

# GENERAL TERMS AND CONDITIONS

## 1 Definitions

In these terms and conditions the following definitions apply

"**Broker**" means Pareto.

"**Charge**" means the charges (including all commissions) payable for the Services as set out in the Contract or which may be payable by custom of the trade or by reference to a course of dealings between the Client and the Broker.

"**Client**" means the party appointing or entrusting the Broker with an assignment for the provision of the Services.

"**Conditions**" means the terms and conditions set out in this document.

"**Contract**" means the contract pursuant to which the Broker agrees to provide the Services to the Client, whether such contract is verbal or in writing and including any contract between the Broker and the Client which is contained or evidenced by the terms of a separate contract between the Client and a third party.

"**Transaction**" means a contract or contracts including but not limited to the sale, purchase, construction, demolition, towage, or charter of any vessel or offshore installation, together with negotiations to enter such contracts.

"**Negotiations**" means exchanges, whether verbal or in writing, in relation to concluding a Transaction.

"**Pareto**" means Pareto Dry Cargo AS, Pareto Shipping AS and P.F. Bassøe AS or any other company within the Pareto Group providing the Services.

"**Pareto Group**" means the companies listed on [www.pareto.no](http://www.pareto.no)

"**Post Transaction Services**" means assistance with communications, operation matters and claims arising from the performance of a Transaction.

"**Principal**" means a party to a Transaction including the owner, seller, buyer, builder or charterer of a ship and any party guaranteeing the obligations of such a party. Where the Client has appointed or entrusted the Broker with an assignment for the provision of the Services the Principal will include the Client.

"**Representative**" means a person or company, including but not limited to a ship manager, chartering department, shipbroker or other agent who is not a Principal but is involved in negotiations on behalf of a Principal.

"**Services**" means the broking services (including but not limited to sale, purchase, construction, demolition, charter or Post Transaction Services) provided by the Broker in relation to any vessel or offshore installation as further detailed in clause 3 of the Conditions.

The above definitions apply whether the defined words appear in the singular or plural form.

## **2 Application**

These Conditions apply to all dealings between the Client and Broker and form part of the Contract between the Client and the Broker.

These Conditions will be effective whenever the Client requests the Broker to provide the Services. The Client will be deemed to accept these conditions on each occasion that the Client uses the Services of the Broker.

The Broker may in the exercise of its discretion decide to provide Services to the Client by or together with another company in the Pareto Group. In these circumstances, the Client agrees that the other company in the Pareto Group shall be entitled to the benefit and protection of these conditions.

## **3 Services covered by these Conditions**

The Broker will act as a shipbroker in relation to Transactions. The role of the Broker is to introduce Principals. Thereafter the Broker will assist the Principals and/or their Representatives as a channel for Negotiations as well as providing such Post Transaction Services as may be agreed or provided by the Broker.

Unless otherwise expressly stated or agreed in writing by the Broker, the Broker will act solely as an intermediary in relation to Transactions and will not enter any Transactions arising from the Services as a Principal. The Broker is not responsible for the performance or non-performance of Transactions or Principals.

## **4 Obligations of the Broker**

The Broker will perform the Services with the reasonable skill and care expected of a professional shipbroker.

In dealing with others the Broker will take care to stay within the authority given by the Client and avoid misrepresentation.

During Negotiations the Broker undertakes to pass on offers, counteroffers and other such communications accurately and in a timely manner. This obligation applies to passing communications to and from the Client.

It is understood that the Broker may be dealing with Representatives or other such intermediaries rather than directly with a Principal. In such cases the Broker is dealing with such Representatives or other intermediaries in good faith as to the authority they possess but the Broker does not give a warranty as to that authority.

If at any time the Broker provides information in respect of a Principal, including but not limited to information regarding corporate structures or financial standing, it is understood and agreed that such information is provided in good faith but without guarantee. It is the sole obligation of the Principal (including the Client) to satisfy themselves of any counterparty risk and decide whether to enter a Transaction with a proposed counterparty and on what terms.

Unless otherwise agreed in writing the Services are not provided on an exclusive basis and it is understood that the Broker may act as a shipbroker for other parties in relation to the same or other Transactions. In the event the Broker is dealing directly with two Principals in relation to the same Transaction, the Broker's duties will be to pass on offers, counteroffers and other such communications accurately and in a timely manner as authorised by each Principal in turn.

## **5 Confidentiality**

Where the Broker is given information stated by the Client to be on a confidential basis or it is expressly agreed that a Transaction is confidential (in either case "Confidential Information") the Broker will hold that Confidential Information in confidence and will not disclose it to any other party without prior permission from the Client. This obligation will not however extend to information which (i) was already or becomes known to the Broker through other sources not subject to such an obligation of confidentiality, (ii) is or becomes known to the market generally other than as a result of a breach of this obligation or (iii) which the Broker is obliged to disclose pursuant to an order of a court or other such authority. In all cases such obligation of confidentiality shall be deemed to end 3 years after the end of performance of the Transaction in question or, in the absence of a concluded Transaction, 3 years from the end of the Negotiations.

## **6 Market reports, circulars etc.**

Catalogues, circulars, market reports or literature and similar information provided by the Broker, are provided for the Clients general information and guidance only and not for use in relation to specific Transactions. The particulars contained in such information do not contain advice and nothing contained in such documents amounts to a recommendation to enter into a Transaction and the Broker has no liability for the consequences of any person, including the Client, purporting to rely on such information.

## **7 Obligations of the Client**

The Client warrants that at the time of contracting with the Broker and at all other relevant times (i) it has the full power and authority to engage the Broker to provide the Services and (ii) to instruct the Broker to enter into, arrange or execute any Transaction brought about by the Services.

The Client warrants that it has adequate resources to enter into and perform any Transaction arising out of or in connection with the Services and that it will deal with the Broker in good faith at all times.

The Client will provide the Broker with all information and instructions necessary for the performance of the Services. Where actions need to be taken by a certain time (such as reply times during Negotiations) the Client will ensure that the Broker has sufficient time to forward such messages prior to the relevant time limit.

In relation to Post Transaction Services, if the Broker has asked the Client to use specific e-mail addresses for operational messages or claims then the Client will use those e-mail addresses. The Broker will have no responsibility for a failure to action a message or claims documentation unless it is sent timely to the correct address.

The Client will take care to avoid misrepresentations occurring in Negotiations. The Client will carefully review all messages sent or copied to the Client and promptly advise the Broker of any errors

or misrepresentations. The Broker is not responsible for the consequences of a failure by the Client to review messages.

The Client warrants that they do not know of any reason why the Transaction could be unlawful or which could render the provision of the Services by the Broker in breach of any relevant law, including but not limited to (i) sanctions imposed by the United Nations, European Union, the United States of America or any national government having authority over the Client, the Broker, a Representative or a Principal and (ii) laws relating to money laundering, bribery and corruption. The Client will promptly and fully inform the Broker of any such reason that comes to their attention. In the event that the Broker in their absolute discretion believes that the Transaction or the provision of the Services may infringe such laws they may by written notice terminate the Services immediately. In the event of such termination the Broker will have no liability arising from such termination howsoever arising.

## **8 Limitation of liability**

The Broker shall be under no liability whatsoever to the Client or any other party for any direct loss, damage, delay or expense ("Loss") of whatsoever nature and howsoever arising in the course of the performance of the Services for the Client, save where such Loss has resulted from the Broker's own personal act or omission committed with the intent to cause same or recklessly and with knowledge that such Loss would probably result.

The Broker may under no circumstance be held liable for any Loss suffered by the Client and/or any third party resulting from the use of information which is provided by the Client in breach of Clause 5 (Confidentiality) or a breach by the Client of the duties set out in Clause 7 (Obligations of the Client) of these Conditions.

The Broker may under no circumstance be held liable for any Loss incurred by the Client or any other party due to the receipt by the Broker of false, misleading, inaccurate or incomplete information or documentation.

Under any circumstance the Broker's liability to the Client, whether in contract, tort, breach of statutory duty or otherwise, for any Loss howsoever caused arising from or in any way connected with the provision of the Services, shall never exceed a total of 5 times the Charge invoiced by the Broker for the relevant assignment or SDR NOK 1 million, whichever is the less. The burden of proof rests with the Client.

In no event shall either the Broker or Client be liable to the other, whether under the Contract or otherwise in connection with it, in contract, tort, breach of statutory duty or otherwise, in respect of any indirect or consequential losses or expenses including (without limitation) if and to the extent they might not otherwise constitute indirect or consequential losses or expenses, loss of anticipated profits, plant shut-down or reduced production, loss of power generation, blackouts or electrical shut-down or reduction, hedging or other derivative losses, punitive damages, goodwill, use, market reputation, business receipts or contracts or commercial opportunities, whether or not foreseeable.

## **9 Notice period for claims against the Broker**

Any claim for damages against the Broker must be notified to the Broker in writing at the latest one (1) year from the date the Client became or ought to have become aware of the event or circumstance

giving rise to the claim, and in any event no later than one (1) year after the Services were completed. Any claim not so notified shall be deemed waived.

## **10 Charges**

Charges are exclusive of value added tax, sales tax, and any other applicable taxes.

The Client shall be responsible for payment of the Brokers' Charges and is not entitled to withhold payment to the Broker if their counterparty fails to make payment to the Client. In circumstances where the Client's responsibility for the payment of the Charges is to be discharged by a third party, the Client shall take all necessary steps to ensure the prompt payment of the Broker's Charges and shall pay the Charges itself in the event of default by the third party.

Payment of the Charges to the Broker fall due against the presentation of invoices and shall be subject to default interest according to Norwegian law or as specified in the invoice.

## **11 Law and jurisdiction**

These Conditions shall be governed by and construed in accordance with the laws of Norway and any dispute between the Broker and the Client shall be referred to Oslo District Court.