GUSTOMSC TERMS AND CONDITIONS vs20200511

("GUSTOMSC T&C'S")

1. General
GUSTOMSC B.V. and GUSTOMSC US Inc. and their subsidiaries and affiliates (individually and collectively "GUSTOMSC") provide products and/or services in the offshore industry ("Work") to the recipients of such Work ("the Client"). GUSTOMSC apply the for the specific purpose of these GUSTOMSC T&C's are hereby collectively referred to as "Parties."

2. Applicable terms and conditions
These GUSTOMSC T&C's shall govern the provision of all Work by GUSTOMSC to the Client and the Client's continual instructions and/or performance in accordance with these GUSTOMSC T&C's shall constitute an agreement of the two, unless specifically written otherwise in the Work Information.

(a) GUSTOMSC acknowledge and sign otherwise in writing in relation to the Work;

(b) GUSTOMSC has provided different terms and conditions in writing to the Client in relation to the Work and these have been agreed (a) or (b) being "Alternative Terms", and in case circumstances require the Alternative Terms will apply (and substitute these GUSTOMSC T&C's). Any terms and conditions other than the GUSTOMSC T&C's or Alternative Terms (as the case may be) shall not bind GUSTOMSC. GUSTOMSC's failure to object to any amendments, additions or proposals contained in any email, purchase order or other form or document from the Client shall not be construed as a waiver of the GUSTOMSC T&C's or the Alternative Terms (as the case may be) or an acceptance of any such amendments, changes, or proposals.

3. Client Information
The Client warrants in connection with the Work that, prior to the execution of such Work by GUSTOMSC, it has provided GUSTOMSC with all data, calculations, information and records ("Information") it requires to execute the Work fully and to its satisfaction and that all Information provided: a) is factual information, complete, true and accurate in all material respects; b) if such Information was a Work related projection or forecast, that this is explicitly identified as such in writing to GUSTOMSC prior to the Work being performed by GUSTOMSC and that such a projection or forecast is prepared on the basis of recent historical information and on the basis of reasonable assumptions and was arrived at after careful consideration; c) and if such Information was an opinion or intention, that this is explicitly identified as such in writing to GUSTOMSC prior to the Work being performed by GUSTOMSC and is made after careful consideration and was fair and made on reasonable grounds.

4. Work Information
Except as explicitly provided for in these GUSTOMSC T&C's, the Work provided by GUSTOMSC to the Client does not create any right, license or entitlement to a Client to GUSTOMSC's confidential or proprietary information ("Work Information") or, in particular, the Client will not be the owner of the possession or use of Work Information acquire any right to or proprietary interest in such Work Information, or any right of prior use regarding patentable inventions comprised in Work Information if GUSTOMSC, subsequent to the disclosure, applies for intellectual property rights on such inventions. The Client shall not directly or indirectly, claim or assert any legal right to Work Information of GUSTOMSC, whether by means of patent application or otherwise.

Notwithstanding the above wording of Section 4, any:

a) intellectual property, knowhow or knowledge substantially derived from Work Information and not existing at the effective date of this Agreement; and

b) intellectual property rights therein will vest in GUSTOMSC.

Any Work Information disclosed as part of the Work is provided "AS IS". GUSTOMSC hereby specifically disclaims any warranty, express or implied, as to:

a) the accuracy, completeness, clarity, utility, fitness for any purpose or merchantability of any part of the Work Information disclosed by or on behalf of it; and

b) the freedom from infringement of any intellectual property right by the Client's use of Work Information of GUSTOMSC, regardless of any verbal or written statement made in connection with it.

Any Information provided as part of the Work by GUSTOMSC can contain trade secrets and confidential proprietary knowhow of GUSTOMSC. Any use or disclosure by the Client other than the permitted use or disclosure under the GUSTOMSC T&C's will constitute misappropriation of GUSTOMSC's intellectual property and may result in civil or criminal liability. Furthermore Work Information provided by GUSTOMSC is not intended for distribution to, or use by, any person or entity in any jurisdiction or country where such distribution or use would be contrary to law or regulation. Any disclosure of Work Information by the Client to a third party requires GUSTOMSC's prior written approval.

5. Duty of Care
In case services are provided in the course of the Work the following applies. Notwithstanding any legal requirement of any relevant jurisdiction, GUSTOMSC shall have no liability other than in respect to failure to exercise the reasonable skill, care and diligence to be expected from a professional service provider experienced in the provision of such services comprising the Work for projects of similar size, nature and complexity.

6. LIMIT ON LIABILITY
WTHOUT AFFECTING ANY OTHER PROVISION OF THESE GUSTOMSC T&C'S PROVIDING A LOWER LIMIT FOR OR AN EXCLUSION OF GUSTOMSC'S LIABILITY, GUSTOMSC'S LIABILITY IN CONNECTION WITH THE WORK, INCLUDING WITHOUT LIMITATION LIABILITY IN CONNECTION WITH SECTION 7, 9 AND 10, IS LIMITED TO THE LOWER OF:

A) 25 PERCENT OF THE FEES/PRICE ACTUALLY RECEIVED BY GUSTOMSC FOR THE WORK, OR
B) EUR 100,000.

IN THE AGGREGATE, EXCEPT AS STIPULATED BY MANDATORY LAW, THIS LIMIT APPLIES WITHOUT EXCEPTIONS REGARDING HOW THAT LIABILITY ARISES, INCLUDING LIABILITY ARISING BY BREACH OF CONTRACT, PURSUANT TO ANY INDEMNITY (EXCEPT WHERE A SPECIFIC INDEMNITY PROVISION EXPLICITLY STATES OTHERWISE), IN TORT (INCLUDING THE TORT OF NEGLIGENCE) OR FOR BREACH OF CONTRACT. WHETHER STATUTORY OR OTHERWISE.

7. EXCLUSION OF OTHER LIMITATIONS

NOTWITHSTANDING ANY TERM OR CONDITION TO THE CONTRARY IN THE GUSTOMSC T&C'S OR ANY APPLICABLE LEGAL REQUIREMENT OF THE IN ANY RELEVANT JURISDICTION NO PARTY WILL UNDER ANY CIRCUMSTANCES BE LIABLE FOR ANY:

A) LOSS OR DAMAGE OF OR IN CONNECTION WITH COSTS OF CAPITAL, COUST OF FINANCING, INTERRUPTION OF BUSINESS, LOSS OF USE, LOSS OF PRODUCT, LOSS OR DEFERRAL OF PRODUCTION, INCREASE OR DOWN TIME COSTS, INCREASED OPERATING COSTS, COSTS OF REPLACEMENT POWER, LOSS OF OPPORTUNITY, LOSS OF CONTRACT, LOSS OF GOODWILL, LOSS OF RETURN, LOSS OF REVENUE, LOSS OF HOLE OR DAMAGE DUE TO BLOWOUT OR CRATING, OTHER PURE ECONOMIC LOSS, OR ENVIRONMENTAL DAMAGE. IN EACH CASE WHETHER DIRECT OR INDIRECT AND REGARDLESS OF WHETHER OR NOT FORESEEABLE AT THE TIME OF THE FORMATION OF THIS GUSTOMSC T&C'S, OR CONSEQUENTIAL OR INDIRECT LOSS OR DAMAGE ("INDIRECTE SCHADE").