



SPECIALIST
PROFESSIONAL
INDEMNITY
INSURANCE

STANDARD TERMS AND CONDITIONS FOR NAVAL ARCHITECTS

IMPORTANT NOTICE

These terms and conditions are published for the general interest of members of ITIC. The specific requirements of individual businesses vary and accordingly no responsibility can be taken for the suitability of these terms and conditions to a specific business. As with all contractual terms it is important that the user ensures that they are properly incorporated into their dealings with other parties. Members should seek the advice of their usual legal adviser prior to using such terms and conditions.

ITIC reserves all rights, including copyright, trademarks and other intellectual property rights, in these standard trading conditions and no part thereof can be redistributed, republished or stored in any format without the express written permission of ITIC

WARNING – THERE ARE BLANK SPACES THAT MUST BE FILLED IN BEFORE USE!!!

A - If given to the client for signature:

By **[Client company name]** of **[city, state, country]** ("Client") accepting the services of **[your Company name]** (trading as xxxxx) of [address], ("Consultant") relating to **[general identification of purpose of assignment]**, client hereby agrees to the following terms and conditions:

OR

B - If not given to the client (e.g. displayed on your website):

All services undertaken by **[your company name]** (Consultant) are subject to these terms and conditions:

1. (a) The Client contracts with Consultant for the purpose of obtaining services in accordance with the following terms and conditions.

OR

(b) The company or person contracting with the Consultant (hereafter known as the Client) for the purpose of obtaining services does so in accordance with the following terms and conditions.

(delete 1(a) or 1(b) as appropriate)

2. Unless otherwise agreed in writing, fees payable by Client for work performed by Consultant shall be () per hour for the Principal Naval Architect; () per hour for naval architects, () per hour for draftspersons, () per hour for administrative persons, and () per issue for certificates of compliance. These rates apply to all consulting, studying, advice, research, deposition and testimony time. Pure travel time will be invoiced at () per day or part thereof. All rates are VAT exclusive. All rates may be increased by five percent (5%) in each twelve month period from the 1 January 2021.
3. Client will pay reasonable and necessary direct costs and expenses, in addition to the above rates, incurred by Consultant in association with the provision of the professional service,

including but not limited to communications, travel, printing/copying and other costs as appropriate. Consultant shall be solely responsible for arranging all required travel and accommodation.

4. Client will render full payment in response to Consultant's invoices within () days of receipt of the invoice regardless of the fee payment arrangement between Client and any other party. Interest will accrue on all invoiced amounts which have not been paid at 8% above base rate per annum as per the Late Payment of Commercial Debts (Interest) Act 1998
5. This Agreement is governed by the laws of England. Any dispute, controversy or claim arising out of, or relating to or in connection with this Agreement shall exclusively be resolved in London, England by arbitration in accordance with the Arbitration Act 1996 and the Rules of LMAA from time to time in force. Any dispute under (GBP30,000) will be referred to the LMAA Small Claims Procedure. The language of the arbitration will be English.
6. The parties will be bound by this Agreement. For the avoidance of doubt, acceptance of and commencement of work and/or payment of the deposit by the Client, without signing this agreement, will constitute the Client's agreement and acceptance to these terms and conditions in full. Consultant is bound to use reasonable efforts to commence the works contemplated by this Agreement upon execution of the Agreement by both parties, and receipt of a deposit of 25% of the total estimate amount, which shall be credited toward the first invoice, and the balance (if any) will be credited toward the next or subsequent invoices for the assignment.
7. Client acknowledges that estimates, whilst being a reasonable guess of the total work costs are not binding. The actual total fees and expenses may exceed the estimate for a number of reasons, such as, but not limited to; (a) the scope of work is undefined at the time of executing this Agreement, or (b) if not all information requested is supplied initially, or (c) if anomalies or variants are discovered during assessment, or (d) a change of project scope is requested after the Agreement has been executed. Where an anomaly occurs or a project scope change is requested after executing the Agreement, where practical any work will cease and a new written estimate will be issued. However, should a new estimate not be produced the Consultants fees will be what is invoiced to the Client.
8. Consultant is not responsible for and accepts no liability for any error, inaccuracy or negligence in the manufacture of the vessel or object that is the subject of this Agreement, or where the building has not been in accordance with the drawings prepared. The Consultant is not responsible for and accepts no liability for any error, inaccuracy or negligence in the design or performance or manufacture of the vessel or object that is not of the Consultants design, that is the subject of this Agreement, or where the building has not been in accordance with the drawings prepared.
9. Where Consultant relies upon drawings and/or information provided by third parties (for example, but not limited to, the Client, a ship yard, a third party designer), Consultant is not responsible for any errors and inaccuracies in drawings, measurements and/or any other base data provided. The Consultant is entitled to reasonably rely on the accuracy of such documents. Unless otherwise stated, Consultant will not review the consistency of the information on the certificate of compliance with any other material, plans, documentation or certificates of compliance. Each certificate of compliance is limited to the verification of the specific plans and/or documentation as stated on each particular certificate.
10. Consultant shall be under no liability whatsoever to the Client for any loss, damage, delay or expense of whatsoever nature, whether direct or indirect and howsoever arising UNLESS same is proved to have resulted solely from the negligence, gross negligence or wilful default of Consultant or any of its employees or agents or sub-contractors.
11. In the event that the Client proves that the loss, damage, delay or expense was caused solely by the negligence, gross negligence or wilful default of Consultant aforesaid then, save for where loss, damage, delay or expense has resulted from Consultant's personal act or omission committed with the intent to cause same or recklessly and with knowledge that such loss, damage, delay or expense would probably result, Consultant's liability (both directly and indirectly) for each incident or series of incidents giving rise to a claim or claims shall never exceed a sum calculated on the basis of ten times Consultant's charges or GBP100,000, whichever is the higher.
12. In respect to clause 10 and 11 above, the Consultant hereby excludes all liability for consequential loss. Loss of profit is always to be considered as non-consequential loss, whether it is direct or indirect.
13. Consultant shall not be liable for loss of or damage to equipment and other items placed at its disposal by or on behalf of the Client however such loss or damage occurs.

14. Consultant shall be discharged of all liability in respect of any claim for loss, damage, delay or expense suffered by Client (or alleged to be suffered by Client) unless, within 12 months from the date on which Consultant submits a final report to Client (or, if no report is issued, the date on which the report would have been issued or if no report is required, the date of the Consultant's final invoice) formal arbitration proceedings are commenced pursuant to Clause 5 by Client against Consultant.
15. Client hereby undertakes to keep Consultant and its employees, agents and sub-contractors indemnified and to hold them harmless against all actions, proceedings, claims, demands or liabilities whatsoever or howsoever arising which may be brought against them or incurred or suffered by them, and against and in respect of all costs, loss, damages and expenses (including legal costs and expenses on a full indemnity basis) which Consultant may suffer or incur (either directly or indirectly) in the course of performing the services under this Agreement, unless such costs, loss, damages and expenses (including legal costs) arise solely as a result of the Consultant's negligence, gross negligence or wilful misconduct. The loss need not occur before the Consultant may rely on this indemnity.
16. Neither Consultant nor Client shall, except as otherwise provided in these Agreement, be responsible for any loss, damage, delay or failure in performance hereunder arising or resulting from act of God, act of war, seizure under legal process, quarantine restrictions, strikes, boycotts, lockouts, riots, civil commotions and arrest or restraint of princes, rulers or people or any other usual force majeure type event.
17. Consultant shall have the right to sub-contract or assign any of the services provided under the Conditions.
18. All materials supplied by Client to Consultant and all communications between them shall be considered confidential, not disclosable by Consultant without prior written permission of Client, unless necessary for the provision of the service or required by law.
19. All intellectual property created by virtue of Consultant carrying out the works under this Agreement, is owned by Consultant, with Client receiving a non-exclusive royalty-free licence to use the intellectual property created by Consultant under this Agreement, for the purposes referred to in this Agreement.
20. This Agreement sets forth the entire understanding of the parties in respect of their respective rights and obligations relating to the subject matter of this Agreement, and supersedes all prior agreements or understandings of the parties with respect thereto.
21. Nothing contained in this Agreement shall be construed to create any partnership, joint venture, or franchise relationship between the parties hereto. The parties are independent persons, and neither shall be construed as the agent, employee, nominee, or representative of the other. No party shall have the authority to act for, or to incur obligations on behalf of, any other party except as provided by this Agreement.
22. The jurisdiction clause in this Agreement is purely for the benefit of the Consultant and the Consultant shall be entitled to commence an action against the Client for unpaid fees or monies owed in any relevant and/or convenient jurisdiction for the Consultant.
23. No provision of this Agreement shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not party to it.
24. Either party may terminate this Agreement by providing the other party with 30 days prior written notice. The rights and obligations referred to in Clauses 3, 4 18, 19, 20 and 21 of this Agreement survive termination of this Agreement.

Accepted for Client:

Accepted for Consultant:

(signature)

(signature)

(title, date)

(title, date)

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