

## **BRY<sup>1</sup> GENERAL TERMS OF SHIP REPAIR / REVISION 2023**

### **1. Definitions**

- 1.1. Yard is the contractor and/or seller and counter party of Client.
- 1.2. Yard Group is Yard and/or its subsidiaries and/or its affiliates and/or its agents and/or its subcontractors and/or its representatives and/or its employees.
- 1.3. Client is the principal and/or buyer and contractual counter party of Yard. In case Contract is concluded not with registered owner of Vessel, contractual party hereby constitutes, confirms and guarantees that Contract is concluded for and on behalf of registered owner of Vessel.
- 1.4. Client Group is Client and/or its subsidiaries and/or its affiliates and/or its agents and/or its subcontractors and/or its representatives and/or its employees and/or the crew and/or the owner of Vessel.
- 1.5. Work is the supply of all goods and all services by Yard.
- 1.6. Vessel is Vessel or other object upon which or for the benefit of which Work is to be executed.
- 1.7. Yard, Client (or party acting on its behalf) and Vessel are explicitly named in Contract which has priority over these conditions.

### **2. General**

- 2.1. These conditions shall apply to all contracts between Yard and Client and also to all offers by Yard.
- 2.2. Upon entering into Contract Client shall be deemed to waive all other conditions even if such other conditions are expressly referred to in any offer, acceptance or other document. Such other conditions are hereby expressly repudiated by Yard. Acceptance of these conditions by Client shall be deemed to extend to all future contracts (oral or written).
- 2.3. Any offer made by Yard shall be without engagement. Orders and acceptances by Client shall be deemed irrevocable offers to Yard. Yard shall only be bound insofar as it has accepted such offer in writing or has begun implementation thereof. Verbal promises or arrangements shall not bind Yard.
- 2.4. Client shall provide Yard free of charge in time and without request all relevant information and particulars required for execution of Work. Client warrants that all information and particulars which are made available to Yard is correct.
- 2.5. Parties shall keep all particulars of Contract and all related documents and information strictly confidential.

### **3. Environment and safety**

- 3.1. Client warrants safe working conditions on and around Vessel and shall at all times comply with all applicable environmental and safety regulations and all rules of i) European Union, ii) the state in which Works are carried out and iii) Yard. Client undertakes to take notice of these regulations and rules prior to commencement of Work. Yard is entitled to suspend execution of Work if Yard has reasonable doubt about the safe working conditions or compliance with the said regulations and rules.
- 3.2. Client shall inform Yard immediately and always prior to commencement of Work about the presence of hazardous, noxious and polluting material including but not limited to asbestos, chemical and radioactive material. Client shall take all steps to avoid the escape or discharge of such material and shall indemnify and hold harmless Yard for all consequences howsoever arising from such escape or discharge.
- 3.3. If Client does not comply with any of the obligations mentioned in this article Yard is entitled to take all measures for the account of Client to secure safe working conditions and compliance with the said regulations and rules.
- 3.4. Client shall ensure and guarantee that all Client's/Vessel's tools, equipment and machinery etc., which is or maybe used by crew or by Yard during execution of Works, are inspected, certified and in all respects safe and suitable for their intended purpose. Should Client is unable to ensure above said, Client will take all necessary steps, precautions and actions to prevent usage of such tools, equipment and machinery etc. by crew or Yard.

### **4. Execution**

- 4.1. If a specific time of delivery is agreed on, it shall be considered to commence only from the date on which the parties have agreed on the extent and the manner of the execution of Work, the possible advance payment is effected or an acceptable security has been given for the payment and Client has fulfilled the possible other obligations incumbent on it.
- 4.2. Client undertakes to clarify and submit to Yard full contractual repair amount to be included into Final Specification within first day of Work,

*BLRT GRUPP GENERAL TERMS OF SHIP REPAIR / REVISION 2023* otherwise further ordered Work shall be treated as additional and shall cause the change in the Contract Price and the postponement of Work execution time. All necessary documentation required to complete the docking operation and the expected workload at Yard, including an up-to-date docking plan, should be forwarded by Client to Yard before the work is due to commence. Prior to the docking, Client should carry out a proper risk assessment based on the scheduled scope of work in order to identify critical steps and tasks in the docking process and inform Yard.

- 4.3. In addition to the customary and agreed tolerances those variations necessary to achieve the desired result or caused by a changed working method or caused by changed manufacturing process shall also be permitted. Drawings, illustrations and photographs provided by Yard shall be without engagement and for indicatory purposes only.
- 4.4. Client shall enable Yard to execute Work unhindered. Client shall deliver Vessel ready and fit for the execution of Work at the disposal of Yard on the agreed time. Client shall ensure that Yard has full and unhindered access to all areas on and around Vessel where Work is to be executed at all times.
- 4.5. Yard is entitled to relocate (including but not limited to shifting, launching and (un)docking) Vessel and all other goods.
- 4.6. Client may have an inspector present to supervise the execution of Work who shall be given access during normal working hours to places where Work is being carried out and where materials and equipment are stored.
- 4.7. Industrial and intellectual property rights associated with Work remain with Yard or third parties entitled thereto and are not transferred to Client.
- 4.8. Yard will store for the account and risk of Client those materials which are discarded during execution of Work only to the extent that Yard was requested to do so in writing prior to commencement of Work
- 4.9. Without written consent of Yard Client is not entitled to carry out or order third parties to carry out any work on or to Vessel or other goods on or adjacent to the place where Work is carried out other than daily routine work by the crew of Vessel.
- 4.10. Once the execution of Work or part thereof is approved by the relevant classification society it shall be deemed executed adequately and in conformity with Contract and disputing same shall no longer be admissible. In case of the discrepancies between Client's requirements and applicable regulations of the relevant classification society the latter shall prevail.
- 4.11. Any assistance or work performed by Yard outside the scope of Contract shall be charged as extra work in accordance with Yard's standard rates then in effect and with these Conditions.
- 4.12. Drawings, illustrations and statements of measure, weight and volume concerning the ship, which the customer makes available to the yard, shall be regarded as guaranteed correct.
- 4.13. Yard is entitled to assign to third parties (part of) the execution of Work.
- 4.14. Yard shall be entitled to dock Vessel at a place it deems more suitable. If two or more vessels are docked at the same time, the first one to be completed must wait until also the other vessel is ready to be relaunched. The owner of vessel thus compelled to wait shall not be entitled to receive any compensation for the delay caused by such reason.

### **5. Works' delivery period**

- 5.1. The Yard shall only be bound by express and written agreed delivery period for Work. Exceeding of such delivery period entitles Client to collect liquidated damages only insofar as agreed in writing. The amount of such liquidated damages shall in no case exceed 5 per cent of the price for the delayed part of Work. Client is not entitled to claim any other compensation for damages deriving from or in any way related to delay.
- 5.2. Where a specific delivery period has not been agreed Work shall be performed during normal working hours without overtime taking into account all other obligations to third parties undertaken by Yard.
- 5.3. The agreed delivery period shall be extended by the period of delay caused by force majeure irrespective of whether such force majeure occurred during or after the agreed delivery period. The agreed delivery period shall also be extended by the period during which Yard is entitled to suspend execution of Work and during which Client is not complying with any of its financial or other obligations irrespective of whether Client is in default.
- 5.4. Yard is entitled to invoke force majeure if the execution of Work is, in whole or in part, temporarily or not, prevented or hindered by any circumstances beyond its control including but not limited to

<sup>1</sup> BRY means BLRT Repair Yards.

requirements of civil or military authorities, war and war like events, terrorism, fire, unrest, sabotage, accidents, damage to Vessel or Work, unworkable weather conditions, occupation of the dry-dock or slipway, delay in the delivery of goods or services by third parties, transportation difficulties, business or labour disturbances, illness of personnel and strikes. In the event of such occurrence Yard may invoke force majeure irrespective of whether the occurrence is directly connected to the execution of Work. Yard may also invoke force majeure if execution of Work is delayed due to priority given to other activities if such priority is reasonably required and when ships in distress are granted priority for dry-dock and slipway. If Vessel reported for docking fails to be present at the time in accordance with the agreed docking schedule, the docking turn of Vessel may be postponed, in which case Yard shall not be liable for any possible delays or incurred costs.

5.5. In case of force majeure on the part of Yard its obligations are suspended. If Yard invokes force majeure for a period longer than one month Yard and Client are both entitled to dissolve Contract by a written declaration without being liable for damages whatsoever. After such dissolution Yard is entitled to immediate and full payment for part of Work already executed.

5.6. Yard may operate Vessel's engines during trials alongside quay or sea trials. Yard may (free of charge) require Vessel's crew on board to operate Vessel's engines etc. during the trials as well as provide other assistance which yard may need and have fuel, oil etc. on board used for these trials.

## 6. Delivery of Works

6.1. Work shall be considered delivered upon acceptance of Work by Client.  
6.2. Work shall also be deemed delivered (a) if Client does not cooperate in the acceptance of Work or wrongfully or without proper motivation refuses to accept Work; (b) if Vessel has left the premises of Yard or place where Work was carried out or Client has taken control over Vessel or the part of Vessel upon which Work was executed; (c) if Client does not inform Yard in writing about shortcomings within 48 hours after the notified time for delivery of Work.

6.3. Minor shortcomings are no valid reason for refusal of acceptance of Work. These shortcomings will be recorded in writing and remedied by Yard within reasonable time.

6.4. Yard is entitled to partially deliver Work if the delivery of the remaining of Work is rendered (temporarily) impossible or hindered by force majeure.

## 7. Payment and Price

7.1. Agreed prices are exclusive of taxes, duties and charges levied by any governmental body and shall apply to work carried out during normal working hours at the premises of Yard unless otherwise agreed in writing. Agreed prices are exclusive of classification costs.

7.2. Extra work will be charged against rates applied by Yard at time of the execution or higher rates unless agreed otherwise in writing. The said price formation applies for Works prices of which have not been agreed. Yard is entitled to charge additional costs if Client fails to take redelivery of Vessel within 24 hours after delivery of Work. Yard is entitled to additional price, delivery period extension as well as other amendments of Contract due to additional and/or alteration works arising out of and/or prescribed by and/or related to requirements of supervision authorities or the classification society or other third party.

7.3. Above the agreed prices Yard is entitled to charge additional costs connected with the treatment, collection, sample taking, removal, storage, transportation and destruction of any material, waste and scrap. If Yard so decides scrap material, equipment, mechanisms, components, propellers etc. will become Yard's property free of charge.

7.4. Unless otherwise is stated in the tender or agreed otherwise prior to the commencement of Work, Client shall be obliged, at the request of Yard, to pay half of the estimated total Contract price upon the commencement of Work. Payment falls due 10 days after invoice date and latest upon delivery of Work unless agreed otherwise in writing. Client is immediately and without further formalities in default in case payment is not received by Yard when due. As soon as Client is in default with any payment all remaining payments fall immediately due and Client is also immediately in default with those other payments without further formalities. As from the date Client is in default it owes to Yard a penalty interest of 0,1 per cent per day on the total amount due for the period during which the default continues. Client agrees that said interest amount is correct, fair, reasonable and grounded and that said interest amount shall not be disputed under any circumstances. Client shall further pay to Yard out of court expenses which shall be deemed to be no less than 10 per cent of the total amount due.

7.5. Yard is entitled to retain Vessel and all other goods and documents nothing excluded until Client settles all financial obligations or provides adequate security for these obligations.

7.6. Client shall not be entitled to set-off and/or compensate any claim it may have or allege against Yard. Client shall remit in writing any and all complaints with regard to invoices within 10 days of invoice date failing which the invoiced amount shall be deemed accepted and disputing it shall no longer be admissible.

7.7. Yard remains at all times entitled to request full or partly payment in advance and/or adequate security for payment also if Client was awarded a credit period.

7.8. Notwithstanding the provisions of this Article Yard is entitled do not accept the adequate security mentioned above if Client has not submitted reasonable grounds and relevant documents for the changing of the payment in advance to the adequate security thereof.

7.9. In case Contract Price increases 20% or more, Contract payment terms will be amended by Yard at its sole discretion.

7.10. If Client owes several monetary obligations to Yard, Client is not entitled to specify the debt to which it intends the payment to be applied. The payment in all cases discharges first any expenses, then interest due and finally the principal debt.

## Guarantee

7.11. On delivery of Work all liabilities of Yard terminate except for guarantee obligations pursuant to this article.

7.12. If not agreed otherwise in writing the guarantee period shall be six months only.

7.13. Yard shall repair free of charge on its premises all defects in Work not visible at delivery and due to faults in material and workmanship which become apparent within the guarantee period always provided that the defect is notified to Yard in writing within 10 days after its discovery. Client has to notify the Yard about all founded defects by fax or by e-mail (with attached \*.pdf copy) by written Defect notice signed by duly authorized representative of Client. The obligation to repair is limited to the repair of the defective part(s) and shall not extend to the repair of consequential damage and/or to consequential damages. No guarantee applies to goods supplied or prescribed by Client and failing to observe Yard's recommendations or warnings. Painting and coating are excluded from guarantee.

7.14. All costs and expenses related to taking Vessel to and keeping her at the premises of Yard shall be for account of Client. Upon request Yard may allow Client to have the repairs executed elsewhere in which case Yard shall only be obliged to compensate to Client the actual costs and expenses that Yard would have incurred in executing the repairs at her own premises within the guarantee period.

7.15. All guarantee obligations lapse if Client fails in the performance of any obligation whether or not Client is in default.

7.16. With regard to goods and services supplied by third parties the guarantee obligations of Yard shall be limited to the guarantee granted by such third party. Yard shall be discharged from its guarantee obligations after Yard transferred to Client the guarantee granted by such third party.

7.17. All activities including inspections performed upon an unjustified guarantee demand by Client shall be charged to Client in accordance with article 7.2 and these conditions shall apply.

7.18. All alleged defects related claims to be sent to the Yard's contact e-mail and/or [claim@blrt.ec](mailto:claim@blrt.ec), otherwise will NOT be accepted.

## 8. Suspension and dissolution

8.1. If Client does not in time and/or adequately fulfil any of its financial or other obligations (including but not limited to – delivery of Vessel to Yard for commencement of repair on agreed date), is declared bankrupt, requests (temporary) moratorium on payments, proceeds to liquidate its business or when any of its assets are attached or arrested, Yard is immediately entitled at its option to suspend the performance of its obligations and/or to dissolve Contract in whole or in part by written declaration to Client without further formalities and without prejudice to any rights of Yard to claim compensation for damages.

8.2. Client shall under no circumstances be entitled to suspend the performance of any of its obligations and/or to dissolve Contract with the sole exception of dissolution pursuant to article 5.5. Guarantee claims do neither entitle Client to suspend any financial or other obligation.

## 9. Risk, title and securities

9.1. Vessel and other goods owned by Client Group shall remain at all times for the risk of Client. Client shall at all times remain responsible for the buoyancy and stability of Vessel. Client shall keep Vessel at all times insured under adequate hull policy and liability policy in which Yard

- Group is included as co-assured including a waiver of subrogation or recourse against Yard Group.
- 9.2. Goods supplied by Yard shall be for the risk of Client upon installation or incorporation in Vessel. All goods supplied by Yard remain the property of Yard until Client has paid in full all that is howsoever owed to Yard.
  - 9.3. Yard shall have a lien on Vessel or the object of repair in Yard's possession for any of Yard's claims arising from Contract. The lien may also be exercised for any claims arising from former works, spare part deliveries or other services, as long as they are related to Vessel or the object of repair.
- 10. Liability and indemnification**
- 10.1. Liability of Yard in connection with any shortcoming or otherwise is limited to the fulfilment of the guarantee obligations described in article 8.
  - 10.2. Yard is not liable for any damages whatsoever except if and insofar these were caused by gross negligence or intent of the managing officials identifiable with the Yard.
  - 10.3. Every claim against Yard shall expire by the mere lapse of 6 months after its arising unless legal proceedings have been initiated with the competent court within this period.
  - 10.4. Stipulation which exclude or limit liability towards Yard in connection with goods or services supplied by third parties to Yard can equally be invoked by Yard towards Client.
  - 10.5. Client is liable for damage or injury caused by Client Group to goods or persons belonging to Yard Group. Client shall hold harmless and indemnify Yard Group for claims by Client Group and/or third parties insofar as such claims exceed or differ from the liability of Yard towards Client. Client and party factually concluding (signing) Contract (for instance – Vessel's technical or commercial manager, charterer or any other) shall always be jointly and severally liable for fulfilment of Contract and all consequences (all damages) of non-fulfilment of Contract.
  - 10.6. In case Yard is in delay of completion of Works within the period named in plus 5 days grace period, Client can demand a compensation of liquidated damages in the amount of 0,2% from the price of delayed part of work for each complete working week of delay. Yard can be liable for such delay exclusively in case when such delay has been caused by direct fault of Yard. Said compensation, if due, shall be sole and exclusive remedy for delay and payment of such shall constitute full and final settlement thereof. Notwithstanding any other provision of Contract, Yard's liability for delay shall not exceed five per cent of Contract Price.
  - 10.7. In no event shall Yard be liable for any indirect, contingent, special, consequential or incidental damages, however caused or arising (including (without limitation) for any loss of actual or anticipated profits or revenue or anticipated savings, punitive or exemplary damages, the cost of substituted equipment or replacement, removal or reinstallation service work not arising from the warranty provided herein, towage charges, pollution remediation costs, costs of docking, diving or sub-sea work, damage to any vessel, engine room or power plant site, yard or other property (including damage to goods owned by Client), damage to any equipment or property other than damage to the equipment, components and parts on which Works was performed hereunder caused by such performance of Works, costs for any additional tests (including, without limitation, sea trials), debris removal, or for loss of time or use of any equipment, installation system, operation or service). This limitation on Yard's liability shall apply to any liability for breach of the Yard's obligations under or in connection with Works performed hereunder, whether based on warranty, failure of or delay in delivery or otherwise.
  - 10.8. Notwithstanding any other provision of Contract, Yard's aggregate liability under the Contract shall not exceed thirty per cent of Contract Price.
  - 10.9. Yard shall not be liable for any work carried out by Client or by any third party, even though carried out with assistance of Yard's personnel. Client shall bear the risk of loss of its equipment and other goods in connection with Works, even if such equipment or goods are in facilities used by Yard.
  - 10.10. Any tests, trials or movements of Vessel shall be at Client's sole risk and responsibility, and Yard shall not be under any liability whatsoever to Client for any loss, damage or expense resulting from such tests, trials or movements.
  - 10.11. The Parties agree that Yards have NO joint liability. Any joint liability of Yards is hereby explicitly excluded. In case Customer has any

*BLRT GRUPP GENERAL TERMS OF SHIP REPAIR / REVISION 2023* complain, demand or any claim whatsoever, Customer may claim or initiate legal proceedings against one, individual Yard, which in the opinion of Customer may be liable, only. Respectively Customer may not initiate legal proceedings against remaining Yards or other Yard and hereby expressly waives its rights thereof. The fact that Customer is NOT able to enforce (for any reasons whatsoever) its claim against individual Yard, which is found to be liable, does NOT in any way entitle to enforce a part or entire claim against remaining Yards or any other Yard.

**11. Liability for the towage services**

- 11.1. Yard is not liable for damage caused to Client in connection with the towage service unless the damage is a consequence off gross negligence or intent on the part of Yard's management. Yard is, however, not liable for fault or neglect committed by a person of Yard's management in such a person's capacity as master of a tug or member of its crew. Client is not in any case entitled to damages from a master of a tug, a member of its crew, a pilot, or anybody else in the service of Yard.
- 11.2. The liability of Yard shall in any case not exceed Euro 10.000.
- 11.3. Client shall indemnify Yard for all damage caused to Yard in connection with the towage service unless Client shows that neither Client nor somebody for whose acts Client is liable totally or partly has caused the damage by fault or neglect. Should Yard be held liable for damage caused to a third party in connection with the towage service, Client shall indemnify Yard unless Yard would have been liable towards Client in case the damage had been suffered by Client.

**12. Disputes and applicable law**

- 12.1. All disputes in any way related to Contract will be tried by court in place of business of Yard.
- 12.2. The laws of place of business of Yard shall apply (both – material and proceedings laws).
- 12.3. Notwithstanding the above in this Article Yard is entitled to arrest, detain Vessel or take any another measures against Vessel or other assets of Client to secure the claim whatsoever in all jurisdictions convenient for Yard according to the law applicable in such jurisdiction.
- 12.4. It is understood and agreed that damages include losses, costs, penalties and interests.
- 12.5. Without prior written consent by Yard Client shall not be entitled to assign to others any of his rights and/or obligations against Yard.

**13. Notification clause**

- 13.1. Any and all notices and communications in connection with Contract shall be addressed to the addresses defined in Contract.
- 13.2. Any change of address shall be communicated in writing by registered mail by the Party making such change to the other Party and in the event of failure to give such notice of change, communications addressed to the Party at their address captioned in item 13.1. above shall be deemed sufficient.
- 13.3. Any and all notice, requests, instructions, advises and communications in connection with Contract shall be deemed to be given at and shall become effective from, the time when the same is delivered to the address of the party to be served provided, however, that registered air mail shall be deemed to be delivered ten (10) days after the date of dispatch (notwithstanding that the letter was not served due to any reason except fault of the post), express courier service shall be deemed to be delivered five (5) days after the date of dispatch (notwithstanding that the letter was not served due to any reason except fault of the courier service), telex and e-mail with report of success transmission shall be deemed to be delivered upon dispatch, unless, however, receipt at later time is proven by the Party to be served.
- 13.4. Any and all notices, communications, specification, drawings and all documents whatsoever in connection with Contract shall be written in the English language.
- 13.5. All above stipulations *mutatis mutandis* are applied to the service of the procedural documents (except telex and e-mail). Furthermore the Parties hereby do expressly agree that above stipulations are in full compliance with all fundamental principles of the civil proceedings (whether in courts or arbitration) in respect of the service of documents; therefore all rights of defence, appeal, challenge, review or any other on these grounds are automatically, unconditionally and irrevocably waived by the Parties.