

# CLARKSON VALUATIONS LIMITED TERMS & CONDITIONS

## CLARKSON VALUATIONS LIMITED (CVL)

### TERMS AND CONDITIONS FOR THE PROVISION OF VESSEL VALUATIONS

Ref: CVL/TAC/10-18

Effective from 18 December 2020.

## 1. The Agreement

- 1.1. These terms and conditions (the "Terms and Conditions") and the valuation provision agreement ("VPA") are the terms and conditions governing valuation reports (each a "Valuation" and together the "Valuations").
- 1.2. If there is any inconsistency between the Terms and Conditions and the VPA, the terms of the VPA shall prevail.
- 1.3. Any variation to the Terms and Conditions or the VPA must be agreed in writing.

## 2. Definitions

- 2.1. For the purpose of these Terms and Conditions, the following words shall have the following meaning:
  - 2.1.1. "Affiliate" of any person means any other person (individual or body corporate) that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such person (together, the "Affiliates"); "control" (including the terms "controls", "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management, policies or activities of a person, whether through the ownership of securities, by contract or agency or otherwise;
  - 2.1.2. "Agreement" shall mean the agreement between the Parties constituted by these Terms and Conditions and the VPA any other document referred to in these Terms and Conditions.

- 2.1.3. "Clarksons Parties" shall mean together CVL, its Affiliates and their respective, officers, directors, employees and agents (each, a "Clarksons Party").
- 2.1.4. "Client" shall mean the party identified as the client in the VPA.
- 2.1.5. "Party" means the Client or CVL, together the Parties.
- 2.1.6. "Terms and Conditions" means these terms and conditions.
- 2.1.7. "Vessel" means any type of vessel or floating object or structure or equipment used or intended to be used for any purpose on, in or over water including but not limited to rigs.

### 3. Provision of Valuations

- 3.1. The Valuations shall be prepared with reasonable skill and care.
- 3.2. Valuations unless agreed otherwise will, be prepared in accordance with the methodology and assumptions as follows:
  - 3.2.1. By collating brokers' price estimates and/or ideas and market knowledge in respect of the Vessel/s;
  - 3.2.2. By corroborating, where possible and appropriate, the above referenced price estimates and/or ideas and market knowledge against details held on CVL's database, information in CVL's works of reference and particulars given to CVL for the preparation of the Valuation;
  - 3.2.3. By assuming that the Vessel is in good and seaworthy condition and available for prompt charter-free delivery by a willing seller and a willing buyer for cash payment under normal commercial terms;
  - 3.2.4. By assuming that the Vessel would be delivered free from all debts, registered encumbrances and maritime liens;
  - 3.2.5. By identifying a valuation date; and
  - 3.2.6. Without physical sight or inspection of the Vessels or their classification records.
- 3.3. CVL will provide a Valuation in electronic and, if requested by the Client, in hard copy format both with a disclaimer as set out in Annex 1 hereto. CVL reserves the right to modify the format and disclaimer wording from time to time.
- 3.4. CVL will not be liable for any loss of data or corruption thereof if the Valuation is sent in either electronic or hard copy format. The Client agrees that it will not edit or alter the Valuation or any part of the Valuation and agrees that CVL shall not be responsible if the Valuation or any part thereof is edited or altered other than by CVL.

- 3.5. The Client shall provide CVL with at least 7 days' notice of a requirement for a Valuation. CVL will endeavor to provide the Valuation by no later than 4pm on the 7th day after receipt of such notice but nevertheless reserves the right to provide the Valuation after the expiry of 7 days from receipt where in CVL's reasonable opinion this is necessary.
- 3.6. Time for the provision of any Valuation is not of the essence and any delay in the provision thereof shall not be a breach of the VPA and these Terms and Conditions.
- 3.7. CVL reserves the right to refuse, in its absolute discretion, to provide a Valuation in respect of a Vessel/Vessels.

## 4. Use of Valuations

- 4.1. Each Valuation shall be provided for the internal use of the Client save that the Client may provide a copy of any Valuation to its financing bank/s for the purposes of any finance covenants under its existing finance facilities provided that the relevant financiers, prior to any disclosure to them of any such Valuation, shall be provided with a copy of or a link to these Terms and Conditions.
- 4.2. If agreed in the VPA and if the Client is a financial institution acting as agent for a syndicate of other financial institutions then such Client may provide a copy of any Valuation to the other financial institutions in the syndicate provided that such financial institutions shall, prior to any disclosure to them of any such Valuation, be provided with a copy of or link to these Terms and Conditions.
- 4.3. No Valuation shall, without CVL's prior written agreement, be used for any other purpose or communicated in whole or in part and in any manner to any other third party and/or relied upon by any other third party save as set out herein.
- 4.4. Without prejudice to the generality of the foregoing, Valuations may not be included in any share prospectus, bond issue or other financial documents or presentations for the purpose of raising debt or equity in the public markets, nor for use in litigation or disputes, without the express prior written agreement of CVL.
- 4.5. In the event that the Client is permitted to disclose the Valuation to a third party pursuant to clauses 4.2 and 4.3 herein, the Client shall only so disclose the Valuation in full including its disclaimer and the wording incorporating these Terms.

## 5. Fees

- 5.1. The Client agrees to pay CVL's fees for Valuations which will be charged on the basis set out in the VPA together with any VAT on such fees.
- 5.2. CVL will submit an invoice for its fees after completion of the Valuation. Payment is due within 30 days of the date of the invoice.
- 5.3. In the event of late payment and without prejudice to CVL's legal rights, CVL shall have the right to charge interest on the debt due at an annual rate equal to 5% above the base rate of Lloyds TSB Bank PLC from the date payment was due and the Client authorises CVL to use any amounts CVL owes to the Client to discharge the payment due to CVL in relation to the Valuation.

## 6. Limitation of Liability

- 6.1. This clause sets out the entire liability of CVL (including any liability for the acts or omissions of its employees or agents) to the Client arising under or in connection with this Agreement and/or in respect of any use made by the Client or any third party of the Valuation.
- 6.2. Unless otherwise agreed in writing, Valuations are provided without the benefit of further research that would normally be undertaken prior to any sale of a Vessel. In particular, CVL has not physically inspected the Vessel nor researched its classification records. Accordingly, no representation is made, warranty given, or responsibility accepted in the Valuation as to the condition, fitness for purpose or saleability of any Vessel. The Valuation shall not be deemed, treated, or represented by the Client as an endorsement of the Client's commercial position.
- 6.3. Values given in the Valuation are based solely on a subjective opinion of the approximate market value as at the valuation date only and are not representations of fact. Valuations should not be taken to apply to any other date. Accordingly, no representation is made, warranty given or responsibility accepted in the Valuation as to the accuracy of the Valuation.
- 6.4. No representation is made, warranty given or responsibility accepted in the Valuation as to the appropriateness or the fitness for purpose of the methodology used to determine the Valuation.

- 6.5. Any person contemplating entering a transaction of any nature whatsoever or otherwise having regard to the Valuation should satisfy himself by inspection of the Vessel and its records, or otherwise, as to the correctness of the statements which any Valuation contains.
- 6.6. No assurance or representation is given that the Valuation given will be sustained or that it would be realisable in any actual transaction.
- 6.7. Nothing in the VPA excludes the liability of a Clarkson Party: (a) for death or personal injury caused by negligence of such Clarkson Party; (b) for fraud or fraudulent misrepresentation; or (c) to the extent not permitted under applicable law.
- 6.8. SUBJECT TO CLAUSE 6.6, IN NO EVENT SHALL CVL HAVE ANY LIABILITY IN CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY, MISREPRESENTATION (WHETHER INNOCENT OR NEGLIGENT) RESTITUTION OR OTHERWISE ARISING OUT OF OR IN CONNECTION WITH THE AGREEMENT AND WHETHER TO THE CLIENT OR ANY OTHER PERSON FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL LOSS OR DAMAGE OR ANY OF THE FOLLOWING LOSSES (IN EACH CASE, WHETHER DIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL OR INDIRECT): LOSS OF PROFITS; LOSS OF REVENUE; LOSS OF BUSINESS OR CONTRACTS; LOSS OF ANTICIPATED SAVINGS; LOSS OF GOODWILL OR DAMAGE TO REPUTATION; OR LOSS OR CORRUPTION OF DATA.
- 6.9. SUBJECT TO CLAUSES 6.7 AND 6.8, THE CLARKSONS PARTIES' TOTAL AGGREGATE LIABILITY IN CONTRACT, TORT, (INCLUDING NEGLIGENCE OR BREACH OF STATUTORY DUTY), MISREPRESENTATION (WHETHER INNOCENT OR NEGLIGENT), RESTITUTION OR OTHERWISE ARISING OUT OF OR IN CONNECTION WITH THE PROVISION OF A VALUATION AND WHETHER TO THE CLIENT OR ANY OTHER PERSON SHALL BE LIMITED TO 500% OF THE AMOUNT OF FEES PAID TO CVL IN RESPECT OF ANY SUCH VALUATION IN CONNECTION WITH WHICH THE CLAIM ARISES.
- 6.10. In the event that a lump sum is paid in respect of this Agreement for the provision of Valuations for multiple Vessels, the amount of fees paid to CVL in respect of any single Valuation in connection with which a claim arises under clause 6.9 shall be deemed to be the result of dividing the lump sum by the number of Vessels valued in connection with such lump sum.
- 6.11. This clause shall survive termination of the Agreement, however arising.

## 7. Indemnity Requirement

- 7.1. The Client agrees and hereby undertakes to hold Clarkson Parties harmless against all demands, actions, claims, liabilities, losses, costs, charges and expenses (together "Claims") incurred by Clarkson Parties arising out of and/or in connection with the provision of Valuations for any purpose.

## 8. Miscellaneous

- 8.1. The Client agrees to be bound by these Terms and Conditions to the exclusion of all warranties, conditions and other terms, whether express or implied, statutory or otherwise.
- 8.2. No person other than the named addressee of the Valuation shall have any rights whatsoever as arising out of or in connection with the Valuation under the Contract (Rights of Third Parties) Act 1999 or otherwise.
- 8.3. CVL has the right to terminate the VPA between CVL and the Client at any time without liability or obligation by written notice to the Client.
- 8.4. If any part of the VPA or the Terms and Conditions is found by any court to be invalid, illegal or unenforceable, that part shall be treated as being deleted and the rest of the provisions will not be affected.
- 8.5. The parties intend that the VPA and the Terms and Conditions, together with all attachments and other documents referenced in the VPA and Terms and Conditions represent the final expression of the parties' intent and agreement relating to the subject matter herein and contain all the terms the parties agreed to relating to any Valuation and replace all the parties' previous discussions, understandings and agreements relating to any Valuation.
- 8.6. The Client will comply with its obligations pursuant to the United Kingdom Modern Slavery Act 2015.

## 9. Governing Law and Jurisdiction

9.1. The VPA and these Terms and Conditions shall be governed by and construed in accordance with English law. Any dispute arising out of or in connection with the VPA or these Terms and Conditions as well as regards any question concerning their respective existence, validity or termination, shall be subject to the exclusive jurisdiction of the English courts.

### ANNEX 1

In accordance with your request and subject to the terms and condition we have agreed with you, we, Clarkson Valuations Limited (CVL), have prepared this Valuation by (i) collating shipbrokers' price estimates and/or ideas and market knowledge (ii) then seeking to validate such price estimates and/or ideas, where possible and appropriate, with details held on our database, information in relevant works of reference in our possession and particulars given to us for the preparation of this Valuation.

CVL has not physically inspected the Vessel nor inspected its classification records. We have assumed that the Vessel is in good and seaworthy condition and would be delivered free from all debts, registered encumbrances and maritime liens.

CVL is of the opinion that the approximate market value of the below mentioned Vessel, as at [INSERT VALUATION DATE], on the basis of prompt charter-free delivery, as between a willing seller and a willing buyer for cash payment under normal commercial terms, is:

USD [xxx,xxx] ([xxxxxxxx] Million, [xxxxx] Hundred Thousand United States Dollars)

Values given in this Valuation are based solely on a subjective opinion of the approximate market value applying the methodology described above as at the above Valuation date only and should not be taken to apply to any other date.

All statements made are statements of opinion and are not representations of fact. Any person contemplating entering a transaction of any nature whatsoever or otherwise having regard to this Valuation should satisfy himself by inspection of the Vessel and its records, or otherwise, as to the correctness of the statements which this Valuation contains.

No assurance or representation is given that the Valuation given will be sustained or that it would be realisable in any actual transaction.

This Valuation has been provided solely for the private use of the person to whom it is addressed or to such other person to whom we have consented that this Valuation may be provided. By accepting the provision of our services in respect of this Valuation or by otherwise using or relying on this Valuation, you have accepted either our terms and conditions as specifically agreed between us in writing or, in the event of no such agreement in writing, our terms and conditions including the limitation of liability provisions at [www.clarksons.com/terms-of-business/](http://www.clarksons.com/terms-of-business/)

No person other than the named addressee of this Valuation shall have any rights whatsoever as arising out of or relating to this valuation under the Contract (Rights of Third Parties) Act 1999 or otherwise.