



DMCH Marine

Marine Surveys & Maritime Consultancy

DMCH Marine

ABN: 989 441 689 03

Whitsunday and Queensland Region

ph: +61 422 505 738

surveyor@dmchmarine.com.au

www.dmchmarine.com.au

Standard Terms and Conditions

1. Definitions:

The definition of "**Surveyor**" or "**Consultant**" shall henceforth pertain to the entity known as DMCH Marine, which is subject to the conditions written herein.

The definition "**Client**" shall designate the party on whose behalf or at whose behest the Surveyor/Consultant undertakes services.

The definition "**Report**" shall encompass any documentation provided by the Surveyor/Consultant in response to the directives of the Client.

The definition "**Disbursements**" shall denote the reasonable expenditures necessary for the rendering of services.

The definition "**Fees**" shall encompass the charges levied by the Surveyor/Consultant upon the Client, inclusive of any associated Disbursements.

2. Scope:

All services rendered by the Surveyor/Consultant shall strictly conform to the terms and conditions articulated herein.

3. Work:

The Client shall, in a formal written manner, specify the particular services sought from the Surveyor/Consultant. Subsequently, the Surveyor/Consultant shall acknowledge their acceptance of these instructions in writing or set forth the services they intend to undertake as per the directives of the Client. Any subsequent modifications or extensions shall require mutual consent.

4. Payment Terms:

The full payment of fees is a prerequisite prior to the issuance of any report.

5. Late Fee:

To ensure a smooth exchange, a reciprocal late fee of 5% per month will be applied to invoices not settled within 30 days of their issuance. This fee helps us manage our operational costs and ensure timely compensation for services rendered.

6. Obligations and Responsibilities:

(a) Client

The Client shall ensure the provision of comprehensive instructions to the Surveyor/Consultant, allowing sufficient time for the effective and efficient execution of services. Furthermore, the Client is responsible for granting the Surveyor/Consultant requisite access and ensuring the implementation of safety precautions. Surveyor/Consultant shall not be held responsible for late, incomplete, inadequate, inaccurate, or ambiguous instructions. In the event of injury sustained by the Surveyor/Consultant while executing the Client's instructions, the Client shall assume responsibility for covering associated medical expenses.



DMCH Marine

Marine Surveys & Maritime Consultancy

DMCH Marine

ABN: 989 441 689 03

Whitsunday and Queensland Region

ph: +61 422 505 738

surveyor@dmchmarine.com.au

www.dmchmarine.com.au

(b) Surveyor

The surveyor/Consultant shall exercise due care and professional expertise in the delivery of services, adhering to established standards in marine surveying.

(c) Reporting

Upon the completion of the agreed services, the Surveyor/Consultant shall furnish a comprehensive written report to the Client, delineating their findings, as well as the condition or quality of the subject matter of the assignment, unless otherwise instructed by the Client.

(d) Confidentiality

The surveyor/Consultant commits to preserving the confidentiality of any information provided by the Client and shall not grant access to such information to third parties, except when expressly authorised by the Client or mandated by a competent court of law.

(e) Property

Ownership rights to all original work generated by the Surveyor/Consultant shall remain with the Surveyor/Consultant.

(f) Conflict of Interest/Qualification

The surveyor/Consultant shall promptly inform the Client of any factors, including conflicts of interest or a lack of suitable qualifications and experience, which may render their continued involvement inadvisable.

7. Liability:

Surveyor/Consultant shall not be held accountable for any loss, damage, delay, or expenses, whether direct or indirect, unless such can be unequivocally demonstrated to result from their negligence, gross negligence, or wilful default. In cases where such liability is established, the maximum liability shall be limited to the cost of the service charges imposed by the Surveyor/Consultant. Surveyor/Consultant shall not be held liable for any responsibility beyond that which is governed by Australian Consumer Law.

8. Indemnity:

Except for the circumstances and the amount stipulated in Clause 6, the Client assumes the responsibility of indemnifying the Surveyor/Consultant, as well as their employees, agents, and sub-contractors, against all actions, claims, demands, liabilities, and costs arising during the provision of services under these conditions.

9. Force Majeure:

Neither the Surveyor/Consultant nor the Client shall be held liable for any loss, damage, delay, or performance failure resulting from unforeseeable events, such as acts of God, war, legal seizures, quarantine restrictions, labour disputes, boycotts, lockouts, riots, or civil disturbances.

10. Insurance:

Surveyor/Consultant shall, at no cost to the Client, procure and maintain Professional Liability Insurance to cover potential loss and damage for which Surveyor/Consultant may be liable to the Client under these terms and conditions.



DMCH Marine

Marine Surveys & Maritime Consultancy

DMCH Marine

ABN: 989 441 689 03

Whitsunday and Queensland Region

ph: +61 422 505 738

surveyor@dmchmarine.com.au

www.dmchmarine.com.au

11. Surveyor/Consultant's Right to Sub-contract:

The surveyor/Consultant retains the prerogative to sub-contract any of the services detailed in these conditions, provided the Client has valid grounds for objection. In cases where sub-contracting is undertaken, the Surveyor/Consultant shall remain fully accountable for meeting their obligations as delineated in these conditions.

12. Time Bar:

Any claims against the Surveyor/Consultant by the Client shall be considered waived and become time-barred 12 months from the date of the Report's submission to the Client.

13. Dispute Resolution Mechanism:

In the event of a dispute arising from this agreement, the parties shall engage in a mandatory mediation process, led by a qualified, neutral mediator agreed upon by both parties. Should mediation fail to resolve the dispute within fourteen days, the parties shall resort to binding arbitration in accordance with the rules of the chosen arbitration body. The place of arbitration shall be within Queensland. All decisions rendered by the arbitrator shall be final and binding upon both parties. Any legal action shall be deferred until mediation and arbitration processes are exhausted.

14. Termination Clause:

Either party may terminate this agreement with written notice if the other party commits a material breach of its obligations and fails to remedy the breach. Upon termination, all outstanding fees and expenses shall be settled, and any confidential information and materials shall be promptly returned to the party to whom they belong. A termination fee of the cost of service rendered may be applicable in cases where termination is initiated by either party without cause.

15. Intellectual Property:

All intellectual property, including but not limited to documents, reports, software, and other proprietary work created by the Surveyor/Consultant in the course of providing services, shall be owned exclusively by the Surveyor/Consultant. The Client shall be granted a non-exclusive, non-transferable license to use such intellectual property for its internal purposes only. The surveyor/Consultant shall take reasonable measures to protect its intellectual property rights, and the Client shall cooperate in these efforts.

16. Privacy and Data Protection:

Both parties agree to comply with all applicable data protection and privacy laws and regulations. In the event of a data breach or unauthorised access to sensitive data, the party experiencing the breach shall promptly notify the other party. The Client shall implement necessary security measures to protect data provided to the Surveyor/Consultant and ensure its secure transmission. Any data processing activities shall be in compliance with relevant privacy and data protection laws.



DMCH Marine

Marine Surveys & Maritime Consultancy

DMCH Marine

ABN: 989 441 689 03

Whitsunday and Queensland Region

ph: +61 422 505 738

surveyor@dmchmarine.com.au

www.dmchmarine.com.au

17. Survey Report:

The Client is expressly prohibited from disseminating or providing corresponding survey reports, in part or their entirety, to any external parties or entities without the prior, explicit written consent of the Surveyor/Consultant. Any such dissemination without proper authorisation shall be considered a breach of this agreement and may result in legal action or other appropriate remedies.

18. Jurisdiction and Law:

This agreement shall be governed by and construed in accordance with the laws of the state of Queensland, and any legal disputes arising from or in connection with this agreement shall be subject to the exclusive jurisdiction of the courts of Queensland. The parties consent to the jurisdiction of these courts.

19. Compliance with Laws:

Both parties shall adhere to all applicable laws, regulations, and industry standards relevant to the provision of services under this agreement. Any non-compliance or violation of laws shall be reported promptly to the other party, and the parties shall work together to address and rectify such non-compliance. Violations of laws may result in penalties and liabilities, which shall be borne by the party responsible for the violation.

20. Third-Party Beneficiaries:

No third parties, other than those expressly named in this agreement, shall have any rights or claims under this agreement, and no third party shall be entitled to enforce or benefit from any of the provisions herein unless explicitly provided for in a separate written agreement between the parties and the third party.

21. Amendment and Modification:

This agreement may be amended or modified only by written agreement of both parties. A party seeking an amendment shall submit a written request to the other party, specifying the proposed changes and the rationale for such changes. Amendments shall become effective upon the mutual written consent of both parties. Any notice of amendments shall be delivered in accordance with the notice clause outlined in this agreement.