

NORD MARINE LIMITED - TERMS OF TRADE

QUOTE

TERM	MEANING																
we, us or our	<p>Nord Marine Limited (NZCN 9094652)</p> <p>Address: 132B Maxwell RD, Blenheim, Redwoodtown, NZ</p> <p>Email: will@nordmarine.co.nz</p>																
you or your	<p>:</p> <p>Address:</p> <p>Email:</p>																
Good, Services and Client Provided Goods	<p>The Services are the following:</p> <ul style="list-style-type: none">••• <p>The Goods are as follows:</p> <ul style="list-style-type: none">••• <p>The Client Provided Goods are as follows:</p> <ul style="list-style-type: none">••																
Vessel																	
Time Frame																	
Price	<p>An estimated fee amount as follows:</p> <table><tr><th>Milestone Number</th><th>Description</th><th>Due Date</th><th>Amount (\$)</th></tr><tr><td>Services</td><td></td><td></td><td></td></tr><tr><td>Goods</td><td></td><td></td><td></td></tr><tr><td>Other</td><td></td><td></td><td></td></tr></table> <p>As set out in the schedule of rates (as attached to this Agreement or as otherwise agreed between the Parties).</p> <p>This Quote is valid 15 working days from the date this Quote was issued to you. The Price of any Goods or Services after this date are subject to change and the Quote may be varied in accordance with the Terms and Conditions.</p>	Milestone Number	Description	Due Date	Amount (\$)	Services				Goods				Other			
Milestone Number	Description	Due Date	Amount (\$)														
Services																	
Goods																	
Other																	
Payment Terms	<p>We will issue invoices to you on a weekly basis. You must pay us the Price, and all other amounts due and payable under this Agreement, using the payment method set out in our invoice, within 7 days from the date of our invoice, or as otherwise agreed between the Parties.</p>																

EXECUTION

Executed by Nord Marine Limited (NZCN 9094652) by its duly authorised representative:

Signature

Name (Print)

Position (Print)

Date

Executed by (NZCN), by its duly authorised representative:

Signature

Name (Print)

Position (Print)

Date

Signed by T/A (NZBN)

Signature

Date

Terms and Conditions

These terms and conditions are entered into between **Nord Marine Limited (NZCN 9094652) (we, us or our)** and you, the party stated in the Quote (**you or your**) together the Parties and each a Party. Together, these terms and conditions and the Quote form the entire agreement under which we will provide the Goods and Services to you (**Terms**).

Please read these Terms carefully and contact us if you have any questions.

1. Quote and Acceptance

- 1.1. You have requested the Goods and Services set out in the Quote, and accept these Terms by the earlier of:
 - (a) signing and returning the Quote to us (including electronically);
 - (b) instructing us to proceed with the Goods and Services (including by making any payment of the Deposit and/or Price); or
 - (c) confirming by email that you accept the Quote (expressly or implied).
- 1.2. The Quote will be valid for the period stated in the Quote, unless otherwise agreed by us. If you do not accept the Quote and these Terms within the period stated in the Quote, we reserve the right to issue a new Quote and Terms. You acknowledge that the Quote is valid for the period stated in the Quote. We reserve the right to modify or withdraw the Quote at any point before commencement of the supply of such Goods or Services. Quotes for Services are based on estimated time to provide the Services and subject to change in accordance with clause 1.4.
- 1.3. You acknowledge and agree that the Quote for Goods is based on the information available to us at the time of the Quote and is subject to change where the price of the Goods has been varied by factors outside our control.
- 1.4. You acknowledge and agree that our Quote for Services is based on the information available to us at the time of the Quote and is subject to change where the scope of works is materially impacted during the works. Under such circumstances we will:
 - (a) Immediately cease provision of the Goods and Services;
 - (b) Provide you with an amended Quote along with the rationale for the amended Quote; and
 - (c) Where you decide not to proceed on the amended Quote, promptly invoice you for all Goods and Services provided to you up to that date.
- 1.5. You agree to meet all our reasonable costs incurred while providing you with the Goods and Services in accordance with our Quote, and understand that Services are charged in accordance with the actual time taken to provide said Services, including but not limited to workshop preparation time and travel time.

2. Goods and Services

- 2.1. We agree to provide the Goods and Services to you in accordance with these Terms and all applicable Laws.
- 2.2. We may provide the Goods and Services to you using our Personnel using all reasonable skill and diligence.

- 2.3. We will use our reasonable endeavours to provide the Goods and Services to you at the dates and times set out in the Quote. You acknowledge and agree that such dates or times are estimates only, and we will have no Liability to you for failing to meet any such dates or times.

- 2.4. Where we have supplied Goods and such Goods are subsequently faulty and you wish to make a claim under New Zealand Consumer Law, we will:

- (a) Assign any assignable warranty or protection pertaining to the Goods to you to enable you to claim directly from the manufacturer of the Goods; and
- (b) Where a warranty or protection is not assignable, use all reasonable endeavours to assist in making a claim; and
- (c) You agree that to the maximum extent permissible under New Zealand Consumer Law we are not responsible for the repair or replacement of the Goods where the manufacturer has rejected any claims as per 2.4(a-b) unless such fault has been exclusively caused by our negligence.

3. Your Consumer Law Rights:

- 3.1. If you are acquiring the Goods and Services for personal, domestic or household use or consumption:
 - (a) Certain legislation, including New Zealand Consumer Law and similar consumer protection laws and regulations, may confer you with rights, warranties, guarantees and remedies relating to the Goods and Services which cannot be excluded, restricted or modified (**Consumer Law Rights**). Nothing in these Terms excludes your Consumer Law Rights as a consumer under the NZCL.
 - (b) You agree that our Liability for the Goods and Services is governed solely by the NZCL and these Terms.
 - (c) Subject to your Consumer Law Rights, we exclude all express and implied warranties, representations and guarantees of any kind (whether under statute, law, equity or on any other basis) and all materials, work, goods and services (including the Goods and Services) are provided to you without warranties, representations and guarantees of any kind, except where expressly provided in these Terms.
 - (d) You agree that we are not responsible for any consumer laws associated with any Customer Supplied Goods and any such consumer law must be followed up directly with the supplier from whom you procured such Customer Supplied Goods.
- 3.2. If you are acquiring the Goods and Services for the purposes of trade, you agree that:
 - (a) we are supplying and you are acquiring the Goods and Services for the purpose of trade;
 - (b) to the maximum extent permitted by law, the provisions of the Consumer Guarantees Act 1993 and sections 9, 12A and 13 of the Fair Trading Act 1986 do not apply to these Terms; and
 - (c) it is fair and reasonable that the Parties are bound by this clause.

4. Customer Requested Variations

- 4.1. All Variations must be agreed in writing between the Parties and will be priced in accordance with the Quote, any schedule of rates provided by us, or as otherwise agreed between the Parties.
- 4.2. You may request a variation or change to the Goods and Services, including the timing for the provision of the Goods and Services, by providing written notice (including by email) to us, with details of the requested variation or change (**Variation Request**).
- 4.3. We will not be obliged to comply with a Variation Request unless the Parties agree to the Variation Request (or an amended Variation Request) in writing, including any effect on the Price (**Variation**).
- 4.4. If we consider that any instruction or direction from you constitutes a Variation, then we will not be obliged to comply with such instruction or direction unless and until a Variation Request has been issued in accordance with clause 4.2 and a Variation has been agreed in accordance with clause 4.3.
- 4.5. Where the Goods and Services are varied or changed, or the costs of providing the Goods and Services increases (**Variation Event**) and the cause of that Variation Event relates to, or is connected with, the acts or omissions of you or your Personnel or an event or circumstance beyond our reasonable control, you agree to pay us our additional costs and expenses that we may suffer or incur as result of the Variation Event, as a debt due and immediately payable.

5. Warranty Period

- 5.1. We agree to provide a 3 month warranty period, which will commence on and from the date on which the Goods and Services have been completed as determined by us (acting reasonably) (**Warranty Period**).
- 5.2. You must inspect the Goods and Services and notify us in writing as soon as reasonably practicable after the relevant Goods and Services have been provided, and in any event prior to the expiry of the relevant Warranty Period, of any alleged Defects. Such notice shall include a photo evidencing, and a description of, the alleged Defect.
- 5.3. The Warranty Period is conditional on you maintaining the Goods in accordance with the manufacturer or our instructions. The Goods must not have been altered or repaired in any way by any other parties including you.
- 5.4. If you provide notice under clause 5.2:
 - (a) as soon as reasonably practical after giving the notice, you must provide us with an opportunity to inspect the alleged Defect by returning the Vessel to the location where the Services were provided at your cost or where that is impractical, meeting our reasonable costs of travel to the Vessel; and
 - (b) we will, in our opinion, determine if the alleged defect is a Defect covered under warranty (acting reasonably); and
 - (c) where we determine that the alleged Defect is actually a Defect, we will, at our own cost and in our sole discretion:
 - (i) reimburse you for our travel costs charged under 5.4(a) if applicable; and
 - (j) repair or remedy the Defect; or

- (ii) offer you a refund with respect to that part of the Price applicable to the Defect.

- 5.5. Defects which are raised outside of the Warranty Period, or which are not caused or contributed to by us, will be remedied on a time and material basis at our standard hourly rates, as advised to you by us from time to time.
 - 5.6. Despite anything to the contrary, to the maximum extent permitted by law, our aggregate liability for any Liability in respect of any Defect will be limited to the costs we incur in accordance with clause 11.1(b).
- #### 6. Delivery, Title and Risk
- 6.1. Where we are providing you with Goods, you agree to pay for all Delivery Costs as set out in the Quote.
 - 6.2. On delivery of the Goods we will install the Goods as part of our Services on the Vessel.
 - 6.3. Title in the Goods will remain with us until all amounts due and payable to us under these Terms are paid in full.
 - 6.4. You acknowledge that any non-stock Goods that are purchased specifically for you as part of the Services to be provided are not returnable. We will advise before such Goods are purchased, and may ask for a deposit or payment in advance which will be immediately due.
 - 6.5. Risk in the Goods will pass to you on delivery of the Goods to you.
 - 6.6. You agree that we hold a general lien over any Goods owned by us that are in your possession, for the satisfactory performance of your obligations under these Terms. You agree that these Terms and your obligations under these Terms create a registrable security interest in favour of us, and you consent to the security interest (and any other registrable interest created in connection with these Terms) being registered on any relevant securities register including the Personal Property Securities Register (and you must do all things to enable us to do so).
 - 6.7. If you sell or otherwise deal with any of the Goods while we retain title in the Goods, and receive payment for the sale or receive any other proceeds, whether tangible or intangible, direct or indirect, of any dealing with the Good (including any proceeds from insurance claims), you hold such proceeds on trust for us until such time as all money payable to us under these Terms is paid in full.

7. Your Responsibilities

- 7.1. You agree that any Goods supplied by you for the Services (**Client Supplied Goods**) are fit for purpose, and we shall bear no liability in relation to any Client Supplied Goods. You acknowledge and agree that where the Client Supplied Goods cause a damage or defect to our Goods and Services, such Goods and Services will no longer be covered by our Warranty as described in clause 5.
- 7.2. You warrant that you are the owner of the Vessel or the Vessel owner's agent and that you have the authority to request that we perform the Services.
- 7.3. You authorise us to move and store the Vessel by whatever means and in whatever circumstances we consider necessary and appropriate for the performance of the Services.
- 7.4. You agree to provide us with full, comprehensive instructions and will not withhold any information that could impact the Services we provide.

7.5. You agree to provide us (and our Personnel) with unfettered access to the Vessel for the purposes of delivering and installing the Goods (and the facilities at the Site), free from harm or risk to health or safety:

- (a) at the times and on the dates requested by us; and/or
- (b) to enable us to comply with our obligations under these Terms or at Law,

and you agree to pay us any additional costs that we may suffer or incur if you fail to do so, as a debt due and immediately payable to us.

7.6. You shall provide us with any health and safety procedures used by you in relation to the Vessel and/or its location as required.

7.7. You shall provide us with any safety or warranty information in relation to any Customer Supplied Goods at the same time, or prior to, providing us with Customer Supplied Goods.

7.8. You are responsible for the acts or omissions, and any goods or services provided by you or your Personnel. You agree to ensure that you and your Personnel cooperate with us, are polite and respectful to our Personnel and do not interfere with the supply of the Goods and Services.

7.9. You agree to:

- (a) comply with these Terms, our reasonable requests or requirements, and all applicable Laws; and
- (b) provide all assistance, information, documentation, access, facilities, authorities, consents, licences and permissions reasonably necessary to enable us to comply with our obligations under these Terms or relevant Laws.

7.10. You agree that any information, documentation, specifications, goods or services provided, or directions provided, by you or your Personnel in relation to the Goods and Services (**Your Items**) will be:

- (a) provided solely at your own risk, and you agree that we will assume no responsibility or Liability for Your Items;
- (b) fit for purpose, of merchantable quality and compliant with all applicable Laws; and
- (c) sufficient to enable us to comply with our obligations under these Terms and all applicable Laws,

and we will have no liability to you for any Liability, and you waive and release us from any such Liability, arising from Your Items.

8. Price and Payment

8.1. You agree to pay us the Price in accordance with these Terms. All amounts are stated in New Zealand dollars and are exclusive of GST (unless otherwise stated).

8.2. You agree that we may require a Deposit before we begin providing the Goods or Services. The Deposit amount will be set out in our Quote.

8.3. You acknowledge and agree that the Deposit is non-refundable, except where these Terms are terminated by you as a Non-Defaulting Party in accordance with clause 11.2.

8.4. If we require payment of the Price upfront, you will not be entitled to any part of the Goods or Services until we have received the Price in full without set-off or deduction.

8.5. We will invoice you for the Goods and Services. You must pay the amount in the invoice in cleared funds and without set-off or deduction, using the payment method set out in the invoice, within 7 days from the date the invoice was delivered to you in accordance with these Terms, or as otherwise agreed between the Parties.

8.6. If you fail to make payment of the Deposit and/or Price or any amount payable under these Terms, we may:

- (a) cease providing the Goods and Services, and recover, as a debt due and immediately payable from you, our additional costs of doing so, (including legal fees, debt collector fees and mercantile agent fees);
- (b) charge interest at a rate of 3.5% compounding per calendar month;
- (c) terminate these Terms and access the Vessel where the Goods are located to allow us (or our Personnel) to recover or repossess any Goods belonging to us;
- (d) require payment of the Price for future Goods and Services in full upfront; and
- (e) commence proceedings against you and recover from you, our additional costs (including legal costs) in doing so.

8.7. You agree that we may set-off or deduct from any monies payable to you under these Terms, any amounts which are payable by you to us (whether under these Terms or otherwise).

8.8. You indemnify us from and against all Liability suffered or incurred by us in recovering any amounts due to us under these Terms (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, our collection agency costs, and bank dishonour fees).

8.9. If a payment has been made to us and the transaction is subsequently reversed, you shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by us under this clause, where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to your obligations under these Terms.

9. Warranties and Representations

9.1. Each Party represents, warrants and agrees that:

- (a) it has full legal capacity, right, authority and power to enter into these Terms, to perform its obligations under these Terms, and to carry on its business;
- (b) that these Terms constitute a legal, valid and binding agreement, enforceable in accordance with their terms; and
- (c) if applicable, it is registered for GST purposes.

9.2. You represent, warrant and agree that:

- (a) you have effected and will maintain appropriate insurance policies for the Vessel for the duration of our provision of the Goods and Services under these Terms;
- (b) you are solvent and able to pay your debts as they fall due;
- (c) there are no legal restrictions preventing you from entering into this Agreement;

- (d) you have not relied on any representations or warranties made by us in relation to the Goods and Services (including as to whether the Goods and Services are or will be fit or suitable for your particular purposes), unless expressly stipulated in these Terms;
- (e) you will cooperate with us, and promptly provide us with all documentation, information, instructions, facilities and access (including access to the Site) as may be reasonably necessary to enable us to provide the Goods and Services in accordance with these Terms;
- (f) the information you provide to us is true, correct and complete;
- (g) you will not infringe any third party rights in working with us and receiving the Goods and Services;
- (h) you will ensure that the Vessel is safe and free of harmful materials or substances; and
- (i) you are responsible for obtaining, and providing to us if necessary, any access and Approvals from any Authority or third party necessary for the Goods and Services to be provided, at your cost.

10. Termination

- 10.1. These Terms will commence upon your acceptance of these Terms in accordance with clause 1.1 and will continue until the date that the Goods and Services are supplied to you in accordance with these Terms (as determined by us in our sole discretion) (**Term**).
- 10.2. These Terms will terminate immediately upon written notice by a Party (**Non-Defaulting Party**), if:
 - (a) the other Party (**Defaulting Party**) breaches a material term of these Terms and that breach has not been remedied within 10 business days of the Defaulting Party being notified of the breach by the Non-Defaulting Party; or
 - (b) the Defaulting Party is unable to pay its debts as they fall due.
- 10.3. These Terms will terminate immediately upon written notice by us if you fail to pay the Price in accordance with clause 8.
- 10.4. Upon expiry or termination of these Terms:
 - (a) we will immediately cease providing the Goods and Services;
 - (b) you are to pay for all Goods and Services provided prior to termination, including Goods and Services which have been provided and have not yet been invoiced to you, and all other amounts due and payable under these Terms; and
 - (c) by us pursuant to clause 10.2 or 10.3, you also agree to pay us our additional costs, reasonably incurred, and which arise directly from such termination (including legal fees, debt collector fees and mercantile agent fees); and
 - (d) by us pursuant to clause 10.2 or 10.3, you also agree to grant us such rights of access to any Vessel where the Goods are located to allow us (or our Personnel) to recover or repossess the Goods belonging to us; and

- (e) subject to clause 12, upon a request from us, you agree to promptly return (where possible), or delete or destroy (where not possible to return), any information, documentation or Intellectual Property owned by us that is in your possession or control.

10.5. We will retain your documents (including copies) as required by law or regulatory requirements. Your express or implied agreement to these Terms constitutes your authority for us to retain or destroy documents in accordance with the statutory periods, or on expiry or termination of these Terms.

10.6. Termination of these Terms will not affect any rights or liabilities that a Party has accrued under it.

11. Liability

11.1. Despite anything to the contrary, to the maximum extent permitted by law:

- (a) neither Party will be liable for any Consequential Loss;
- (b) our maximum aggregate liability for any Liability arising from or in connection with the Goods and Services and these Terms will be limited to us reperforming or resupplying the relevant Goods and Services or, in our sole discretion, to repaying you the amount of the Price paid by you to us in respect of the provision of the relevant Goods and Services, to which the Liability relates;
- (c) a Party's liability for any Liability under, arising from, or in connection with, these Terms will be reduced proportionately to the extent the relevant Liability was caused or contributed to by the acts or omissions of the other Party (including a failure to take reasonable steps to mitigate the relevant Liability); and
- (d) we will not be liable for, and you waive and release us from and against, any Liability caused or contributed to by any loss or damage which is the inevitable and unavoidable part of performing the Goods and Services.

11.2. Despite anything to the contrary, to the maximum extent permitted by law, we will not be liable for, and you waive and release us from and against, any Liability caused or contributed to by, arising from or connected with:

- (a) your or your Personnel's acts or omissions;
- (b) any information, documentation, specifications or directions given by you or your Personnel;
- (c) Your Items;
- (d) your (or your Personnel's) use of the Goods for purposes other than their intended purpose;
- (e) any use or application of the Goods and Services by a person or entity other than you, or other than as reasonably contemplated by these Terms;
- (f) any use of Client Supplied Goods to provide the Services;
- (g) any works, services, goods, materials or items which do not form part of the Goods and Services (as expressed in these Terms), or which have not been provided by us;

- (h) the Goods and Services being unavailable, or any delay in us providing the Goods and Services to you, for whatever reason; and/or
 - (i) any event outside of our reasonable control.
- 11.3. Despite anything to the contrary, to the maximum extent permitted by law, you are liable for, and agree to make good, indemnify us and hold us harmless in respect of, any Liability that we may suffer, incur or otherwise become liable for, arising from or in connection with:
- (a) acts or omissions of you or Your Personnel;
 - (b) any information, documentation, specifications or directions given by you or your Personnel;
 - (c) any breach of third party Intellectual Property Rights; or
 - (d) Your Items.

12. Confidentiality

- 12.1. Subject to clause 12.2, each Party must (and must ensure that its Personnel do) keep confidential, and not use or permit any unauthorised use of, all of the other Party's Confidential Information.
- 12.2. Clause 12.1 does not apply to Confidential Information that:
- (a) is required to be disclosed in order for a Party to comply with their obligations under these Terms;
 - (b) is authorised to be disclosed by the disclosing Party;
 - (c) is in the public domain and/or is no longer confidential, except as a result of a breach of these Terms; or
 - (d) must be disclosed by law or by a regulatory authority, including under subpoena.

13. General

- 13.1. **Disputes:** A Party may not commence court proceedings relating to any dispute, controversy or claim arising from, or in connection with, these Terms (including any question regarding its existence, validity or termination) (**Dispute**) without first meeting with a senior representative of the other Party to seek (in good faith) to resolve the Dispute. If the Parties cannot agree how to resolve the Dispute at that initial meeting, either Party may refer the matter to a mediator. If the Parties cannot agree on who the mediator should be, either Party may ask the Law Society of New Zealand to appoint a mediator. The mediator will decide the time, place and rules for mediation. The Parties agree to attend the mediation in good faith, to seek to resolve the Dispute. The costs of the mediation will be shared equally between the Parties. Nothing in this clause will operate to prevent a Party from seeking urgent injunctive or equitable relief from a court of appropriate jurisdiction.
- 13.2. **Email:** You agree that we are able to send electronic mail to you and receive electronic mail from you. To the maximum extent permitted by law, you release us from any Liability you may have as a result of any unauthorised copying, recording, reading or interference with that document or information after transmission, for any delay or non-delivery of any document or information and for any damage caused to your system or any files by a transfer.
- 13.3. **Force Majeure:** Neither Party will be liable for any delay or failure to perform their respective obligations under these Terms if such delay or failure is caused or contributed to by a

Force Majeure Event. This clause will not apply to a party's obligation to pay any amount that is due and payable to the other Party under these Terms.

- 13.4. **Governing law:** These Terms are governed by the laws of New Zealand. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts operating in New Zealand and any courts entitled to hear appeals from those courts and waives any right to object to proceedings being brought in those courts.
- 13.5. **GST:** If and when applicable, GST payable on the Price will be set out in our invoice. You agree to pay the GST amount at the same time as you pay the Price.
- 13.6. **Joint and Several Liability:** Where you constitute two or more individuals or entities, you will each be jointly and severally liable under these Terms.
- 13.7. **Notices:** Any notice given under these Terms must be in writing addressed to the relevant address last notified by the recipient to the Parties. Any notice may be sent by standard post or email, and will be deemed to have been served on the expiry of 48 hours in the case of post, or at the time of transmission in the case of transmission by email.
- 13.8. **Publicity:** You agree that we may advertise or publicise the broad nature of our provision of the Goods and Services to you, including on our website or in our promotional material.
- 13.9. **Privacy:** We agree to comply with the legal requirements of the Privacy Principles as set out in the Privacy Act 2020 and any other applicable legislation or privacy guidelines.
- 13.10. **Relationship of Parties:** These Terms are not intended to create a partnership, joint venture, employment or agency relationship between the Parties.
- 13.11. **Severance:** If any provision (or part of it) under these Terms is held to be void, invalid, illegal or unenforceable, that provision is to be read down as narrowly as necessary to allow it to be valid or enforceable, failing which, that provision (or that part of that provision) will be severed from these Terms without affecting the validity or enforceability of the remainder of that provision or the other provisions in these Terms.
- 13.12. **Survival:** Each clause, which by its nature survives termination, will survive the termination or expiry of these Terms.

14. Interpretation & Definitions

- 14.1. In these Terms, unless the context otherwise requires:
- (a) a reference to these Terms or any other document includes the document, all Quotes and all annexures as novated, amended, supplemented, varied or replaced from time to time;
 - (b) a reference to any legislation or law includes subordinate legislation or law and all amendments, consolidations, replacements or re-enactments from time to time;
 - (c) a reference to a natural person includes a body corporate, partnership, joint venture, association, government or statutory body or authority or other legal entity and vice versa;
 - (d) no clause will be interpreted to the disadvantage of a Party merely because that Party drafted the clause or would otherwise benefit from it;

- (e) a reference to a party (including a Party) to a document includes that party's executors, administrators, successors, permitted assigns and persons substituted by novation from time to time;
- (f) a reference to a covenant, obligation or agreement of two or more persons binds or benefits them jointly and severally;
- (g) words like including and for example are not words of limitation;
- (h) business day means a day on which banks are open for general banking business in Auckland, New Zealand, excluding Saturdays, Sundays and public holidays;
- (i) a reference to time is to local time in New Zealand; and
- (j) a reference to \$ or dollars refers to the currency of New Zealand from time to time.

14.2. In these Terms, unless the context otherwise requires:

Approval means any approval, consent, licence, permit, permission, application, registration or equivalent required to be obtained in connection with the Goods and Services by any Authority or any law.

Authority means any national or local government departments, bodies, instrumentalities or other public authorities the approval of which is applicable to or necessary for the provision of the Goods and Services.

Confidential Information includes information which:

- (a) is disclosed to a receiving Party in connection with these Terms at any time;
- (b) is prepared or produced under or in connection with these Terms at any time;
- (c) relates to a disclosing Party business, assets or affairs; or
- (d) relates to the subject matter of, the terms of and/or any transactions contemplated by these Terms,

whether or not such information or documentation is reduced to a tangible form or marked in writing as "confidential", and howsoever the information is received.

Consequential Loss includes any consequential loss, indirect loss, real or anticipated loss of profit, loss of benefit, loss of revenue, loss of business, loss of goodwill, loss of opportunity, loss of savings, loss of reputation, loss of use and/or loss or corruption of data, whether under statute, contract, equity, tort (including negligence), indemnity or otherwise. The Parties acknowledge and agree that your obligation to pay us the Price under these Terms will not constitute "Consequential Loss" for the purposes of this definition.

Delivery Costs means the costs associated with the delivery or provision of the Goods, including any insurance, customs, tariffs, duties or other such charges that may apply to the Goods.

Deposit means the amount payable prior to commencing the Services and supplying the Goods, as set out in our Quote.

Defect means a fault, defect or error in the Goods and Services, which has not been caused by you, is directly

related to the Goods and Services we provided, and arises within the Warranty Period.

Expenses means any disbursements, including parking, travel and accommodation costs and third party costs, reasonably and directly incurred by us for the purpose of the provision of the Goods and Services.

Force Majeure Event means any event or circumstance which is beyond a Party's reasonable control including but not limited to, acts of God including fire, hurricane, typhoon, earthquake, landslide, tsunami, mudslide or other catastrophic natural disaster, civil riot, civil rebellion, revolution, terrorism, insurrection, militarily usurped power, act of sabotage, act of a public enemy, war (whether declared or not) or other like hostilities, ionising radiation, contamination by radioactivity, nuclear, chemical or biological contamination, any widespread illness, quarantine or government sanctioned ordinance or shutdown, pandemic (including COVID-19 and any variations or mutations to this disease or illness) or epidemic.

Goods means the goods to be provided by us to you under these Terms, as expressly set out in the Quote, as adjusted in accordance with these Terms.

Improvements means any development, modification, adaptation or improvement of Our Materials or any New Materials made by or on behalf of either Party (or any of their respective Personnel), or in respect of which Intellectual Property Rights are acquired by, either Party during the Term.

Intellectual Property means any copyright, registered or unregistered designs, patents or trade marks, domain names, know-how, inventions, processes, trade secrets or Confidential Information; or circuit layouts, software, computer programs, databases or source codes, including any application, or right to apply, for registration of, and any improvements, enhancements or modifications of, the foregoing.

Intellectual Property Rights means for the duration of the rights in any part of the world, any industrial or intellectual property rights, whether registrable or not, including in respect of Intellectual Property.

Intellectual Property Breach means any breach by you (or any of your Personnel) of any of our Intellectual Property Rights (or any breaches of third-party rights, including any Intellectual Property Rights of third parties), including using or exploiting our Intellectual Property for purposes other than as expressly stated in these Terms (including, without limitation, using our Intellectual Property for commercial purposes or on-selling our Intellectual Property to third parties).

Laws means all applicable laws, regulations, codes, guidelines, policies, protocols, consents, approvals, permits and licences, and any requirements or directions given by any person with the authority to bind the relevant Party in connection with these Terms or the provision of the Goods and Services.

Liability means any expense, cost, liability, loss, damage, claim, notice, entitlement, investigation, demand, proceeding or judgment (whether under statute, contract, equity, tort (including negligence), indemnity or otherwise), howsoever arising, whether direct or indirect and/or whether present, unascertained, future or contingent and whether involving a third party, a Party to these Terms or otherwise.

Moral Rights has the meaning given in the Copyright Act 1994.

New Materials means all Intellectual Property developed, adapted, modified or created by or on behalf of us or you or any of your or our respective Personnel in connection with this Agreement or the provision of the Goods and Services, whether before or after the date of these Terms.

NZCL or New Zealand Consumer Law means the consumer laws applicable in New Zealand, including but not limited to, the Consumer Guarantees Act 1993 and the Fair Trading Act 1986, as amended, supplemented or replaced, from time to time.

Our Materials means all work, models, processes, technologies, strategies, materials, information, documentation, Specifications and services that we may provide to you under these Terms, and which may contain material which is owned by or licensed to us, and is protected by New Zealand and international laws.

Personnel means, in respect of a Party, any of its employees, consultants, suppliers, subcontractors or agents, but in respect of you, does not include us.

Price means the price set out in the Quote for the provision of the Goods and Services, and all other reasonable expenses

or disbursements incurred by us in the provision of the Goods and Services, as adjusted in accordance with these Terms.

Quote means the quote (including any online quote) provided by us to you to which these Terms are attached, or where these terms are not attached, the Terms available on our website at the time of the Quote being issued.

Services means the services to be provided by us, our agents or subcontractors to you under these Terms, as set out in the Quote.

Your Materials means all work, specifications, designs, models, processes, technologies, strategies, materials, information, documentation and services (including Intellectual Property), owned, licensed or developed by or on behalf of you or your Personnel before the Commencement Date and/or developed by or on behalf of you or your Personnel independently of these Terms.

Vessel means the boat or watercraft described in the Quote or any invoice, job sheet or other communication issued by us to you and includes the hull, motors, controls, equipment, accessories, dinghies, tenders and their motors.