

## GENERAL TERMS & CONDITIONS OF SALES BROKERAGE DAMEN MARINE SERVICES B.V.

### 1. Definitions.

In these terms and conditions, the following definitions apply

**“Agreement”**: all requests, offers, agreements and resulting obligations whereby the Principal obtains Services from the Broker.

**“Broker”**: Damen Marine Services B.V., a private company with limited liability incorporated under the laws of the Netherlands, acting under the tradename Damen Trading & Chartering, having its corporate seat at Hardinxveld-Giessendam, the Netherlands and its principal place of business at Avelingen-West 20, 4202 MS Gorinchem, the Netherlands, registered in the commercial register under number 23036358.

**“Fixture”**: A contract or contracts for the sale, purchase, construction, towage or charter of a Ship including the Negotiations to enter into such contract(s).

**“Negotiations”**: Exchanges, whether verbal or in writing, in relation to concluding a Fixture.

**“Post Fixture Services”**: Assistance with communications, operational matters and claims arising from the performance of a Fixture.

**“Party”** or **“Parties”**: the Broker, the Principal or both.

**“Principal”**: A party to a Fixture including the owner, seller, buyer, builder or charterer of a Ship and any other party guaranteeing the obligations of such party.

**“Services”**: The services referred to in clause 2 of these terms and conditions.

**“Ship”**: Any type of vessel and/or equipment used or intended to be used for any purpose on, in or over water including but not limited to rigs, jack ups, submersibles and barges.

### 2. Services covered by these terms and conditions.

2.1 The Broker will act as a shipbroker in relation to one or more Fixtures. The role of the Broker is to introduce Principals. Thereafter the Broker will assist the Principals as a channel for the

Negotiations as well as providing such Post Fixture Services as may be agreed or provided by the Broker.

2.2 Unless advised otherwise in writing the Broker will act solely as an intermediary in relation to Fixtures and will not enter into any Fixtures arising from the Services as a Principal. The Broker is not responsible for the performance or non-performance of Fixtures or Principals.

2.3 Unless otherwise agreed the Services are provided on a Fixture by Fixture basis.

2.4 The Broker may also agree to perform other tasks such as providing ship valuations and/or specific market research. Such tasks may be subject to specific provisions (such as the wording of a valuation certificate) in addition to these terms and conditions. In the event of, and only to the extent of, a conflict between these terms and conditions and the specific provisions the latter will prevail. In addition any non-conflicting conditions, including those as to limitation of liability, will apply.

### 3. Obligations of the Broker.

3.1 The Broker will perform the Services with the reasonable skill and care to be expected of a professional shipbroker.

3.2 In dealing with other parties the Broker will take care to stay within the authority given by the Principal and to avoid misrepresentations.

3.3 During the Negotiations the Broker undertakes to pass on offers, counteroffers and such other communications accurately and in a timely manner. This obligation applies to passing communications to and from the Principal.

3.4 If the Broker is acting directly for a Principal then the Broker warrants that the Broker has the authority to fully represent such Principal.

3.5 If at any time the Broker provides information in respect of a Principal, including but not limited to information regarding corporate structures or financial standing, it is understood and agreed that in relation to the Broker such information is provided in good faith but without any guarantee as to the accuracy of such information. All prices

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mentioned are net and exclude any third party commissions. Any Ship is offered on “as is, where is basis” unless otherwise advised. It is the sole obligation of the Principal to satisfy itself of any counterparty risk and decide whether to enter into a Fixture with the proposed counterparty and on what terms.

3.6 Unless otherwise agreed in writing the Services are not provided on an exclusive basis and it is understood that the Broker may act as a shipbroker for other parties in relation to the same or other Fixtures. In the event the Broker is dealing directly with two Principals in relation to the same Fixture, the Broker’s duties will be to pass on offers, counteroffers and other such communications accurately and in a timely manner as authorized by each Principal in turn.

#### 4. Confidentiality.

Where the Broker is given information stated by the Principal to be confidential or it is expressly agreed that a Fixture is confidential (in either case “**Confidential Information**”) the Broker will hold such Confidential Information in confidence and will not disclose it to any other party without the prior permission from the Principal. This obligation will not however extend to information which (i) was already or becomes known to the Broker through other sources not subject to such an obligation of confidentiality (ii) is or becomes known to the public domain other than as a result of a breach of this obligation or (iii) which the Broker is obliged to disclose pursuant to an order of a court or such other authority. In all cases such obligation of confidentiality shall be deemed to end 3 years after the completion of the Fixture in question or in the absence of a concluded Fixture 3 years after the end of the Negotiations.

#### 5. Obligations of the Principal.

5.1 The Principal warrants to have full legal power (i) to enter into the Fixture brought about by the Services, (ii) to accept and act in accordance with these terms and conditions, (iii) to make all offers, counteroffers and representations during negotiations and (iv) to agree to a Fixture.

5.2 If any Fixture arises out of or in connection with the Services provided by the Broker, the Principal is deemed to have engaged the Broker in relation to such Fixture, whether or not such Fixture is concluded via the Broker.

5.3 The Principal will provide the Broker with all information and instructions necessary for the performance of the Services. Where actions need to be taken within a certain time period (such as reply times during the Negotiations) the Principal will ensure that the Broker has sufficient time to forward such messages prior to the relevant time limit.

5.4 The Principal will take care to avoid misrepresentations occurring during the Negotiations. The Principal will carefully review all messages sent or copied to the Principal and will promptly advise the Broker of any errors or misrepresentations. The Broker is not responsible for the consequences of a failure of the Principal to review messages in time.

5.5 The Principal warrants not to know of any reason or circumstance which could cause the Fixture to be unlawful in any respect or which could render the provision of the Services by the Broker in breach of any relevant law, including but not limited to (i) sanctions imposed by the United Nations, European Union, The United States of America or any other national government having authority over the Principal or the Broker and (ii) laws relating to money laundering, bribery and corruption. The Principal will promptly and fully inform the Broker of any such reason for an unlawful situation that the Principal is, becomes or should be aware of. In the event that the Broker in its absolute discretion believes that the Fixture or the provision of the Services may infringe such laws the Broker may by written notice terminate the Services immediately. In the event of such termination the Broker will have no liability arising from such termination howsoever.

5.6 If the Broker needs to perform the Services to a Fixture with a known end user (the “**End User**”), the effectiveness of this Agreement may be subject to the issuance of an export license. The Principal shall be obliged, prior to entering into this Agreement, to investigate whether the Fixture is subject to any export permits and shall be responsible for the provision of any required

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export permits. The Broker will not be responsible for the provision of any export permit.

### 6. Market Reports.

If the Broker publishes market reports or commentary these are provided for general information only and not for use in relation to specific Fixtures. Such market reports do not constitute advice and nothing contained in such documents amounts to a recommendation whether to enter or not to enter a Fixture. The Broker has no liability for the consequences of any person, including the Principal, purporting to rely on such market reports.

### 7. The Broker's remuneration.

7.1 Under this Agreement the Broker's remuneration for Fixtures will (unless otherwise agreed) be in the form of a commission on the hire or purchase price as the case may be. The level of commission payable and the party responsible for payment will be set out either in the Negotiations in case of a hire, or in a pre-signed Marketing Agreement with the Principal in case of a purchase.

7.2 If the commission payable to the Broker is recorded in a commission clause or in a specific commission agreement then commission will be payable in accordance with that clause or agreement. The Broker will be deemed to have (i) acted in reliance on the insertion of that clause and (i) assented to the terms of the commission clause governing its right to commission.

7.3 Commission for time charters will be payable on the hire paid under the charter and any continuation or extension of the charter. Commission for sale agreements is payable on delivery of the Ship and payment of the purchase price. Commission for new building contracts is payable as and when each stage payment is made. Commission is payable on sums received by the Principal as and when received and the Principal will not withhold payment pending resolution of unconnected matters. Commission is exclusive of all taxes and duties.

7.4 The tasks in clause 2.4 above will be subject to agreement of a specific fee between the Principal and the Broker. The Broker will invoice the Principal at the completion of the Services or at such other times and in such stages as may have been agreed. The Principal will pay that fee within 14 days of the date of the invoice.

7.5 If the amount of commission or fee and/or the manner of its payment is not specifically agreed in an agreement, a reasonable commission or fee in accordance with market practice will be payable.

7.6 The Broker reserves the Right to offset disputed amounts against remuneration due to Principals or Representatives.

### 8. Limitation of Liability.

8.1 Nothing in these terms and conditions limits the Broker's liability for (i) fraud or fraudulent misrepresentation and (ii) death or personal injury caused by gross negligence of the Broker.

8.2 The Broker will, subject to the provisions of this clause 8, be liable to the Principal for damage directly caused by the failure to perform the Services with the reasonable skill and care to be expected of a professional shipbroker, provided, however, that the Broker will never be liable for:

(i) Loss of profits, business interruption, loss of reputation, indirect, consequential or special losses, damages or expenses.

(ii) Damages caused by any event or cause that the Broker was unable to avoid and/or the consequences of which could not have been prevented by the exercise of reasonable diligence.

(iii) Damages which are not solely caused by the act or omission of the Broker or which would have occurred in any event.

8.3 The Brokers total liability arising out of or in connection with the Services shall in no circumstances exceed the sum of EUR 25,000.00

8.4 The exclusions and/or limitations set out in this clause shall apply whether the claim against the Broker is brought in contract, tort (including

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for negligence) breach of statutory duty or for any other cause whatsoever.

8.5 Any claim against the Broker shall be substantially documented and must be made in writing and notified to the Broker within 14 days of the date on which the Principal became aware or ought to have become aware of the circumstances giving rise to the claim and any claim not so notified shall be deemed waived and time barred. The Broker shall in any event be discharged of all liability arising out of the Services unless suit is brought and written notice of it given to the Broker within 1 year of the end of performance of the Fixture or in the absence of a concluded Fixture 1 year from the end of the Negotiations.

### **9. Anti-bribery and anti-corruption**

9.1 Each Party undertakes that it shall, and shall procure that its respective directors, officers and employees shall, comply with all applicable anti-bribery and anti-corruption laws and regulations. For the purpose of this clause 9 Public Official means any officer, employee or any other person acting in an official capacity for any government or any department, agency or instrumentality thereof, including any entity or enterprise owned or controlled by a government, or for any public international organisation, to any political party or official thereof or to any candidate for political office.

9.2 Without limiting the generality of clause 9.1, each Party undertakes that it shall, and shall procure that its respective directors, officers and employees and other representatives shall, refrain from offering, promising to pay, or authorizing the payment of any money, or offering, giving, promising to give, or authorizing the giving of anything of value, to any Public Official or to any person knowing or being aware of a high probability that all or a portion of such money or thing of value will be offered, given or promised, directly or indirectly, to any Public Official, for the purpose of influencing any act or decision of such Public Official in his official capacity, inducing such Public Official to do or omit to do any act in violation of his lawful duty, securing any improper advantage, inducing such Public Official to influence or affect any act or

decision of any entity or enterprise owned or controlled by a government or assisting any party's affiliates in obtaining or retaining business for or with, or directing business to any Party's affiliates.

9.3 Without limiting the generality of clause 9.1, each Party undertakes that it shall, and shall procure that its respective directors, officers and employees shall, refrain from accepting any undue pecuniary or other advantage of any kind in any way connected with this terms and conditions and that it shall take reasonable measures to prevent sub-contractors, broker, agents or any other third parties, subject to its control or determining influence, from doing so.

9.4 Without limiting the generality of clause 9.1, each Party undertakes that it shall, and shall procure that its respective directors, officers, employees or other persons authorized to represent the Principal shall, refrain from accepting, offering, promising to pay, or authorizing the payment of any money, or accepting, offering, giving, promising to give, or authorizing the giving of anything of value, made in return for an unjustified business favor or advantage (kickbacks).

### **10. Miscellaneous**

10.1 All intellectual property rights in or arising out of the Services belong to the Broker.

10.2 The Broker has a general lien on all documents in its possession or control for all sums due from the Principal to the Broker whether arising out of the Fixture or otherwise.

10.3 If a court or any other competent authority finds that any provision of these terms and conditions is invalid, illegal or unenforceable, that (part of the) provision shall, to the minimum extent required, be deemed to be deleted and the validity, legality and enforceability of the remainder of that and all other provisions of these terms and conditions shall not be affected.

### **11. Governing law and jurisdiction**

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These terms shall be governed by and construed in accordance with the laws and jurisdiction of the Netherlands, with the exclusion of their conflict of law rules. Any and all disputes between the Parties arising out of or in connection with the Agreement (or any terms thereof), which the Parties are unable to resolve between themselves shall be finally and exclusively settled by arbitration. The arbitration shall be held in Rotterdam, the Netherlands, in the English language and in accordance with the Rules of Conciliation and Arbitration of the Netherlands Arbitration Institute (NAI) by three arbitrators appointed in accordance with said Rules. Nothing herein shall prevent either Party from applying to a court of competent jurisdiction for enforcing any decision or award made pursuant to the above.