

## IDWAL MARINE SERVICES LIMITED

### Conditions for the purchase of Inspection Reports

#### 1 Definitions for these Conditions

<b>'Conditions'</b>	these terms and conditions as amended from time to time.
<b>'Contracts'</b>	the contract between the Supplier and the Seller for the preparation of the Report, the contract pursuant to which the Buyer has acquired a Vessel from the Seller, and any related agreements.
<b>'Seller'</b>	the person, firm or company, who has procured the Report from the Supplier.
<b>'Intellectual Property Rights'</b>	all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any and all intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
<b>'Penalty Fee'</b>	the amount equal to the lesser of:  (i) three times the Charges for the relevant Report; and (ii) USD \$10,000.
<b>'Report'</b>	the report prepared by the Supplier and disclosed to the Buyer prior to the acquisition of a Vessel.
<b>'Supplier'</b>	Idwal Marine Services Ltd, whose registered office is 1 Caspian Point, Caspian Way, Cardiff, CF10 4DQ.
<b>'Vessel'</b>	any floating unit or storage unit and any other man-made structure designed for use at sea and whether or not fixed to the seabed in respect of which the Supplier has prepared a Report.

A reference to **writing** or **written** includes electronic e-mail, telex, and cable; fax transmission and comparable means of communication.

#### 2 **Provision of Report**

The Supplier provides the Report to the Buyer, and the Buyer accepts the Report, subject to these Conditions.

#### 3 **Intellectual property rights**

- 3.1 All Intellectual Property Rights in or arising out of or in connection with the Report, (other than Intellectual Property Rights in any materials provided by the Seller) shall be owned by, and are the exclusive property of, the Supplier. The Buyer shall not in any way infringe the Intellectual Property Rights of the Supplier.
- 3.2 The Supplier grants to the Buyer a fully paid-up, worldwide, non-exclusive, royalty free perpetual and irrevocable licence to access the Report for the purpose of receiving the Report, subject to these Conditions.
- 3.3 The Buyer acknowledges that, in respect of any third party Intellectual Property Rights, the Buyer's use of any such Intellectual Property Rights is conditional on the Supplier obtaining a written licence from the relevant licensor on such terms as will entitle the Supplier to license such rights to the Buyer.

#### 4 **Penalty for unauthorised disclosure of report**

- 4.1 The Buyer shall not share, reproduce, make available or otherwise disclose to any third party, in whole or in part, the Report or other materials provided to the Buyer in connection with the Report without the prior written consent of the Supplier, other than as required by applicable law.
- 4.2 Any disclosure of a Report in accordance with these Conditions shall be in all respects subject to these Conditions.
- 4.3 If the Buyer discloses, shares or otherwise reproduces any Report or other materials in breach of this condition 4, the Buyer shall pay the Penalty Fee to the Supplier on demand.
- 4.4 The Buyer and the Supplier confirm that the amount due pursuant to condition 4.3 is reasonable and proportionate to protect the Supplier's interest in ensuring the Buyer does not breach this condition 4, and shall be without prejudice to any other rights or remedies which the Supplier may have in law for breach of this condition 4.

#### 5 **Reliance on Reports and Inspections**

- 5.1 The Report is provided by the Supplier to the Buyer and is personal to, and for the private and confidential use of, the Buyer.
- 5.2 The Report is personal to, and for the private and confidential use of, the Buyer and is issued solely to the Buyer.
- 5.3 The Report may not be relied upon by any other party without the express written consent of the Supplier.

**IDWAL MARINE SERVICES LIMITED****Conditions for the purchase of Inspection Reports****6 Confidentiality**

- 6.1 The Supplier shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to them by the Buyer, its employees, agents or subcontractors, and any other confidential information concerning the existence of the Contracts, the Buyer's business or its products or its services which the Supplier may obtain. The Supplier shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the obligations under any of the Contracts to which it is a party, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Supplier. This condition shall survive termination of the Contracts.
- 6.2 Notwithstanding the provisions of condition 7.1, the Supplier shall be entitled to disclose that an inspection of a Vessel has been conducted and, be entitled to disclose the Report to third parties, where it would not adversely affect the Buyer's commercial interests to do so.

**7 Limitation of liability: THE BUYER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CONDITION**

- 7.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for:
- 7.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
  - 7.1.2 fraud or fraudulent misrepresentation; or
  - 7.1.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 7.2 Subject to condition 7.1:
- 7.2.1 the Supplier shall not be liable to the Buyer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any consequential, indirect or special losses including, without limitation: (i) financial or economical loss; (ii) loss of profit, (iii) loss of business or business opportunity; (iv) corruption, loss of or loss of use of data; (v) loss of revenue; (vi) loss of anticipated savings; or (vii) loss of contracts, by the Supplier howsoever arising out of or in connection with the Report, save where otherwise provided by statute; and
  - 7.2.2 the Supplier's total liability to the Report in respect of all other losses arising under or in connection with the Report, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, including losses caused by the Supplier's deliberate personal repudiatory breach shall not exceed an amount equal to [ten (10) times the Charges payable for the Report.
- 7.3 The Supplier and Buyer agree that having regard to the Report and all other circumstances known to the Supplier and the Buyer relating to the Report, the foregoing limits of liability are fair and reasonable.
- 7.4 Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded.
- 7.5 This condition 7 shall survive.

**8 DISCLAIMER**

The Report is issued on the strict condition that nothing therein shall be deemed to relieve any designer, manufacturer, seller, supplier, repairer or operator of any warranty, express or implied and the Supplier's liability shall be limited to the acts and omissions of its employees, agents or subcontractors and is subject to these Conditions. The Report is personal to, and for the private and confidential use of, the Buyer and the Buyer shall not reproduce or make available, in whole or part, the Report without the prior written consent of the Supplier other than where required by law. The Report may not be relied upon by any other party without the express written consent of the Supplier.

**9 HIMALAYA**

It is hereby expressly agreed that no employee or agent of the Supplier (including every sub-contractor from time to time employed by the Supplier and the employees or agents of any such sub-contractor) shall in any circumstance whatsoever be under any liability whatsoever to the Buyer for any loss, damage, delay arising or resulting directly or indirectly from any neglect or default on his part while acting in the course of or in connection with his employment and, without prejudice to the generality of the foregoing provisions in this condition, every exemption, limitation, condition and liberty herein contained and every right, exemption from liability defence and immunity of whatsoever nature applicable to the Supplier or to which the Supplier is entitled hereunder shall also be available and shall extend to protect every such employee or agent of the Supplier acting aforesaid.

**10 HEADINGS AND VARIATION**

- 10.1 The headings to these Conditions shall not affect their construction or interpretation.
- 10.2 No variation of these Conditions or the documents referred to in them shall be valid unless it is in writing and signed by or on behalf of each of the parties.

**11 GOVERNING LAW**

These Conditions shall be governed by and construed in accordance with the laws of England and Wales and the Customer hereby irrevocably submits to the exclusive jurisdiction of the English and Welsh courts.