

Standard Terms and Conditions of SABIK Offshore GmbH

Last updated: January 2016

1. SCOPE

These Terms and Conditions shall apply to all deliveries and quotations, order confirmations and contracts for the sale of Marine and other products by SABIK Offshore GmbH. The company offering or making the sale or delivery is hereinafter referred to as „SABIK Offshore“ and the products being the object of the sale or delivery are hereinafter referred to as „the Products“.

2. FORMATION OF CONTRACT; AMENDMENTS

A contract shall be deemed to have been entered into when SABIK Offshore has confirmed the Buyer's order in writing. Conflicting and/ or additional terms in the Buyer's purchase order or other documents or forms shall not be binding on SABIK Offshore unless accepted by SABIK Offshore in writing. No amendments shall be effective unless agreed in writing. An order can only be cancelled with SABIK Offshore's written consent and on the condition that the Buyer compensates SABIK Offshore for all costs incurred due to the cancellation.

3. QUOTATION

SABIK Offshore's written quotations shall be valid for thirty (30) days from the date thereof unless otherwise stated therein.

4. PRODUCT INFORMATION

Information and data contained in brochures, price lists and other materials shall be binding on SABIK Offshore only to the extent that they are by reference expressly included in the quotation, order confirmation or contract.

5. DRAWINGS AND DESCRIPTIONS

All drawings and technical documents relating to the Products or their manufacture submitted by one party to the other, prior or subsequent to the formation of the contract shall remain the property of the submitting party. Drawings, technical documents or other technical information received by one party shall not, without the consent of the other party, be used for any other purpose than installing, commissioning, operation or maintenance of the Products. They may not, without the consent of the submitting party, otherwise be used or copied, reproduced, transmitted or communicated to a third party. SABIK Offshore shall, if so requested by the Buyer, provide information and drawings necessary to permit the Buyer to install, commission, operate and maintain the Products. Such information and drawings shall be supplied in the number of copies agreed upon or at least one copy of each. SABIK Offshore shall not be obliged to provide manufacturing drawings and/or documents for the Products or spare parts.

6. ACCEPTANCE TESTS

Acceptance tests provided for in the contract shall, unless otherwise agreed, be carried out at the place of manufacture during normal working hours. If the contract does not specify the technical requirements applicable, the tests shall be carried out in accordance with the general practice applied by the SABIK Offshore manufacturing unit in question. SABIK Offshore shall notify the Buyer of the acceptance tests in sufficient time to permit the Buyer to be represented at the tests. If the Buyer is not represented, the test report shall be sent to the Buyer and shall be deemed to have been accepted as accurate. If the acceptance tests

show the Products not to be in accordance with the contract, SABIK Offshore shall without delay remedy any deficiencies in order to ensure that the Products comply with the contract. New tests shall then be carried out at the Buyer's request, unless the deficiency was insignificant, either at the place of manufacture or, should the parties so agree, at the Buyer's premises. SABIK Offshore shall bear all costs for acceptance tests carried out at the place of manufacture. The Buyer shall however bear all travelling and living expenses for its representatives in connection with such tests. Should any new tests be carried out at a place other than the place of manufacture, the costs of such tests shall be carried by the Buyer.

7. DELIVERY

Irrespective of the agreed terms of delivery and trade term, SABIK Offshore is deemed to fulfil its obligation to deliver on the date when the Products are ready for shipment. Except as stated above, the terms of delivery, including the transfer of risk and the division of costs, shall be determined in accordance with the relevant quotation, confirmation or contract. All references to trade terms shall be construed in accordance with Incoterms 2000. In case no such reference is made, delivery shall take place in accordance with the trade term Free Carrier FCA SABIK Offshore's premises (Incoterms 2000) as amended in the first passage of this Clause 7. SABIK Offshore is hereby authorized to procure, on the Buyer's behalf, transportation and insurance related thereto on usual terms at the Buyer's risk and expense. Unless otherwise agreed, partial deliveries and transshipment shall be permitted. If the parties, instead of specifying the date for delivery, have specified a period of time on the expiry of which delivery shall take place, such period shall start to run on the date when SABIK Offshore has received the Buyer's order, all information necessary for the processing thereof and any advance payment, D/C and/or other security agreed. Unless expressly otherwise stated by SABIK Offshore, all times or dates for delivery given are estimates only. While SABIK Offshore takes every effort to meet the estimated times or dates for delivery, failure to comply with such estimates shall not be a breach of contract. Should SABIK Offshore anticipate that it will not be able to comply with a time or date given for delivery, it shall forthwith notify the Buyer thereof in writing, stating the reason, and, if possible, the new time when delivery can be expected. If delay in delivery is caused by any circumstances mentioned in Clause 16 below or by an act or omission on the part of the Buyer, the time for delivery shall be extended by a period which is reasonable having regard to all the circumstances of the case. This provision applies regardless of whether the cause for the delay occurs before or after the agreed time or date for delivery. If a binding time or date for delivery has been agreed to by SABIK Offshore in writing and the Products are not ready for shipment at such agreed time or date due to a reason attributable to SABIK Offshore, other than excusable causes referred to in Clause 16 below (Force Majeure) or an act or omission on part of the Buyer, and such delay causes actual damage to the Buyer, the Buyer shall be entitled to liquidated damages at the rate of 0.2 % for each completed week of delay, calculated on the price (excluding VAT) of the delayed Products; provided that SABIK Offshore's maximum liability is limited to three (3) % of the said price. The liquidated damages shall become due at the Buyer's written demand but not before delivery has been completed or the contract is

terminated as specified herein below. If SABIK Offshore is not presented with a claim in writing within three (3) months from the time when the Products liquidated damages shall be paid. If the delay in delivery is such that the Buyer is entitled to maximum liquidated damages in accordance with what is stated above and if the Products are still not delivered, the Buyer may in writing demand delivery within a final reasonable period which shall not be less than four weeks. If SABIK Offshore does not deliver within such final period and this is not due to any circumstance for which the Buyer is responsible, then the Buyer may by notice in writing to SABIK Offshore terminate the contract in respect of such part of the Products as cannot in consequence of SABIK Offshore's failure to deliver be used as intended by the parties. If the Buyer terminates the contract it shall be entitled to compensation for the loss it has suffered as a result of SABIK Offshore's delay. The total compensation, including the liquidated damages which are payable hereunder, shall not exceed 7 % of that part of the purchase price which is attributable to the part of the Products in respect of which the contract is terminated. The liquidated damages and the termination of the contract with limited compensation, as herein provided, shall be the Buyer's sole remedy for delays. All other claims against SABIK Offshore based on SABIK Offshore's delay shall be excluded. If the Buyer anticipates that it will be unable to accept delivery of the Products at the delivery time, it shall forthwith notify SABIK Offshore thereof stating the reason, and, if possible, the time when it will be able to accept delivery. If the Buyer fails to accept delivery at the delivery time it shall nevertheless pay any part of the purchase price which becomes due on delivery as if delivery had taken place. SABIK Offshore shall arrange for storage of the Products at the risk and expense of the Buyer. SABIK Offshore shall also, if the Buyer so requires, insure the Products at the Buyer's expense. Unless the Buyer's failure to accept delivery is due to Force Majeure beyond the Buyer's control, SABIK Offshore may by notice in writing require the Buyer to accept delivery within a final reasonable period. If, for any reason for which SABIK Offshore is not responsible, the Buyer fails to accept delivery within such period, SABIK Offshore may by notice in writing terminate the contract in whole or in part. SABIK Offshore shall then be entitled to compensation for the loss it has suffered by reason of the Buyer's default.

8. INSPECTION; RETURNS

Upon receipt of the Products the Buyer shall, without delay, using due diligence, examine the same both as to their quality and quantity. Unless the Buyer notifies SABIK Offshore in writing to the contrary within eight (8) days from the receipt thereof, the Products shall be deemed to have been duly received in agreed quantity and without apparent damage. No returns shall be accepted without SABIK Offshore's prior written authorisation.

9. PAYMENT

Payment for the Products shall be made by the Buyer to SABIK Offshore in such currency, time and manner as are provided for in the relevant quotation, confirmation or contract. In case no such provision is included therein, payment shall be made in Euros (€) by an irrevocable at sight Documentary Credit (D/C) payable at and confirmed by a Bank accepted by SABIK Offshore. The D/C shall be in form and substance satisfactory to SABIK Offshore and shall reach the said Bank within fourteen (14) days from the

date of SABIK Offshore's order confirmation. Failure by the Buyer to comply with the terms of payment shall be regarded as a fundamental breach of contract. Where deferred payment has been granted by SABIK Offshore, the time for payment shall, the date of SABIK Offshore's invoice. A payment shall be considered effected when it is wholly and freely at SABIK Offshore's disposal. In case payment is delayed, SABIK Offshore shall be entitled to interest on overdue payments at the rate of 16 % p.a. SABIK Offshore may refuse to make deliveries if the Buyer has any unpaid amounts that are due, or if SABIK Offshore has reason to doubt the Buyer's ability or readiness to pay. If the Buyer has not paid any amount due within one month from the due date, SABIK Offshore shall be entitled to terminate the contract by notice in writing to the Buyer and to claim compensation for the loss it has incurred. Unless otherwise agreed, all bank charges, fees, taxes and costs for remitting payments shall be borne by the Buyer. Unless the Buyer notifies SABIK Offshore in writing to the contrary within eight (8) days from the date thereof, SABIK Offshore's invoice shall be deemed to have been accepted.

10. RESERVATION OF TITLE

The Products shall remain the property of SABIK Offshore until paid for in full to the extent that such retention of property is valid under the applicable law. The Buyer shall at the request of SABIK Offshore assist SABIK Offshore in taking any measures necessary to protect SABIK Offshore's title to the Products or such other right in respect thereof as the law of the state in which the Products are situated permits SABIK Offshore to retain. The retention of title shall not affect the passing of risk.

11. SOFTWARE

SABIK Offshore grants the Buyer a nonexclusive, nontransferable license to use such software as is included in the Products, subject to such terms and conditions as are specified from time to time by SABIK Offshore or other licensors through software licenses to be delivered in conjunction with the relevant software.

12. LIABILITY FOR DEFECTS; WARRANTY PERIOD

SABIK Offshore warrants that the Products shall at the time of the delivery thereof be free from defects in materials or workmanship and conform to the specifications included in the quotation, order confirmation or contract. SABIK Offshore's obligation set forth herein shall apply only to failures to meet the foregoing warranties occurring during the Warranty Period (as hereinafter specified), of which SABIK Offshore is given written notice not later than eight (8) days from the date of such occurrence or, where the defect is such that it may cause damage, immediately, such notice containing a description of the defect. Unless expressly otherwise agreed in writing, the Warranty Period is twelve (12) months from the date of the delivery thereof into the custody of the first carrier. If the daily use of the Product exceeds that which is agreed, the Warranty Period shall be reduced in proportion to such excessive use. When a defect in a part of a Product has been remedied, SABIK Offshore shall be liable for defects in the repaired or replaced part under the same terms and conditions as those applicable to the original Product for a period of twelve (12) months from the date of the delivery thereof to the first carrier. The duration of the Warranty Period for the remaining parts of the Products shall not be extended thereby. Notwithstanding anything to the contrary contained herein, SABIK Offshore shall not be liable for defects in any part of the Products for more than two years from the date of manufacture of

the original Product in question, not, however, exceeding eighteen (18) months from the date of the delivery thereof to the first carrier. If any Product or part thereof fails to meet the foregoing warranties, SABIK Offshore shall, on receipt of the Buyer's notice in writing, without undue delay, at its option, either deliver a replacement of the defective Product or part CIP Buyer's premises (Incoterms 2000), or repair the Product or part in question, or refund the purchase price paid by the Buyer therefor, provided that such Product or part is made available to SABIK Offshore DDU SABIK Offshore's premises (Incoterms 2000) or as may be otherwise specified by SABIK Offshore. Defective parts which have been replaced shall become SABIK Offshore's property. Unless expressly otherwise agreed, SABIK Offshore is not obliged to carry out dismantling or reinstallation of any part. If the Buyer has given notice as described above and no defect is found for which SABIK Offshore is liable, SABIK Offshore shall be entitled to compensation for the costs it has incurred as a result of the notice. SABIK Offshore is not liable for defects arising out of materials provided by or a design stipulated or specified by the Buyer. SABIK Offshore is liable only for defects that appear under the conditions of operation provided for in the contract and under proper use of the Products. SABIK Offshore's liability does not cover defects caused by faulty maintenance, incorrect installation or faulty repair by the Buyer, or by alterations carried out without SABIK Offshore's consent in writing. Further, SABIK Offshore's liability does not cover normal wear and tear or deterioration. If SABIK Offshore does not fulfil its obligation to deliver a replacement, to repair a defective part or to refund the purchase price in accordance with what is stated above without undue delay from its receipt of the Buyer's notice in writing, description of the defect and the defective part, the Buyer may, by written notice, fix a final time, not less than four (4) weeks, for completion of SABIK Offshore's obligations. If SABIK Offshore fails to fulfil its obligations within such final time, the Buyer may itself undertake or employ a third party to undertake necessary remedial works at the risk and expense of SABIK Offshore. Where successful remedial works have been undertaken by the Buyer or a third party, reimbursement by SABIK Offshore of reasonable costs incurred by the Buyer shall be in full settlement of SABIK Offshore's liabilities for the said defect. Where the defect has not been successfully remedied as aforesaid,

a) the Buyer is entitled to a reduction of the purchase price in proportion to the reduced value of the Product, provided that under no circumstance shall such reduction exceed 7 % of the purchase price, or
b) where the defect is so substantial as to significantly deprive the Buyer of the benefit of the contract, the Buyer may terminate the contract by written notice to SABIK Offshore. The Buyer is then entitled to compensation for the direct loss it has suffered up to a maximum of 7 % of the purchase price.

Notwithstanding the above, with respect to defects in the software contained in the Products, the terms of the respective software license shall apply. The above mentioned provisions and those of the respective software license set forth the exclusive remedies for claims based upon defects in or nonconformity of the Products supplied by SABIK Offshore, whether the claim is in contract, warranty, tort (including negligence) or otherwise. What is stated herein is in lieu of all other warranties, whether oral, written, express, implied or statutory. No implied or statutory warranties of merchantability or fitness for particular purpose shall apply. In particular, except as expressly otherwise stated herein, SABIK Offshore shall have no liability for any cost, expense, loss or damage, whether

direct or indirect and whether consequential or not.

13. LIABILITY FOR DAMAGE CAUSED

Subject to the provisions of Clause 15 below, SABIK Offshore shall be liable for property damage or bodily injury caused by the Products delivered by SABIK Offshore or caused by SABIK Offshore employees intentionally or through negligence in the course of their employment, provided that SABIK Offshore is liable for such damage or injury under current legislation.

14. INTELLECTUAL PROPERTY RIGHTS

The Buyer acknowledges that any and all trademarks, trade names, patents, copyrights, designs and other intellectual property rights used or embodied in or in connection with the Products are and shall remain the sole property of SABIK Offshore or such other party as may be identified thereon or in respect thereof. In the event that new know-how evolves or is generated in the performance of or as a result of the contract, the Buyer acknowledges that the same and all intellectual property rights therein shall belong to SABIK Offshore, unless otherwise agreed in writing by SABIK Offshore. SABIK Offshore states that to the best of its knowledge and belief, the supply or intended use of the Products does not infringe any third party's rights. Nevertheless, SABIK Offshore expressly disclaims any liability in the event of a third party suing or threatening to sue the Buyer in respect of matters pertaining to intellectual property rights in relation to the contract. SABIK Offshore shall in no circumstances be liable for or grant any indemnity in relation to any infringement due to the contract or the modification of the Products or any part thereof by the Buyer or any third party or arising from the use of the Products or any part thereof with any adjunct or devices. The Buyer shall indemnify SABIK Offshore against all losses, liabilities, costs and expenses which SABIK Offshore may incur as a result of work carried out in accordance with the Buyer's specifications involving infringement of any intellectual property rights or knowhow.

15. LIMITATION OF LIABILITY

Save as provided in Clauses 12 and 13 above, SABIK Offshore shall not be under any liability in respect of defects, nonconformities, damage or injury. In no event shall SABIK Offshore or its subcontractors or suppliers be liable for any special, consequential, incidental or indirect damages or losses, such as loss of profit or revenues, loss of use, loss of production, cost of capital or increased expense or interruption of operation. The aggregate liability of SABIK Offshore, including its subcontractors and suppliers, shall be limited to direct damage proved by the Buyer and shall not in any case exceed € 500,000 or the purchase price allocable to the Product which gives rise to the claim, whichever is lower. The Buyer shall indemnify, defend and hold SABIK Offshore and its subcontractors and suppliers harmless against any third-party claims in excess of what is stated herein. The Buyer shall notify SABIK Offshore of any claim without delay in writing. In case of a defect, failure or damage that is detected or could be detected immediately, such notice shall be given forthwith and in any case within 8 days from the occurrence thereof. If SABIK Offshore is not presented with a claim within six (6) months from the occurrence in question, no compensation shall be paid, provided always that any action, claim or suit arising out of breach of contract must be instituted within three (3) months after the cause of action has accrued and not in any case later than two (2) years from the delivery of the Products in question into the custody of the first carrier. If such action, claim or suit is not so instituted

within the said period, any claims and rights arising out of such cause shall be excluded and deemed to have been waived. If a claim described in Clause 13 or 14 above or in this Clause 15 is lodged by a third party against one of the parties, the latter party shall forthwith inform the other party thereof in writing. SABIK Offshore and the Buyer shall be mutually obliged to let themselves be summoned to the court or arbitral tribunal examining claims for damages lodged against one of them on the basis of damage allegedly caused by the Products or other causes stated above.

16. EXCUSABLE DELAYS; FORCE MAJEURE

SABIK Offshore shall not be liable for delay in delivery or for other failure to duly fulfill its obligations if the delay or failure results from any of the following: fire, lightning, natural catastrophe, general mobilization, import, export or currency restriction or embargo, act (including failure to act) of any governmental authority, port congestion, delay or accident during transportation, war, riot, revolution, strike or other labor dispute, power failure, failure of telecommunications, general shortage of materials, default of supplier or subcontractor for any reason, incompleteness or inaccuracy of any technical or other information which is the responsibility of the Buyer to provide, and any cause or circumstance beyond SABIK Offshore's reasonable control. If Force Majeure beyond the Buyer's control prevents the Buyer from fulfilling its obligations, it shall be entitled to suspend performance thereof for a period which is reasonable having regard to all the circumstances of the case. The Buyer shall compensate SABIK Offshore for expenses incurred in securing and protecting the Products. The party claiming to be affected by a cause or circumstance referred to above in this Clause shall notify the other party in writing without delay on the intervention as well as on the cessation of such cause or circumstance. Regardless of what might otherwise follow from these Terms and Conditions, SABIK Offshore shall be entitled to terminate the contract by notice in writing to the Buyer if performance of the contract is suspended under this Clause for more than six (6) months.

17. GOVERNING LAW; SETTLEMENT OF DISPUTES

These Terms and Conditions as well as all quotations, order confirmations and contracts for the sale of the Products shall be construed under, governed by and interpreted in accordance with the laws of Germany. Any dispute, controversy or claim arising out of or relating to any of the above or to the validity, breach or termination of contract that cannot be agreed through negotiations between the parties shall be finally settled by arbitration by a sole arbitrator in accordance with the Arbitration Rules of the German Central Chamber of Commerce. The arbitration shall be conducted in the English language. Judgment upon the award rendered may be entered in any court having jurisdiction or application may be made to such court for a juridical acceptance of the award and an order of enforcement, as the case may be. Irrespective of the above, SABIK Offshore shall be entitled to collect its receivables through a court of competent jurisdiction or other appropriate authority.

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Sabik Offshore GmbH,
11/01/2016**