

QAB AND BOAT GRADING TERMS OF BUSINESS

1. **PRELIMINARY PROVISIONS AND DEFINITIONS**
 - 1.1 These Terms of Business form an integral part of all Orders accepted by the Company. No Order is accepted (and contract formed) until the Company sends an invoice for the Order to the Customer.
 - 1.2 These Terms of Business apply to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
 - 1.3 In these Terms of Business:

'Company' means British Marine Federation, company number 2592536, registered office Marine House, Thorpe Lea Road, Egham, Surrey, TW20 8BF.

'Customer' means the party or parties with whom the Company agrees to perform the Work, any parent or associated company and/or firm, as well as any authorised member, agent, employee or representative of the Customer. In the event that the Company enters into an agreement with more than one party, the obligations of such other parties shall be joint and several, unless otherwise agreed in writing.

'Intellectual Property Rights' patents, rights to inventions, copyright and related rights, trade marks, trade names and domain names, rights in get-up, rights in goodwill or to sue for passing off, rights in designs, rights in computer software, database rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which may now or in the future subsist in any part of the world.

"Logos" means the British Marine Federation logo and Visit England logo, to be sent to the Customer electronically upon obtaining QAB accreditation and/or a certain grading level under the Boat Grading Scheme.

'Order' means the Customer's order for the Work, as set out in the Customer's Quality Accredited Boatyard (QAB) & Boat Grading Scheme: Booking Form.

'Parties' means the Company and the Customer; each a Party and collectively the Parties.

'Work' means the goods and/or services to be supplied and/or work to be performed by or on behalf of the Company in relation to the Quality Accredited Boatyard Scheme and, if applicable, the Boat Grading Scheme, as further detailed in the Order pursuant to these Terms of Business.
 2. **LIABILITY**
 - 2.1 The Company shall not be liable for any failure or delay in performing its obligations hereunder, or for any loss or damage, caused by or arising from events or circumstances beyond its reasonable control (which includes, without limitation, acts of God, wars (whether declared or not), riots, civil commotions, malicious damage, embargoes, compliance with any law or governmental order, rule, regulation or direction, breakdown of plant or machinery, fire, flood, accidents, strikes, lock-outs or other industrial disputes (whether involving the workforce of the Company or any other Party), failure of a utility service or transport network, unusually severe weather conditions, default of suppliers or subcontractors or the actions of third parties not employed by the Parties).
 - 2.2 The Customer shall effect and maintain, at no cost to the Company, liability insurance providing cover for any loss or damage for which the Customer may be liable under these Terms of Business (including third party liability and marine liability cover and, where appropriate, employer's liability cover in respect of any of its employees).
 - 2.3 The Customer shall produce copies of insurance policies as evidence of cover, immediately and (in any case within two (2) days) upon request by the Company.
 - 2.4 The Customer shall defend, indemnify and hold harmless the Company against all actions, judgements, awards, penalties, debts, losses, costs, claims, demands, expenses and liabilities (in all cases whether foreseeable at the Commencement Date or not and without any duty to mitigate) howsoever arising and which are incurred either in contract, common law or statute and arise out of, under, or in relation to:
 - (a) a breach of the Terms of Business by the Customer, its employees, agents or subcontractors;
 - (b) any act, omission, neglect or default of the Customer, its employees, agents or subcontractors;
 - (c) any breach of any laws or regulations by the Customer, its employees, agents, subcontractors or Appointed Person(s)
 - (d) any information provided by the Customer, its employees, agents or subcontractors; and
- (e) claims by any third parties in respect of any boat which has been awarded a grading under the Boat Grading Scheme and/or any QAB accreditation awarded.
 - 2.5 The Company's total aggregate liability to the Customer (whether in contract, tort including negligence or statute) arising out of, under, or in relation to these Terms of Business and the performance of the Work shall at all time be limited to the Price of the Work as provided for in clause 3.1 of these Terms of Business.
 - 2.6 Subject to Clause 2.8, the Company shall under no circumstances whatsoever, be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, loss of goodwill, loss of contract, loss of business opportunity, damage to reputation or any indirect or consequential loss arising under or in connection with these Terms of Business or the performance of the Work.
 - 2.7 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from these Terms of Business.
 - 2.8 Nothing in these Terms of Business shall limit or exclude either Party's liability to the other for: (1) fraud; (2) fraudulent misrepresentation; (3) death or personal injury caused by its negligence; or (4) for any other matter for which it would be illegal to limit or exclude under current law.
3. **PRICES, ESTIMATES AND TIME FOR PERFORMANCE**
 - 3.1 The price for the Work shall be the relevant fee for such Work as identified at the end of the Quality Accredited Boatyard (QAB) & Boat Grading Scheme: Booking Form (the **"Price"**).
 - 3.2 The Company will inform the Customer of any proposed increase in the estimated Price, together with the reasons for such increase, and will proceed with the Work after having obtained the Customer's approval (such approval not to be unreasonably delayed or withheld). The Customer shall remain responsible for the cost of labour and materials already supplied or remaining to be supplied which are not affected by the proposed increase in the Price.
 - 3.3 Whilst the Company will use reasonable endeavours to ensure that the Work is performed on the dates agreed between the Customer and the Company's nominated assessor, the Company (or the Company's nominated assessor) shall be free to cancel the time for such Work with no liability whatsoever to the Customer. In such circumstances, the Company and/or its nominated assessor will liaise with the Company to agree an alternative time for the Work to be performed. If no alternative date can be agreed or if no assessor is available to undertake such Work, then the Customer shall be entitled to a refund of the Price.
 - 3.4 The Customer shall be free to cancel the Work at any time by providing the Company written notice of its intention to do so, but shall be liable to and shall indemnify the Company for any irrecoverable costs and expenses incurred by the Company in respect of such cancelled Work (whether foreseeable at the date of the Customer's Order or not).
 4. **PAYMENT**
 - 4.1 Payment by the Customer of the Price must be made together with submission of the Order. Payment shall be deemed to have been made when received by the Company in cash or cleared funds at the Company's nominated bank account. Time for payment is of the essence.
 - 4.2 If the Customer fails to make any payment due to the Company by the due date for payment, the Company has the right to charge interest on the overdue amount at the rate of four percent (4%) above Bank of England 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.
 - 4.3 The Customer shall pay all amounts due under these Terms of Business in full without any set-off, counterclaim, deduction or withholding except as required or permitted by law. The Company may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by the Company to the Customer.
 5. **INTELLECTUAL PROPERTY RIGHTS**
 - 5.1 Each party shall be entitled to retain all Intellectual Property Rights that are:
 - (a) owned by it which are in existence prior to commencement of the Services; or
 - (b) which are or licensed to it by a third party.

5.2 Subject to the Customer being awarded QAB accreditation and/or a certain grading within the Boat Grading Scheme, the Company grants the Customer a limited, non-exclusive, revocable, royalty-free, personal, non-transferrable, non-assignable licence to use the Logos (and Intellectual Property Rights therein) for the sole purpose of promoting and marketing its business within the UK and for such duration as the Company may specify.

5.3 The Customer shall not amend or alter the Logos in any way and shall follow any instructions of BMF when using such Logo.

5.4 The licence referred to in clause 5.2 shall terminate immediately upon the Customer's QAB accreditation and/or grading within the Boat Grading Scheme being lost or expiring for any reason (including but not limited to: the Company revoking such licence at its sole discretion, the Customer failing a surprise inspection, the term of the licence expiring or the Order and/or Terms of Business being terminated).

5.5 Upon expiry or termination of the licence under clause 5.2 above The Customer shall ensure that all promotional and/or marketing information of the Customer be amended immediately to remove all references to the Logos and its accreditation and/or grading (as applicable).

6 CUSTOMER'S OBLIGATIONS

6.1 The Customer shall:

- (i) liaise with the Company's nominated assessor in order to agree a date for such assessor to attend the Customer's premises to undertake the assessment and inspections aspects of the Work;
- (ii) Provide such access and assistance as the assessor may require to enable it to conduct a rigorous assessment under clause 6.1(i) above;
- (iii) Not commit, or allow any of its employees, agents or subcontractors any act or omission which has or is likely to have the effect of damaging the reputation or business of the Company;
- (iv) Provide the Company with honest, fair, up to date and accurate information to enable it to undertake the Work and to update the Company without delay should any of the information provided to the Company change;
- (v) Provide the Company with all data and information (in such form as the Company determines at its sole discretion) to enable it to perform the Work,
- (vi) Report to Customer any unacceptable behaviour of the assessor in writing and as soon as reasonably practicable.
- (vii) Adhere to all applicable laws, regulations, codes and standards (including but not limited to all applicable laws and regulations concerning health and safety for the Customer's premises and the vessel(s) to be inspected and assessed).

7 GUARANTEE-

7.1 These Terms of Business do not contain any express or implied term as to quality or fitness for any particular purpose.

7.2 The Company, its assessors, agents and subcontractors shall perform the Work using reasonable care and skill as expected from a company providing goods and services of a similar nature, complexity, scope and value as the Work.

7.3 Should the Customer feel that they have been unfairly assessed by an assessor, it may follow the Company's appeals procedure (as may be amended by the Company from time to time), the latest copy of which is available on request from the Company. The Company's appeals procedure is the Customer's sole and exclusive remedy in respect of the Company's defective performance of the Work.

8 TERMINATION

8.1 The Company shall be entitled to terminate the Order and these Terms of Business with immediate written notice should the Customer commit a breach of these Terms of Business.

8.2 The following clauses shall survive termination of the Order and the Terms of Business for any reason: 1.3, 2, 4, 5, 8, 10, 11, 12 and 13 (inclusive).

9 ASSIGNMENT AND OTHER DEALINGS

9.1 The Company may at any time assign, transfer or deal in any other manner with all or any rights under these Terms of Business and may sub-contract or delegate in any manner any or all of its obligations under these Terms of Business to a third party.

9.2 The Customer shall not, without the prior written consent of the Company, assign, transfer, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under these Terms of Business.

10 THIRD PARTY RIGHTS

10.1 A person who is not a Party to these Terms of Business shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of these Terms of Business.

11 COMMUNICATION AND NOTICES

11.1 All communications and notices given under these Terms of Business

shall be in writing. A notice shall be sufficiently served if given by effective means of communication, including but not limited to fax, email, registered or recorded mail or by personal service, to the Customer's last known address or to the Company's official email, trading address or registered office.

12 SEVERANCE

12.1 If any provision of these Terms of Business 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 or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this Clause 12 shall not affect the validity and enforceability of the remaining provisions of these Terms of Business.

13 GOVERNING LAW AND JURISDICTION

13.1 These Terms of Business, as well as any contract(s) made subject to these Terms of Business, shall be governed by and construed in accordance with English law.

13.2 All disputes arising out of or in connection with these Terms of Business shall be subject to the non-exclusive jurisdiction of the English courts.