury caused by its negligence or the negligence of its employees, agents or sub-contractors; for fraud or fraudulent misrepresentation; or otherwise to the extent that it would be unlawful for the **Company** to exclude or attempt to exclude liability.

12.1 EXCLUSION OF CONSEQUENTIAL LOSS

- a. The **Company** shall not be liable for any consequential or indirect loss suffered by the **Buyer/Client** whether this loss arises from breach of a duty in contract or tort or in any other way (including loss arising from the **Company's** negligence). Non-exhaustive illustrations of consequential or indirect loss would be:
 - i. loss of profit
 - ii. loss of opportunity
 - iii. loss of contract
 - iv. damage to reputation or goodwill
 - v. damage to property of the Buyer or anyone else, and
 - vi. personal injury to the **Buyer/Client** or anyone else (except so far as such injury is attributable to the **Company's** negligence).



13. INSOLVENCY OR OTHER DEFAULT

- a. If the **Buyer/Client** fails to make payment for the **Goods** in accordance with this contract or commits any other breach of this contract or if any distress or execution shall be levied on any of the **Buyer's/Client's Goods** or if the **Buyer/Client** offers to make any arrangement with its creditors or commits an act of bankruptcy or if any petition is presented against the **Buyer/Client** or the **Buyer/Client** is unable to pay its debts as they fall due or if being a Limited Company any resolution or petition to wind up the **Buyer/Client** (other than for the purpose of amalgamation or reconstruction without insolvency) shall be passed or presented or if a Receiver, Administrator, Administrative receiver or Manager shall be appointed over the whole or any part of the **Buyer's/Client's** business or assets or if the **Buyer/Client** shall suffer any analogous proceedings under foreign law all sums outstanding in respect of the **Goods** shall become payable immediately. The **Company**, in its absolute discretion and without prejudice to any other rights which it may have, may:
- Suspend all future deliveries of **Goods** to the **Buyer/Client** and/or terminate the contract without liability upon its part and
 - Exercise any or all of its rights pursuant to clause 8.

14. SET OFF AND COUNTERCLAIM

The **Buyer/Client** may not withhold payment of any invoice or other amount due to the **Company** by reason of any right of set off or counterclaim which the **Buyer/Client** may have or allege to have or for any reason whatsoever.

15. FORCE MAJEURE

- a. The **Company** shall not be liable for any failure to deliver the **Goods** arising from circumstances outside the **Company's** control.
- b. Should the **Company** be prevented from delivering in the above circumstances, it shall give the **Buyer/Client** written notice of this fact as soon as reasonably practicable after discovering it.
- c. If the circumstances preventing delivery are still continuing three (3) months after the **Buyer/Client** receives the **Company's** notice, then either party may give written notice to the other cancelling the Contract.
- d. If the Contract is cancelled in this way, the **Company** will refund any payment which the **Buyer/Client** has already made on account of the price (subject to deduction of any amount the **Company** is entitled to claim from the **Buyer**) but the **Company** will not be liable to compensate the **Buyer/Client** for any further loss or damage caused by the failure to deliver.

16. PROMOTIONAL DOCUMENTATION

Whilst the **Company** takes every precaution in the preparation of its catalogues, technical circulars, price lists and its other literature, these documents are for the **Buyer's** general guidance only and the particulars contained therein shall not constitute representations by the **Company** and the **Company** shall not be bound thereby.

17. NOTICES

Any notice to be given hereunder shall be in writing and shall be deemed to have been duly given if sent or delivered to the party concerned at its (E-Mail) address specified overleaf or such other (E-Mail) address as that party may from time to time notify in writing and shall be deemed to have been served. (If sent by post to a physical address, 48 hours after posting).

18. Governing Law - Jurisdiction

- a) This **Agreement** shall be governed by and construed in accordance with German Law.
- 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.

CONFIDENTIAL