General Terms and Conditions of the GPS Companies

1. General

1.1 In these Terms and Conditions, the following terms shall have the following meanings:
"Client"
The party contracting with GPS
"GPS"
The subsidiary or participating interest of GPS Marine Services BV which makes an offer or concludes an agreement to perform Work, to which offer or agreement these Terms and Conditions are declared applicable:
"Object"
The ship or other item to which the activities relate or for which these activities are carried out:
"Work"
The performance of work/activities, including the provision of an item and/or service:

1.2 These Terms and Conditions shall apply to all offers by and agreements with GPS for GPS to perform work.

1.3 By entering into the agreement, the Client shall be deemed to have waived its own or other terms and conditions and deviating or supplemental clauses, notwithstanding any reference to these or a specific statement concerning them. GPS expressly rejects such terms and conditions and clauses.

1.4 The Client shall be deemed to accept as well the applicability of these Terms and Conditions with regard to later instructions to and agreements with GPS.

1.5 Depending on the nature of the Work, or of any portion thereof which can reasonably be considered separate, the special terms and conditions referred to in Article 19.1 ("Special Terms and Conditions") shall apply in addition to these Terms and Conditions.

1.6 In the event of a conflict between any provision of these Terms and Conditions and the potentially applicable Special terms and Conditions, those Special Terms and Conditions provisions shall apply, on the understanding that GPS shall always be entitled to invoke these Terms and Conditions if any provision of the Special Terms and Conditions is considered non-binding.

2. Information and data

2.1 The Client shall furnish all information and data necessary for GPS performance of agreements at no charge, promptly and without being asked. The Client shall bear the risk for the consequences of mistakes and gaps in such information and data and in designs or specifications by the Client.

3. Offers, instructions and agreements

3.1 All of GPS's offers shall be without obligation.

3.2 Instructions and acceptances by the Client shall constitute an irrevocable offer.

3.3 GPS shall only be bound when in the manner in which it has accepted the instruction in writing or has begun to perform it. Verbal promises or agreements by or with its employees shall not bind GPS until and insofar as it has confirmed them in writing.

4. Prices

4.1 Stated or agreed prices shall be exclusive of UK taxes (except for wage withholding taxes and corporate income taxes) levies or additional charges by the government including VAT.

4.2 The Client shall be responsible for any foreign taxes, levies or additional charges by the government, including turnover taxes, wage withholding taxes, social security contributions and corporate income taxes, of whatever nature levied in respect of the Work or on the price of the Work or GPS profits or the salaries of GPS employees.

4.3 Stated or agreed prices shall only apply to performing the Work during normal working hours. In the event of Work outside normal working hours, GPS shall be able to claim payment for the ensuing additional costs based on the arrangements applicable to the employees concerned.

4.4 If the performance costs have risen after the agreement is concluded, GPS shall be entitled to charge the Client a price increase if and insofar as this is reasonable.

4.5 Work not included in the original agreement shall be charged to the Client at GPS flat rates in effect at the time of performance.

4.6 Unless otherwise expressly agreed, the costs related to treating, collecting, sampling, disposing of storing and/or destroying materials , waste, residues and the like may be charged by GPS in addition to the price.

5. Performance and deviations

5.1 In performing the Work, GPS shall be entitled to engage third parties or to sub-contract parts of the Work to third parties.

5.2 In addition to the normal and agreed tolerances in size, performance or otherwise, those deviations shall also be permitted which are necessary to achieve the desired results or which result from a change in a manufacturing process.

5.3 The Client shall be obliged to enable GPS to perform the Work without any impediments. It must provide the Object to GPS promptly and completely ready for performance of the Work.

5.4 If, in GPS's judgement, performance of the Work is, for whatever reason, not possible or only possible at considerable risk to employees or materials, GPS shall be entitled to terminate the agreement unilaterally by giving notice, and GPS shall be entitled to a proportional part of the agreed price for the portion of the work already performed.

6. Performance period

6.1 The Work shall commence at the agreed time. If a start time has not been agreed GPS may reasonably determine that start time. GPS shall inform the Client of the start time in advance. GPS may suspend the start of the work until GPS possesses all items, information and data to be furnished by the client and until any agreed pre-payment has been received or security has been provided for GPS.

6.2 GPS shall only be bound by delivery periods agreed expressly and in writing. Subject to the provisions in Article 12.1, if GPS exceeds the delivery period, the client shall be entitled to collect damages fixed in advance insofar as agreed in writing. These damages shall never exceed 5% of the price agreed for the delayed work or the delayed portion of the work (pro rata). Further, late delivery by GPS shall not entitle the client to damages, rescission of the agreement, suspension and/or set-off against or non-performance by it of any obligation arising under the agreement. The client shall, however, be entitled to rescind the agreement regarding the portion not performed, if the Work is not performed within a reasonable time period, stated in writing by the Client, after the aforementioned late delivery. In the event of such a rescission, there shall be no right to the fixed damages.

6.3 The delivery period which has been agreed or stated by the Client pursuant to the previous paragraph shall be extended by the time that performance is delayed due to force majeure regardless of whether the circumstances resulting in a force majeure situation begin before or after performance should have been completed. It shall also be extended by the time that any payment or the performance of any other obligation by the Client is later than agreed.

7. Activities by, and employees of, the Client or third parties

7.1 The Client shall not be entitled, without GPS's written permission to perform activities or have them performed on any vessel of GPS or on or at the Object as long as GPS has possession of the Object or has not yet completed the Work.

7.2 In exceptional cases, GPS may allow employees of a Client or third parties to sail on GPS' ships. The provision in Article 14.5 shall apply in those cases and the persons concerned shall, upon request, sign a statement in which they waive all of their possible claims against GPS in respect of damage/injury related to their presence on GPS's vessels, regardless of whether that damage/injury is attributable to GPS and in which they undertake to indemnity GPS against third-party claims in that connection.

8. Environment, safety and other rules

8.1 The Client shall be obliged to ensure safe working conditions and to comply with the applicable environmental and safety regulations as well as the safety and other rules made known to it by GPS before the work commences. The Client shall be obliged to inform GPS before the start of the Work of the presence of hazardous or toxic materials, including but not limited to, explosive, asbestos and chemical or radioactive substances or waste and of measures which must be taken in this regard. The Client must cooperate in investigations by GPS regarding the safety of the working conditions. In the event of any doubt, GPS shall be entitled to suspend or terminate the work or take corrective measures (or have such measures taken). The ensuing costs and damage shall be borne by the Client. The Client recognises that transporting, treating or removing hazardous and toxic substances is subject to stringent statutory regulations.

9.1 The Work shall be delivered when the Client takes possession of or approves it.

9.2 Even if the Client has not taken possession of the Work or approved it, the Work shall be considered delivered:

(a) if the Client does not cooperate in taking possession of or inspecting the Work at the point in time announced by GPS for delivery or wrongly refuses to approve it or refuses to approve it without indicating a reason:

(b) if the Object is no longer in GPS's control or the Client indicates in another manner that it has taken over actual control of the Object.

(c) if the Client does not make any defects immediately known upon taking possession and does not confirm them in writing within 48 hours thereafter.

9.3 Minor and/or normal defects shall not preclude delivery. These defects shall be recorded in writing by the Client and GPS, with GPS indicating within which time period defects shall be remedied.

9.4 GPS may deliver the Work partially and may seek pro rata payment if delivery of the remaining Work is precluded or hampered (temporarily) by a situation of force majeure.

10 Transfer of risk and ownership

10.1 The Client shall bear the risk for the Object and for other items belong to, or to be provided by, the Client. The risk for items to be provided by GPS shall be borne by the Client once they have been built into or incorporated into the Client's items.

11 Insurance

11.1 Under the force of these Terms and Conditions in connection with an agreement which has been concluded, the Client shall insure itself against any liability vis-à-vis GPS and shall remain insured during the performance of the Work for such amounts and under such terms and conditions as GPS reasonably deems advisable.

11.2 In addition, the Client shall take out such insurance as stipulated by GPS in the agreement between the Client and GPS.

11.3 Upon its request, GPS shall be included in the insurance taken out as the co-insured party and, upon GPS's request, insurers shall waive any right of recourse against GPS and the persons referred to in Article 15.1.

11.4 Upon GPS request, the Client shall provide GPS with proof confirming the insurance taken out.

11.5 If the Client neglects to take out the aforementioned insurance, GPS shall be entitled to do what the Client has neglected to do and to charge the Client for the related costs.

12 Force majeure

12.1 GPS shall be entitled to invoke force majeure if full or partial performance of the Work is precluded or hampered, whether temporarily or otherwise, by circumstances beyond its control, including, but not limited to, government measures, fire accidents, damage to the Work, damage to or loss of GPS vessels, weather during which work cannot be performed, a (temporary) failure by third parties to provide items or services, transport problems, business disruptions, work disruptions and strikes or government permits not being made available on time or being made available under restrictive conditions. If the aforementioned circumstances occur, GPS may invoke force majeure with regard to performing all portions of the Work, regardless of whether the circumstances arise with respect to the Work as a whole or only preclude or hamper performance of a portion of the Work GPS may likewise invoke force majeure if performance is delayed because GPS gives priority to other work, if that priority is, in its opinion, reasonably necessary, for example in connection with providing assistance to persons or items.

12.2 In the event of force majeure on GPS's part its obligations shall be suspended. Subject to the provisions in Article 15, if GPS invokes force majeure for a time period of more than one month, both GPS and the Client shall be entitled to rescind the agreement for the portion not performed, by providing written notice to the other party and without being obliged to pay damages.

13 Guarantee and complaints

13.1 Upon delivery any liability on the part of GPS shall cease, with the exception of GPS's liability pursuant to this article.

13.2 GPS shall repair, at no charge, defects in the Work which were not visible at the time of delivery and are the result of defects in construction, materials or workmanship and became apparent during the guarantee period and were reported in writing to GPS within seven days after they became apparent.

13.3 The repair obligation shall be limited to repairing the defect and shall not extend to rectifying consequential damage.

13.4 The Client shall continue to be responsible for any costs incurred by the Client.

13.5 GPS shall allow the Client to have third parties perform the aforementioned repairs if this is reasonable. GPS shall then reimburse the Client for the costs provided these do not exceed an amount higher than the amount that would have been payable by GPS if GPS had carried out or made the repairs itself within the guarantee period.

13.6 The guarantee period shall be three months.

13.7 All guarantee obligations shall lapse if the Client breaches any obligation under this agreement.

13.8 Items provided or required by the Client shall be excluded from the guarantee. Moreover, any form of preservation of the guarantee shall be excluded.

13.9 With regard to items delivered and activities performed by third parties, GPS guarantee obligations shall be limited – in scope and duration – to the guarantee actually given by that supplier. GPS shall be discharged from its guarantee obligation in this respect by transferring any claim it has vis-à-vis the supplier(s).

13.10 Activities, including maintenance activities, after the Client has wrongly invoked the guarantee shall be charged in accordance with Article 4.3 and shall be carried out subject to the applicability of these Terms and Conditions.

14 Liability and indemnification

14.1 GPS liability in connection with any breaches in performing the Work shall be limited to fulfilling the guarantee obligations described in the previous article.

14.2 GPS shall never be liable for damage except if, and insofar as, the damage suffered was caused by an intentional act or omission or gross negligence by GPS. Except in the case of an intentional act or omission by GPS, however, GPS's liability for loss of profits, consequential damage or indirect damage shall always be excluded. For the purposes of the application of this provision, 'gross negligence' and 'an intentional act or omission' by GPS shall mean gross negligence and an intentional act or omission by its bodies and executive officers who can be equated with GPS.

14.3 In all cases in which GPS is obliged to pay damages despite the provisions in paragraph 2, this shall never, subject to the other provisions in these Terms and Conditions or in any applicable Special Terms and Conditions, exceed 25% of the price of the Work or the amount of EUR 250,000, if this is lower.

14.4 The Client shall be liable for damage caused to GPS by the Object or other items of the Client, by third parties engaged by it or its employees, regardless of whether the Client is a fault in this regard.

14.5 The Client shall be obliged to indemnify GPS in respect of claims of third parties engaged by it, it's employees or the employees of third parties regarding damage related to their presence on GPS vessels, regardless of whether that damage is GPS's fault.

14.6 Every claim against GPS except for those which have been expressly acknowledged by GPS in writing shall expire through the mere lapse of 12 months since that claim arose.

14.7 Conditions limiting, excluding or establishing liability which may be invoked against GPS by GPS suppliers or auxiliary persons in connection with the items or services provided may also be invoked by GPS against the client.

14.8 The Client shall indemnity GPS and its employees against any third-party claims in connection with GPS' performance of the agreement, insofar as those claims entail more or something different than the claims which the Client has against GPS.

14.9 The foregoing shall not affect GPS's right to invoke any statutory provision concerning limitations on its liability.

15 Employees and auxiliary person (Himalaya Clause)

15.1 All exclusions or limitations of liability, defences, indemnifications, terms and conditions and rights of whatever nature stipulated by GPS for itself in these Terms and Conditions shall likewise apply to all its subsidiaries and participating interests, GPS' subcontractors or suppliers and their respective employees.

15.2 In connection with the previous article, GPS shall be deemed to have stipulated on behalf of and for those persons referred to in the previous article in concluding the agreement with the Client.

16 Payment and security

16.1 Payment must be made within 30 days after the invoice date, but no later than at the time the Work is deemed delivered, unless a different payment period has been agreed in writing. GPS shall, however, have the right to seek full or partial pre-payment and/or prior security at any time. An agreed credit period shall not affect that right.

16.2 The Client must submit to GPS in writing any objections to the amounts charged within 30 days after the invoice date, in the absence of which the amounts charged shall be deemed accepted by the Client and it shall no longer be possible to dispute the indebtedness.

16.3 The Client hereby waives any right to set off mutually owed amounts. Guarantee claims shall not suspend the Clients payment obligation.

16.4 If the Client does not pay any amount owed by it pursuant to the foregoing, it shall be in default without any notice to this effect being given by GPS. Once the Client is in default as regards any payment, all other claims by GPS and all its subsidiaries and participating interests against the Client shall become due and payable, and the default with respect to those claims shall also be immediate without any notice to that effect. As from the date on which the Client is in default, it shall owe GPS interest for the overdue payments of 2% per month or portion of a month for which the default continues.

16.5 In the event of default, the Client shall be obliged to pay for the out-of-court collection costs. These shall be deemed to constitute at least 15% of the outstanding amount.

16.6 GPS shall be entitled to retain the items and documents which it possesses or shall obtain from, or for, the Client on any account whatsoever until everything which the Client owes to GPS has been paid. If a claim against the Client is not due and payable when the aforementioned items and documents are delivered, GPS shall be entitled to retain these until security has been provided for payment of the claim. GPS shall be entitled to compensation by the Client for the costs incurred regarding the item retained.

16.7 All items of the Client which GPS possesses or which a third party possesses and on which, or in connection with which, GPS carries out activities shall serve as a pledge for GPS and all its subsidiaries and participating interests for everything which it may claim against the Client in connection with the underlying agreement and/or other agreements with the Client, including damage, costs and interest under these agreements.

17 Rescission

17.1 If the Client does not fulfil one or more of its obligations or does not do so in a timely or proper manner, is put into liquidation, requests a permanent or provisional suspension of payments, proceeds to wind up its business, as well as if its assets are attached in whole or in part, GPS shall be entitled to suspend performance of the agreement or to rescind the agreement without any prior notice of default in the form of a written declaration, all of this at it's discretion and always while retaining any right to compensation for costs, damage and interest to which it is entitled.

17.2 The Client shall only be entitled to rescission in the cases referred to in Articles 6.2 and 12.2 of these Terms and Conditions and, in those instances, not until payment to GPS of all amounts owed to GPS at that time, whether or not due and payable.

17.3 If the agreement ends pursuant to Article 17.1 before the agreed activities have been completed or the time during which they would have been performed has expired, GPS shall be entitled to the full agreed price for those activities, minus the savings directly arising from the termination. If the agreement ends as a result of rescission by the Client, GPS shall be entitled to a proportionate part of the agreed price for the Work already performed.

18 Transfer of causes of action

18.1 The Client shall not be entitled to transfer its causes of action against GPS under the agreement or otherwise to third parties without GPS's written permission.

18.2 Transfer of the causes of action against GPS pursuant to the provisions in any jurisdiction to shall not be possible.

19 Special Terms and Conditions

The Special Terms and Conditions referred to in Article 1.5 are the following (always in their most recent version):

WITH REGARD TO TOWING, TOWAGE ASSISTANCE AND THE LIKE:
Bimco Towcon or Bimco Towhire terms and conditions as may be applicable.

WITH REGARD TO ASSISTING AND RECOVERING VESSELS AND OTHER OBJECTS ON INLAND WATERS:
The "Recovery Conditions 1958 (filed with the Registry of the Amsterdam District Court on 1 August 1958).

WITH REGARD TO PROVIDING MANNED FLOATING SHEERLEGS:
The "Sheerlegs Use Terms and Condtions 1976 (filed with the Registry of the Rotterdam District Court on 1 January 1977) or Bimco Supplytime terms and conditions for operations outside Holland of specifically agreed.

WITH REGARD TO PROVIDING A FLAT-BOTTOMED BOAT, BARGE, PONTOON, RAFT AND THE LIKE, AS WELL AS AN UNMANNED FLOATING BOOM:
Bimco Barecon or Bimco Supplytime if crew for same are supplied by GPS.

WITH REGARD TO CARRYING OUT DIVING ACTIVITIES:
NADO (Netherlands Association of Diving Contractors) General Diving Terms and Conditions (filed with the Registry of the Rotterdam District Court on 30 November 1990).

WITH REGARD TO STORAGE, DEPOSITS AND THE LIKE:
The "Amsterdam Rotterdam Storage Conditions" (filed with the Registries of the District Courts of Amsterdam and Rotterdam on 1 March 1994).

WITH REGARD TO ENGAGEMENT OF LIGHTERMEN AND OTHERS
GPS give notice that at the request of customers and as their agent only GPS is prepared to engage lightermen and others on the customer's behalf. Any person so engaged shall be deemed for all purposes to be the servant of the customer. In consideration of such engagement as aforesaid the customer by accepting the services of GPS undertakes to hold GPS harmless and indemnified against all demands, claims, losses, costs and expenses arising in

connection therewith, even if occasioned by negligence or otherwise arising as a result of the employment of the lighermen or other person in question and by whomsoever made.

20 Disputes and applicable law

20.1 All disputes which exist between the Parties shall be decided exclusively by the competent court in London except where any contract provides for arbitration in London.

20.2 The agreement shall be subject to English Law.