

**Sabrecraft Marine Sdn Bhd  
and  
Gold Coast Marine Pty Ltd**

**Terms and Conditions**

**AGREEMENT AND SPECIFICATION OF THE VESSEL**

Sabrecraft Marine Sdn Bhd and Gold Coast Marine Pty Ltd (The Builder/s) agree to construct the vessel described in a Specification or Quotation supplied to The Purchaser and The Purchaser agrees to buy the Vessel and abide by these Term and Conditions as below

The Builder/s shall be under no contractual or other obligation to accept any variation or order from The Purchaser

Plans supplied to The Builder/s by The Purchaser or their representative must be to Industry Standard. Any delays arising from plans being late or sub-standard to cause delays, The Purchaser will be liable for fees charged by The Builder/s as set out in Schedule 1

Unless otherwise agreed to with a Construction Agreement these Terms and Conditions as set out below will be legally binding by all parties

**MODIFICATIONS AND CHANGES TO THE SPECIFICATION**

All modifications will be charged at the rates set out in Schedule 1

**CONTRACT PRICE – PAYMENT – LATE PAYMENT**

The Contract Price of the Vessel is the amount as set out in a Quotation together with the cost of any modifications or changes to the Specification

The Builder/s shall give The Purchaser 2 day's notice of the anticipated date when a payment is due. On expiry of such notice, the relevant Payment will become due within 5 days

If the Contract Price is varied The Builder shall be entitled to require payment of any increase of the Contract Price by reason of any modification or change in full prior to works started

The Purchaser will be liable for all fees charged by The Builder/s as set out in Schedule 1 for any variations

If for any reason payment is not received within 7 days, The Builder/s shall be entitled to stop construction of the Vessel until all outstanding payments have been paid in full and the Delivery Date shall be extended. The Builder/s will notify The Purchaser the time for the extended period and for re-scheduling construction of the Vessel and The Purchaser will be liable for all fees charged by The Builder/s as set out in Schedule 1

After a further period of 7 days' delay The Builder/s shall, without prejudice to any other rights, be entitled:

- Charge interest at 24% Per annum of the outstanding amount compounding daily from the date upon which such payment became due and payable

- Require payment from the Purchaser forthwith the balance of the Contract Price outstanding to complete the construction of the Vessel or terminate The Contract/Agreement and sell the Vessel. All costs arising from the sale of the vessel will be charged to The Purchaser. The Builder/s will receive all outstanding amounts owed from the proceeds of the sale. Any remaining monies will be payable to The Purchaser. Any shortfall from the sale of the vessel of the amount of money owed to The Builder/s will be payable to The Builder/s by The Purchaser
- If for any reason any tax, levy, charge or any other sum required to be paid by law shall be omitted from the amount of the Contract Price or shall be varied or introduced after the date of this Agreement and shall be required to be paid by the Purchaser. The Purchaser shall pay such additional sum forthwith on demand

### **DELAYS AND EXTENSIONS OF TIME (FORCE MAJEURE)**

If construction of the Vessel is delayed directly or indirectly due to any cause beyond The Builder/s reasonable control the Delivery Date shall be extended

The Builder/s shall give The Purchaser written notice of any event in respect of which the Builders claim to be entitled to an extension of time:

- Within 28 days of its commencement, stating the date on which the delay commenced, the cause of it and its estimated duration; and
- Within 28 days of its end, stating the date on which it ended and the total period of the extension sought

If The Builder/s premises, plant, machinery or equipment shall be so damaged by the operation of a delaying event for which The Builder/s are not responsible so as to make it impracticable for The Builder/s to complete the construction of the Vessel, The Builder/s may, at their option (to be exercised within 21 days after the delaying event), cancel the Agreement by notice in writing to The Purchaser, whereupon The Purchaser shall be entitled by written election to take over and complete the Vessel without further liability on The Builder/s where upon The Purchaser shall pay to The Builder/s all sums then due, whether by way of Payments or otherwise

### **ACCESS TO VESSEL AND TO BUILDERS' PREMISES**

The Purchaser shall have the right to inspect the progress of construction of the Vessel from time to time. The Purchaser must give written notice to The Builder/s. Inspections are to take place during The Builder/s normal business hours with the prior written consent of The Builder/s such consent not to be unreasonably withheld provided always that The Builder/s shall be entitled to appoint a representative to accompany The Purchaser or The Purchaser's agent and that access shall extend only to those parts of The Builder/s premises necessary for the inspection of the Vessel and/or the materials and equipment appropriated thereto

The Purchaser shall observe all current rules and regulations applied by and to The Builder/s, and to their premises.

### **WARRANTIES**

In addition to The Purchaser's statutory rights the following warranties shall apply:

Subject to the conditions set out below and otherwise expressly set out herein The Builder/s warrant to The Purchaser that the Vessel will be of satisfactory quality and reasonably fit for the purpose(s)

made known to The Builder/s in writing prior to the date of the Specification or Quotation whether or not such purpose is one for which the Vessel is commonly supplied and will correspond with the Specification and any variation, addition or modification thereto. The Builder/s further warrant that the Vessel will be free from defects in materials and workmanship for a period of 12 months from the time of delivery.

The Builder/s warrant to The Purchaser that on delivery the Vessel will comply with any other requirements or regulations which may be agreed in writing between the Parties

The Builder/s shall repair or replace any defect in the workmanship, materials or equipment or their failure to correspond with the Specification. Such repair or replacement shall be carried out by The Builder/s at their premises or, where that is not convenient to the Parties, The Builder/s shall pay the reasonable cost of having the work carried out elsewhere

The Builder/s shall only be liable for any defects or failures which were not apparent on reasonable inspection during the Acceptance Trial or within a reasonable time thereafter

The Purchaser shall notify The Builder/s in writing immediately on discovery of any alleged defect and The Builder/s or their agent shall have the right to inspect the Vessel including the right to carry out sea trials to enable The Builder/s or their agent to examine or assess the extent of the alleged defect. The expense of any such trials shall be borne by The Builder/s if the defect is shown to be one of workmanship or materials

Motors – All motors supplied with the vessel that have been fitted outside of Australia will be warranted by The Builder/s with the same warranty as given by Australian suppliers. Motors must be serviced as per the normal warranty set out as per an Australian supplier. Any claim must be approved by The Builder/s prior to works being carried out by The Purchaser

Hull & Structure – 5 years from date of purchase

Vessels that are trailered will have the warranty void if the trailer is not approved by the builder/s

Fittings – atta fittings 12 months from purchase date

#### **OWNERSHIP OF THE VESSEL**

The Vessel and/or all materials and equipment purchased or appropriated from time to time by The Builder/s specifically for its construction (whether in their premises, upon the water or elsewhere) shall become the property of The Purchaser upon Payment of all monies owed to The Builder/s are paid in full

The Purchaser shall not without the prior written consent of The Builder/s which consent shall not be unreasonably withheld sell, assign, pledge or otherwise put a charge on the Vessel by way of security for any indebtedness prior to delivery except for the sole purpose of obtaining a loan to finance the construction of the Vessel. If The Purchaser charges the Vessel in breach of the terms of this Clause, the balance of the Contract Price shall forthwith become due and payable without prejudice to any other rights or remedies of The Builder/s. The Purchaser shall not have the right to assign or transfer the Agreement or any of his rights and obligations hereunder without the prior written consent of The Builder/s

## **COPYRIGHT**

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- Any copyright or similar protection in manuals, drawings, plans, specifications, including the Specification prepared by the Builders or their employees or agents, shall remain the property of Sabrecraft Marine Sdn Bhd
- All, Verbal Information, Plans Partial or Complete, Drawings, General Arrangements, Renders and Images viewed by electronic means or emailed or by PostalService or Conveyed Verbally is the property of Sabrecraft Marine Sdn Bhd and/or Gold Coast Marine Pty Ltd is not to be used or shared without the express permission of Sabrecraft Marine Sdn Bhd or Gold Coast Marine Pty Ltd
- All drawings, renders, images and information whether commissioned or supplied will remain the property of Sabrecraft Marine Sdn Bhd or Gold Coast Marine Pty Ltd and shall not be, used, reproduced, copied, passed on without the written consent of Sabrecraft Marine Sdn Bhd or Gold Coast Marine Pty Ltd

## **DISPUTE RESOLUTION - LAW AND JURISDICTION**

Any notice required to be given shall be in writing to the registered Company address of The Builder/s either (i) given by hand with proof of delivery or (ii) by courier with proof of delivery. The Purchaser or their contact person either (i) given by hand with proof of delivery or (ii) by courier with proof of delivery (iii) by email

If during the construction of the Vessel any dispute arises either as to an adjustment of the Contract Price or as to when a Payment is due and payable or as to the operation or duration of a delaying event or whether for the purposes of the policy of insurance the Vessel has suffered substantial damage, then, and without prejudice to the Parties' rights to litigate such dispute solely with Malaysian Law and solely Malaysian Jurisdiction

## **SCHEDULE 1**

1. Storage Fees – Must be added: 1 m2 around the perimeter of the vessel
  - Under Cover: AUD26.00 per M2 per day
  - External Yard: AUD16.00 per M2 per day
2. Hourly Rates
  - Welding: AUD148.00 per hour
  - General Labour: AUD125.00 per hour
  - Specialised Labour: At cost + 35%
  - Regular Naval Architect Design Work: AUD220.00 per hour
  - AMSA Accredited Marine Surveyor: AUD450.00 per hour
  - Design and or Plan Alterations: AUD220.00 per hour
  - Electrical Design: AUD350.00 per hour
3. Relocation Fees
  - At Cost + 35%
4. Materials
  - At cost + 35%