



## General Terms and Conditions of Repairs at KAOTECH MARINE SERVICES Sp. z o.o. (GTCR)

Valid as from 01 January, 2017

### §1

**General Terms and Conditions of Repairs at KAOTECH MARINE SERVICES Sp. z o.o. (GTCR)** set out the principles and standards which, besides the provisions of lawful acts and the Company's memorandum and articles of association in force, apply to execution of orders for i.a. repairs and conversions of ships; repairs of engines and other work, as assigned in that regard to the Company.

### §2

#### Statutory definitions:

- **Ship** - in the meaning of these GTCR, parts of a ship shall be considered the Ship, too;
- **Force Majeure** shall mean a phenomenon that neither contracting party could foresee prior to its occurrence;
- **Other incidents**, as referred to in § 17 of these GTCR, for which the Company is not liable, in particular, are as follows:
  - Each requisition, inspection, intervention, decree or other disturbance as instituted by State;
  - Any circumstances whatsoever related with war, the threat of armed conflict, military operations, terrorist attacks or their consequences;
  - Riots, lock-outs, embargoes;
  - Epidemics, natural disasters;
  - Extraordinary weather phenomena;
  - And other;
- **Other incidents caused by the Client - as referred to in § 17 of these GTCR - are in particular:**
  - The lack of decision making as regards the technical solutions suggested by the Service Provider, or delays in making decisions;
  - A late delivery of spare parts, which the Client has been obliged to deliver;
  - A delay of Ship.

### §3

The provisions concerning repairs to ships, as wholly shown by the GTCR, shall apply to repairs of any ship equipment and other work to be done based on the order.

### §4

These (GTCR) provisions shall constitute an integral part of the order, pursuant to which the Company shall undertake work; if contractual provisions exclude or govern anything contrary to the GTCR, then the contractual provisions shall be binding if they have taken effect and if they have been accepted in a written declaration by both contractual parties.

### §5

In executing the order, the Company undertakes to apply the provisions of a contract (which lays down the scope of work), the GTCR and to act in compliance with international standards.



#### §6

Contracts as made by the Company shall not be specific task contracts. Pursuant to the regulations of the Civil Code Act, to contracts as made by the Company, the lawful regulations on the service contract shall apply.

#### §7

The principles of the Company's liability for the execution of an order, together with the Company's liability are laid down in contract, in the GTCR and in the regulations of the laws in force in that regard. The Company's liability for damage and losses, (direct and indirect) incidents - is laid down on the culpability basis and shall not include cases, where they have not been caused by the Company acting, and they have resulted from e.g. a latent defect of Ship or her part; previous damage found, of which the Client has failed to notify.

#### §8

The Company shall not be bound to do a preliminary assessment of the condition of Ship and her elements in terms of the occurrence of any of those circumstances. The Client shall notify thereof the Company in writing, specifying latent defects and damage done as a result of third parties' acts, for which the Company shall not be held liable.

#### §9

The representative of the Ship placing order is her Master unless the Parties have resolved otherwise and notified each other thereof in a communicative manner. If the Parties and the scope of powers do not provide otherwise, the Client's representative shall be empowered to act on behalf of the Client in regard to matters concerning the contract and its performance. The representative shall: approve plans, documents as issued, price calculations, invoices; and make amendments to the contractual provisions; enter into contracts.

#### §10

The remuneration for services as rendered shall not include: towage fees, pilot services, harbour dues and alike. These charges shall be charged to the Client and they shall be borne by the Client; they shall not be included in the scope of a service contract.

#### §11

While carrying out the contractual subject matter, the Company makes use of subcontractors. The principles of liability and performance shall be laid down by a separate contract to be made between the Company and the subcontractor. However, the Company shall be liable to the Client for the selection and acts of subcontractors as for the Company's own act.

#### §12

The price shall be payable upon the date of completion of the work in contract and the price shall be reduced by neither public law liabilities (taxes) nor banking fees. The price as fixed in contract shall be a net price; in a country, where the VAT applies, to the price the tax cost shall be added at the rate in force in that country. The basis for payment shall be an invoice as rendered by the Company, payable within the deadline as set out in contract. Remuneration may be payable in the currency as agreed on in contract by the Parties. In the event that the contract value exceeds 20 000.00 EUR, the Company requires an upfront payment of 60% of the price, while the remainder of 40% shall be payable once the contract has been completed.



### §13

In the event that the payment has not been effected, the Company reserves itself the right of lien over the entire ship by reason of outstanding amounts due to the Company from the Client both at the date of repair of Ship as well as prior to the date.

### §14

The Client shall not have the right to set off any amounts against the price from the Company.

### §15

The Parties have agreed on the possibility of incorporating the so-called contractual penalties in contract. Their rate and basis for payment shall be detailed by the Parties in contract. The contractual penalty may represent a percentage of the remuneration, however, no more than 5% of the contract price.

### §16

The Company's liability shall not cover a loss of charter fees, a loss of profit, a loss of counterparties and alike indirect and direct losses, damage or expenses as a consequence of incidents arising in contract between the Parties.

### §17

Neither shall the Company be liable for incidents caused by the commonly called force majeure or other incidents, nor for incidents caused by the Client as referred to in § 2 of these GTCR. If those incidents cause a delay in the Company's work, then the Company shall not be liable for effects of those incidents or a delay to or non-performance of the work, until remedy thereof.

### §18

The Client shall be bound to tender the ship timely and to the location (a pier/a dock) as set out in contract in a condition permitting the Company to do work. The ship shall be clean, gas free and meet the HSAW requirements. Any costs related therewith or the costs of making the ship comply with the GTCR shall be borne by the Client.

### §19

Scrap (parts, substances etc.) as removed by the Company during the performance of work on board the Ship shall become the Company's property without the necessity of paying remuneration.

### §20

Tests, sea trials, movements of Ship shall be done at the Client's sole liability and the Company shall not bear any liability therefor.

### §21

The Company shall not be liable for the quality of the performance of work. The Company shall guarantee the conduct of repairs for a period of 3 months of the date of completion of work. The guarantee shall not cover spare parts or consumables used in the contract performance as supplied by the Client.



#### §22

Should the Client order repairs which, to the best knowledge of the Company, cannot be done in a way that guarantees an appropriate quality - then the work may be done by the Company only at the Client's risk (the guarantee principles shall not apply).

#### §23

The Client shall notify the Company in writing within 7 days of the occurrence of a defect or a claim of the latter having been in existence. After being so notified, the Company reserves itself the right of making its own assessment of the defects or claims through an expert or underwriters' representative. If the liability proves baseless, then the costs of the assessment shall be borne by the Client.

#### §24

The Company shall not be held liable by reason of the guarantee in the case of the Company not being notified timely of a defect or a claim or the absence of disclosure thereof.

#### §25

If the Company believes that a defect has occurred due to the Company's act and the claim is justified - the Company shall accept the claim and do repair at its cost. In case of repair to or replacement of elements, the period of the originally granted guarantee shall not be extended, and the guarantee shall be extended only for the repaired part.

#### §26

Throughout the currency of the contract, the Client shall be bound to hold relevant marine policy that covers both Ship and her crew - a Hull & Machinery policy and against Pal risk and against other customary risks, e.g. those related with shipbuilding or sea trials.

#### §27

For dispute resolution, the pertinent court shall be the court having jurisdiction over the Company's registered office as provided by Polish law.

#### §28

The correspondence addresses shall be set out in contract between the Parties; failing which those addresses shall be understood and the addresses of the registered offices. The Parties shall immediately notify each other of each change to the correspondence address or the address of the registered office by letter or else electronically.

#### §29

In case of interpreting discrepancies in the GTCR between the Parties, the Polish version shall prevail.

  
  
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