

## VHT e.V. - Standard Terms and Conditions

### 1. Formation of Contract – Principal – Subject Matter of Engagement

1.1. In accordance with its charter and subject to these General Terms and Conditions, the Verein Hanseatischer Transportversicherer e.V. (hereinafter the “VHT”) accepts engagements for the handling of insurance matters only if at least one of its members is involved as an insurer. Participating co-insurers shall be joint principals of the VHT as joint debtors (hereinafter collectively referred to as the “Principal”), each of whom being represented by the lead underwriter in accordance with the corresponding insurance contract under which the policyholder or the insured, respectively, (hereinafter collectively referred to as the “Insured”) has submitted a claim.

1.2. The Insured and its broker (hereinafter collectively referred to as the “Mandator”) are deemed authorized by the Principal to engage the VHT on behalf and for the account of the Principal. The VHT is not obligated to accept any such engagement. Prior to accepting the engagement, the VHT shall first notify the lead underwriter without delay. Unless the lead underwriter objects immediately, the engagement of the VHT shall be deemed to have been approved. The Insured or its broker shall be notified without undue delay by the VHT of its acceptance or refusal of an engagement entrusted to it in said manner. Any submission of a claim to the VHT by the Insured, respectively its broker, shall be deemed an engagement within the meaning set forth above. The authority of the agent (*Assekuradeur*) of the lead underwriters shall, notwithstanding the aforementioned provisions, continue in accordance with existing arrangements.

1.3. Notwithstanding the provisions set forth in Sub-clause 1.2 above, the VHT accepts engagements directly from Principals, represented, as the case may be, by their agents (*Assekuradeur*) within the scope of existing authority, with the proviso that the subject matter of performance is in compliance with the VHT’s charter. The VHT is not obligated to accept any engagement.

1.4. The subject matter of the engagement shall be sufficiently specified by the Principal or the Mandator, respectively, upon entering into the contract. If the engagement is declared verbally, the subject matter thereof shall be reduced to writing by the Principal in text form in a sufficiently detailed manner. Otherwise, the VHT is entitled to confirm the subject matter of the engagement in text form to the Principal and the Mandator in a binding manner.

1.5. Generally, the VHT performs the following services as part of an engagement:

1.5.1. Claims management, damage surveys, certification and support in recoveries;

1.5.2. Giving advice and support in cases of average, distress, salvage and collisions;

1.5.3. Inspection of vessels and other objects that may be covered under an insurance contract for the purpose of taking charge thereof, e.g. in the event of obtaining new insurance cover;

1.5.4. Advice specifically in matters of transfer of vessels, resumption of their operations and their lay-up;

1.5.5. Warranty Surveys (approvals) for towage and similar projects;

1.5.6. Obtain and evaluate quotations for repair services and assistance with calls for tenders;

1.5.7. Any other engagement that can be assumed by the VHT taking its expertise and availability into account.

1.6. The VHT strictly performs a service only, the achievement of any specific result is not owed. This shall not apply with regard to the customary documentation to be prepared by the VHT.

1.7. The handling of the engagement by the VHT is set forth in greater detail in the latest version of the VHT Information Sheet. The current VHT Information Sheet is available on the VHT’s website and shall be promptly forwarded in text form to the Principal and the Mandator upon request. The parties agree and acknowledge that any individual agreements under the engagement and these General Terms and Conditions take precedence over the current VHT Information Sheet.

1.8. The VHT agrees to perform the contractual services in an unprejudiced and impartial manner. In the course of the performance of its services, VHT shall conduct all required customary investigations, make inquiries, perform the required calculations, prepare records and draw up reports. The VHT is not obligated to obtain instructions from the Principal unless measures to be taken by the VHT would generate unusually high costs or if the VHT would initiate measures that are considered unusual. The VHT is not subject to instructions from the Mandator.

1.9. The VHT is entitled to commission third parties on behalf and for the account of the Principal. This shall include, but is not limited to, surveyors, experts, adjusters, laboratories and legal advisors if and to the extent considered expedient within the scope of the performance of the VHT's services. The VHT is further entitled, but not obligated, to subcontract work in its own name but for the Principal's account.

## **2. Principal's Duty to Cooperate**

2.1. The Principal must forward to the VHT all information and documents required for the performance of its services, and to reasonably support the VHT in the performance of its services. As part of its relationship with the Insured, the Principal must procure specifically that the Insured provides the VHT without delay with any information, documents and technical records required by it for the performance of its services. The Principal shall further procure that the Insured provides the VHT access to facilities and locations to the extent deemed necessary by the VHT for the performance of its services. Finally, the Principal shall procure that the Insured allows the VHT to question its personnel to the extent deemed necessary by the VHT for the performance of its services. The Principal hereby authorizes the VHT to rely in relation to the Insured on any and all rights which the lead underwriter derives from the insurance relationship with the Insured with regard to providing information, the submission of documents and technical records, access to facilities and locations and the personnel of the Insured.

2.2. The VHT shall also transmit to the Insured any and all reports provided to the Principal, unless the Principal objects thereto.

## **3. Remuneration**

3.1. The VHT is entitled to remuneration from the Principal in accordance with the Price and Specification of Services List in force and effect at the time of the engagement of the VHT. The applicable version shall be made available to the Principal immediately upon request. In addition to this, the VHT shall also be reimbursed any expenses and costs incurred for the performance of its services, including any travel expenses and telecommunication flat fees according to the applicable Price and Specification of Services List. Where services provided by the VHT are not listed in the Price and Specification of Services List, the VHT shall be entitled to charge a fee that is customary in the market.

3.2. The VHT may request from the Principal reasonable advance payments on account of the remuneration and the expenses and costs to be expected. The VHT has no obligation to provide services first.

3.3. The VHT may submit intermediate accounts to a reasonable extent. Once all services under the engagement have been performed, the VHT shall submit its final invoice. All invoices are due and payable within thirty (30) days of receipt.

3.4. In general, all invoices shall be issued by the VHT to the lead underwriter, indicating the statutory VAT as a separate item. However, if expressly instructed by the lead underwriter, the VHT shall instead issue invoices in the proportionate amounts to the co-insurers, with the statutory VAT amount shown as a separate item, provided that the lead underwriter had provided the VHT with the full company names, business addresses and percentage of the co-insurers in the underlying insurance contract.

3.5. In general, the VHT shall forward its invoices to the Insured for collection from the co-insurers. Within the scope of the insurance contract, the Principal shall require and request the Insured to instruct its broker to collect the amounts of the VHT's invoices from the co-insurers.

3.6. The parties agree that the claims of the VHT shall not be deemed fulfilled in full until the amounts of the invoices have been fully and irrevocably credited to the VHT's bank accounts. Any payment made to third parties shall not constitute valid discharge of the debt unless this has been expressly agreed upon in text form in advance. An amendment of this provision by way of a practice constantly deviating therefrom shall be excluded.

3.7. The Principal has no right to refuse performance, retain payment or offset against a claim unless the service performed by the VHT is obviously flawed or the Principal has claims against the VHT acknowledged by the VHT or awarded to the Principal by way of a final and absolute court order.

#### **4. Liability**

4.1. The VHT is liable for its own culpable violation of duties and those of persons employed by it in the performance of its obligations in connection with the performance of services that result in loss or damage to the Principal. The VHT is not liable for the slightly negligent violation of duties by non-managerial persons employed by it in the performance of its obligations, unless essential contractual obligations (so-called "fundamental obligations") have been violated, or in the event of wrongful death, personal injury, or harmful health effects. Essential contractual obligations are those which according to the content and the purpose of the contract were specifically agreed upon to protect the legal position of the Principal. Furthermore, essential contractual obligations are also those the fulfillment of which is made possible by the proper performance of the contract in the first place, and the observance of which the Principal regularly relies on and is entitled to rely on. Claims for damages due to the violation of such essential contractual obligations shall be limited to the foreseeable damage that is typical of this type of contract.

4.2. In the event that the Principal, its representative, person employed by it in the performance of its obligations, or provider of services has contributed to the occurrence of the damage, the extent of compensation shall be governed by the principles on contributory negligence according to Sec. 254 German Civil Code. Where the VHT retains the services of third parties on behalf of the Principal, the VHT shall be liable only for the careful selection of such third party.

4.3. The VHT must maintain liability insurance covering pecuniary loss due to culpable violations of duties attributable to the VHT. Upon request of the Principal, the VHT must provide proof at any time of the purchase and maintenance of such insurance.

#### **5. Statute of Limitations**

Claims of any kind shall be timebarred upon expiration of two years since occurrence of the damaging event, but no later than upon expiration of two years since the completion of the activities of the VHT in performing its services related to the engagement. This shall not apply if a longer statutory limitation period is mandatory, such as in cases of malice, other wilful violations of duty, or in the event of wrongful death, personal injury, harmful health effects, or violation of freedom, due to at least slight negligence; in such case, the statutory limitation period shall apply.

#### **6. Choice of Law, Arbitral Tribunal, and Severability Clause**

6.1. The engagement of the VHT and the formation of the respective contract are subject to German law.

6.2. Any disputes arising from or in connection with the contract or regarding its formation shall be subject to the Arbitration Rules of the German Maritime Arbitration Association to the exclusion of the state courts. The place of arbitration proceedings shall be Hamburg, the arbitration proceedings shall be conducted in German.

6.3. Should individual provisions of this contract be or become ineffective or voidable, the remainder hereof shall remain effective. The ineffective provision shall be deemed replaced by a provision matching the economic purpose of the ineffective provision to the closest possible extent.

6.4. The present wording is a non-binding translation of the "Auftragsbedingungen" of the VHT. Only the German wording of the "Auftragsbedingungen" shall be binding and decisive in any respect.