



Terms and Conditions for Marine Bodyworkz Ltd

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1. APPLICATION

1.1 Marine Bodyworkz Ltd and the Client have agreed that Marine Bodyworkz Ltd will carry out or procure the carrying out of work as set out in the Statement of Work.

1.2 These terms of business are incorporated into the agreement between the Client and Marine Bodyworkz Ltd and form part of the agreement.

1.3 Unless otherwise agreed in writing, order confirmation, refit, repair or modification works shall constitute agreement to these terms of business.

1. DEFINITIONS AND INTERPRETATION

2.1 Unless otherwise specified, references to clauses shall be to clauses in these terms of business and, unless the context otherwise requires, the following definitions apply:
Client's Equipment: any equipment, tools, systems, cabling or facilities provided or owned by the Client.

Client's Manager: the Client's manager, appointed in accordance with clause 5.

Statement of Work: any quotation or statement agreed by the Client and Marine Bodyworkz Ltd pursuant to this agreement as amended from time to time in accordance with clause 7 detailing the work to be carried out.

Services: the services to be provided by Marine Bodyworkz Ltd, including any work and services specified in the Statement of Work, together with any other services which Marine Bodyworkz Ltd provides or agrees to provide to the Client.

Marine Bodyworkz Ltd Equipment: any equipment, tools, systems, cabling or facilities provided by Marine Bodyworkz Ltd or its subcontractors and used directly or indirectly in the supply of the services which are not the subject of a separate agreement between the parties under which title passes to the Client.

Marine Bodyworkz Ltd Manager: Marine Bodyworkz Ltd manager appointed pursuant to clause 4.

VAT: value added tax chargeable under English law for the time being and any similar additional tax.

Vessel: the vessel or equipment to which this agreement applies.

2.2 Words importing one gender include any other genders and words importing the singular include the plural and vice versa.

2.3 A reference to a person includes a reference to a natural person, corporate or unincorporated body (whether or not having separate legal personality and wherever and however incorporated or established) and that person's personal representatives, successors and permitted assigns.

2.4 The clause headings in these terms of business are for reference only and shall not affect the construction or interpretation.

2.5 Any obligation on a person not to do something includes an obligation not to agree or allow that thing to be done and to prevent such act or thing being done by a third party.

2.6 Unless the context requires otherwise, the words "include", "including", "in particular", "for example" or any similar expression shall be construed as illustrative, shall not limit the sense of the words and shall be deemed to be followed by the words "without limitation".

2.7 A reference to "writing" or "written" includes fax and e-mail.

2.8 A reference to a statute or statutory provision is a reference to it as amended, extended or reenacted from time to time and shall include all subordinate legislation made under that statute or statutory provision.

2.9 References to "this agreement" include the parts setting out the statement of the parties, these terms of business and any other terms and conditions attached to this agreement or incorporated herein by reference or by agreement.

1. STATEMENT OF WORK

3.1 The Statement of Work shall be agreed in the following manner:

3.1.1 the Client shall provide Marine Bodyworkz Ltd with a request for a Statement of Work, setting out the requirements and specifications of the services which it is requesting from Marine Bodyworkz Ltd, including a description of what work is to be done, dates by which it is requested to be started and finished and such other information as Marine Bodyworkz Ltd may request to allow Marine Bodyworkz to prepare a draft Statement of Work;

3.1.2 Marine Bodyworkz Ltd shall, as soon as reasonably practicable, provide the Client with a draft Statement of Work; and

3.1.3 Marine Bodyworkz Ltd and the Client shall discuss and agree the draft Statement of Work and when it has been agreed, they shall both sign a copy of it and it shall become part of and subject to this agreement.

3.2 Marine Bodyworkz Ltd shall not charge for the preparation of the Statement of Work.

3.3 Once the Statement of Work has been agreed and signed in accordance with clause 3.1 3, no amendment shall be made to it except in accordance with clause 6.

1. MARINE BODYWORKZ LTD OBLIGATIONS AND GUARANTEE

4.1 Marine Bodyworkz Ltd shall use reasonable endeavours to provide the Services from the date as is agreed between the parties in accordance with the Statement of Work (where applicable) and otherwise to a satisfactory quality in all material respects.

4.2 The Services supplied under this agreement shall continue to be supplied until the work on the Vessel is completed in accordance with the Statement of Work unless this agreement is terminated in accordance with its terms.

4.3 In respect of defects resulting exclusively from poor workmanship of Marine Bodyworkz Ltd, Marine Bodyworkz Ltd will remedy or procure the remedy of such defects appearing within twelve months from the completion of the work on the Vessel provided that notice of such defect is given to Marine Bodyworkz Ltd within fourteen days of the discovery of the defect and provided also that Marine Bodyworkz Ltd will have no liability under this guarantee if the Client has put in hand remedial work other than by Marine Bodyworkz Ltd or under the terms of this clause.

4.4 Marine Bodyworkz Ltd shall appoint a Marine Bodyworkz Ltd Manager who shall have authority contractually to bind Marine Bodyworkz Ltd on all matters relating to the Services. Marine Bodyworkz Ltd shall use reasonable endeavours to ensure that the same person acts as Marine Bodyworkz Manager Ltd throughout the term of this agreement, but may replace them from time to time where reasonably necessary in the interests of Marine Bodyworkz Ltd

business.

4.5 Any time for the provision of the Services is given in good faith but is an estimate only, is not guaranteed and is not of the essence of this agreement. Marine Bodyworkz Ltd shall not be responsible for any delay in the provision of the Services or for the consequences of any such delay unless it arises from the negligence or deliberate act or wilful default of Marine Bodyworkz Ltd.

4.6 Notwithstanding anything to the contrary in this agreement, Marine Bodyworkz Ltd shall have no liability for any work carried out in accordance with the instructions of the Client or in accordance with designs or drawings supplied by the Client or a third party acting on the instructions of the Client unless included in the Statement of Work nor in respect of materials supplied by the Client or a third party acting on the instructions of the Client.

1. CLIENT'S OBLIGATIONS

5.1 The Client shall appoint the Client's Manager and the Client's Manager shall, in addition to the Client, have the authority contractually to bind the Client on all matters relating to the Services and any changes to the Services or to the terms and conditions relating to the provision of the Services.

5.2 The Client shall:

5.2.1 co-operate with Marine Bodyworkz Ltd in all matters relating to the Services;

5.2.2 provide, in a timely manner, such information as Marine Bodyworkz Ltd may reasonably require, and ensure that it is accurate in all material respects;

5.2.3 ensure that all Client's Equipment is in good working order and suitable for the purposes for which it is used in relation to the Services and conforms to all relevant United Kingdom standards or requirements;

5.2.4 obtain and maintain all necessary licences and consents and comply with all relevant legislation in relation to the Services, the installation of Marine Bodyworkz Ltd Equipment, and the use of the Client's Equipment, in all cases before the date on which the Services are to start;

5.3 The Client warrants the accuracy in all material respects of all information, documents and data supplied by it to Marine Bodyworkz Ltd relating to the Vessel and accepts that Marine Bodyworkz Ltd will and may rely upon the same for the provision of the Services.

5.4 If Marine Bodyworkz Ltd performance of its obligations under this agreement is prevented or delayed by any act or omission of the Client, its agents, subcontractors, consultants or employees, Marine Bodyworkz Ltd shall not be liable for any costs, charges or losses sustained or incurred by the Client that arise directly or indirectly from such prevention or delay.

5.5 The Client shall be liable to pay to Marine Bodyworkz Ltd, on demand, all reasonable costs, charges or losses sustained or incurred by Marine Bodyworkz Ltd (including any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property and those arising from injury to or death of any person and loss of opportunity to deploy resources elsewhere) that arise directly or indirectly from the Client's fraud, negligence, failure to perform or delay in the performance of any of its obligations under this agreement.

5.6 The Client shall not, without the prior written consent of Marine Bodyworkz Ltd, at any time from the date of this agreement to the expiry of twelve months after the last date of supply of the Services, solicit or entice away from Marine Bodyworkz Ltd or employ or attempt to employ any person who is, or has been, engaged as an employee, consultant or subcontractor of Marine Bodyworkz Ltd in the provision of the Services.

1. CHANGE CONTROL

6.1 The Client's Manager and Marine Bodyworkz Ltd Manager shall meet as often as required or in accordance with the procedures agreed between the parties to discuss matters relating to the Services. Minor changes to the Services which do not affect the nature or quality of the Services may be agreed by agreement between the Client's Manager and Marine Bodyworkz Ltd Manager and become immediately effective and implemented. If either party wishes to change the scope, execution, nature or quality of the Services, it shall submit details of the

requested change to the other in writing.

6.2 If either party requests a change to the scope, execution, nature or quality of the Services, Marine Bodyworkz Ltd shall, within a reasonable time, provide a written estimate to the Client of:

6.2.1 the likely time required to implement the change;

6.2.2 any necessary variations to Marine Bodyworkz Ltd charges arising from the change;

6.2.3 the likely effect of the change on the Statement of Work; and

6.2.4 any other impact of the change on the provision of the Services.

6.3 If the Client wishes Marine Bodyworkz Ltd to proceed with the change, Marine Bodyworkz Ltd has no obligation to do so unless and until the parties have agreed the necessary variations to its charges, the Services, the relevant Statement of Work and any other relevant terms of this agreement to take account of the change and the change has been agreed in writing by the parties.

6.4 Marine Bodyworkz Ltd may charge for the time it spends assessing a request for change from the Client on a time and materials basis in accordance with Marine Bodyworkz Ltd standard daily fee rates then in force.

6.5 Notwithstanding clause 6.1 and clause 6.2, Marine Bodyworkz Ltd may, from time to time and without notice, change the Services in order to comply with any applicable safety or statutory requirements, provided that such changes do not materially affect the nature, scope of, or the charges for the Services.

1. PRICE AND QUOTATIONS

7.1 The Client shall pay any charges as set out in the Statement of Work.

7.2 Unless otherwise agreed in writing, the price for the provision of the services shall be based on time, expenses (including charges on a metered basis) and materials actually expended on, or used in connection with, the Services at Marine Bodyworkz Ltd relevant current rate or price.

7.3 Quotations are subject always to the accuracy of the information provided by the Client. Quotations will not include the costs of any unforeseen work arising from the state of the Vessel or any work resulting from inaccurate information supplied by the Client.

7.4 Marine Bodyworkz Ltd will inform the Client as soon as reasonably practical of any proposed increases in quotations found to be necessary and the reasons for them.

7.5 All prices and quotations are exclusive of VAT, unless otherwise stated, and VAT shall be added where appropriate or required to each invoice.

1. INVOICING AND PAYMENT

8.1 Marine Bodyworkz Ltd shall invoice the Client weekly in arrears for its charges for time, expenses and materials and any other agreed charges for the week concerned together with any VAT payable.

8.2 The Client shall pay each invoice submitted to it by Marine Bodyworkz Ltd, in full and in cleared funds, within 7 days of the date of the invoice or on termination of this agreement to a bank account nominated in writing by Marine Bodyworkz Ltd.

8.3 Without prejudice to any other right or remedy that it may have, if the Client fails to pay Marine Bodyworkz Ltd on the due date:

8.3.1 the Client shall pay interest on the overdue amount at the rate of 10% per annum above Barclays Bank plc's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Client shall pay the interest together with the overdue amount; and

8.3.2 Marine Bodyworkz Ltd may suspend the provision of all Services until payment has been made in full.

8.4 All sums payable to Marine Bodyworkz Ltd under this agreement shall become due immediately on its termination, despite any other provision.

8.5 All amounts due under this agreement shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

1. LIMITATION OF LIABILITY AND INSURANCE

9.1 Nothing in this agreement limits or excludes Marine Bodyworkz Ltd liability for:

9.1.1 death or personal injury caused by its negligence;

9.1.2 fraud or fraudulent misrepresentation; or

9.1.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by applicable law.

9.2 Marine Bodyworkz Ltd shall not be liable or responsible to the Client, nor be deemed to have defaulted under or breached this agreement, for any failure or delay in fulfilling or performing any term of this agreement (except for any obligations to make payments to the other party hereunder), when and to the extent such failure or delay is caused by or results from acts beyond Marine Bodyworkz Ltd reasonable control, including, without limitation: (a) acts of God; (b) flood, fire, earthquake or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order or law; (e) actions, embargoes or blockades in effect on or after the date of this agreement; (f) action by any governmental authority; (g) national or regional emergency; (h) strikes, labour stoppages or slowdowns or other industrial disturbances. Marine Bodyworkz Ltd shall give notice within seven days of the force majeure event to the Client, stating the period of time the occurrence is expected to continue and shall use diligent efforts to end the failure or delay and ensure the effects of such force majeure event are minimised.

9.3 Subject to clause 9.1, Marine Bodyworkz Ltd shall not be liable to the Client, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this agreement for:

9.3.1 loss of profits;

9.3.2 loss of sales or business;

9.3.3 loss of agreements or contracts;

9.3.4 loss of anticipated savings;

9.3.5 loss of or damage to goodwill;

9.3.6 loss of use or corruption of software, data or information;

9.3.7 any indirect or consequential loss.

9.3.8 not withstanding anything to the contrary in the terms and conditions of this agreement the aggregate liability of Marine Bodyworkz Ltd shall not exceed the sum of £10,000,000 (10 million pounds sterling).

1. TERMINATION

Without affecting any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving written notice to the other party if:

10.1 the other party fails to pay any amount due under this agreement on the due date for payment and remains in default not less than ten days after being notified in writing to make such payment;

10.2 the other party commits a material breach of any other term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of ten days after being notified in writing to do so;

10.3 the other party repeatedly breaches any of the terms of this agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;

10.4 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;

10.5 the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;

10.6 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party (being a company);
10.7 an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party (being a company);
10.8 the holder of a qualifying floating charge over the assets of that other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
10.9 a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
10.10 the other party (being an individual) is the subject of a bankruptcy petition or order;
10.11 a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or issued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;
10.12 any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 10.4 to 10.11 (inclusive);
10.13 the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
10.14 the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.

1. CONSEQUENCES OF TERMINATION

11.1 On termination or expiry of this agreement the Client shall immediately pay to Marine Bodyworkz Ltd all of Marine Bodyworkz Ltd outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, Marine Bodyworkz Ltd may submit an invoice, which shall be payable immediately on receipt.

11.2 Termination or expiry of this agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination or expiry.

11.3 Any provision of this agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this agreement shall remain in full force and effect.

12. GENERAL

12.1 No exercise or failure to exercise or delay in exercising any of Marine Bodyworkz Ltd rights, powers or remedies shall be deemed to be a waiver by Marine Bodyworkz Ltd of that or any other right power or remedy.

12.2 The rights granted in this agreement are personal to the Client and the Client may not assign its rights or obligations under this agreement.

12.3 Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the Client and Marine Bodyworkz Ltd, constitute either of them the agent of the other or authorise either of them to make or enter into any commitments for or on behalf of the other.

12.4.1 If any provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision shall be deemed deleted. Any modification to or deletion of a provision under this clause shall not affect the validity and enforceability of the rest of this agreement.

12.4.2 Without prejudice to clause 12.4.1, if any provision of this agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

12.5 The rights and remedies provided in this agreement are in addition to, and not exclusive of, any rights and remedies provided by law.

12.6.1 A waiver of any right or remedy under this agreement or by law is only effective if given

in writing and shall not be deemed a waiver of any subsequent breach or default.

12.6.2 A failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.

12.7.1 This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

Marine Bodyworkz Ltd may introduce new terms and conditions of business on the grounds of legal requirement and may amend such terms and conditions from time to time as considered appropriate. All such provisions and any amendments shall become effective and shall form part of these terms of business being displayed on Marine Bodyworkz Ltd website.

12.7.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement.

12.8 A person who is not a party to this agreement may not enforce any of its terms under the Contracts (Right of Third Parties) Act 1999 or otherwise.

13. DATA PROTECTION

The Client acknowledges and agrees that details of the Client's name, address and payment record may be submitted to a credit reference agency, and personal data will be processed by and on behalf of Marine Bodyworkz Ltd in connection with the Services.

14. NOTICES

14.1 All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognised overnight courier (receipt requested); (c) on the date sent by facsimile or e-mail (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient; or (d) on the third day after the date mailed, by certified or registered mail (in each case, return receipt requested, postage pre-paid). Such communications must be sent to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this clause):

14.1.1 to Marine Bodyworkz Ltd, 8 Merchants Quay, Pennygillam Industrial Estate, Launceston, Cornwall, England, PL15 7QA; email: Info@marinebodyworkz.com.

14.1.2 to the Client at the address and email specified by the Client by notice in writing to MarineBodyworkz Ltd.

14.2 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

14. GOVERNING LAW AND JURISDICTION

15.1 This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England and Wales.

15.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims). Marine Bodyworkz Limited, Company Registration Number: 09752387 Registered in England and Wales Registered Office: 8 Merchants Quay, Pennygillam Industrial Estate, Launceston, Cornwall, England, PL15 7QA.