1 Definitions and General

"Affiliate" – shall mean any subsidiary, parent, ultimate holding company or a subsidiary of such parent or ultimate holding company.

"Contract" – shall mean the contract entered into between the Customer and DNV GL including these General Terms and Conditions and the DNV GL Rules. The above listed documents shall be interpreted as one agreement and in case of any ambiguities or contradictions between the various documents, the documents shall take precedence in the order they are listed above;

"Claim" or "Claims" - shall mean any and all claims, demands, losses (including pure economic losses), damages, injuries, costs, taxes, liens, liabilities, judgments, awards, provisional injunctions, remedies, debts, damages, injuries, costs, legal and other expenses, or causes of action of whatsoever nature, and in whatever jurisdiction the foregoing may arise;

"Consequential Loss" - shall mean loss and/or deferral of production, lost productivity (disruptions), loss of product, loss of use, loss of time to any vessel or loss of hire, loss of business opportunities and contracts, loss of goodwill, loss of data, loss of revenue, profit or anticipated profit (if any) loss arising from liabilities or indemnities under other contracts, recall or rectification costs, in each case whether direct or indirect and whether or not foreseeable at the commencement of the Work;

"Customer" – shall mean the person and/or company which has requested DNV GL’s service and has entered into a contract/agreement for services;

"Customer Group" – shall mean (i) the Customer and its Affiliates; (ii) the Customer’s other contractors (other than DNV GL), suppliers and subcontractors (of any tier) and their respective Affiliates; and (iii) the respective directors, officers, managers, agents, employees (including agency personnel) and representatives of the persons and entities mentioned under (i) and (ii) above as well as any other person or entity acting on its/their behalf;

"Deliverable" – the deliverable(s) which is(are) to be provided to the Customer by DNV GL according to the Contract;

"DNV GL" – shall mean for the purposes of these General Terms and Conditions, the company with which the Customer has entered into the Contract being DNV GL AS or any of its branches and subsidiaries (as the case may be);

"DNV GL Group" – shall mean (i) DNV GL, all its direct and indirect owners and its Affiliates; (ii) DNV GL’s subcontractors (of any tier) and their Affiliates; and (iii) the respective directors, officers, managers, agents, employees (including agency personnel) and representatives of the persons and entities mentioned under (i) and (ii) above as well as any other person or entity acting on its/their behalf;

"DNV GL Rules" – shall mean all provisions and/or requirements adopted by DNV GL as the basis for Classification at any point in time;

"Variation" – additional work to the Work originally agreed in the Contract;

"Work" – the services provided to Customer by DNV GL which are expressly set out in the Contract including any Variation thereto;

These General Terms and Conditions shall be incorporated in the Contract and shall override and exclude any terms and conditions sought to be imposed by the Customer. No amendment and/or variation to these General Terms and Conditions and no additional terms put forward by the Customer shall be considered binding or valid unless set out in writing and duly signed by the authorised representatives of both parties.

The respective latest version of the General Terms and Conditions as well as the applicable DNV GL Rules, as made available on www.dnvgl.com shall apply to all Work rendered by DNV GL, including those rendered within the scope of DNV GL’s statutory functions as recognised organisation or similar, even if no written Contract was concluded.

2 The Work and execution of Work

2.1 The Work shall be carried out in accordance with the Contract, the provisions of these General Terms and Conditions, the DNV GL Rules, the international conventions and/or EU regulations applicable to the relevant Work and/or flag administration requirements. The same shall apply in the absence of a written agreement between the parties. The Work performed by DNV GL is performed under the basic assumption that other parties involved, including but not limited to the Customer’s other contractors and suppliers, full their individual obligations and provide correct and complete information. DNV GL shall, upon completion of the relevant certification process or the Work, be subject to any relevant findings from its assessment or inspections, issue the Deliverable, provided always that DNV GL in its sole professional discretion finds that the applicable requirements are fulfilled.

2.2 When providing services DNV GL does not assess compliance with any standard other than the applicable DNV GL Rules, international conventions, EU Regulations and/or flag administration requirements and other standards, to the extent agreed in writing.

2.3 Any terms, conditions, duties or warranties otherwise incorporated or implied by law are hereby expressly excluded in full or to the fullest extent permitted by the applicable law.

2.4 DNV GL will provide suitably qualified personnel to carry out the Work. Unless otherwise agreed, DNV GL may at any time substitute personnel assigned to the Work, provided that any replacement personnel are suitably qualified.

2.5 A confirmation given or certificate issued by DNV GL shall not substitute the role of and/or release the Customer Group or any other parties involved from its contractual or legal obligations towards any third parties and/or the Customer (as the case may be). Maintenance of the validity of such confirmation or certificate, for example through the process of regular surveys in the case of ship classification, is the responsibility of the Customer.

2.6 DNV GL may, without prejudice to any other rights available to DNV GL, at any time recall, suspend, withhold, withdraw and/or reissue any Deliverable with immediate effect, suspend or withdraw any vessel from class and/or suspend further performance of any services if in DNV GL’s sole and unfettered opinion: (i) Customer fails to provide any necessary information or documentation for the purpose of maintaining the Deliverable and/or class; or (ii) Customer fails to comply in due time with conditions or instructions issued by DNV GL; or (iii) Customer fails to pay any fees or other sums due to DNV GL; or (iv) any relevant discrepancies, errors or omissions in the basis for the Deliverable is detected; or (v) Customer misrepresents DNV GL’s business name, trademark or Deliverable on which such name or trademark is used.
2.7 DNV GL may retain or withhold any service, certificate or other deliverable to the Customer in respect of all outstanding payments (whether related or not) arising out of the entire business relationship with the Customer, regardless of whether one or more vessels owned or managed by the Customer are affected.

3 General Obligations

3.1 Customer agrees that DNV GL's performance of the Work is subject to any written agreement (whether related or not) arising out of the entire business relationship with the Customer. In the event this is unsuccessful, the Customer shall, in addition to his right as per section 637 of the German Civil Code, have the right to claim a reduction in the contractual price or to withdraw from the Contract. Claims of the Customer for defects shall become time barred one year after acceptance ("Abnahme") by the Customer of the performance by DNV GL of its obligations, in so far as such defects shall not have been wrongfully concealed by DNV GL or caused by the willful misconduct of DNV GL.

4 Health, Safety and Environment (HSE)

4.1 Both DNV GL and the Customer shall employ reasonable measures to promote safety, health and environmental protection and for ensuring safe working environments for their personnel.

4.2 Customer shall inform DNV GL without undue delay of: (i) any actual or potential HSE risk which Customer is aware of and which is reasonably relevant to the performance of the Work; and (ii) any of Customer's implemented or planned measures against such risks that Customer requires DNV GL's personnel to adhere to.

4.3 Whenever DNV GL's performance of the Work involves visits to or work on Customer controlled facilities or sites, Customer is responsible for the adequacy, stability, safety and legal compliance of the working environment, including reasonable measures to mitigate or control relevant risks. DNV GL or its personnel is entitled to refuse to carry out any activity, or visit any area or site, if DNV GL or its personnel in their sole discretion consider that relevant risks are unacceptable or not adequately addressed, controlled or otherwise mitigated. Any such decision shall suspend both parties' obligations under the Contract without any liability or penalties until the parties have agreed on how to proceed.

5 Variations to the Work

Customer may in writing request DNV GL to perform a Variation. DNV GL shall not be obliged to execute any Variations until a written agreement with the Customer regarding the remuneration and the potential schedule impact of the Variation has been signed, which shall be an integral part of this Contract.

6 Re-performance

Any defect in the Work will be rectified by DNV GL within a reasonable period of time at DNV GL's sole cost, provided said defect is not attributable to Customer or Customer Group. In the event that this is unsuccessful, the Customer shall, in addition to his right as per section 637 of the German Civil Code, have the right to claim a reduction in the contractual price or to withdraw from the Contract. Claims of the Customer for defects shall become time barred one year after acceptance ("Abnahme") by the Customer of the performance by DNV GL of its obligations, in so far as such defects shall not have been wrongfully concealed by DNV GL or caused by the willful misconduct of DNV GL.

7 Taxes and Remuneration

7.1 Each party is solely responsible for paying any and all taxes, duties or similar government charges to the competent public authority wherever such charges are levied and/or imposed on the activities of the party. Any and all prices, fees, rates or remuneration are agreed as stated exclusive of any form of sales taxes, value added tax, goods and services tax and/or any other similar taxes including any surcharges levied thereon which may be applicable.

7.2 Customer shall effect payment as agreed in the Contract to DNV GL or another legal entity within the DNV GL Group if specified as payee on the invoice, for the Work, including any Variations, to the bank account stated on the invoice within thirty (30) days of the date of the invoice. Work performed by DNV GL shall be invoiced in accordance with the tariffs of DNV GL or on the basis of the price quoted in the offer or in the Contract. In addition thereto, DNV GL will charge any extra expenses incurred in connection with the services rendered (e.g. travelling or other expenses and, where applicable, any value added/tax).

Customer accepts invoices sent by electronic means. Additional expenses which are included in the DNV GL invoice in connection with the performance of the Work, and for which DNV GL is not responsible, for instance, as a result of poor organisation on the part of the Customer or of repetition of tests and extra time spent, will be charged separately at the respective current cost rates.

7.3 In case of late payments, DNV GL is, in addition to the remedies set forth in Clause 2.6, entitled to charge a late payment interest according to the applicable law of this Contract, or 8% per annum pro rata, whichever is the higher.

7.4 All payments shall, subject to Clause 7.5, be made in cleared funds, without any deduction and free and clear of and without deduction for or on account of any taxes, levies, imports, duties, charges, fees and withholdings of any nature now or hereafter imposed by any governmental, fiscal or other authority save as required by law.

7.5 If and to the extent Customer has to withhold taxes or other government charges according to mandatory laws, Customer shall withhold and deduct such amounts from payments to DNV GL and pay the amount to the competent tax authority or any other relevant governmental body, as the case may be, within the time allowed and in the minimum amount by law. Customer shall indemnify and hold DNV GL harmless from any and all financial responsibility or sums found to be due arising out of the non-payment, late-payment or payment to the non-competent tax authority or any relevant governmental body.

Customer shall inform DNV GL about such withholding, any change in the rate or the basis of the withholding and the availability of any formal procedure resulting in an authorisation to make a payment without a withholding prior to making the payment. Customer and DNV GL shall co-operate in completing any procedural formalities necessary for the customer to obtain authorisation to make payment without a withholding.

Within ten days of making either the withholding or any payment required in connection with that withholding,
the Customer shall deliver to DNV GL a withholding tax certificate, official receipt or evidence reasonably satis-
factory to DNV GL that payment has been made to the
competent tax authority or any other competent gov-
ernmental body. Customer shall cooperate with DNV GL
and shall use reasonable efforts, at no cost to DNV GL,
in seeking any double tax treaty relief, other exemp-
tions and refunds available following from such with-
holdings.

7.6 Section 7.1 to 7.5 shall apply accordingly in case an
Affiliate provides the Work.

7.7 No disputes arising between DNV GL and the Customer
shall interfere with prompt payment of invoices by the
Customer. Any commercial or other right of retention in
favour of the Customer, statutory or otherwise, are
hereby excluded, unless the counter-claim on which any
right of retention is based is undisputed or has been fi-
nally adjudicated upon by the court and recognized or is
directly related and stands in reciproci-
ty with the payment claim of DNV GL.

8 Confidentiality

8.1 Each party as recipient agrees to keep confidential any
information which it receives from the disclosing
party in the course of the Contract which, by deno-
tration or reasonable circumstances, is considered con-
didential to the disclosing party. The recipient shall treat
such information with reasonable care and dilig-
cence, not disseminating or disclosing it to third parties
without the disclosing party's prior written consent, provided
recipient may share such in-
formation with its officers, employees, affiliates, subsidi-
aries, subcontractors, suppliers or professional advisors
who are subject to confidentiality obligations reflecting
the principles herein.

8.2 The obligations set forth in Clause 8.1 shall not apply to
any information which: (i) is or becomes known to the
recipient from a third party without any confidentiality
obligation to the disclosing party; (ii) is or becomes
generally available in the public domain through no act
or failure to act on the part of the recipient; (iii) has
demonstrably been developed by the recipient inde-
pendently from this Contract; (iv) is requested to be
disclosed by any competent court, governmental agency,
flag state administration, other relevant public authority
in accordance with applicable law, court order or other
public regulation or to a person professionally bound by
a duty of confidentiality; (v) is disclosed to the regis-
tered owner or ultimate owning company of a vessel
without changing the general nature of confidentiali-
ty of such information if such information is vessel-
related or (vi) is required to be disclosed by the appli-
cable stipulations of the International Association of
Classification Societies (IACS).

8.3 Customer acknowledges that DNV GL is bound by an
obligation to give the EU Commission or anyone acting
on its behalf, access to information in accordance with
applicable EU requirements, and that Customer shall
give the EU Commission unrestricted access to ships for
the purpose of inspection.

8.4 DNV GL Group shall have the right to use for statistical,
analytical and internal training purposes, any material,
information or know-how generated in the course of the
Work.

8.5 The obligations in this section shall survive the comple-
tion of the Work or termination of this Contract and shall
continue for as long as the relevant information remains
confidential.

9 Assignment and Subcontracting

9.1 This Contract, including any Deliverable issued as a
result hereof, is specifically related to the Customer and
no rights, obligations, interest, claim, benefit or Deli-
vable deriving here from shall extend to any other
(third) party without the prior written consent of DNV
GL. Customer is not entitled to grant to any third party
any right of use in respect of any Deliverable without
the prior written consent of DNV GL.

9.2 DNV GL may, at its discretion subcontract parts of or the
whole of the Work to any other company within the
DNV GL Group. The DNV GL Group shall have the benefit of,
and shall be entitled to enforce against the Customer
the rights, exclusions, limitations of liability and indem-
nities set out in the Contract.

9.3 DNV GL is only responsible for the Work it has per-
formed directly or through its subcontractors.

10 Intellectual Property Rights

10.1 For the purpose of this Contract, each party shall re-
main the sole owner of any of its intellectual property
and rights thereto existing prior to the date of this Con-
tract and, except as explicitly set out in this Contract,
nothing herein shall imply any transfer or grant of rights
to any such intellectual property or rights thereto.

10.2 Customer shall hold a restricted, global and royalty free
license to use the Deliverables or results of the Work
for their agreed or ordinary purpose, including the
right to use any valid certificates or similar documents
in accordance with the applicable requirements.

10.3 Subject to the confidentiality obligations set out in
Clause 8 above, all intellectual property rights in the in-
formation and data created in connection with this Con-
tract shall vest in DNV GL. In particular, DNV GL shall
hold the copyright to certificates and similar docu-
ments issued under this Contract. Nothing herein shall
be deemed to limit DNV GL Group rights according to
Clause 8.4.

10.4 The Customer warrants that it holds all necessary rights
to materials and information submitted for the purpose
of the Work. The Customer shall indemnify and hold
harmless DNV GL from any Claim DNV GL might suffer
or receive as a consequence of any infringement of third
party rights.

10.5 DNV GL is continuously improving its services to the
industry to safeguard life, property and the environment.
The customer acknowledges that DNV GL shall hold a
right to use and process any information, data or data-
bases generated or collected throughout the Work in an
anonymized form, for its own competence building, re-
search or business purposes.

11 Force Majeure

11.1 Neither party shall be in breach of this Contract, nor
liable for any failure or delay in performance hereunder if
the cause of such failure or delay is attributable to
events beyond the reasonable control of the affected
party, including but not limited to unforeseen conflict, terror-
ist attack, civil war, riots, toxic hazards, epidemics, nat-
ural disasters, extreme weather, fire, explosion, failure
of utility service, labour disputes, breakdown of infr-
astructure, transport delays, or any public restrictions
following any of the incidents above, or any other force
majeure occurrence.

11.2 In the event of a force majeure occurrence, the affected
party shall notify the other party in the course of the Work in
an anonymized form, for its own competence building, re-
search or business purposes.

12 Indemnifications

12.1 The Work including any advice and information provided
by DNV GL to the Customer as a part of the Work, shall
be for the Customer only. The Customer shall ensure
that any other member of the Customer Group and/or
any third party is aware that the Work provided by
DNV GL only and it is understood and agreed that
nothing expressed herein is intended or shall be con-
strued to give any person, firm or corporation, other
than the signatories hereto any right, remedy or claim
hereunder or under any provisions herein contained.

The Customer shall indemnify and hold harmless the
DNV GL Group from and against Claims brought by the
Customer Group (other than the Customer) and/or any

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12.2 The Customer shall forthwith notify the other party without undue delay, indemnify, defend and hold harmless the DNV GL Group from and against all Claims in respect of pollution or contamination emanating from the assets, equipment, facilities or property of Customer Group whether owned, hired, leased or otherwise provided by the Customer Group and arising from, relating to or in connection with the performance or non-performance of the Work, irrespective of cause and whether or not resulting from or contributed to by any negligence, breach of duty (statutory or otherwise), breach of contract, breach of warranty and/or strict liability of any member of the DNV GL Group.

12.3 Customer shall indemnify and hold harmless DNV GL and its legal representative(s) or agent(s) from any Claim from the Customer Group arising from, relating to or in connection with the performance or non-performance of the Work, irrespective of cause and whether or not resulting from or contributed to by any negligence, breach of duty (statutory or otherwise), breach of contract, breach of warranty and/or strict liability of any member of the DNV GL Group.

12.4 The Customer’s obligations to indemnify DNV GL Group set out above in Clause 12.1 and 12.2, shall apply in respect of any Claims regardless whether such Claims against DNV GL Group are based on breach of contract, direct action, breach of duty (statutory or otherwise), tort (including negligence), “information liability”, strict liability or otherwise, except if and to the extent DNV GL would be liable towards the Customer under these General Terms and Conditions.

12.5 Each party shall notify the other party without undue delay upon becoming aware of any incident likely to give rise to a Claim against the other party in relation to this Contract.

12.6 The Customer agrees that any Claim with respect to the Work shall be brought solely against DNV GL, and the Customer shall indemnify and hold harmless DNV GL Group from any Claim brought against DNV GL Group by any other party as a consequence of the Customer’s breach of this Clause 12.5.

13 Limitation of Liability

13.1 Except for the re-performance of the Work as provided in Clause 6, DNV GL’s liability for all Claims arising out of or in connection with this Contract shall be limited to:

(i) an aggregate total of 10 (ten) times the net fees (excluding any expenses and disbursements and never exceeding a maximum aggregate sum of USD 4 (four) million) payable to DNV GL for the Work, or

(ii) in case the Customer pays the fees periodically, e.g. under a Periodical Service Agreement or similar fee arrangement, an aggregate total of 10 (ten) times the net fee (excluding any expenses or disbursements) and never exceeding a maximum aggregate sum of USD 4 (four) million, unless DNV GL, its legal representative(s) or agent(s) employed in the performance of its obligations acted intentionally or with gross negligence or the claim/damage is due to the non-observance of any of DNV GL’s essential material obligations, i.e. such duty which arises from the nature of the Contract and is of particular importance for the proper execution of the Contract and on whose adherence the Customer may regularly rely, or DNV GL is strictly liable by law. This limitation of liability shall also apply to claims for damages by the Customer based on the tort of slight negligence.

In the event of a negligent breach of an essential contractual obligation, the liability of DNV GL shall be limited to the typical contractual foreseeable damage. This shall also apply in cases of gross negligence, unless an essential contractual obligation is concerned.

13.2 Any limitations and exclusions of DNV GL’s liability shall extend to:

(i) the other members of the DNV GL Group; and

(ii) the relevant maritime administration of a vessel’s country of registry (the “Flag Administration”) for any services provided hereunder on behalf of such Flag Administration, and the Customer accepts that the other members of the DNV GL Group and the Flag Administration shall be entitled to invoke such limitations and exclusions of liability directly towards any Claim from the Customer or Customer Group.

13.3 Personal liability of the organs of DNV GL or persons to whom DNV GL resorts to in respect of any Claims regardless whether such Claims against DNV GL or its legal representative(s) or agent(s) are or become illegal or in conflict with applicable law for the respective party, its subcontractors and/or its subcontractor’s parent companies.

13.4 The attention of the Customer is expressly drawn to the fact that it has the possibility of agreeing with DNV GL that the liability of DNV GL be extended beyond what is provided for in these General Terms and Conditions. However, such extension of liability is subject to the Customer demanding this of DNV GL, to the insurer of DNV GL accepting to take on such additional risk and to the Customer bearing any additional insurance cost associated with such increase in liability.

13.5 Any Claim against DNV GL Group by the Customer, with the exception of any claims for defects pursuant to Clause 6, any tortious claims and/or any claims brought under the German law on product liability, shall be deemed to be irrevocably waived and time barred upon the expiry of one year from the date of acceptance (“Abnahme”) of the relevant Work.

A later issuance of class certificate or confirmation of vessel being in class shall not apply to claims of the Customer for damage from injury to life, body or health or infringement of liberty or in case any damage caused by wilful misconduct or fraudulent concealment on the side of DNV GL.

14 Insurance

Both parties shall maintain adequate insurance coverage covering their respective business activities and their relevant personnel under the Contract, for such amounts and on such terms as are standard in their respective industries and with underwriters who are in good standing. Such insurances shall contain a waiver of subrogation as far as any claims against any of the insured persons or their organs and/or servants are concerned.

15 Fair Business Practice, Anti-bribery and Compliances

15.1 The parties shall conduct their respective business activities in a fair, ethical and lawful manner in accordance with all applicable laws and generally accepted practices, including but not limited to acceptance of or acquiescence in extortion, bribery, use of child labour, breach of human rights, or the imposition of unreasonable work conditions.

15.2 Customer shall indemnify and hold harmless DNV GL from any breach of Clause 15.1.

15.3 Both parties may terminate this Contract with immediate effect, without any liability or penalties, if a member of DNV GL Group or Customer Group are or become subject to sanctions or penalties imposed by a national or international governmental or any other authority.

16 Term and Termination

16.1 This Contract shall remain in full force and effect until all Deliverables are delivered, or the Work is otherwise completed and paid for in full unless terminated earlier by mutual agreement, in accordance with German law, or in accordance with the provisions of these General Terms and Conditions, in particular Clause 15.3 or Clause 16.2 below.
16.2 Each party may terminate this Contract by written notice to the other party under the following circumstances:

(i) if the other party commits a material breach of this Contract and fails to rectify such breach within 10 (ten) working days after receipt of the other party’s written notice; or 

(ii) if the other party is unable to pay its debts as they fall due, suffers a deterioration of its financial situation or discontinues its business.

16.3 The Customer may terminate this Contract in accordance with section 649 German Civil Code, but by serving the other party a written notice 30 (thirty) days prior to termination. In the event the Contract is terminated by the Customer prior to completion of the Work, irrespective of cause, DNV GL shall be entitled to: (i) the agreed remuneration for the Work rendered up to the date of termination; (ii) all costs incurred by DNV GL up to and including the termination date; and (iii) it shall be presumed in accordance with section 649, 3rd sentence of the German Civil Code that DNV GL shall be entitled to at least 10% of the remuneration agreed in respect of Work which has not been provided. In the event of termination, DNV GL shall be entitled to retain any payment, deposit or advance of any fees made by the Customer prior to the date of termination up to the amount to which DNV GL is entitled.

16.4 DNV GL may terminate this Contract by written notice to the other party for convenience, but only after serving the other party a written notice 30 (thirty) days prior to termination and on the basis that any remuneration paid for Work not yet performed must be returned.

16.5 In the event of termination of the Contract, the rights and obligations of DNV GL and the Customer included in Clauses 1, 2, 3, 6, 7, 8, 10, 11, 12, 13, 17 and 18 shall remain in full force and effect.

17 Law and Jurisdiction

17.1 This Contract shall be governed by and construed exclusively in accordance with the laws of Germany, without regard to principles of conflicts of law.

17.2 The parties shall use their reasonable efforts to resolve any claim or dispute arising in relation to this Contract by negotiations within a reasonable time. Should the parties fail to resolve any claim or dispute by negotiations, the dispute shall be exclusively subject to the jurisdiction of the courts of Hamburg, Germany.

18 Severability

Should any provision of these General Terms and Conditions be held to be invalid or unenforceable, such shall not affect the validity or enforceability of any other part or provision of these General Terms and Conditions. Such provision shall be amended to the extent necessary to make the provision valid and enforceable, while keeping as strictly and closely as possible to the original wording and purpose of the provision.