

Action code: **COMMERCIAL****Fees for technical assistance and advisory work****MAN PrimeServ, Copenhagen**SL2020-690/JERA
January 2020**Concerns**

Owners and operators of MAN B&W two-stroke marine diesel engines.

Dear Sir or Madam

This service letter informs MAN B&W engine owners and operators of PrimeServ's prices on service rendered from Denmark and from our service centres around the world.

The fees are valid from January 2020 for assistance rendered by personnel based in Denmark.

Any questions regarding our fees for technical service can be directed to PrimeServ Copenhagen at PrimeServ-cph@man-es.com

Yours faithfully

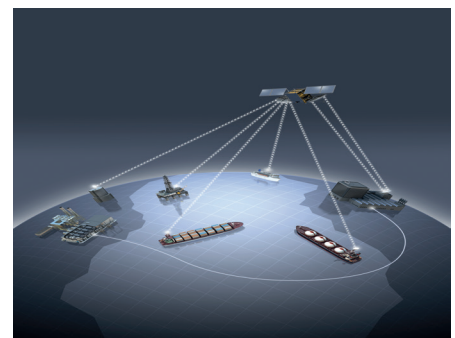


Michael Petersen
Vice President
PrimeServ Two-stroke



Stig Holm
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Encl.:
General Terms & Conditions



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German Reg. No.: HRB 22056
Amtsgericht Augsburg

Fees in euro for technical service**Pricing 2020**

	Weekdays within normal working hours (08-17:00)			Saturday, Sunday, and local holidays*			Waiting and travelling time**
	Full day (4-8 hrs)	½ day (0-4 hrs)	Hourly rate after normal working day	Full day (4-8 hrs)	½ day (0-4 hrs)	Hourly rate after 8-hour working day	Per hour
Superintendent engineer	1475	815	265	2110	1170	335	180
Senior service engineer	1175	650	210	1685	930	265	145
Service engineer	1045	580	185	1550	850	215	115
Technician	825	455	150	1265	695	190	100

*Holidays are determined by the location where the job is being performed

** Max. 16 hours of travelling time per day will be charged

Terms and conditions**Charges**

For work up to 4 hours, half a day will be charged. For hours worked in excess of 4 hours up to 8 hours, a full day will be charged. Work carried out before and after normal working hours (08:00 – 17:00) and in excess of 8 hours per day will be charged as overtime hours. A minimum of 12 hours per day are charged when our personnel are requested to sail with the vessel/stay on site. Kindly note that accommodation suitable for an officer is expected. Meal break hours are not to be deducted from the attendance as these have been provided for in the fees.

In addition to the service fees, customers will be invoiced for travel expenses (train, bus, taxi, ferry, mileage).

For service rendered outside the home base of the respective service personnel, a per diem charge of EUR 95 will be added, together with expenses for hotels and transportation. A 10% administration fee will be added to our outlays (hotel, air ticket, taxi, train, ferry, etc.).

Working hours

Company policy dictates that the duties of our engineers cannot be extended beyond 12 working hours a day excluding travelling, transport and breaks. However, the working hours may be extended if unpredictable events cause delays and the captain/chief engineer give their written consent. No deductions for transport or breaks are to be made in the service fees as these have already been provided for in the fees. To comply with international rules, it is required for jobs extending beyond two weeks that our engineers have a weekly day of rest. This day will not be charged.

Supporting documents

Hotels and flight tickets will be booked by MAN Energy Solutions. Supporting documents, i.e. documentation for flight tickets and hotel accommodation, will only be made available if this is requested when the service visit is ordered. If such documents are ordered after the service attendance, a fee of EUR 350 will be charged. If you request that your invoicing address is changed after the invoice has been sent, a fee of EUR 350 will be charged.

Expenses in connection with special visa requirements, as regards the ISPS Code, etc., will be added on an actual cost basis + 10%.

Indemnity

Note that our personnel is not authorized to sign any forms releasing the customer, ship, or power plant from its responsibility towards our representative. If doubt occurs, our representative will be entitled to leave the site, and the customer will be invoiced in accordance with our normal fee, including travelling expenses.

In general

The exchange rate will be fixed on the date of issue of the order. On overseas flights our engineers will be travelling on lowest fare business class. Inside Europe, travelling will be on economy if available.

Invoices are exclusive of local taxes, such as VAT and sales tax (e.g. in China). Each service call will be followed up by a report covering the service rendered.

We reserve the right for our engineers to decline boarding/disembarking a vessel due to the weather conditions, poor boarding facilities, seaworthiness of the launch boat or if other safety issues warrant it.

Service will be rendered in accordance with our General Terms and Conditions, a copy of which is enclosed. When ordering, please provide the exact invoicing address. The invoice will be forwarded electronically in PDF-format. An administration fee of EUR 10 will be added on the invoice if a paper copy is required.

We recommend liaising with the nearest PrimeServ Centre in order to reduce travelling time and cost. However, attendance is always subject to competence, availability and capability. The contact details of the nearest PrimeServ Centre can be found at www.primeserv.man.eu

Safety when boarding

In accordance with our focus on safety, we underline the importance of checking and confirming the following five items when boarding a vessel from a launch boat:

1. SOLAS approved life jacket must be available for use when entering the pilot ladder/gangway and returned after arriving safely on the main deck of the vessel.
2. The launch boat must have a crew of minimum two members, who will assist during the transfer to the vessel or in case of an unlikely rescue operation.
3. The vessel pilot ladder and/or gangway must be arranged in accordance with SOLAS Regulation V/23 and IMO Resolution A.1045(27).
4. A vessel crew member must be posted at the access point to the vessel.
5. SOLAS survival suit must be available if the seawater temperature is below 10 degrees Celcius.

We reserve the right for our attending personnel to evaluate the equipment made available and decide whether or not to board the vessel based on this evaluation.

Scan the QR-code with your smartphone to gain quick access to the below listed websites:



Service Worldwide Handbook



MAN PrimeServ

INTERPRETATION

- 1.1 In these Conditions the following words will have the following meanings:
- »**Customer**« means the legal person that has issued the Order;
 - »**Conditions**« means the conditions set out in this document;
 - »**Contract**« means any contract for Work between the Customer and MAN incorporating these Conditions;
 - »**Engine**« means the engines, gensets, propellers and other auxiliary equipment installed on-board the vessel covered by the Order;
 - »**EULA**« means MAN's standard end user license agreement, in place from time to time, regulating the Customer's right to use software incorporated in engines (firmware) as well as any separate software supplied by MAN for use with engines (applications), which is available from MAN upon request or at <https://www.man-es.com/eula>;
 - »**Goods**« means goods supplied by MAN (as specified in MAN's tender or Order Acknowledgement);
 - »**IPR**« means intellectual property rights of any nature whether registrable or not including without limitation any and all inventions, patents, utility models, design rights, copyright, know-how, trade secrets, confidential information, trademarks, service marks, trade names and goodwill;
 - »**MAN**« means MAN Energy Solutions, filial af MAN Energy Solutions SE, Tyskland (a Danish registered branch of MAN Energy Solutions SE, Germany), company reg. no. (CVR) 31611792, Teglhøjsgade 41, 2450 Copenhagen SV, Denmark;
 - »**Order**« means an individual order placed by the Customer to MAN.
 - »**Order Acknowledgement**« means a written acknowledgement by MAN of the Order, and thereby constituting a Contract, which is subject to the Conditions and/or such other conditions expressly stated in writing in the acknowledgement;
 - »**Party**« and »**Parties**« mean either MAN or Customer or MAN and Customer together;
 - »**Services**« means services supplied by MAN (as specified in MAN's tender or Order Acknowledgement);
 - »**Site**« means the place specified in MAN's tender or Order Acknowledgement where the Services are to be performed by MAN;
 - »**Work**« means Goods and/or Services.

2 INTRODUCTION AND FORMATION

- 2.1 All tenders are made and Orders are accepted by MAN subject to the Conditions and they shall apply to any Contract to the exclusion of any other terms and conditions including without limitation those which the Customer purports to apply under any Order. Variations to the terms of any Contract will only be effective if agreed in writing.
- 2.2 Any quotations, tenders, Orders and Contracts shall incorporate these Conditions by reference.
- 2.3 All information on weight, dimensions, capacity, price, technical and other data stated in catalogues, prospectuses, circulars, advertisements, illustrated matter and price lists is to be considered approximate. Such information is only binding to the extent expressly stated in the Order Acknowledgement or in other documents forming part of the Contract expressly referring to such information.
- 3 **DELIVERY AND NON-DELIVERY AND DELAY**
- 3.1 Unless otherwise expressly agreed in writing by MAN
- (a) delivery times accepted by MAN are given in good faith but are an estimate only; and
 - (b) delivery of the Goods is made EXW (Incoterms 2020).
- 3.2 MAN may deliver Goods in instalments and perform Services in sections in any sequence. Default by MAN, howsoever caused, in respect of one or more instalments and/or sections shall not entitle the Customer to terminate the relevant Contract as a whole.
- 3.3 Where:
- (a) the Customer fails or refuses to accept delivery of any Goods when they are ready for delivery in accordance with the relevant Order; or
 - (b) MAN agrees to postpone delivery of the Goods at the request of the Customer; or
 - (c) the Customer fails to provide any instructions, consents or authorisations required to enable the Goods to be delivered on the due date;

the risk in the Goods shall pass immediately to the Customer. In such cases delivery of the Goods shall be deemed to have taken place and MAN may store or arrange for storage of such Goods and charge the Customer for all related costs and expenses (including storage and insurance) and may sell such Goods after expiry of 28 days following such failure or refusal and deduct any monies payable to MAN by the Customer from the sale proceeds and charge the Customer for any shortfall below the Contract price.

- 3.4 All Goods must be examined by the Customer immediately upon delivery. MAN may, at its option, be present at such examination. MAN shall only be liable for shortages in, damage to, non-delivery of, incorrect supply of or delivery of an excessive quantity of Goods if notified by the Customer to MAN in writing immediately after the appearance thereof and in no event later than 90 days after the actual or anticipated date of delivery (as relevant) and provided that the cause thereof was within the reasonable control of MAN. Where MAN is liable as set out in this Condition 3.4 MAN shall, at its sole discretion, either arrange for delivery as soon as reasonably possible or credit the Customer for such Goods and this shall be the Customer's only remedies and in lieu of all other rights and remedies which might otherwise be available to the Customer. Shortages in or non-delivery of some or part of the Goods shall not affect the Contract in respect of any other Goods. In case of incorrect supply of or delivery of excessive quantity of Goods, the Customer shall, if accepted by MAN, return the Goods delivered at the cost of MAN. In order to have the returned Goods replaced or credited it must be in the same condition as when received by the Customer. The Customer is liable for any damage to the returned Goods caused by inadequate packing and/or transport.
- 3.5 If prior to delivery MAN has concern regarding timely payment because of an adverse change in the Customer's circumstances or otherwise, it may require payment of all or additional parts of the Work before delivery.
- 3.6 If the contractual delivery time for the Work or part of the Work is delayed and this delay was caused by negligence or intention of MAN and if the Customer has suffered a loss caused by such delay, the Customer shall be entitled to liquidated damages for delay. Such liquidated damages for delay shall amount to 0.5% of the value of the delayed part of the Work concerned per each full week of delay considering a grace period of 2 (two) weeks. The liquidated damages for delay will be limited to a maximum of 5% (five per cent) of the value of the delayed part of the Work.
- 3.7 Liquidated damages shall be the Customer's sole and exclusive measure of damages and remedy against MAN with respect to the failure to achieve the contractual delivery time for the Work.
- 4 **TITLE**
- 4.1 Unless MAN has been paid in full in advance, the Goods will be considered as having been delivered with MAN retaining the ownership of the Goods until full payment has been effected by the Customer. If the Customer does not pay when due, MAN is entitled to take back the Goods without a court judgement in accordance with the applicable law.
- 5 **PRICE AND BINDING PERIOD OF QUOTATIONS AND TENDERS**
- 5.1 Unless otherwise expressly agreed, quotations and tenders lapse after 30 days from their date unless already withdrawn by MAN.
- 5.2 Unless fixed prices have been expressly agreed in writing by MAN, all sales are made at MAN's prices valid at the date of MAN's Order Acknowledgement.
- 5.3 Unless otherwise agreed in writing by MAN, prices set out in any of MAN's price lists, tenders or Order Acknowledgements are EXW (Incoterms 2020) and exclusive of any taxes, duties or fees, charges as well as any costs of carriage, package and insurance which shall be payable by the Customer in addition to the price. Prices are exclusive of board, lodging and local transportation and such other facilities as are to be provided by the Customer free of charge. All travelling expenses and costs of carriage of luggage, instruments and tools incurred by MAN's personnel shall be finally paid for by the Customer. If MAN upon the Customer's request agrees to arrange for transportation of the Goods on behalf of the Customer this shall not in

itself change the EXW (Incoterms 2020) delivery of the Goods, cf. Condition 3.1 (b) above, unless expressly agreed in writing by MAN, and the Customer shall pay, reimburse and/or indemnify MAN for all costs associated with the transportation.

- 5.4 Unless otherwise expressly agreed by MAN in writing, sums payable by the Customer to MAN shall be paid by the Customer net cash not later than 30 days after the date of the invoice. If any sum payable under the Contract is not paid when due then without prejudice to MAN's other rights under these Conditions, such sum shall bear interest from the due date until payment is made in full, both before and after any judgement, at 8% per annum.
- 5.5 Where MAN has incurred any liability to the Customer, whether or not arising from or under a Contract, MAN may upon written notification set off the amount of such liability against any liability of the Customer to MAN or any of MAN's group companies.
- 5.6 The Customer shall not be entitled to withhold any payment under a Contract with reference to alleged counterclaims under a Contract or any other contracts with MAN or to set off such claims against any payments under a Contract.
- 6 **PROVISION OF SERVICES**
- 6.1 Unless otherwise expressly agreed in writing, Services rendered by MAN shall be charged on time used basis in accordance with MAN's general rates for personnel at the date of the Order Acknowledgement (available from MAN upon request).
- 6.2 Unless otherwise expressly agreed in writing, MAN's execution of Services is subject to manual assistance being rendered by the Customer either through engine room staff or other qualified persons made available by the Customer.
- 6.3 The taking over of the Service by the Customer shall be deemed to have taken place at the latest, when the Customer has received MAN's notice that the Service has been completed, provided that the Service is as required for taking over according to the Contract. Minor deficiencies which do not affect the efficiency of the Service shall not prevent taking over. The period, referred to in Condition 7.1 shall start to run at the latest when the Service is ready for taking over in accordance with this Condition 6.3.
- 7 **WARRANTY**
- 7.1 MAN warrants for a period of 12 months (i) from the date the Goods were delivered, that such Goods are free from substantial defects in materials or manufacture; and (ii) from the date the Services were rendered, that such Services were carried out with reasonable skills and care.
- 7.2 All conditions, warranties or other terms whether express or implied, statutory or otherwise, inconsistent with Condition 7.1, are hereby expressly excluded to the fullest extent possible.
- 7.3 The warranty given in Condition 7.1 will not apply:
- (a) where the defect arises from any drawing, design, specification or intellectual property right supplied by the Customer or arises from normal wear and tear, wilful damage, the Customer's negligence, abnormal working conditions, use for unintended purpose, misuse, abuse, lack of maintenance or arises from any failure to follow MAN's advice or general instruction (whether oral or in writing) or alteration or repair of the Work without MAN's approval;
 - (b) if MAN or its representatives are not given a reasonable opportunity to safely inspect the Work;
 - (c) if the total price for the Work has not been paid by the due date for payment;
 - (d) if the Goods supplied by MAN are mounted in a MAN designed engine for which the Customer has also used non-original parts which are violating intellectual property rights of MAN; or
 - (e) if the Customer has not notified MAN of the warranty claim within 14 days after the time where Customer discovered or ought to have discovered the defect and, if so requested in writing by MAN after such notification, the Customer fails to fill out a defect report within a period of 14 days after receipt of such request from MAN.
- 7.4 In the event of a breach by MAN of the warranty in Condition 7.1 and without limiting Condition 10 MAN shall only be obliged (and shall have no further liability in contract, tort, law or otherwise for any defect in quality of the Work) at its option either to:
- (a) credit the price (if already paid) attributable to the faulty Work; or
 - (b) repair, rectify or replace the faulty Work, provided that any Goods are returned to MAN or someone designated by MAN in their delivered state at MAN's expense if so requested by MAN within 3 months from the date of the dispatch of the replacement Goods. MAN shall not be responsible for offloading of cargo and/or any precondition works necessary to repair and/or rectify the defect. Replacement Goods are delivered EXW (Incoterms 2020) unless another Incoterm has been expressly agreed in writing by MAN in the specific Contract.
- 7.5 Condition 7.4 shall be the Customer's sole remedy and in lieu of any other rights and remedies which might otherwise be available to the Customer. Any replacement Work will be warranted on the terms set out in this Condition 7. However, any and all warranty shall end within 18 months after delivery of the original Work being replaced.
- 8 **EXEMPTIONS AND FORCE MAJEURE**
- 8.1 Either Party may be excused from the timely performance of its obligations under the Contract, where the performance is impeded or prevented by circumstances beyond its control, including but not limited to performance affected by an act of God, labour disputes, civil commotion, governmental or official actions or any other event which was unforeseeable or outside the reasonable control of such Party. The Party shall be temporarily relieved from its obligations during the period of time such events continue. The afore stated shall also be applicable to MAN if a sub-supplier of MAN is affected by such event and/or in case the Party concerned is already in default.
- 8.2 Either Party may terminate the Contract affected if such circumstances mentioned in Condition 8.1 continue for more than 6 months.
- 8.3 The Parties are committed to give each other the necessary information which may reasonably be expected without delay, and to adjust their obligations in good faith to the changed circumstances.
- 9 **INTELLECTUAL PROPERTY RIGHTS AND CONFIDENTIALITY**
- 9.1 The Customer shall not, under any circumstances acquire any right in or to any of the IPRs (including, without limitation, copyright) subsisting in, resulting from or relating to Work, or any plans, descriptions, blue prints, designs, technical information, software, documents, drawings and/or specifications relating thereto either (a) supplied by or on behalf of MAN to the Customer in connection with Work, or (b) resulting from Work, unless otherwise expressly agreed by MAN in writing. Should the Customer acquire any such rights then the Customer shall immediately inform MAN and shall take such steps as may be required by MAN to assign such rights to or vest such title in MAN.
- 9.2 MAN shall have the right to apply any trademarks, trade names and/or service marks to the Goods. The Customer acknowledges that no rights are granted to the Customer in respect of such trademarks, trade names and/or service marks through the use of the Goods by the Customer. The Customer shall not deface, remove or obliterate any trademarks, trade names or logos applied by MAN on or in relation to the Goods.
- 9.3 The Customer shall keep confidential and not use, without the prior written consent of MAN, all or any information including, without limitation, that supplied by MAN to the Customer or disclosed to or obtained by the Customer pursuant to or as a result of the Contract, and shall not divulge the same to any third party except to the extent that any such information is or becomes public through no fault of the Customer, or disclosure of the same is required by law or by any governmental or other regulatory body. Further, the Customer shall not reproduce or copy in any manner whatsoever, in whole or in part, any of the information mentioned above.
- 9.4 In the event that MAN bases the production of the Goods on its own specifications, MAN shall under the exclusion of any further liability warrant that such Goods do not interfere with IPRs published in USA, Denmark and/or by the European Patent Office. This shall not apply, if MAN has manufactured the Goods in accordance with drawings, models or other equivalent descriptions or information provided by the Customer. As far as MAN is not liable pursuant to this Condition 9.4, the Customer shall release MAN from all related third party claims. In case an infringement of such third party IPRs appears to emerge, the Parties will enter into negotiations with due consideration of such situation and jointly agree on the consequences.
- 10 **LIMITATION OF LIABILITY AND PRODUCT LIABILITY**
- 10.1 MAN shall not be liable to the Customer for any special, indirect, consequential or incidental loss, damage, delay or expense incurred of whatsoever nature.

Continued

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Amtsgericht Augsburg

- 10.2 In particular MAN shall not be liable to the Customer for
- any loss of profit, hire, business contracts, revenues or anticipated savings;
 - damage to the Customer's reputation or goodwill;
 - any loss resulting from any claim made by any third party;
 - docking costs;
 - offloading of cargo; or
 - costs of any precondition works necessary to repair and/or rectify a defect;
- whether or not such losses and/or damages are considered to be direct or indirect in nature.
- 10.3 If MAN incurs liability towards a third party, the Customer shall indemnify and hold harmless MAN for all losses, damages and costs of whatsoever nature.
- 10.4 Nothing in these Conditions shall exclude or limit the liability of MAN for any liability that cannot be excluded in law or for:
- death or personal injury; or
 - damages to property other than the Goods;
- caused by MAN's gross negligence or fraudulent misrepresentation.
- 10.5 Without prejudice to Conditions 10.1, 10.2, 10.3 and 10.4 MAN's total liability for Work in contract, tort, law or otherwise shall be limited to the value of that Work.
- 11 USE OF THIRD PARTY SPARE PARTS AS PART OF MAN'S PERFORMANCE OF SERVICE**
- 11.1 If MAN is to use spare parts provided by the Customer or by third parties via the Customer (hereafter 'Third Party Spare Parts') for the Service, the Customer warrants that to the extent required by the classification society, the Third Party Spare Parts will be either original parts from the relevant manufacturers, appropriately certified, or parts that have been approved by the classification society. The Customer will handle all issues with the classification society in this respect.
- 11.2 The Customer accepts and agrees that MAN will not provide any warranty for the Third Party Spare Parts and/or accept any liability whatsoever for the use of such Third Party Spare Parts or for any losses or damages (direct or indirect) which might be caused by those Third Party Spare Parts now or in future. Furthermore, the Customer undertakes to indemnify and hold harmless MAN from any third party claim whatsoever made against MAN, which is related to the installation of, the use of and/or the failure of the Third Party Spare Parts.
- 11.3 For the avoidance of any doubt and without limiting the above the Service rendered by MAN shall be warranted in accordance with Condition 7.
- 12 OTHER PARTS/SPARE PARTS THAN THE GOODS**
- 12.1 The Customer accepts and agrees/acknowledges that MAN is not responsible and therefore will not accept any liability whatsoever for any parts/spare parts other than the Goods or for any losses or damages (direct or indirect) which might be caused by those parts/spare parts now or in the future. Furthermore, the Customer undertakes to indemnify and hold harmless MAN from any third party claim whatsoever made against MAN, which is related to the installation of, the use of, and/or the failure of such parts/spare parts.
- 13 TERMINATION**
- 13.1 If the Customer fails to make any payment when due or to perform any of its other obligations on time, MAN shall be entitled to suspend its performance of the Contract until the failure is remedied; and regardless of whether MAN decides to suspend performance:
- the time for performance of the Contract by MAN shall be automatically extended accordingly; and
 - any cost (including waiting time, financial costs and storage, demurrage or other charges) thereby incurred by MAN shall be paid by the Customer.
- 13.2 Without prejudice to any of its other rights MAN may immediately terminate the Contract if any of the following occurs or is likely to occur:
- suspension under Condition 13.1 continues for more than 120 days;
 - the Customer is in breach of any of its obligations under the Contract which, if capable of remedy, the Customer has not remedied within 30 days of receiving written notice from MAN; or
 - the Customer is wound up or becomes insolvent or has a receiver or administrative receiver appointed or any equivalent or analogous event occurs in any jurisdiction or the Customer ceases or threatens to cease to carry on business or otherwise is unable to pay its debts when they fall due.
- 13.3 Upon termination, however arising, MAN shall be entitled to suspend any further Work under the Contract without any liability to the Customer. Without prejudice to MAN's other remedies under the Contract, within 14 days of such a notice of termination, however arising, the Customer shall pay to MAN:
- the outstanding balance of the Contract price of the Work which has been delivered or performed; and
 - the costs incurred or committed by MAN up to the date of notice of termination in performing such Work which is not yet completed plus a reasonable margin to be agreed between the Parties which shall not be less than 15% of the Contract price; and
 - the costs reasonably incurred by MAN as a result of the termination.
- 13.4 Termination, expiry or completion of the Contract or any part of it, shall not affect or prejudice the provisions of Conditions 9, 10, 11, 12, 13, 14, 17 and 18.
- 14 CUSTOMER'S OBLIGATIONS**
- 14.1 The Customer shall provide MAN's personnel with assistance in obtaining official entry, exit or working permits required in the country where the Services are to be carried out and ensure that they have free access to the Site.
- 14.2 The Customer shall provide MAN's personnel with unobstructed and safe access to the Site to enable them to perform the Service in compliance with MAN's safety policy and health and safety principles in place from time to time (available from MAN upon request).
- 14.3 The Customer shall be responsible for ensuring the health and safety of MAN's personnel whilst on the Site. The Customer shall take appropriate measures to protect MAN's personnel from risks associated with lone working, working in confined spaces and with substances hazardous to health. When MAN is to carry out the Service on the Site, the Customer shall make available and bear the costs of an adequate number of fitters, local transport, lifting gear, towing, dockage, supply of electricity and similar supplies.
- 14.4 The Customer shall assume all responsibility for all acts or omissions of the Customer's personnel and MAN shall have no liability with respect thereto.
- 14.5 The Customer shall provide all tools, test equipment and test facilities unless specifically stated otherwise in the Contract. Where MAN does supply tools then the Customer shall give all necessary assistance with the customs formalities required for the import and re-export of MAN's tools and equipment free of any duties or taxes.
- 14.6 The Customer shall to the best of its ability assist MAN in obtaining all necessary information concerning such local laws and regulations as are applicable to MAN's performance of the Services, and must adhere to all safety regulations imposed by applicable regulatory authorities.
- 14.7 MAN may, at its sole discretion, refuse to perform the Services in conditions or surroundings that it considers may be prejudicial to the health and/or safety of its personnel and/or where the Customer is in breach of this Condition 14 and MAN shall not be liable under the Contract for any delay in or failure of delivery in such event.
- 14.8 The Customer shall specify a firm delivery address for the ordered Goods at least within 3 weeks after receipt of MAN's written confirmation of the date of readiness for dispatch. Condition 3.3 (c) shall apply accordingly.
- 14.9 The Customer must obtain at its expense all licenses, permits and approvals relevant to the Work.
- 14.10 The Customer warrants that all tools, equipment etc. to be provided by the Customer according to the Contract are in a safe and usable condition.
- 14.11 The Customer agrees that any Work supplied that includes Software (as defined in the EULA) is provided subject to the terms of the EULA.
- 15 EXPORT CONTROL AND CUSTOMS**
- 15.1 Notwithstanding any regulation regarding force majeure, as stated in these Conditions, MAN reserves the right to suspend at its sole discretion its performance at any time, in whole or in part, without incurring any liability, whenever such performance would be prevented by any applicable restrictive measures including sanctions, export or re-export controls (including but not limited to UN, EU and its member states, UK and U.S. law) or would otherwise be inconsistent with such measures, or where an export license required by such regulations cannot be obtained. In the event the performance of the Contract is prevented due to the above reasons for a period of more than 180 days, MAN or the Customer shall be entitled to terminate the Contract to the extent the performance is prevented. In the event an export license has been denied by the responsible authorities, MAN or the Customer shall be entitled to terminate the denied part of the performance immediately. As consequence of such termination the Customer shall pay to MAN the price of the Work performed by MAN under the Contract and any cost for unavoidable commitments incurred by MAN with respect thereto. Any claims, rights and/or remedies of the Customer with respect to such termination shall be excluded.
- 15.2 MAN shall provide the Customer with a customs invoice and a packing list as standard shipping documents. Such documents are made out to the name of the Customer. The content and layout of such documents are defined by MAN and cannot be adjusted or amended. The provision of any further information or documents which might be required by the Customer for import purposes, such as but not limited to countries of origin, HS codes (numeric codes according to the 'International Convention on the Harmonized System', issued by the World Customs Organization (WCO)), certificates of origin, declarations of preferential origin or other certificates shall be subject to an individual agreement. All costs for such additional information or documents shall be borne by the Customer.
- 15.3 If the agreed delivery address of the Goods is outside the territory of the European Union, MAN will issue the export customs declaration and act as responsible exporter towards the customs authorities. If Customer or any person acting on behalf of the Customer picks up the Goods before export, Customer shall present the Goods and the export customs declaration issued by MAN at the responsible customs office of export and finalise the formal customs proceedings properly. If the agreed delivery address of the Goods is inside the territory of the European Union, MAN will not issue an export customs declaration and will not act as responsible exporter for any further exports made by the Customer, unless otherwise agreed. The same shall apply if the Goods are to be delivered on a vessel, which is currently located inside the territory of the European Union. If Customer requires an export customs declaration by MAN for delivery on such a vessel, this has to be agreed individually.
- 16 DATA PROTECTION AND RIGHT TO ACCESS CUSTOMER DATA**
- 16.1 MAN shall have the right to access, collect, transfer, store, process and use data from the Engine remotely, or by LAN, or otherwise ("Data Access / Processing") for the purpose of using said data for marketing or for optimizing the Engine (such purposes shall include but not be limited to: service, commissioning, benchmarking, technical optimisation and improvements of existing products, development of new products and statistical purposes). MAN may utilize the Data Access / Processing to retrieve from time to time, and without prior notice, all available data regarding the Engine from the data logger, and upon MAN's request the Customer shall procure that MAN may effectively utilize the Data Access / Processing. MAN may only use and disclose the data, as set out in this Condition 16.
- 16.2 To ensure that the Customer and/or the Customer's vessel cannot be identified, MAN will anonymize all data before disclosing it. Any data not anonymized may only be used by MAN or by sub-contractors under an obligation towards MAN to keep the data confidential and to observe all applicable data protection provisions.
- 16.3 To the extent that MAN has completely anonymized the data, including so it will not be possible to identify which specific Engine the data is coming from, MAN shall in all aspects be free to use and disclose such data to third parties for any purpose.
- 16.4 If the Data Access / Processing is not already granted at this time, the Customer hereby expressly consents to said Data Access / Processing for data which has already been collected or that will be collected in the future.
- 16.5 For the avoidance of doubt, MAN's obligation (if any) to perform Services under any contracts with the owner/operator of the concerned Engine shall cease in case Data Access/ Processing of the Engine is stopped/rejected by owner/operator and/or is not further provided for reasons for which owner/operator is responsible, and such Data Access / Processing of the Engine is needed to fulfil such obligation and/or in the agreed and/or in sufficient time. In such cases, MAN shall be temporarily relieved from its obligations under such contracts until Data Access / Processing of the Engine has been reactivated.
- 16.6 For the avoidance of doubt, this right to Data Access / Processing does not imply any obligation for MAN to provide any monitoring of or any maintenance of the Engine.
- 16.7 If any data processed also constitutes personal data, the Customer undertakes to ensure that the data subjects are informed about the processing of such personal data by MAN in a capacity of data controller and to the extent needed obtain their consent thereto. In case of processing of personal data the following information about the processing of personal data at MAN shall be provided to the data subjects by the Customer: <https://www.man-es.com/data-protection-notice>. All personal data will be processed by MAN in accordance with applicable data protection laws, including for example by entering into data transfer agreements on the basis of the European Commission's Model Clauses.
- 17 PERSONAL DATA – CONTACT DATA**
- 17.1 Subject to complying with applicable law, the Parties expressly consent that the other Party may process the following:
- names, (ii) emails, (iii) work location, and (iv) phone numbers of the Customer's or MAN's employees, respectively, that will have to interact for the provision of Work and to ensure communication between the Parties.
- 18 GENERAL**
- 18.1 The Customer shall not be entitled to assign or subcontract any of its rights or obligations under the Contract without the prior written consent of MAN.
- 18.2 No act or omission shall be construed as a waiver of an unperformed obligation of the other Party or constitute an agreement to allow future breaches of the applicable provision.
- 18.3 If any term, clause, condition or part of these Conditions is found by any court, tribunal, administrative body or authority of competent jurisdiction to be illegal, invalid or unenforceable then that provision shall, to the extent required, be severed from these Conditions and shall be ineffective without, as far as is possible, modifying any other provision or part of these Conditions and this shall not affect any other provisions of the Contract which shall remain in full force and effect. The Parties are committed to replace the invalid provision by another equivalent provision with respect to the commercial effect, in so far as this is possible.
- 18.4 The Contract and these Conditions shall be construed in accordance with and governed in all aspects by the laws of Denmark, however, excluding the rules of conflicts of law and excluding the Convention of the United Nations of 11.4.1980 on Contracts for International Sale of Goods.
- 18.5 If a difference of opinion cannot be settled by the Parties themselves, all disputes arising out of or in connection with the present Contract shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce in Paris, France (ICC), by three arbitrators appointed in accordance with the said Rules. The Expedited Procedure Provisions and the Emergency Arbitrator Provisions shall not apply. The arbitration tribunal shall have its seat in and the arbitration proceedings shall take place in Copenhagen, Denmark in the English language. The Parties will keep confidential the existence of the arbitration or any information or document relating thereto or disclosed therein.
- 19 ENTIRE AGREEMENT**
- 19.1 These Conditions and the additionally agreed terms of the Contract contain the entire agreement and understanding of the Parties and supersede all other statements, understandings or the like relating to such subject matter. MAN rejects any differing or supplemental terms which may be printed or otherwise found in any of the Customer's Order or other documents. Any alteration of a Contract must be in writing and signed by an authorized representative of each Party. No terms, conditions, representations, warranties or covenants contained in any correspondence, catalogue, or in any other form shall be applicable unless incorporated herein, by express written agreement of the Parties hereto.

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