General Terms and Conditions for Deliveries, Maintenance and Repair Services of M.I.S. Marine Instandsetzungsservice Hamburg GmbH

Version: October 2026

Convenience translation. Only the German version of these General Terms and Conditions is legally binding (see § 16).

§ 1 Scope of Application

(1) These General Terms and Conditions shall apply to all offers and contracts for deliveries as well as maintenance and repair services of M.I.S. Marine Instandsetzungsservice Hamburg GmbH, Hamburg (hereinafter “M.I.S.”), provided that the customer is an entrepreneur within the meaning of Section 14 of the German Civil Code (BGB), a merchant within the meaning of the German Commercial Code (HGB), a legal entity under public law or a special fund under public law.

(2) These General Terms and Conditions shall apply exclusively. Conflicting, deviating or supplementary terms and conditions of the customer shall not become part of the contract, even if M.I.S. does not expressly object to their applicability in individual cases.

(3) These General Terms and Conditions shall be deemed agreed if reference to their applicability was made at the time of conclusion of the contract. The General Terms and Conditions shall be made available to the customer at any time upon request and are furthermore accessible in their respective valid version on the website of M.I.S.. Prior to conclusion of the contract, the customer had the reasonable opportunity to take note of their content.

(4) These General Terms and Conditions shall also apply to future contracts with the same customer, provided that reference to their applicability is made again upon conclusion of the respective contract and unless expressly agreed otherwise.

(5) Individual agreements within the meaning of Section 305b BGB shall take precedence over these General Terms and Conditions. Deviations from or supplements to these General Terms and Conditions shall require at least text form in order to be effective.

§ 2 Offer and Conclusion of Contract

(1) Offers of M.I.S. are subject to change and non-binding unless expressly designated as binding.

(2) A contract shall be concluded by (a) written order confirmation by M.I.S., or (b) acceptance of an offer by the customer, or (c) execution of the delivery or commencement of the maintenance or repair service by M.I.S..

(3) The order confirmation of M.I.S. shall be decisive for the content of the contract. In the absence of an order confirmation, the content of the offer of M.I.S. shall be decisive.

(4) Deviating, conflicting or supplementary terms and conditions of the customer shall not become part of the contract, even if M.I.S. performs services without reservation.

(5) Information contained in catalogues, technical documentation, drawings, illustrations, dimensions and weights as well as other performance descriptions shall only be binding if expressly designated as binding in writing.

§ 3 Documents, Intellectual Property Rights, Confidentiality

(1) All documents provided by M.I.S. to the customer in connection with offers, contract negotiations or contract performance – in particular drawings, descriptions, plans, calculations and cost estimates – shall remain the property of M.I.S. and may neither be reproduced nor made accessible to third parties without its prior consent.

(2) Copyrights, rights of use and other industrial property rights in these documents shall remain exclusively with M.I.S..

(3) Unless expressly agreed otherwise, information provided to M.I.S. in connection with inquiries or orders shall not be deemed confidential.

(4) If no contract is concluded or a contractual relationship ends, all documents provided by M.I.S. shall be returned without undue delay or – in the case of electronic transmission – completely deleted.

§ 4 Prices and Terms of Payment

(1) Unless expressly agreed otherwise, all prices of M.I.S. are net ex works or ex warehouse Hamburg, excluding packaging, transport, insurance, customs duties, levies, taxes and other ancillary costs.

(2) Additional services, in particular packaging, transport, assembly, dismantling, travel time, waiting time, overtime outside regular working hours as well as additional measures required for official or safety reasons, shall be remunerated separately unless expressly included in the offer.

(3) Prices are based on the cost factors applicable at the time of contract conclusion (in particular material, energy, transport, labour and third-party service costs). If these costs increase after contract conclusion in an unforeseeable manner and not attributable to M.I.S. and if more than three months lie between contract conclusion and delivery or performance, M.I.S. shall be entitled to make an appropriate price adjustment.

(4) Maintenance and repair services shall, unless otherwise agreed, be invoiced on the basis of actual time and material expenditure based on the hourly rates of M.I.S. applicable at the time.

(5) All prices are exclusive of the applicable statutory value added tax.

§ 5 Delivery Time, Delay in Delivery

(1) Delivery periods and delivery dates shall result from the contractual agreements.

Their compliance requires that all commercial and technical matters between the contracting parties have been clarified and that the customer has duly and timely fulfilled all cooperation obligations incumbent upon it. This includes in particular the timely provision of documents, permits, approvals, technical information as well as agreed advance payments. Delays due to missing or late cooperation shall extend the delivery period appropriately.

(2) Compliance with the delivery period shall be subject to correct and timely self-supply, provided that non-delivery or defective delivery is not attributable to M.I.S..

(3) The delivery period shall be deemed complied with if the delivery or service item has left the works of M.I.S. before its expiry or readiness for dispatch or performance has been notified. Where acceptance is provided for, the acceptance date shall be decisive, alternatively the notification of readiness for acceptance.

(4) If M.I.S. is in delay of delivery, the customer may – after fruitless expiry of a reasonable grace period – claim damages for delay in performance.

In cases of slight negligence, compensation for damages due to delay shall be limited in amount to a total of not more than 5% of the agreed contract value of that part of the delivery or performance which, due to the delay, cannot be used in time or as intended.

(5) Further claims for damages due to delay in delivery shall exist only in accordance with § 8 of these GTC. Liability for delay in delivery is conclusively regulated in this § 5.

(6) Cases of force majeure as well as other unforeseeable events beyond the sphere of influence of M.I.S. (in particular operational disruptions, strike, lockout, official measures, transport hindrances or delays by suppliers) shall exclude delay in delivery. In such cases, the delivery period shall be extended appropriately.

§ 6 Acceptance of Deliveries, Maintenance and Repair Services

(1) Where acceptance is required by law or contractually agreed, the customer shall accept the delivery, maintenance or repair service without undue delay after notification of completion.

(2) Acceptance may only be refused due to material defects. Insignificant defects shall not entitle refusal of acceptance.

(3) Acceptance shall be deemed effected if (a) the customer puts the performance into use or continues to use it, (b) the customer does not notify material defects in writing within seven (7) working days after notification of completion, or (c) the customer refuses acceptance for reasons other than material defects.

(4) If acceptance is delayed for reasons attributable to the customer, the performance shall be deemed accepted upon expiry of the period pursuant to subsection 6.3.

(5) Upon acceptance, risk and liability shall pass to the customer, unless already transferred earlier. Acceptance shall not affect the customer’s warranty rights insofar as they exist under these General Terms and Conditions.

§ 7 Rights in Case of Defects

(1) Obligation to Inspect and Give Notice

The customer shall inspect deliveries and services without undue delay and notify recognizable defects without undue delay in writing (§§ 377, 381 HGB).

(2) Subsequent Performance

In the event of a defect, M.I.S. shall be entitled, at its discretion, to remedy the defect or to make a replacement delivery. Replaced parts shall become property of M.I.S..

(3) Obligation to Cooperate

The customer shall grant M.I.S. the time and opportunity required for subsequent performance. Failure to do so shall release M.I.S. from liability for resulting damages.

(4) Failure

If subsequent performance fails, the customer may reduce the price or withdraw from the contract. Withdrawal is excluded in the case of insignificant defects.

(5) Costs of Subsequent Performance

The costs of subsequent performance shall be borne by M.I.S. insofar as such costs are not disproportionate to the contract value.

(6) Delimitation

Liability for delay in delivery shall be governed exclusively by § 5 of these GTC.

Liability for material and legal defects is conclusively regulated in this § 7.

Other claims for damages shall be governed by § 8 of these GTC.

§ 8 Liability

(1) Principle

M.I.S. shall be liable for damages – irrespective of the legal ground – only

a) in cases of intent,
b) in cases of gross negligence of the legal representatives, corporate bodies or executive employees,
c) in cases of culpable injury to life, body or health,
d) in cases of fraudulent concealment of a defect,
e) on the basis of an expressly assumed guarantee,
f) in cases of mandatory liability under the Product Liability Act.

(2) Essential Contractual Obligations (Cardinal Obligations)

Essential contractual obligations are those obligations whose fulfilment makes proper performance of the contract possible in the first place and on whose compliance the customer may regularly rely.

Essential contractual obligations include exclusively

– in delivery contracts: the proper delivery of the expressly agreed goods,
– in maintenance, repair and servicing contracts: the proper performance of the expressly agreed service as such.

In the event of culpable breach of essential contractual obligations, liability shall be limited to the foreseeable damage typical for the contract at the time of contract conclusion.

(3) Maximum Liability Amounts

Liability of M.I.S. shall – even in cases of gross negligence – be limited as follows:

a) in cases of slight negligence
to the current value of the specifically affected delivery or service item,
maximum EUR 250,000 per damage event;

b) in cases of gross negligence
to the current value of the specifically affected delivery or service item,
maximum EUR 500,000 per damage event.

Gross negligence of simple vicarious agents who are not legal representatives, corporate bodies or executive employees shall not be equivalent to gross negligence of M.I.S.. Liability is limited to an economically calculable and typically insurable amount.

The above maximum liability amounts shall not apply in cases of intentional conduct by M.I.S..

(4) Exclusion of Certain Damages

Beyond the above scope of liability, excluded are:

– production and operational downtime,
– loss of use,
– loss of profit,
– contractual penalties,
– additional costs of further processing,

– recall costs,
– assembly, dismantling and docking costs,
– transport and laytime,
– other indirect damages or consequential damages.

(5) Cooperation and Preliminary Work

M.I.S. shall not be liable for damages resulting from specifications, preliminary work or other measures of the customer or third parties.

§ 8a Liability for Other Damages

Other claims for damages of the customer which neither concern delay in delivery (§ 5) nor material or legal defects (§ 7) shall be exclusively subject to the liability provisions of § 8 of these GTC.

§ 9 Declaration of Value, Insurance, Recourse

(1) If the value of the goods or the risk profile associated with the service exceeds the liability limits regulated in these GTC, M.I.S. must be informed thereof in writing prior to conclusion of the contract.

(2) Upon request and against separate remuneration, additional insurance may be concluded in favour of the customer upon written order.

(3) The goods are not insured by M.I.S. against theft, fire or water. The customer shall ensure adequate insurance coverage.

(4) The customer undertakes to agree with its insurers, business partners and other third parties on a waiver of recourse and claims to the extent that their claims exceed the liability limits regulated in these GTC.

This shall also apply in favour of the employees as well as vicarious agents and performing agents of M.I.S..

§ 10 Limitation Period

(1) All claims of the customer – irrespective of the legal ground – shall become time-barred after 12 months from delivery or acceptance.

(2) This shall not apply to claims arising from intent, fraudulent conduct, injury to life, body or health, or claims under the Product Liability Act.

§ 11 Retention of Title

(1) The delivered goods shall remain the property of M.I.S. Marine Instandsetzungsservice Hamburg GmbH until full settlement of all claims arising from the respective business relationship (hereinafter “Reserved Goods”).

(2) The customer shall be entitled to use, install or resell the Reserved Goods in the ordinary course of business as long as it duly fulfils its payment obligations.

(3) The customer hereby assigns to M.I.S., by way of security, the claims arising from the resale or installation of the Reserved Goods. M.I.S. hereby accepts such assignment.

(4) If the Reserved Goods are combined, mixed or processed with other items, M.I.S. shall acquire co-ownership of the new item in proportion to the value of the Reserved Goods to the value of the other processed items at the time of processing.

(5) Third-party access to the Reserved Goods must be notified to M.I.S. immediately in writing.

§ 12 Indemnification

The customer shall indemnify M.I.S. against all third-party claims arising from the fact that

– parts, materials, drawings, specifications or instructions provided by the customer were defective, incomplete or unsuitable,
– safety, operational, classification or vessel regulations were not complied with by the customer, the ship’s management, the crew or other third parties, or

  work was carried out or influenced by personnel of the customer, the crew or other third parties.

This shall also apply to claims arising from official measures, port state controls or requirements of classification societies.

§ 13 Export Control and Sanctions

(1) The fulfilment of all contractual obligations of M.I.S. is subject to the condition that no national or international foreign trade regulations, export control provisions or sanctions and embargo regulations prevent performance.

(2) The customer warrants that neither it nor the affected vessel, shipowner, charterer, end user or place of deployment violates applicable sanctions or embargo provisions.

(3) Required licences, end-use or end-user certificates must be provided by the customer in due time.

(4) In the event of impending or actual violations, M.I.S. shall be entitled to suspend performance in whole or in part or to withdraw from the contract in whole or in part. Claims for damages by the customer shall not exist in such cases unless M.I.S. is responsible for the violation.

§ 14 Governing Law and Jurisdiction

(1) The law of the Federal Republic of Germany shall apply, excluding the UN Convention on Contracts for the International Sale of Goods (CISG).

(2) Place of jurisdiction for all disputes arising out of or in connection with this contractual relationship shall be Hamburg.

(3) M.I.S. shall also be entitled to bring an action against the customer at its general place of jurisdiction.

§ 15 Severability Clause

Should individual provisions of these General Terms and Conditions be or become invalid or unenforceable in whole or in part, the validity of the remaining provisions shall remain unaffected. In place of the invalid or unenforceable provision, such valid provision shall be deemed agreed which comes closest to the economic purpose of the invalid provision.

§ 16 Authoritative Version

The German version of these General Terms and Conditions shall be exclusively authoritative.

User of these General Terms and Conditions

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