

REPAIRCON 2018

STANDARD SHIP REPAIR CONTRACT

PART I

1. Place and Date See Form of Agreement	
2. Owners (full style and address) (Cl. 1) See Form of Agreement Owners warrant that they are are not* bareboat charterers (*delete as applicable)	3. Contractors (full style and address) (Cl. 1) See Form of Agreement
4. Vessel's Name (Cl. 1) See Form of Agreement, clause 2.1	5. Contractors' Yard (Cl. 1) The Dry Dock, 50 Commercial Road, Lowestoft NR32 2TE
6. Contract Period (Cl. 1 and Cl. 2(a)(iii)) See Form of Agreement, Clause 2.2	
7. Vessel's Description (Cl. 1)	
Vessel type: See Form of Agreement, clause 2.1 IMO number: Flag/Year built: / Classification Society:	DWT mts (summer): GT/NT: / LOA/LBP: / Breadth/Depth moulded: /
8. Delivery Date (Cl. 5(a)(i)) See Form of Agreement, clause 2.2	9. Cancellation Date (Cl. 5(b)(i)) N/A
10. Contract Price and Currency (Cl. 1 and 6(a)(i), 6(b)(i)) See Annex D (Contract Price and Payment)	11. Overtime Periods and Rates (Cl. 2(a)(ii)) N/A
12. Owners' Representatives (Cl. 3(a)) BFOO	13. Guarantee Period in Months (Cl. 10(b)) Twelve (12) Months

14. Payment Terms (Cl. 6(b)) See Annex D (Contract Price and Payment)	15. Contractors' Bank Account (Cl. 6(b)(ii)) AS ENROLLED IN OWNER'S PAYMENT SYSTEM
16. Total Liability (a) Contractors (Cl. 9(a)) See Clause 9(a) (b) Owners (Cl. 9(b)) N/A	17. Liability for Late Redelivery (Cl. 7) (a) Daily rate N/A (b) Maximum liability N/A
18. Interest Rate (Cl. 5(b)(ii), 6(b)(iii) and 6(b)(iv)) N/A	
19. Dispute Resolution (state Cl. 16(a), 16(b), 16(c) or 16(d), as agreed; if Cl. 16(d) agreed state place of arbitration) (if not filled in Cl. 16(a) shall apply) (Cl. 16) Clause 16(a) applies	
20. Redelivery Termination Date (Cl. 2(a)(iii) and 12(a)(iii)) TO BE CONFIRMED FOR EACH VESSEL	
21. Numbers of Additional Clauses Attached, if any (to be listed here and set out in full in Part II) Clause 18-27	

It is mutually agreed between the party stated in Box 2 and the party stated in Box 3 that this Contract consisting of PART I and PART II as well as Annex A (Scope of Work), Annex B (Work Variation Form) and, if applicable, Annex C (Tariff Rates) shall be performed subject to the conditions contained herein. In the event of a conflict of conditions, the provisions of PART I and Annexes A and B and, if applicable, Annex C, shall prevail over those of PART II to the extent of such conflict, but no further.

Signature (Owners) See Form of Agreement	Signature (Contractors) See Form of Agreement
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1. Definitions

"Additional Works" means all work, if any, in addition to or modification of the Scope of Work (including any changes required by changes in the rules of the Owners' regulatory bodies after the date of the Contract), which are to be described on a Work Variation Form attached as Annex B hereto.

"Affiliate" means in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control of that body corporate from time to time

"BFOO" means the Border Force Overseeing Officer

"Change of Control" means a change of control within the meaning of Section 450 of the Corporation Tax Act 2010

"Completion" means the completion of the Works.

"Confidential Information" means any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel and Contractors of the Owners or the Contractors, including IPR, together with information derived from the above, and any other information clearly designated as being 'Official', confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential

"Conflict of Interest" means a conflict between the financial or personal duties of the Contractors' staff and the duties owed to the Owners under this Contract, in the reasonable opinion of the Owners

"Contract Period" means the period (commencing on the first working day after the date of delivery) agreed between the Parties as stated in Box 6 for the performance of the Scope of Work as may be amended as a consequence of Additional Works and/or Reductions and/or pursuant to Clause 11 (Disruptions).

"Contract Price" means the agreed price for the Scope of Work as stated in Box 10, as may be adjusted by the value of any Additional Works less any Reductions.

"Contractors" means the entity stated in Box 3.

"Contractors' Yard" means the premises of the Contractors stated in Box 5.

"Control" means control in either of the senses defined in sections 450 and 1124 of the Corporation Tax Act 2010 and "Controlled" shall be construed accordingly

"Data Protection Legislation" means (i) the UK GDPR, (ii) the DPA to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy

"Default" means any breach of the obligations of the Contractors (including abandonment of this Contract in breach of its terms) or any other default (including Material Default), act, omission, negligence or statement of the Contractors, of its Subcontractors or any Contractors' staff howsoever arising in connection with or in relation to the subject-matter of this Contract and in respect of which the Contractors are liable to the Owners

"Delivery" means delivery of the Vessel to the Contractors at the Contractors' Yard or elsewhere as may have been agreed between the Parties.

"DPA" means the Data Protection Act 2018

"EIR" means the Environmental Information Regulations 2004

"FOIA" means the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation

"General Change in Law" means a change in Law where the change is of a general legislative nature (including taxation or duties of any sort affecting the Contractors)

"Good Industry Practice" means at any time the standards, practices, methods and procedures conforming to the Law and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected at such time from a skilled and experienced person or body engaged within the relevant industry or business sector

"Government Data" means:

PART II

(a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any of the Owners' Confidential Information, and which:
(i) are supplied to the Contractors by or on behalf of the Owners; and/or
(ii) the Contractors are required to generate, process, store or transmit pursuant to this Contract; or
(b) any Personal Data for which the Owners are Controller

"IPR" means:

(a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semiconductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade or business names, goodwill, designs, know-how, trade secrets and other rights in Confidential Information;
(b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and
(c) all other rights having equivalent or similar effect in any country or jurisdiction

"Law" means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, right within the meaning of the European Union (Withdrawal) Act 2018 as amended by European Union (Withdrawal Agreement) Act 2020, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Contractors are bound to comply

"Material Default" means a single serious Default or a number of Defaults or repeated Defaults (whether of the same or different obligations and regardless of whether such Defaults are remedied)

"Occasion of Tax Non-Compliance" means where any tax return of the Contractors is (i) found to be incorrect as a result of successful challenge by any tax authority or by the failure of any avoidance scheme; and/or (ii) gives rise to a criminal conviction in any jurisdiction for tax related offences or to a civil penalty for fraud or evasion

"Owners" means the entity stated in Box 2.

"Parties" means the Owners and the Contractors.

"Redelivery" means redelivery of the Vessel to the Owners at the Contractors' Yard or elsewhere as may have been agreed between the Parties.

"Request for Information" means a request for information or an apparent request relating to this Contract or an apparent request for such information under the FOIA or the EIR

"Reductions" means all deletions, if any, to the Scope of Work, which are to be recorded on a Work Variation Form.

"Scope of Work" means the work to be carried out under this Contract as described in Annex A attached hereto.

"Specific Change in Law" means a change in Law that relates specifically to the business of the Contractor where the effect of that change on the Scope of Work is not reasonably foreseeable at the date of this Contract

"Subcontractor" means any person other than the Contractors, who is a party to a Sub-Contract and the servants or agents of that person
~~"Subcontractors" means all persons engaged by the Contractors to do work, supply materials or equipment, or provide accommodation or services in connection with the Works.~~

"Sub-Contract" means any contract or agreement (or proposed contract or agreement), other than this Contract, pursuant to which a third party:

(a) provides any goods; or
(b) provides facilities or services necessary for the performance of the Contract (or any part of them); and/or
(c) is responsible for the management, direction or control of the performance of the Contract (or any part of it)

"SQEP" means a suitably qualified and experienced person, in accordance with Section 2 of Annex G (Contractors' Staff)

"Tariff" means the rates agreed, if any, in Annex C attached hereto.

"UK GDPR" has the meaning as set out in section 3(10), as supplemented by section 205(4), of the DPA 2018

"Variation Procedure" means the procedure for Additional Work and/or Reductions set out in Clause 2(a) and Annex B (Work Variation Form)

"Vessel" means the vessel described in Boxes 4 and 7.

"Works" means the Scope of Work, as may be amended by any Additional Works and/or Reductions.

2. Performance and Approval of the Work

(a) Performance of Works

(i) The Contractors shall perform the Works in accordance with the provisions of this Contract, Good Industry Practice, the requirements of the Contractors' regulatory bodies, the Vessel's Flag State, Classification Society and any other regulatory bodies stated in the Scope of Work (Annex A), and to the reasonable satisfaction of the Owners.

(ii) The Works shall be performed within normal working hours. Any overtime carried out by the Contractors to complete the Works within the Contract Period shall be for their account, but any overtime carried out at the Owners' written request shall be subject to extra cost as stated in Box 11.

(iii) The Contractors shall make all reasonable endeavours to perform Additional Works as requested by the Owners and recorded in the Work Variation Form. The Contractors shall, wherever possible, perform Additional Works within the Contract Period stated in Box 6. However, where the Parties agree that Additional Works will extend, or Reductions shorten, the Contract Period, the increase or decrease shall be recorded on a Work Variation Form and the Redelivery Termination Date in Box 20 will automatically be extended or shortened by the same period.

(iv) In the event of Additional Works or Reductions, the Contract Price shall be adjusted by agreement between the Parties and recorded on a Work Variation Form.

(v) If any specified material or equipment is not available at the time required for use in the Vessel, the Contractors shall have the right to use other suitable material or equipment of equivalent standard, subject to the Classification Society's agreement and the Owners' approval which shall not be unreasonably withheld or delayed.

(vi) The Contractors recognise and accept that as a government body the Owners shall report and publish in the public domain, a high-level progress update in relation to the performance of this Contract from time to time.

(b) Contractors' Right to Subcontract

The Contractors shall have the right to employ subcontractors to perform any part of the Works subject to the requirements of Clause 18 ~~Owners' right to object on reasonable grounds~~. The Contractors shall be responsible for the Subcontractors' actions and remain liable for the due performance of their obligations under this Contract.

(c) Approvals and Certificates

(i) The Contractors shall be responsible for obtaining and maintaining all necessary approvals and certificates of whatsoever nature relating to the Works as required by the Contractors' regulatory bodies. The Owners shall provide any reasonable assistance that may be required in this respect.

(ii) The Owners shall be responsible for obtaining and maintaining any approvals or certificates relating to the Vessel and the Works as required by the Owners' regulatory bodies, the Vessel's Flag State and Classification Society. The Contractors shall provide any reasonable assistance that may be required in this respect.

3. Owners' and Contractors' Representatives

(a) Owners' Representatives

(i) The review and witnessing ~~supervision~~ of the Works shall be carried out by the Owners' Representative as stated in Box 12 or such other persons as the Owners may from time to time appoint as BFOO Owners' Representative and notify to the Contractors in writing. The Owners' Representative shall be present at the Contractors' Yard throughout the Works and authorised to act on behalf of the Owners in respect of all matters relating to the Contract including, but not limited to, the approval of plans, drawings, calculations and documents and agreeing and signing Work Variation Forms and invoices.

(ii) The Owners' Representative shall at all times provide reasonable assistance to facilitate timely and efficient completion of the Works.

(iii) The BFOO Vessel's Master shall be the Owners' Representative unless stated otherwise in Box 12.

(iv) The Contractors shall, at their own expense, provide the Owners' Representative with reasonable office accommodation and facilities (including communication facilities) as the Owners may reasonably require, provided the Owners shall bear the costs of all such communication expenses.

(v) The Contractors shall grant the Owners' Representative reasonable access to the Contractors' workshops whenever work on the Vessel or parts of the Vessel is being carried out and shall ensure such reasonable access to any other premises or site where work is being carried out in connection with the Vessel.

(b) Contractors' Representative

The Contractors shall, prior to Delivery, appoint a Contractors' Representative who shall be the primary point of contact with the Owners' Representative available throughout the Works. The Contractors' Representative shall be authorised to act on behalf of the Contractors in respect of all matters relating to the Contract including, but not limited to, the approval of plans, drawings, calculations and documents, and agreeing and signing Work Variation Forms and invoices.

- (c) Daily meetings between the Contractors' and the Owners' Representatives shall be held on board the Vessel during the Contract Period.

4. Owners' Work

Subject to prior written agreement with the Contractors, whose consent shall not be unreasonably withheld, the Owners, or the Master and crew, or any subcontractor employed or engaged by the Owners, shall be permitted to carry out the Owners' own work on the Vessel, provided they comply at all times with the Contractors' safety and environmental rules, and provided the Owners remain liable for all of their actions. Any such work shall not interfere with or delay the Works.

5. Delivery, Redelivery and Acceptance of the Vessel

(a) Delivery

(i) The Vessel shall be delivered at a safe place nominated by the Contractors on the Delivery Date stated in Box 8, safely afloat and, unless otherwise agreed, gas free and/or inerted, free of cargo, slops, sludge, dirty ballast and of any substances in the structure of the Vessel in way of the Works which are dangerous or harmful to health.

(ii) The Owners shall keep the Contractors promptly advised of any changes to the Vessel's Delivery Date.

(iii) A protocol of delivery shall be signed by the Parties confirming the time of Delivery.

(b) Cancellation

(i) Contractors' Cancellation

~~If, for any reason, the Vessel is not delivered to the Contractors on or before 1500 hours local time on the Cancellation Date stated in Box 9, the Contractors shall have the right, exercisable no later than 1700 hours local time the same day, to cancel this Contract and to recover any costs and expenses which they have reasonably incurred in the performance of the Contract up to the date of cancellation (including sums payable to Subcontractors provided they were incurred with the Owners' prior written agreement) to the extent that such sums are not otherwise excluded under this Contract, and thereafter the Parties' obligations under this Contract shall be at an end. NOT USED~~

(ii) Owners' Cancellation

If, for any reason, the Contractors fail to commence the Works in accordance with the Scope of Work within forty-eight (48) hours of the date on which the Vessel is delivered in the condition stipulated in Clause 5(a)(i) (Delivery), the Owners shall have the right to cancel this Contract within twenty-four (24) hours, whereupon the Owners shall be entitled to demand immediate redelivery of the Vessel without compensation to the Contractors, and to recover (A) any sums already paid to the Contractors together with interest at the rate stated in Box 18, and (B) all other expenses which the Owners have reasonably incurred in connection with this Contract, to the extent that those sums are not otherwise excluded under this Contract, but in any event excluding the Owners' cost of taking the Vessel to the Contractors' Yard, and thereafter the Parties' obligations under this Contract shall be at an end.

(c) Redelivery

(i) Redelivery of the Vessel to the Owners shall take place within the Contract Period.

(ii) Without prejudice to Clause 10 (Guarantee), such inspections, tests and/or trials as are necessary for the purpose of determining whether the Vessel at Redelivery complies with the terms of this Contract shall be carried out prior to Redelivery in the presence of the Owners' Representative in accordance with Section L3 and Section L4 of Annex A (Scope of Work). The Contractors shall keep the Owners advised of progress and the expected dates for Redelivery and Completion.

(iii) Defects and defaults in the performance of the Works shall be listed in a protocol prepared by the Parties. The Contractors shall at their cost rectify any such defects and defaults before Redelivery, unless the Owners can agree that completion of certain of the Works can take place after Redelivery.

(iv) Without prejudice to the provisions of Clause 10 (Guarantee), at the date of Redelivery a protocol of redelivery and acceptance shall be signed by the Parties which shall identify any Works to be completed after Redelivery.

(d) Acceptance

(i) Where the Contractors reasonably believe it has completed the Scope of Work for each Vessel in question (for the purpose of this clause, the "Work"), it shall notify the Owners in writing. Following receipt of such notice, the Owners shall inspect the Vessel and shall, by giving written notice to the Contractors:

(I) accept the Work, or

(II) reject the Work and provide reasons to the Contractors if, in the Owner's reasonable opinion, the Scope of Work does not meet the requirements set out in this Contract.

(ii) If the Owners reject the Work in accordance with Clause 5(d)(i)(II) above the Contractors shall promptly rectify or remedy any

~~defects and if, in the Owners' reasonable opinion, the Work does not, within five (5) working days of such rectification or remedy, meet the requirements set out in this Contract, the Owners may terminate this Contract for the Vessel in question.~~

~~(iii) The Work shall be deemed to be completed when the Contractors receive a notice issued by the Owners in accordance with Clause 5(d)(i)(l) above. Notwithstanding such acceptance of any Work, the Contractors shall remain solely responsible for ensuring that the Work conforms to the requirements of this this Contract. No rights of estoppel or waiver shall arise as a result of the acceptance by the Owners of the Work.~~

6. Financial Provisions

(a) Price

(i) The Contract Price, as stated in Box 10, covers all items in the Scope of Work for which a fixed price has been agreed.

(ii) Where a fixed price has not been quoted for any item in the Scope of Work and/or Additional Works, the price shall be calculated by reference to the Tariff ~~or, if there is no Tariff, reasonable rates applying in the location of the Contractors' Yard.~~

(b) Payment

(i) The Contract Price shall be payable by the Owners free of all taxes, bank charges, exchange control regulations and in the currency stated in Box 10, in accordance with the payment terms agreed in Box 14 ~~or, if no such terms are agreed, before Redelivery.~~

(ii) Payment shall be made into the Contractors' bank account stated in Box 15. Any change to the account details and number must be in writing signed by or on behalf of the Parties.

(iii) If the payment terms agreed in Box 14 require interim payments prior to Redelivery and the Owners fail to pay any such sums on the dates agreed, the Owners shall pay interest at the rate stated in Box 18 on such outstanding sums. In the event that such sums (together with accrued interest) are not paid within three (3) working days of their due date, the Contractors shall have the right to suspend work on this Contract without thereby incurring liability to the Owners until payment of outstanding sums (including accrued interest). The Contractors shall also have the right to recover from the Owners all reasonable costs arising from such suspension of work to the extent not otherwise contractually excluded.

(iv) If the payment terms agreed in Box 14 require payments to be made after Redelivery and the Owners fail to make any such payments, the Owners shall pay interest at the rate stated in Box 18 and, failing payment of such outstanding sums (together with accrued interest) within three (3) working days of their due date, any other payment instalments agreed to be payable at any later date shall become due immediately.

(c) Title to the Vessel

(i) Title to the Vessel shall remain at all times with the Owners.

~~(ii) Except as provided in Subclause 6(c)(iii) (Financial Provisions – Title to the Vessel), t~~The Contractors shall not permit nor suffer any lien to be created on the Vessel as a consequence of their work or that of the Subcontractors.

~~(iii) The Contractors shall be entitled to exercise a possessory lien on the Vessel before Redelivery for all sums due to the Contractors on or before Redelivery.~~ **NOT USED**

7. Liquidated Damages for Delay

In the event that Redelivery is delayed beyond the Contract Period, the Contractors accept liability for liquidated damages in the sums stated in Box 17(a) for each day of delay, subject to any maximum amount stated in Box 17(b). If Box 17(b) is not filled in then ten (10) per cent of the Contract Price shall apply.

8. Liabilities and Indemnities

(a) Liability for Loss or Damage

(i) The Contractors shall only be liable to the Owners under this Contract when proven loss or damage has been caused by the negligence or wilful misconduct of the Contractors or that of those for whom they are responsible.

(ii) The Contractors' liabilities arising out of or in connection with this Contract of whatsoever nature and howsoever arising shall cease upon Redelivery or, if later, Completion, except as provided in Subclause 5(b) (Cancellation), Clause 10 (Guarantee), Clause 12 (Termination) and Subclause 14(e) (Sundry Provisions – Intellectual Property).

(iii) The Owners shall only be liable to the Contractors under this Contract when proven loss or damage has been caused by the negligence or wilful misconduct of the Owners or that of those for whom they are responsible.

~~(iv) Any tests, trials or movements of the Vessel shall be at the Owners' sole risk and responsibility, and the Contractors shall not be under any liability whatsoever to the Owners for any loss, damage or expense resulting from such tests, trials or movements, unless caused by the intervention, act or omission of the Contractors.~~ **NOT USED**

(b) Liability for Death or Personal Injury

PART II

Each party accepts responsibility and liability for the death or personal injury of its own personnel, and the personnel of those entities for whom they are responsible under this Contract, irrespective of the cause of death or personal injury, and whether or not caused by the negligence of the other party, or those entities for whom the other party is responsible under this Contract.

Each party further agrees to indemnify and hold harmless the other party, as regards both liability and legal costs, in the event that the aforesaid personnel or their dependants pursue claims for death or personal injury against the party who is not responsible for them under this Contract. The party not responsible shall notify the other responsible party of such claims. The party who is responsible for the claim(s) under this Contract shall take over the conduct of the claim(s) whether or not such claim(s) is made against it or the other party.

(c) Third Parties

(i) Each party agrees to indemnify the other party against all claims made against the other party by third parties (being those individuals and entities for whom neither party is responsible under this Contract) in any way related to this Contract where such claims are caused, or to the extent that they are contributed to, by the indemnifying party's negligence or wilful misconduct or that of those for whom it is responsible under the terms of this Contract.

(ii) The indemnifying party shall bear the expense of investigations and defences of all claims against which the other party is indemnified under Subclause (c)(i) (Liabilities and Indemnities – Third Parties) above and all legal proceedings arising therefrom including the legal costs of the indemnified party.

9. Limitation

(a) The Contractors' liability howsoever arising out of or in connection with this Contract (even in the event of negligence) shall be limited to the greater of £5 million or 150% of the Contract Price ~~the Contractors' Total Liability as stated in Box 16(a).~~

(b) The Owners' liability howsoever arising out of or in connection with this Contract (even in the event of negligence) shall be limited to the Owners' Total Liability as stated in Box 16(b).

(c) Employees, Servants, Agents and Subcontractors

The limitations on each party's liability in Subclauses 9(a) and (b) (Limitation) shall also apply to the liability of those for whom that party is responsible under this Contract. Each party further agrees that it will not, and will ensure that those for whom it is responsible do not, circumvent the aforesaid limitations and allocation of responsibility by taking legal proceedings against the employees, servants or agents of the other party, and to this extent each party shall be deemed to be acting as agent or trustee on behalf of and for the benefit of all such persons.

(d) Exclusions of Liability

Except as provided in Clause 7 (Liquidated Damages for Delay), in no circumstances whatsoever shall either Party's liability to the other Party include any sum in respect of:

(i) loss of hire, loss of profit, loss of use or business, or any similar direct or indirect losses; or

(ii) any consequential losses whatsoever

arising out of or in connection with the performance or non-performance of this Contract whether or not the same is due to any breach of contract, negligence, wilful misconduct, or any other fault on the part of either Party, or those for whom they are responsible.

(e) Limitation

Nothing herein contained shall affect any right that the Parties may have to limit their liability under any statutory enactment for the time being in force.

10. Guarantee

(a) The guarantee shall apply to the Works performed and materials and equipment supplied by the Contractors.

(b) The Contractors shall be responsible for rectifying fault or defects in materials, equipment and workmanship existing at the time of Redelivery or, if later, Completion, provided always that notice of complaint in respect of such defects is received in writing by the Contractors within the number of months stated in Box 13 from the date of Acceptance in accordance with Clause 5(d) above ~~Completion~~. If the defect has led to damage to the Vessel or any part thereof, this obligation shall extend to repair or renewal of the Vessel's part(s) that have been damaged as a direct consequence of the fault or defect.

(c) In cases where the Contractors are liable for defects as provided in this Clause 10 (Guarantee), the Owners shall be entitled to have the work and the replacements carried out at any yard or workshop, other than the Contractors' yard if, in the reasonable opinion of the Owners, such work and the replacements need to be effected promptly and it is not practicable or cost effective for the Owners to bring the Vessel to the Contractors' Yard. The Contractors' liability in such cases shall solely be to pay directly or reimburse the actual cost incurred for such work and the replacements provided always that before committing the Vessel to another yard or workshop the Owners shall:

PART II

- (i) Notify the Contractors of their intention to do so and request such assistance as the Contractors may be able to offer in order to minimise the cost;
- (ii) Use reasonable endeavours to ensure that the cost does not exceed the cost of having the same work carried out at the Contractors' Yard.
- (d) In any case the Vessel shall be taken at the Owners' cost and responsibility to the place elected, ready in all respects for the guarantee work to be commenced.
- (e) When repairs or renewals are performed by the Contractors pursuant to this Clause 10 (Guarantee), the Contractors shall guarantee such repairs or renewals on the same terms as this Clause 10 (Guarantee).
 - (f) All new parts supplied or fitted by the Contractors during the Contract period shall be covered by a one-year warranty or such other provided manufacturer's warranty if that is longer than the minimum one year guarantee in terms of this Clause 10, commencing from the date of Acceptance in accordance with Clause 5(d), above.
 - (g) The Contractors shall provide a facility for the Owners to report faults and obtain technical advice, covering the hours between 08:00 and 16:30, Monday to Friday. Response times for such service shall allow for all faults to be logged, given a reference number and rectification plan agreed between the Parties within a maximum of forty-eight hours of the fault being logged.
 - (h) In the event that a defect is notified to the Contractors that renders the Vessel non-operational, the Contractors shall provide services to ensure the Vessel is restored to full working condition within forty-eight hours, calculated from the date and time on which the Owners agree the Contractors' personnel can gain access to the Vessel. In the event that such a defect cannot be rectified within that period, a Rectification Plan must be agreed with the Owners within forty-eight hours of identification of the potential failure.
 - (i) In the event that a defect is notified to the Contractors, other than those that will render the Vessel non-operational, the Contractors shall provide services to ensure the Vessel is restored to full working condition as quickly as possible and in any event within ten working days, calculated from the date and time on which the Owners agree the Contractors' personnel can gain access to the Vessel. In the event that such a defect cannot be rectified within that assigned period, a Rectification Plan must be agreed with the Owners within forty-eight hours of identification of the potential failure.

11. Disruptions

- (a) The Contract Period shall be extended when any of the following events cause delay to the Contractors' performance of the Works, provided always that the Contractors shall have complied with Clause 11(b) (Disruptions) hereunder and shall have made all reasonable efforts to avoid or minimise the effects such events may have on the performance of the Works:
 - (i) Force Majeure events
 - (1) acts of God;
 - (2) any Government requisition, control, intervention, requirement or interference;
 - (3) any circumstances arising out of war, threatened act of war or warlike operations, acts of terrorists or the consequences thereof;
 - (4) riots, civil commotions, blockades or embargoes;
 - (5) epidemics;
 - (6) earthquakes, landslides, floods or other extraordinary weather conditions;
 - (7) strikes, lockouts or other industrial action, but only if of a general nature and not limited to the Contractors and/or the Subcontractors; or
 - (8) fire, accident, explosion (whether in the Contractors' Yard or elsewhere) except where caused by the proven negligence of the Contractors and/or the Subcontractors.
 - (ii) Other events
 - (1) failure of the Owners and/or Owners' regulatory bodies to review/approve technical information within a reasonable time;
 - (2) suspension of the Works pursuant to Subclause 6(b)(iii) (Payment);
 - (3) failure of the Owners to deliver the Vessel in the condition stipulated in Subclause 5(a)(i) (Delivery);
 - (4) breach of Subclause 3(a)(ii) (Owners' Representatives);
 - (5) disruption of the Works in breach of Clause 4 (Owners' Work); or
 - (6) late delivery of any items to be supplied by the Owners.
- (b) The Contractors shall notify the Owners in writing within two (2) working days of the occurrence of any event of delay, on account of which the Contractors assert that they are entitled to claim an extension of the Contract Period. A failure to so notify shall bar the Contractors from claiming any extension to the Contract Period. The Contractors shall also advise the Owners in writing (A) within two (2)

working days of the ending of any event notified under this Clause that the event has ended, and (B) as soon as reasonably possible after (A), the length of extension of the Contract Period claimed by the Contractors.

12. Termination

(a) Contractors' Default

The Owners shall be entitled to terminate the Contract by notice in writing to the Contractors in the event that:

- (i) the Contractors are deemed insolvent pursuant to Clause 12(d) (Termination – Deemed Insolvency); or
- (ii) without lawful excuse, the Contractors (A) fail to perform the Works or any substantial part of them for a running period of at least five (5) days, provided that thereafter the Owners give the Contractors at least two (2) days' written notice of their intention to terminate under this Clause 12(a) (Termination – Contractors' Default), and within that period the Contractors fail to remedy their breach, or (B) clearly indicate their intention not to perform the Contract; or
- (iii) the Contractors fail to redeliver the Vessel in the condition required by the Contract by the Redelivery Termination Date (if any) stated in Box 20, as may be adjusted pursuant to Subclauses 2(a)(iii) (Performance and Approval of the Work – Performance of Works) and 11(a) (ii) (Disruptions – Other events); or
- (iv) there is damage to the Vessel in the course of the Works for which the Contractors are liable under the terms of the Contract and the reasonable estimated cost of repairing such damage exceeds the Contractors' Total ~~Liability~~; or ~~Liability~~.
- (v) the Contractors fails to notify the Owners in writing of any Occasion of Tax Non-Compliance or fails to provide details of proposed mitigating factors which, in the reasonable opinion of the Owners, are acceptable; or
- (vi) there is a Material Default by the Contractors; oo
- (vii) there is a Change of Control of the Contractors which is not pre-approved by the Owners in writing; or
- (viii) the Contractors or their Affiliates embarrass or bring the Owners into disrepute or diminish the public trust in them; or
- (ix) the Contractors fail to comply with its legal obligations in the fields of environmental, social, equality or employment Law when providing the Scope of Work.

On termination the Owners shall pay any part of the Contract Price that relates to the Works performed up to the date of termination. However, the Owners may set-off against such payment (A) any sums payable pursuant to Clause 7 (Liquidated Damages for Delay), and (B) any losses and/or claims not otherwise excluded which they may suffer by reason of the termination. To the extent that (A) and (B) exceed the Contractors' Total Liability, the Owners shall be discharged from their obligation to pay an equivalent sum out of any unpaid part of the Contract Price. Thereafter, notwithstanding the provisions of Subclause 6(c)(iii) (Financial Provisions – Title to the Vessel), the Owners shall have the right to remove the Vessel from the Contractors' Yard without hindrance or interference by the Contractors or those for whom they are responsible.

(b) Owners' Default

The Contractors shall be entitled to terminate the Contract by notice in writing to the Owners in the event that:

- (i) the Owners are deemed insolvent pursuant to Clause 12(d) (Termination – Deemed Insolvency); or
- (ii) without lawful excuse, the Owners (A) fail to pay any sums due under the Contract for a period of five (5) days provided that thereafter the Contractors give the Owners at least two (2) days' written notice of their intention to terminate under this Subclause 12(b) (Termination – Owners' Default), and within that period Owners fail to remedy the breach, or (B) clearly indicate their intention not to perform the Contract; or
- (iii) there is damage to the Contractors' property in the course of the Works for which the Owners are liable under the terms of the Contract and the reasonably estimated cost of repairing the damage exceeds the Owners' Total Liability.

On termination the Contractors shall be entitled to recover any unpaid part of the Contract Price that relates to the Works performed up to the date of termination, together with (A) any losses they may suffer, or liability to Subcontractors and others they may incur, by reason of the termination except as otherwise excluded, and (B), pending payment of (A), their reasonable costs of accommodating the Vessel, but (A) and (B) being subject always to Owners' Total Liability.

- (c) Termination shall be without prejudice to any other claims that the Parties may have against each other.
- (d) Deemed Insolvency

Either party shall be deemed insolvent (the "Insolvent Party") if it (A) makes any voluntary arrangement with its creditors or becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or (B) an encumbrancer takes possession of, or a receiver is appointed in respect of any of the Insolvent Party's property or assets; or (C) the other party reasonably apprehends that any of the events mentioned in (A) or (B) above is about to occur in relation to the Insolvent Party and, after notification to the Insolvent Party, is not reasonably satisfied as to its continuing creditworthiness and/or is not provided with suitable guarantees.

13. Insurance

(a) Contractors' Insurances

The Contractors shall effect and maintain, at no cost to the Owners, ship repairers' liability insurance providing coverage for such loss and damage for which the Contractors may be held liable to the Owners under this Contract and as further described in Annex F (Insurance), and shall, at the Owners' request, make immediately available to the Owners copies of insurance certificates and policies to provide evidence and details of cover.

(b) Owners' Insurances

The Owners shall effect and maintain, at no cost to the Contractors, Protection and Indemnity Insurance, Hull and Machinery Insurance and War Risks Insurance and providing full coverage for such loss and damage for which the Owners may be held liable to the Contractors under this Contract and shall, at the Contractors' request, make immediately available to the Contractors copies of insurance certificates and policies to provide evidence and details of the cover.

14. Sundry Provisions

(a) Assignment

Neither party shall have the right to assign this Contract or any rights thereunder to a third party without the written consent of the other party, which consent shall not be unreasonably withheld.

(b) Severance

If by reason of any enactment or judgment any provision of this Contract shall be deemed or held to be illegal, void or unenforceable in whole or in part, all other provisions of this Contract shall be unaffected thereby and shall remain in full force and effect.

(c) No Waiver

No failure or delay by a Party to exercise any right or remedy provided under this Contract or by law shall constitute a waiver of that or any other right or remedy nor shall it prevent or restrict the further exercise of that or any other right or remedy.

(d) Entire Agreement

This Contract constitutes the entire agreement between the Parties and no promise, undertaking, representation, warranty or statement by either party prior to the date of this Contract shall affect the Contract nor shall any modification of this Contract be of any effect unless in writing signed by or on behalf of the Parties.

(e) Intellectual Property

(i) The ~~Owners~~~~Contractors~~ have ownership of drawings, casting patterns, data regarding weights and volumes, information regarding prices and any other data which ~~the Contractors~~~~they~~ have prepared or produced in connection with this Contract. The Owners may at all times use the same in subsequent work on the Vessel or sister vessels. Subject to payment of the copying expenses, the Owners may require the Contractors to supply copies of this material. The Contractors may not make any of this material available to third parties without the prior written consent of the Owners, such consent not to be unreasonably withheld where disclosure is necessary for the completion of the Works.

(ii) The Owners shall ensure that the manufacturing and/or supplying according to drawings, models or other instructions supplied by them shall not infringe any trademark, patent or similar rights of third parties. Should claims nevertheless be made against the Contractors in this respect the Owners shall keep the Contractors indemnified against the cost to the Contractors of such claims, including any legal costs incurred by them in connection therewith.

(iii) Except as provided for in Subclause 14(e)(ii) (Sundry Provisions – Intellectual Property), the Contractors hereby agree to indemnify the Owners against the cost to the Owners of any claims, including legal costs incurred by the Owners in connection therewith, based on any alleged infringement of trademarks, patents or any other protected rights arising out of or in any way related to the Contractors' performance of the Works.

(f) Scrap Materials

Scrap ~~metal~~ materials removed from the Vessel pursuant to the Works shall, with the Owners' express permission in writing for the material in question, become the Contractors' property except for propellers, tailshafts and heavy machinery parts.

15. Anti-Corruption Clause

(a) The Parties agree that in connection with the performance of this Contract they shall each:

(i) comply at all times with all applicable anti-corruption legislation and have procedures in place that are, to the best of their knowledge and belief, designed to prevent the commission of any offence under such legislation by any member of their organisation or by any person providing services for them or on their behalf; and

(ii) make and keep books, records, and accounts which in reasonable detail accurately and fairly reflect the transactions in connection with this Contract.

- (b) If a demand for payment, goods or any other thing of value ("Demand") is made to either Party by any official, any contractor or subcontractor engaged by or acting on behalf of either Party or any other person not employed by either Party and it appears that meeting such Demand would breach any applicable anti-corruption legislation, then the Party receiving the Demand shall notify the other Party as soon as practicable and the Parties shall cooperate in taking reasonable steps to resist the Demand.
- (c) If either party fails to comply with any applicable anti-corruption legislation it shall defend and indemnify the other party against any fine, penalty, liability, loss or damage and for any related costs (including, without limitation, court costs and legal fees) arising from such breach.
- (d) Without prejudice to any of its other rights under this Contract, either party may terminate this Contract without incurring any liability to the other party if:
 - (i) at any time the other party or any member of its organisation has committed a breach of any applicable anti-corruption legislation in connection with this Contract; and
 - (ii) such breach causes the non-breaching party to be in breach of any applicable anti-corruption legislation.

Any such right to terminate must be exercised without undue delay.

- (e) Each Party represents and warrants that in connection with the negotiation of this Contract neither it nor any member of its organisation has committed any breach of applicable anti-corruption legislation. Breach of this Subclause 15(e) (Anti-Corruption Clause) shall entitle the other party to terminate the Contract without incurring any liability to the other.
- (f) The Contractors shall comply with the provision of the Official Secrets Acts 1911 to 1989 and section 182 of the Finance Act 1989.

16. BIMCO Dispute Resolution Clause 2017

- (a)* This Contract shall be governed by and construed in accordance with English law and any dispute arising out of or in connection with this Contract shall be referred to arbitration in London in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment thereof save to the extent necessary to give effect to the provisions of this Clause.

The arbitration shall be conducted in accordance with the London Maritime Arbitrators Association (LMAA) Terms current at the time when the arbitration proceedings are commenced.

The reference shall be to three arbitrators. A party wishing to refer a dispute to arbitration shall appoint its arbitrator and send notice of such appointment in writing to the other party requiring the other party to appoint its own arbitrator within fourteen (14) calendar days of that notice and stating that it will appoint its arbitrator as sole arbitrator unless the other party appoints its own arbitrator and gives notice that it has done so within the fourteen (14) days specified. If the other party does not appoint its own arbitrator and give notice that it has done so within the fourteen (14) days specified, the party referring a dispute to arbitration may, without the requirement of any further prior notice to the other party, appoint its arbitrator as sole arbitrator and shall advise the other party accordingly. The award of the sole arbitrator shall be binding on both Parties as if he had been appointed by agreement.

Nothing herein shall prevent the Parties agreeing in writing to vary these provisions to provide for the appointment of a sole arbitrator.

In cases where neither the claim nor any counterclaim exceeds the sum of ~~GBP~~~~USD~~ 100,000 (or such other sum as the Parties may agree) the arbitration shall be conducted in accordance with the LMAA Small Claims Procedure current at the time when the arbitration proceedings are commenced.

In cases where the claim or any counterclaim exceeds the sum agreed for the LMAA Small Claims Procedure and neither the claim nor any counterclaim exceeds the sum of ~~GBP~~~~USD~~ 400,000 (or such other sum as the Parties may agree) the arbitration shall be conducted in accordance with the LMAA Intermediate Claims Procedure current at the time when the arbitration proceedings are commenced.

- ~~(b)* This Contract shall be governed by U.S. maritime law or, if this Contract is not a maritime contract under U.S. law, by the laws of the State of New York. Any dispute arising out of or in connection with this Contract shall be referred to three (3) persons at New York, one to be appointed by each of the Parties hereto, and the third by the two so chosen. The decision of the arbitrators or any two of them shall be final, and for the purposes of enforcing any award, judgment may be entered on an award by any court of competent jurisdiction. The proceedings shall be conducted in accordance with the SMA Rules current as of the date of this Contract.~~

~~In cases where neither the claim nor any counterclaim exceeds the sum of USD 100,000 (or such other sum as the Parties may agree) the arbitration shall be conducted in accordance with the SMA Rules for Shortened Arbitration Procedure current as of the date of this Contract.~~

- ~~(c)* This Contract shall be governed by and construed in accordance with Singapore**/English** law.~~

~~Any dispute arising out of or in connection with this Contract, including any question regarding its existence, validity or termination shall be referred to and finally resolved by arbitration in Singapore in accordance with the Singapore International Arbitration Act (Chapter 143A) and any statutory modification or re-enactment thereof save to the extent necessary to give effect to the provisions of this Clause.~~

~~The arbitration shall be conducted in accordance with the Arbitration Rules of the Singapore Chamber of Maritime Arbitration (SCMA) current at the time when the arbitration proceedings are commenced.~~

PART II

~~The reference to arbitration of disputes under this Clause shall be to three arbitrators. A party wishing to refer a dispute to arbitration shall appoint its arbitrator and send notice of such appointment in writing to the other party requiring the other party to appoint its own arbitrator and give notice that it has done so within fourteen (14) calendar days of that notice and stating that it will appoint its own arbitrator as sole arbitrator unless the other party appoints its own arbitrator and gives notice that it has done so within the fourteen (14) days specified. If the other party does not give notice that it has done so within the fourteen (14) days specified, the party referring a dispute to arbitration may, without the requirement of any further prior notice to the other party, appoint its arbitrator as sole arbitrator and shall advise the other party accordingly. The award of a sole arbitrator shall be binding on both Parties as if he had been appointed by agreement.~~

~~Nothing herein shall prevent the Parties agreeing in writing to vary these provisions to provide for the appointment of a sole arbitrator.~~

~~In cases where neither the claim nor any counterclaim exceeds the sum of USD 150,000 (or such other sum as the Parties may agree) the arbitration shall be conducted before a single arbitrator in accordance with the SCMA Small Claims Procedure current at the time when the arbitration proceedings are commenced.~~

~~**Delete whichever does not apply. If neither or both are deleted, then English law shall apply by default.~~

~~(d)* This Contract shall be governed by and construed in accordance with the laws of the place mutually agreed by the Parties and any dispute arising out of or in connection with this Contract shall be referred to arbitration at a mutually agreed place, subject to the procedures applicable there.~~

(e) The Parties may agree at any time to refer to mediation any difference and/or dispute arising out of or in connection with this Contract. In the case of any dispute in respect of which arbitration has been commenced under Subclause (a), (c) or (d), the following shall apply:

(i) Either party may at any time and from time to time elect to refer the dispute or part of the dispute to mediation by service on the other party of a written notice (the "Mediation Notice") calling on the other party to agree to mediation.

(ii) The other party shall thereupon within fourteen (14) calendar days of receipt of the Mediation Notice confirm that they agree to mediation, in which case the Parties shall thereafter agree a mediator within a further fourteen (14) calendar days, failing which on the application of either party a mediator will be appointed promptly by the Arbitration Tribunal ("the Tribunal") or such person as the Tribunal may designate for that purpose. The mediation shall be conducted in such place and in accordance with such procedure and on such terms as the Parties may agree or, in the event of disagreement, as may be set by the mediator.

(iii) If the other party does not agree to mediate, that fact may be brought to the attention of the Tribunal and may be taken into account by the Tribunal when allocating the costs of the arbitration as between the Parties.

(iv) The mediation shall not affect the right of either party to seek such relief or take such steps as it considers necessary to protect its interest.

(v) Either party may advise the Tribunal that they have agreed to mediation. The arbitration procedure shall continue during the conduct of the mediation but the Tribunal may take the mediation timetable into account when setting the timetable for steps in the arbitration.

(vi) Unless otherwise agreed or specified in the mediation terms, each party shall bear its own costs incurred in the mediation and the Parties shall share equally the mediator's costs and expenses.

(vii) The mediation process shall be without prejudice and confidential and no information or documents disclosed during it shall be revealed to the Tribunal except to the extent that they are disclosable under the law and procedure governing the arbitration.

(Note: The Parties should be aware that the mediation process may not necessarily interrupt time limits.)

*Subclauses (a), (b), (c) and (d) are alternatives; indicate alternative agreed in Box 19.

If Box 19 in Part I is not appropriately filled in, Subclause (a) of this Clause shall apply. Subclause (e) shall apply in all cases except for alternative (b).

17. BIMCO Notices Clause

All notices, requests and other communications required or permitted by any clause of this Contract shall be given in writing and shall be sufficiently given or transmitted if delivered by hand, email, express courier service or registered mail and addressed if to the Owners as stated in Box 2 or such other address or email address as the Owners may hereafter designate in writing and if to the Contractors as stated in Box 3 or such other address or email address as the Contractors may hereafter designate in writing. Any such communication shall be deemed to have been given on the date of actual receipt by the party to which it is addressed.

ANNEX A (SCOPE OF WORK)

BIMCO STANDARD SHIP REPAIR CONTRACT CODE NAME: REPAIRCON

Note: Annex A will be a list identifying by date and description the documents shown below ~~various documents and correspondence exchanged between the Parties~~ which together comprise the Scope of Work. Any individual general terms and conditions of the Owners and the Contractors should not be incorporated into Annex A. Any specifically agreed clauses which are to be incorporated should be listed in Box 21 and set out in Part II.

1. Owners' technical specification, dated:

19 March 2024 - 'Project_651 - Cutter SLEP - VOL.3 - (d) PART IV Annex A - Scope of Works'

2. Contractors' tender, dated:

30 April 2024

~~3. Correspondence, dated:~~