



## JUMBO GENERAL CONDITIONS

filed at the District Court of Rotterdam under number 33/2021

### I - GENERAL

#### 1. Definitions

In these General Conditions the following expressions shall have the meaning hereinafter assigned to them:

- (a) "Agreement": any agreement entered between Buyer and Supplier with respect to the Goods and Services;
- (b) "Buyer": the Jumbo entity following from the Agreement;
- (c) "Buyer Group": the Buyer, its parents, affiliated and associated companies, agents, representatives, contractors and other subcontractors of any tier (excluding Supplier Group) and its and their respective directors, officers and employees;
- (d) "Contract Price": the price due to the Supplier under the Agreement;
- (e) "Delivery": the actual and timely provision of the Goods;
- (f) "Documents": drawings, models, designs, (technical) specifications, calculations and all other documents provided by virtue of the Agreement;
- (g) "Goods": all materials and other objects that are (to be) supplied by Supplier to Buyer, such as spares, equipment, tools, consumables, provisions, hardware and software;
- (h) "Performance": the timely provision of the Services;
- (i) "Performance Bond": an irrevocable and unconditional on demand bank guarantee from an established bank all acceptable for and agreed by the Buyer.
- (j) "Supplier": Buyer's counter party;
- (k) "Services": any provision of services, no matter their form, to be performed by Supplier for the benefit of Buyer under the Agreement. The Services include, but are not limited to design, engineering, fabrication, construction, installation, technical assistance, testing, survey, inspection, repairs, servicing, maintenance, advice, consult and all material works arising from the Services;
- (l) "Supplier Group": Supplier, its parent, affiliated and associated companies, agents, representatives, sub-contractors of any tier and its or their respective directors, officers and employees;
- (m) "Variation Order": any changes and/or additions to and/or extensions of the Agreement as per article 6.

#### 2. General Conditions

2.1 These General Conditions apply exclusively to the Agreement. Any general terms and conditions of Supplier are hereby expressly rejected.

2.2 These General Conditions may only be deviated from by a written Agreement.

#### 3. Offer and acceptance

3.1 Upon Buyer's request or inquiry Supplier shall make an offer in accordance with such request or inquiry. Supplier's offer shall be irrevocable and shall remain valid for a term of 30 calendar days, or so much longer as otherwise specified in the request or inquiry.

3.2 An Agreement shall be concluded when Supplier's offer is accepted in writing, either by a purchase order or any other written instrument from Buyer, or when Supplier has commenced with the delivery of the Goods or the Performance as per Buyer's request or inquiry.

3.3 In the event of any errors or inconsistencies in the inquiry or the purchase order, Supplier shall inform Buyer before making an offer or accepting the purchase order.

3.4 Without any obligation to pay damages, Buyer will be entitled to withdraw a purchase order as long as Supplier has not started with the execution of the purchase order.

3.5 Documents issued by and technical, safety, quality or other regulations referred to by Buyer shall form part of the Agreement.

#### 4. Contract Price

4.1 The Contract Price shall be lump sum or at reimbursable rates based on the hours spent multiplied by the agreed hourly rate.

4.2 The Contract Price shall be exclusive of VAT, but inclusive of costs of labour, insurance, freight, duties, levies, other taxes, government measures or any other similar changes having an effect on the Contract Price the day after the Agreement is concluded.

#### 5. Payment

5.1 Supplier's invoices shall be correct, detailed and duly addressed to Buyer. Invoices shall be submitted only digitally to [finance@jumbomaritime.nl](mailto:finance@jumbomaritime.nl).

5.2 Unless otherwise agreed in writing, Buyer shall effect payment of any undisputed part of an invoice within 60 calendar days from the date of receipt of the invoice.

5.3 Buyer shall be entitled to withhold the disputed part of the invoice and/or to set off any claims against Supplier or any debts payable by Buyer, even if these have not yet become due and payable.

5.4 Payment by Buyer does not imply that the Goods and Services are free of any defects and/or satisfy Supplier's obligations under the Agreement.

#### 6. Variation Orders

6.1 At any time Buyer has the right to issue Variation Orders to Supplier.

6.2 Supplier shall - before effecting the Variation Order - advise Buyer in writing of any effects on the Contract Price and/or the time of Delivery and/or Performance as soon as possible, but in any event within 5 calendar days after submission of the Variation Order. Upon receipt of Supplier's advice, Buyer shall accept or reject the advised effects within reasonable time.

6.3 Any variation to the Agreement should be agreed in writing, but when reasonably required by Buyer, Supplier shall immediately proceed as instructed even if any effects on the Agreement have not been determined.

6.4 Supplier shall also have the right to request a Variation Order if Supplier considers that Supplier is entitled to a variation. Any variation shall be considered accepted by





Buyer only if agreed upon by Buyer in writing by a person authorized for that purpose.

### **7. Warranty**

Supplier warrants that

- (a) it has satisfied itself of the nature and extent of the Goods and Services, taking into consideration all matters which could affect the performance of the Goods and Services;
- (b) the Goods and Services are fit for the purpose as specified in the Agreement, or, where no such purpose is specified, fit for the ordinary purpose;
- (c) the Goods and Services are within the written specification of the technical information, such as drawings, models, calculations and/or all other information, whether or not provided by Buyer;
- (d) the Goods and Services are of good quality and free from any defects in design, construction and/or materials, and that only new materials, and skilled personnel will be used for the Goods and Services;
- (e) it has satisfied itself with all applicable rules, procedures and regulations and it complies with the rules, procedures and regulations applicable at the time and in the place of Delivery and/or Performance;
- (f) (delivery of) the Goods and (performance of) the Services will not be in breach of any rights of third parties such as any intellectual or industrial property rights, regardless of whether these rights have been registered. Supplier shall hold Buyer Group harmless from and against all claims in that matter and shall compensate all damage sustained by Buyer in this respect.

### **8. Testing and Inspection**

8.1 Within normal business hours Supplier shall allow any test or inspection prior to Delivery and/or Performance regardless of the production and/or development phase. Supplier shall, without any extra charges, cooperate in the testing/inspection and make reasonable personal and material assistance available for the benefit of the test/inspection.

8.2 The Parties shall bear their own costs and expenses related to any (re-)tests and/or (re-)inspections.

8.3 Any testing/inspection of the Goods and Services by or on behalf of Buyer shall not release Supplier from any guaranty, warranty, liability or other obligation under the Agreement.

8.4 Notwithstanding articles 8.1 to 8.3, Buyer shall not be obliged to test or inspect the Goods and Services, unless otherwise agreed with Supplier.

8.5 Where applicable, all original certificates are to be provided with the Goods and Services.

### **9. Remedying defects**

9.1 Supplier is obliged to remedy any defects in the Goods or Services free of charge within a reasonable term set by Buyer at the location specified by Buyer.

9.2 At Supplier's risk and expense, Buyer is entitled to perform Supplier's obligations under the Agreement, or to have them performed by a third party, if Supplier fails to remedy, or Buyer reasonably believes that Supplier will fail to remedy the defect within the term of article 9.1.

### **10. Delay**

10.1 Unless otherwise agreed in writing, the time of Delivery and/or Performance are fixed. Unless the delay is solely caused, the simple exceeding of Delivery and/or Performance time shall cause Supplier to be in default without any further written notice of default being required.

10.2 In the event of delay, Buyer shall be entitled to payment of 0.5% of the Contract Price, for each day or part thereof that the Delivery and/or Performance is delayed. This payment shall not replace any further damages due under the law and Buyer shall remain entitled to such damages.

10.3 If timely performance by Supplier is impossible or threatens to become impossible, Supplier is obliged to notify Buyer of this in writing without delay.

### **11. Liability and Insurance**

11.1 Supplier shall be liable for all claims, losses, damages, costs, expenses, actions, proceedings, suits, demands, resulting from any default, act or omission by Supplier Group under the Agreement, including any defects, latent or otherwise, any non-conformity and design errors of the Goods and Services and shall save, indemnify, defend and hold harmless the Buyer Group from such claims, losses, damages, costs (including legal costs), expenses, actions, proceedings, suits, demands and liabilities.

11.2 Neither Party shall be liable to the other for any indirect or consequential loss, including but not limited to any loss of profit, loss of contracts and loss of reputation or goodwill.

11.3 Supplier warrants that sufficient insurance is obtained for the risks related to the performance of any obligation, including the indemnity obligations assumed under this Agreement. On Buyer's first demand, Supplier shall produce evidence of such insurance by providing the relevant insurance certificates.

### **12. Force majeure**

12.1 Neither Party shall be liable for any loss, damage or delay due to any of the following force majeure events to the extent the party invoking force majeure is prevented or hindered from performing any or all of the obligations under the Agreement, provided they have made all reasonable efforts to avoid, minimize or prevent the effect of such events: (a) acts of God; (b) any government requisition, control, intervention, requirement or interference; (c) any circumstances arising out of war, threatened act of war or warlike operations, acts of terrorism, sabotage or piracy or the consequences thereof; (d) riots, civil commotion, blockades or embargoes; (e)





epidemics; (f) earthquakes, landslides, floods or other extraordinary weather conditions; (g) strikes, lock outs or industrial action, unless limited to the party seeking to invoke force majeure and (h) fire, accident, explosion, except where caused by negligence of the party seeking to invoke force majeure.

12.2 Upon a force majeure event, the party invoking force majeure shall immediately inform the other party, stating the cause of the force majeure event.

### 13. Suspension and termination

13.1 At any time Buyer may terminate or suspend the Agreement for convenience. Buyer shall compensate Supplier for the part of the Goods and Services properly performed up to such termination.

13.2 If Supplier is in default of its obligations under the Agreement, as well as in the event of bankruptcy or insolvency or when proceedings in that regard are commenced or initiated, Buyer will be entitled to suspend its obligations arising from the Agreement or to terminate the Agreement in whole or in part with immediate effect, without further notice of default being required, without being under any obligation to pay damages and without prejudice to its other rights by law and by Agreement.

13.3 In the event of termination under 13.2 all Buyer's claims shall at once become due and payable and Buyer shall be allowed to take over from Supplier against payment the Goods and Services properly performed up to such termination. Buyer is also entitled at Supplier's expense and risk to perform Supplier's obligations under the Agreement, or to have them performed by a third party.

13.4 Supplier shall bear any extrajudicial costs, expressly including the sending of a number of demands for payment, the making of (settlement) proposals, and any other preparatory actions, as well as any extrajudicial costs incurred by Buyer as a result of Suppliers non-performance.

## II - GOODS

### 14. Place and time of Delivery

14.1 Unless otherwise agreed in writing, the Delivery of the Goods shall be 'DDP' (Incoterms 2020) to the place and at the time of Delivery determined by Buyer.

14.2 Delivery prior to the agreed time of Delivery shall only take place with Buyer's prior written permission and shall not cause any changes to the payment terms or the agreed guarantee period.

### 15. Materials and packaging

15.1 All Goods and/or spares shall and must be delivered in compliance with applicable regulations (such as but not limited to EU ship recycling regulations 1257/2013, Annex 1 and 2 and IMO Hong Kong Convention (HKC) SR/CONF/45 Table A stated in MEPC.269(68) Appendix 1 on hazardous materials and SOLAS II-1, Regulation 3-5. Resolution MEPC.197(62), Appendix 5, Paragraph 2.2.2.1. on asbestos).

Buyer is entitled to request independent (laboratory) certificates if deemed necessary.

15.2 Supplier shall take necessary measures to prevent the use of single-use plastic products made from oxo-degradable plastic and fishing gear containing plastic. Upon Buyer's request, the Supplier shall inform and substantiate what measures have been taken to prevent the use of these plastic products.

15.3 Supplier shall ensure proper packaging of the Goods, including where necessary that the Goods may be shipped and/or stored without damage.

15.4 The Goods shall be packed as environmentally friendly as possible with clear and distinctive marks or labels.

### 16. Title and risk

16.1 Title to the Goods shall pass to Buyer at the moment the risk passes to Buyer in accordance with 'DDP' (Incoterms 2010) or any other Incoterm 2010 agreed upon.

16.2 Supplier shall warrant that the Goods are free from liens, pledges, rights of retention or any other rights.

### 17. Guarantee period

17.1 Any defects to the Goods discovered by Buyer within twelve (12) months from Delivery have to be remedied by Supplier in accordance with the provisions of article 9 (remedying of defects) of these General Conditions.

17.2 Any repaired or replaced Goods shall be subject to a new guarantee period of twelve (12) months from completion of the repairs or date of replacement, provided that the aggregate guarantee period shall not exceed 24 months from Delivery.

## III - SERVICES

### 18. Place and Time of performance

18.1 Unless otherwise agreed in writing, the Services are to be carried out at a place and time determined by Buyer.

18.2 Supplier shall be authorized to carry out the Services in parts if such has been agreed upon in writing with Buyer and will not lead to an increase of Buyer's costs and/or time of Performance.

### 19. Ancillary materials and equipment

19.1 Any and all of Supplier's ancillary items used in the performance of the Services shall be new or as new and shall comply with all applicable regulations.

19.2 Upon Supplier's request Buyer will, at a consideration to be agreed upon, make available oxygen, gases, power, light, water and ancillary material or equipment for the benefit of the Services.

19.3 If Supplier makes use of Buyer's ancillary materials or equipment, Supplier shall take due care and diligence and shall return the ancillary materials and/or equipment to Buyer in good state.

### 20. Title and risk





Unless otherwise agreed in writing, title and risk in any material works arising from the Services shall pass to Buyer after the material works have been accepted by Buyer.

#### **21. Guarantee period**

21.1 Any defects in the Services discovered by Buyer within twelve (12) months from the date of completion of the Service have to be remedied by Supplier in accordance with the provisions of article 9 (remedying of defects) of these General Conditions.

21.2 Any remedied Services shall be subject to a new guarantee period of twelve (12) months from completion of the performed remedy, provided that the aggregate guarantee period shall not exceed 24 months from completion of the Services.

### **IV – MISCELLANEOUS**

#### **22. Health, safety and environment**

22.1 Supplier shall have an implemented and documented system for Quality Assurance (“QA”) according to the current ISO Standard/EN ISO 9001 or equivalent. Supplier shall ensure that the performance of Suppliers’ obligations comply with the QA system.

22.2 Supplier shall have in place a health, safety and environment (“HSE”) management system complying with all applicable laws and regulations and industry sector good practices, ensure performance under the HSE management system and actively pursue the highest standards of HSE performance, all in order to provide the Goods and Services within the applicable HSE requirements.

22.3 Failure to meet the above requirements is regarded as a default in the performance of Supplier’s obligations under the Agreement.

#### **23. Intellectual property rights**

23.1 All Documents provided to Supplier by Buyer, shall remain Buyer’s (intellectual) property at all time and shall upon termination or expiry of the Agreement be returned to Buyer at Supplier’s sole expense. Any intellectual property rights therein shall remain with Buyer.

23.2 Suppliers existing intellectual property shall remain with Supplier without granting Buyer with any license whatsoever.

23.3 Unless otherwise agreed upon in writing, all Documents manufactured by or on behalf of Supplier in connection with or by virtue of the Agreement shall be deemed to have been manufactured for Buyer and shall be Buyer’s (intellectual) property. Upon Buyer’s request the Documents should be provided with the necessary distinguishing marks and surrendered to Buyer.

23.4 If upon termination or expiry of the Agreement supplier should fail to return the Documents made available by Buyer or manufactured at Buyer’s instruction, Buyer will be entitled to suspend all payments due to Supplier at that time in respect of the Agreement, and/or to set off those payments against the costs Buyer has to incur for replacement or otherwise.

#### **24. Confidentiality**

24.1 Both Buyer and Supplier are obliged to observe confidentiality regarding any and all Documents, details, matters, rights and all other information in any way related to the Goods and Services, Buyer or Supplier and their business relations (“Confidential Information”). Buyer and Supplier shall only use Confidential Information in relation to the Agreement. Buyer and Supplier shall make no copies thereof without the other’s written permission. Buyer and Supplier shall also impose these obligations upon all their employees and non-employees who shall gain knowledge thereof and shall guarantee their fulfilment of such obligations.

24.2 Without prejudice to any other rights or remedies which Buyer or Supplier may have, Buyer and Supplier acknowledge and agree that award in damages may be insufficient to protect Supplier and Buyer, and that injunctive relief is an appropriate remedy to protect the unwarranted disclosure of confidential information.

#### **25. Compliance**

25.1 Supplier guarantees that in carrying out its activities under the Agreement it shall in all respects comply with Buyer’s Code of Conduct which is available for download at Buyer’s corporate website [www.jumbomaritime.nl](http://www.jumbomaritime.nl) Buyer encourages a “speaking-up” culture to discuss (i) any (possible) breaches of this clause (Compliance) and Buyers Code of Conduct or (ii) any other misconduct. Any breaches or misconduct can and should be reported to Buyer’s integrity committee at [ic@jumbomaritime.nl](mailto:ic@jumbomaritime.nl).

25.2 Supplier guarantees that in carrying out its activities under the Agreement it will not make use of any forced or child labour.

25.3 Supplier guarantees that in carrying out its activities under the Agreement it shall ascertain and comply with all applicable obligations and restrictions arising out of or following from any and all relevant anti-bribery and anti-corruption legislation of the United States of America, the United Kingdom and any other country that is or may be or become relevant in respect of the Agreement (together, the “Anti-Bribery Laws”).

25.4 Supplier will maintain adequate internal checks and procedures to monitor for suspicious activity and ensure compliance with the Anti-Bribery Laws.

25.5 Any offer to and acceptance by Supplier’s board member(s) and/or employees of money, gifts, travel, entertainment or any other consideration, in relation to the Agreement or Buyer, that is intended to or may be construed as an inducement to act in any manner is strictly prohibited.

25.6 Supplier will immediately notify Buyer if it becomes aware of any behaviour in the performance of the Agreement by its board member(s) and/or employees that is or may be inconsistent with the Anti-Bribery Laws.

25.7 Supplier guarantees that in carrying out its activities under the Agreement it shall ascertain and comply with all





applicable obligations and restrictions arising out of or following from any and all relevant sanctions and export controls legislation of the United Nations, the European Union, the United States of America and any other country that is or may be or become relevant in respect of the Agreement (together, the “Trade Laws”).

25.8 Supplier shall observe any requirements in connection with the supply of any Goods (or any part thereof) listed as dual use or governed by any dual use requirements. Supplier shall inform Buyer immediately if the Goods to be supplied (or any part thereof) are listed as dual use or governed by any dual use regulations.

25.9 Supplier will maintain adequate internal checks and procedures to monitor for suspicious activity and ensure compliance with the Trade Laws.

25.10 Supplier shall act in conformity with the General Data Protection Regulation (EU) 2016/679.

25.11 The Supplier is aware that the Buyer has a strong focus on minimizing risks on people, planet and profit and the Buyer has the intrinsic motivation and promotes global initiatives to reduce the environmental footprint and to contribute to the energy transition towards a zero-emission maritime industry. Buyer therefore takes responsibility for its dealing with the life below water, its consumption, services and the good health and well-being of its employees, customers and suppliers. Buyer demands the cooperation of Supplier, so that Buyer’s sustainability philosophy is supported by the entire supply chain. At the Buyer's first request, the Supplier will inform the Buyer about its CSR activities.

25.12 Supplier will ensure that all obligations under this clause be passed on to any third party that Supplier contracts or uses in its performance of the Order, or that takes over any obligation, or part thereto.

25.13 If Supplier fails to comply with any provision of this clause, the Buyer may – at its the sole discretion – terminate the Agreement with immediate effect. In the event of such termination, Buyer shall be under no further obligation resulting from the Agreement and Supplier shall indemnify Buyer from any direct and indirect damages, claims, penalties or other losses resulting from that breach. Buyer shall be entitled to any other remedies available at law or in equity.

## **26. Performance Bond**

If requested by Buyer, Supplier shall, at its own cost, provide Buyer with a Performance Bond. For the purpose of this clause, Performance Bond shall mean an irrevocable and unconditional on demand bank guarantee from an established bank all acceptable for and agreed by the Buyer. The Performance Bond shall be for 10% of the Contract Price and shall be valid from the effective date of the Agreement until the end of the guarantee period unless agreed otherwise.

## **27. Applicable law and jurisdiction**

27.1 The Agreement is exclusively governed by Netherlands law, with the exclusion of the Vienna Sales Convention.

27.2 Any dispute arising out of or in connection with this Agreement shall be referred to arbitration in Rotterdam in accordance with the UNUM Arbitration Rules.

