

Lloyd Werft Bremerhaven GmbH
General Terms and Conditions for Dock Work and Repairs
For use in business transactions with legal entities

These conditions apply to performance of repairs, modifications, and similar work on ships, maritime facilities, and their equipment, as well as for all dock, lift, slipway, and slip work. They are part of all offers and contracts of the shipyard for such services, and also in ongoing and future business relationships. They do not apply to consumers. Deviating or additional conditions not specified in this agreement do not apply. Side agreements become part of the contract only if the shipyard has expressly consented to their inclusion.

1. Offer and Conclusion of Contract

- 1.1 Offers and cost estimates of the shipyard are non-binding. They include only deliveries and services explicitly specified in them.
- 1.2 Contracts are only concluded with the shipyard if it has accepted orders or requests, confirmed receipt of acceptance declarations, or performed the deliveries or services ordered. This applies correspondingly to additions or changes to contracts.
- 1.3 If the contract is not concluded due to circumstances for which the shipyard cannot be held responsible, any cost estimate prepared at the customer's request must be reimbursed. The costs will be charged at the shipyard's customary and reasonable hourly rates and prices.

2. Scope of Performance, Deliveries and Services

- 2.1 In case of doubt, the content of the shipyard's order confirmation and the documents specified in it are decisive for the scope of performance. The customer is responsible for additional expenses resulting from inaccuracy of drawings or other documents or information it has provided.
- 2.2 All information provided to the customer and the shipyard's documents underlying the contract (e.g. drawings, illustrations, specifications of dimension and weight, or technical descriptions) only contain industry-standard approximate values. The shipyard reserves the right to make changes (e.g. design or shape changes or color deviations) that are insignificant in the overall context.
- 2.3 The customer alone decides on the scope and appropriateness of the deliveries and services. If a classification company or its representatives or a representative of the customer provide an opinion, the shipyard may base the work on its content. The shipyard does not verify the accuracy of its content. Furthermore, the shipyard is not obliged to inspect the ship or the performance object for defects if it is not part of the order.
- 2.4 The shipyard is entitled to have the work assigned to it performed entirely or partially by third parties. Partial deliveries and services are permissible.

3. Documents

- 3.1 The shipyard reserves ownership, copyright, and other industrial property rights to its documents. All documents must be treated as strictly confidential. Absent the written consent of the shipyard, these documents may only be used to fulfill the given contract concluded with the shipyard, and in particular may not be reproduced or made accessible to third parties unless this is necessary for future use or repair or modification measures concerning the services provided by the shipyard. The confidentiality obligation remains in effect even after the end of the business relationship. The customer is required to implement and enforce appropriate measures to ensure compliance with this confidentiality agreement.
- 3.2 If the shipyard renders its services using designs, documents, or information of the customer, the customer is obligated to indemnify the shipyard from any claims by third parties based on infringement of copyrights, patents, and other intellectual property rights of third parties resulting from use of the customer's designs, documents, and information.

4. Authorized Representatives of the Customer, Crew

- 4.1 In a timely manner before the start of services, the customer must designate to the shipyard the representatives authorized by it, other than the captain, for coordination and agreements within the scope of the contract.
- 4.2 The customer must ensure that its representatives, the crew, or any other persons present at the shipyard for it or on its behalf possess all necessary permits and insurance and comply with all regulations and provisions applicable on the shipyard premises. These individuals are at the customer's risk and sole responsibility while being at the shipyard.

5. Prices

- 5.1 All prices are strictly net in Euros ex shipyard (ex works according to Incoterms © 2020), plus statutory value-added tax if and to the extent applicable. For services rendered at the customer's request outside of regular or collectively agreed working hours, the customer bears the associated additional costs.
- 5.2 Compensation for tugs, mooring gangs and pilots, as well as port and lock fees or other transport costs, are not included in the shipyard prices. Tugs, mooring gangs, and pilots are provided or arranged by the shipyard upon request for a separate fee, without assuming – subject to clause 14.5 – any responsibility for the arrangement or for the risks associated with mooring the ship or towing it in and out. Clause 14.1 applies. The costs of any necessary degassing of tanks, bilges, etc., and for disinfections and for issuing corresponding certificates, are likewise not included in the shipyard prices and are billed separately. This applies correspondingly to the initial filling and refilling of lubricating and hydraulic oil as well as other auxiliary and ancillary substances.
- 5.3 If there are non-negligible cost increases, e.g., for wages, energy, taxes or materials, between the conclusion of the contract and the rendering of the respective service, the shipyard is entitled to demand correspondingly adjusted prices at its reasonable discretion if there is a period of more than four months between conclusion of the contract and provision of the service.
- 5.4 The payment for docking is calculated based on the shipyard's current prices. In case of emergencies or docking of ships with cargo or with special design, the shipyard reserves the right to separate agreements.
- 5.5 If fulfillment of the contract by the shipyard becomes wholly or partially impossible for reasons not attributable to the shipyard, the customer owes proportional compensation for the deliveries and services provided up to that point.

6. Payment Terms

- 6.1 All payment claims are due immediately upon receipt of the shipyard's invoice/payment request without deduction.
- 6.2 The shipyard is entitled to issue partial invoices corresponding to the given progress of work before the entire scope of performance is completed.
- 6.3 From the due date of the payment the shipyard is entitled to interest at 5% per annum; in the event of default, interest accrues at 9 percentage points above the respectively applicable base interest rate. The assertion of further damages remains reserved.
- 6.4 The return of the ship or the performance object takes place only upon full payment by the customer of all due and enforceable claims under the respective contract. If a return is not made due to the customer's default in payment, the customer is responsible for mooring fees or other costs related to the lack of return.

7. Deadlines and Dates, Force Majeure

- 7.1 Deadlines and dates are only binding for the shipyard if the binding nature has been expressly agreed upon for the respective deadlines or dates. Otherwise, the shipyard's deadline and date indications are generally non-binding, and reasonable deadlines and dates apply taking into consideration the nature and scope of the delivery or service, procurement deadlines, difficulties, etc.
- 7.2 In principle, even if a performance deadline/date is agreed upon, the prerequisite for timely delivery or performance is the customer's complete and timely fulfillment of all its cooperation obligations and duties such as (i) timely submission of documents, information, or approvals, (ii) timely provision of the performance object in a workable condition and clarification of all commercial (including price agreements) and technical matters, and (iii) receipt of due payments by the shipyard.
- 7.3. Agreed deadlines and dates are extended by the duration of the delay in receipt of due payments, by the duration of the delay caused by omitted cooperation obligations and duties, and by other circumstances agreed upon in the contract.

- 7.4 In the event of changes or additions to the scope of delivery or performance, the deadlines and dates are adjusted according to the associated additional time required. The same applies to unforeseen conditions and requirements of the classification company and/or the authorities.

- 7.5 Force majeure and other circumstances beyond the shipyard's control, such as labor disputes, machinery failures, shortages in the supply of raw materials, governmental measures, insolvency or filing for insolvency of a subcontractor or supplier, and transportation disruptions, whether they occur at the shipyard or its suppliers, release the shipyard from its obligations under the contract for the duration of their effects and, if they render the performance impossible, do so completely. This also applies to measures taken based on the International Ship and Port Facility Security Code ("ISPS Code"). Furthermore, the parties clarify that performance difficulties due to a pandemic or epidemic are also considered force majeure.

- 7.6 If the shipyard is in default in completing the contracted services and the customer is demonstrably damaged as a result, the customer may - without prejudice to its right to withdraw from the contract if the legal requirements are met - claim compensation for delay while maintaining the contract. The compensation amount is limited to 0.5% of the contract price per completed week of delay, in total not exceeding 5% of the contract price. Further claims for damages and rights due to delay are excluded. This limitation does not apply if the delay is based on one of the liability cases stated in clause 14.5, sentences 1 and 2.

8. Customer's Cooperation Actions / Provision and Taking of Delivery

- 8.1. In a timely manner before rendering the service, the customer must furnish the shipyard the necessary mandatory drawings and data (e.g. the dock plan) and communicate the nationality of the ship.
- 8.2 The condition of the ship or the performance object (trim and weight) required for docking/slipping/lifting must be coordinated with the shipyard and effected by the customer before the start of the service. The provisions of clause 14.3 remain unaffected.
- 8.3 For the dimensions and determination of the cubic meter content of the vessel, the values specified in the "Register of Ships" of Lloyd's Register of Shipping apply, if entered there; in case of doubt, the values of the International Tonnage Certificate prevail.
- 8.4 The customer must deliver the ship or the performance object to the shipyard in a workable condition; in particular, gas-free, cleaned, without hazardous cargo (goods, substances), and compliant with the applicable safety regulations, at the agreed location (dock, slip, lift, pier), and at the agreed time, so that work can commence. Failure to deliver on time or delivery in a non-workable condition entitles the shipyard to refuse acceptance of the ship or the performance object and/or to invoice the customer for the resulting costs.
- 8.5 After completion of the work, the customer must take delivery of the ship or the performance object at the place of performance.
- 8.6 If the shipyard delivers to countries of the European Union, the customer must promptly provide its VAT identification number and all other necessary information for processing the contract (including confirmation of transport and final destination).
- 8.7 In case of doubt, the flag of the ship at the time of contract conclusion determines the nationality of the ship.

9. Acceptance

- 9.1. The customer must accept the service upon its completion, at the latest immediately upon request by the shipyard. The acceptance is deemed to have occurred at the latest when the customer puts the service or the ship/the performance object into use after completion.
- 9.2 After acceptance, the customer must promptly take delivery of the ship/performance object. If the customer fails to comply with the request to take delivery of the ship/performance object in a timely manner, after unsuccessfully giving the customer a grace period and notifying it of these consequences the shipyard is entitled to engage, mooring gangs, tugs, and pilots to remove and relocate the ship/performance object at the customer's risk and expense. Clause 14.1 applies.
- 9.3. If the customer fails to accept the service in a timely manner despite its readiness for acceptance, acceptance is deemed to have occurred after an unsuccessful reminder with a reasonable deadline, and all outstanding payments under the contract are immediately due. In addition, the customer is obliged to pay damages, either to compensate for the damage incurred or, without proof of the specific amount of damage, to pay 5% of the agreed total price, at the shipyard's discretion. The customer reserves the right to prove that the shipyard has incurred no or only significantly less damage.
- 9.4. If a trial or test run is intended, the customer must provide the operating crew or ship's crew and furnish all operational and auxiliary materials and any other provisions required for conducting the trial or test run. The customer bears nautical responsibility for the trial or test run, the risk of operator errors by the operating crew/the ship's crew or other auxiliary persons, and the risk of accidental loss or deterioration of the ship or performance object.

10. Assignment / Setoff / Retention and Lien

- 10.1 The customer is not entitled to assign claims and rights against the shipyard to third parties without the shipyard's prior written consent.
- 10.2 Setoff with claims other than those for defective performance is excluded unless the counterclaim is undisputed or has been established by a final judgement.
- 10.3 Clause 10.2 applies mutatis mutandis to the assertion of retention rights by the customer.
- 10.4. Without prejudice to any statutory lien, the customer grants the shipyard a contractual right of lien on the ship or the performance object for its claims arising from the respective contract based on these conditions.

11. Place of Performance and Bearing of Risk

- 11.1 The place of performance for the deliveries and services to be provided by the shipyard is the shipyard's location or another shipyard associated with the contracted shipyard, unless another place of performance has been agreed upon.
- 11.2 The risk of accidental loss and deterioration of the service passes to the customer upon acceptance, subject to clause 10.4. If the transfer of the service occurs before acceptance (e.g. for the purpose of a trial/test run), the risk of accidental loss and deterioration passes to the customer at that time. If acceptance is delayed due to the customer's fault, the risk of accidental loss and deterioration of the service passes to the customer from the day of notification of readiness for acceptance.
- 11.3 Insurance against transport damage, loss in transit, breakage, and other risks will be arranged by the shipyard for the customer only at the latter's express request and in the customer's name and at the customer's expense, with the shipyard included as a co-insured party in such insurance.

12. Ownership Reservation

- 12.1 The shipyard reserves ownership of the goods delivered and/or installed by it (reserved goods) until complete fulfillment of all claims arising from the respective contracts and/or from the business relationship with the customer upon acceptance of the services, irrespective of the legal reason.
- 12.2 The customer is entitled to resell, process, mix, or combine the reserved goods and subsequently sell them within the framework of extended ownership reservation, provided this is done in the normal course of business and there is no payment default. A pledging or transfer of security of reserved goods by the customer is not permitted. The customer must immediately notify the shipyard in writing of any attachments, seizures, or other dispositions by third parties.

- 12.3 The customer processes or transforms the reserved goods exclusively for the shipyard. If the reserved goods are connected or mixed by the customer with other goods not owned by the shipyard, the shipyard acquires co-ownership of the new item in the proportion of the total value of the new item to the invoice value of the reserved goods. The new item resulting from the processing is also considered reserved goods within the meaning of these provisions.
- 12.4 As security the customer assigns in advance all claims with ancillary rights to which it is entitled in connection with the sale, as well as any claims against its insurers to the shipyard. If the reserved goods are sold by the customer together with other goods not owned by the shipyard, either without or after processing, the claims are deemed to be assigned to the shipyard in the amount of the invoice value of the reserved goods. The above assignment does not entail any deferral of the payment claims to which the shipyard is entitled against the customer.
- 12.5 The customer remains authorized to collect the claims assigned to the shipyard even after the assignment. The shipyard's authority to collect the claims itself remains unaffected by this. However, the shipyard will not collect the claims as long as the customer is not in default of payment, no application for opening of insolvency proceedings has been filed over its assets or such proceedings have been dismissed for lack of assets, or as long as there is no suspension of payments. If any of these conditions are met, the customer must immediately notify the shipyard in writing of the assigned claims and their debtors, provide all information and documents necessary for collection of the claims, and notify the debtors of the assignment in writing.
- 12.6 The customer must keep the reserved goods in proper condition and, if they are not installed, store them separately and mark them as belonging to the shipyard.
- 12.7 At the customer's request, the shipyard will retransfer the ownership of the reserved goods and the claims assigned to it if and to the extent their value exceeds the value of all claims to which the shipyard is entitled against the customer by more than 10%.
- 13. Defects**
- 13.1 The customer must notify the shipyard of any defects immediately in writing upon their discovery. Subject to clause 14.5, the shipyard is not liable for the increases of a defect caused by a delayed notification.
- 13.2 The shipyard must first be given the prioritized opportunity of subsequent performance within a reasonable period, at its option, by rectifying the defect, delivering a defect-free item, or producing a new item.
- 13.3 For the purpose of subsequent performance, the ship or the performance object must be furnished to the shipyard at the place of performance within the meaning of clause 11.1. If this is not economically feasible, the customer may, with the shipyard's agreement, have the work done at another shipyard ("third-party shipyard") provided the customer notifies the shipyard in a timely manner (before the start of the work), has allowed the shipyard to inspect the defects, and observes the shipyard's reasonable instructions to limit the costs. In this case, the shipyard will only reimburse the customer for those expenses, which are proven to be required for this work.
- 13.4 Claims by the customer for reimbursement of expenses to enable subsequent performance, in particular the costs of providing the ship or the performance object at the place of performance within the meaning of clause 11.1, are excluded.
- 13.5 In the event of defect notifications, the shipyard is only obligated to subsequent performance after the customer has paid a reasonable portion of the contract price taking into account the defect.
- 13.6 If the subsequent performance ultimately fails, cannot reasonably be expected of the shipyard or the customer, or is only possible at disproportionate cost and is therefore rejected by the shipyard, the customer may withdraw from the contract or reasonably reduce the remuneration, subject to the statutory requirements and without prejudice to any claims for damages under clause 14.5.
- 13.7 Replaced parts become the property of the shipyard at its request.
- 13.8 Unless the shipyard has reached a different agreement with the customer in individual cases, defect claims by the customer against the shipyard become time-barred 12 months after acceptance. This limitation period does not apply if and to the extent the defect was maliciously concealed and/or one of the liability cases mentioned in clause 14.5 applies.
- 13.9 The shipyard's obligation to pay damages is governed by clause 14.5. Subject to clause 14.5, the customer's defect claims and rights lapse if the delivery or service has been changed, revised or processed by the customer or by third parties not authorized by the shipyard, or has been handled, maintained, or repaired improperly, or the deterioration of the delivery or service is due to normal wear and tear.
- 13.10 The above provisions do not entail any reversal of the burden of proof to the detriment of the customer.
- 14. Compensation / Liability**
- 14.1 Subject to clause 14.5 any towing/tug assistance, mooring, and transporting occurs— even during performance of the shipyard services – exclusively in the name and under the responsibility as well as at the cost and risk of the customer, even if the shipyard orders, arranges, or charges for equipment and/or assistants. This also applies to docking the ship or performance object, with the proper preparation of the dock being the responsibility of the shipyard. Tugboat crews, pilots, and mooring crews are neither agents nor assistants of the shipyard.
- 14.2 The customer is responsible for supervision of the ship or the performance object, its equipment and loading, and the items provided by it, in particular for the security guards provided by it, and for compliance with the relevant provisions (e.g. accident prevention regulations) by it and its agents and assistants. The customer is also responsible for all measures necessary to prevent damage (e.g. draining of pipes during the frost period and other frost protection measures) and for mooring. While performing its own hazardous work on board the ship or on the performance object, the customer must ensure compliance with the usual due care requirements through its own supervision measures. It must notify the shipyard in writing of impending threats. Furthermore, the customer is responsible for ensuring proper lighting of the ship's own access to the ship or to the performance object.
- 14.3 Subject to clause 14.5, the shipyard is not liable for damages resulting from a defective dock plan, defective drawings, or other documents of the customer or due to lack of seaworthiness or stability of the ship or the performance object. The customer is obliged to notify the shipyard in writing of circumstances that may impair the seaworthiness or stability of the ship or the performance object and that may create a risk of damage to the ship, the performance object, or its equipment despite proper performance of the work by the shipyard.
- 14.4 If items are entrusted to the shipyard and the storage period exceeds six weeks it reserves the right to charge the customer for storage costs and other expenses (e.g. those of relocation) based on locally customary and reasonable prices.
- 14.5 Further claims and rights beyond those regulated in these terms and conditions or in the contract concluded with the customer are excluded unless they are based on the provisions of the Product Liability Act, an intentional or grossly negligent breach of duty by the shipyard, damage to health or bodily injury to the customer or its employees or representatives due to a breach of duty attributable to the shipyard, the assumption of a guarantee for the presence of a specific property, a defect maliciously concealed, or breach of material contractual obligations by the shipyard.
- Material contractual obligations are those whose fulfillment enables proper performance of the main service obligation owed in general by the shipyard and on compliance with which the customer can normally rely and trust.
- Regardless of the aforementioned liability cases, beyond breach of material contractual obligations the shipyard is not liable for damages to the customer resulting from a grossly negligent breach of duty, in particular a breach of duties of care and supervision, by the shipyard's ordinary agents, unless they involve damage to health or bodily injury.
- 14.6 In the event of breach of material contractual obligations by the shipyard, the customer's claim for damages against the shipyard is limited to typical, foreseeable damage under the contract, unless there is intent or gross negligence or liability for damage to health or bodily injury to the customer or its employees or representatives or because of assumption by the shipyard of a guarantee for the presence of a specific property. Damage that is typically to be expected to arise from violation of the respective essential contractual obligation determines what is essential to the contract or foreseeable. The essential contractual obligations are determined according to clause 14.5.
- 14.7 A breach of duty by the shipyard under clause 14.5, sentence 1 is equivalent to such a breach by its legal representatives, executive employees, or agents.
- 14.8 To protect against the consequences of the above exclusions and limitations of liability, the customer is obliged to cover corresponding risks by taking out the necessary insurance. The customer must ensure that adequate insurance coverage, in particular comprehensive and P&I liability insurance, exists for the duration of the work undertaken by the shipyard or for the time during which the ship or the performance object is located in the shipyard or in a shipyard associated with the shipyard by corporate law. This insurance coverage should be extended to cover construction, conversion, repair, and maintenance risks (including sea trials), if and to the extent these are not risks typically inherent in shipyard operations for which the shipyard usually or actually has its own insurance coverage. Subject to the above restriction, the customer must include the shipyard and its officers, executive employees, and agents in the insurance coverage by means of co-insurance.
- 14.9 Clause 13.10 applies mutatis mutandis.
- 14.10 Claims for damages against the shipyard become statute-barred 12 months after the statutory start of the limitation period if and to the extent no liability case exists under clause 14.5.
- 15. Entering the Shipyard Premises / Execution of Work**
- 15.1 Access to the shipyard premises, especially in the area of the shipyard facilities, is only permitted to the customer, its representatives, agents, or other authorized personnel during the ordinary working hours of the shipyard, in compliance with legal, regulatory, and shipyard-specific provisions, especially safety regulations and shipyard rules. These persons must be able to identify themselves and only have access to the ship, the performance object, or the shipyard facilities where parts for the ship or the performance object are fabricated, maintained, or repaired. Otherwise, they are not allowed to access other shipyard facilities without prior consent of the shipyard.
- 15.2 The customer is liable to the shipyard for all damages caused to the shipyard, its employees, or third parties by persons who are on the shipyard premises on behalf of the customer or with its approval in violation of clause 15.1, and it must indemnify the shipyard from all claims of its employees or third parties.
- 15.3 No persons or companies other than those engaged by the shipyard may perform work on the ship or the performance object without prior written consent from the shipyard as long as the ship or the performance object is within the shipyard area. If the customer wishes to have work performed by the ship's crew or by third parties, it must notify the shipyard about this in advance in writing in a timely manner. Such work is performed solely at the customer's risk and responsibility.
- 15.4 The customer is responsible for protection against damage and hazards to facilities and areas of the ship or the performance object which the shipyard is not working on. Before work in cargo holds, hatch covers must be removed by the customer and securely stored.
- 15.5 Any waste material (e.g. replaced parts, substances) produced by the shipyard in performing the work becomes the shipyard's property at its discretion without compensation. Hazardous substances or special waste created must be promptly disposed of by the customer at its expense, unless disposal by the shipyard is expressly included in the agreed scope of services.
- 16. Place of Jurisdiction / Applicable Law and Translations**
- 16.1 The exclusive place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship between the customer and the shipyard is the local/district court that has jurisdiction according to the place of the shipyard's registered office. However, the shipyard is entitled, at its discretion, to assert claims against the customer in the courts having jurisdiction over the residence, registered office, assets, ship or performance object of the customer on which the work was performed. This does not affect possible mandatory statutory places of jurisdiction.
- 16.2 The law of the Federal Republic of Germany applies, excluding the UN Convention on Contracts for the International Sale of Goods (CISG).
- 16.3 In the event of disputes regarding the content of these terms and conditions, only the German version shall prevail.
- 17. Partial Invalidity**
- 17.1 If individual provisions of a contract of which these conditions are an integral part are or become invalid, the validity of the remainder of the provisions of the contract are not thereby affected.
- 17.2 In place of an invalid provision, the shipyard will agree with the customer on a provision that fully governs what was economically desired with the invalid provision or, if this is not legally possible, governs it in a legally effective manner as far as possible.
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