

Terms of Business

Subject to express agreement to the contrary all orders written or verbal are accepted on the understanding that the subsequent terms of business shall apply to each and every transaction.

1 Liability

- 1.1 We or our employees shall not be liable for any loss, damage, or delay caused by events or circumstances beyond our reasonable control (such as severe weather conditions, the actions of a third party not employed by us, or any defect in a customer's or third party's property) this extends to loss or damage to vessels, gear, equipment or other property left with us for work or storage, and harm to persons entering our premises or using any of our facilities or equipment. Customers should therefore ensure that their vessels and/or property are adequately insured against all risks, they should also ensure that they themselves are adequately insured against third party risks as they may be liable for damage caused by their vessels themselves or their crew whilst on the premises.
- 1.2 We shall not be under any duty to salvage or preserve a customer's vessel or other property from the consequences of any defect in the vessel or property concerned unless we have been expressly engaged to do so by the customer. Similarly we shall not be under any duty to salvage or preserve a customer's vessel or property from the consequences of an accident which has not been caused by our negligence or some other breach of duty on our part. However we reserve the right to do so in any appropriate circumstances, particularly where a risk is posed to the safety of people, property or the environment. Where we do so we shall be entitled to charge the customer concerned on a normal commercial basis.

2 Prices and estimates

- 2.1 In the absence of express agreement to the contrary our price for work shall be based on labour and materials expended and services provided and be valid for a period of 30 days and providing labour and materials remain the same level as those prevailing at the time of quotation. However the quotation shall not be adjusted to meet increased costs which would not have occurred but for our failure to proceed with the work within a reasonable dispatch.
- 2.2 We will exercise reasonable skill and judgment when we give an estimate or indication of price. However such estimates are always subject to the accuracy of information provided by the customer and are usually based only on a superficial examination and will not include the cost of any emergent work which may be necessary to the vessel, gear or equipment nor the cost of an extension to the work comprised in the estimate.
- 2.3 We will inform the customer promptly of any proposed increase in estimate prices and the reasons for it and will only proceed with the work or supply with the approval of the customer. 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 price increase.

3 Delays

- 3.1 Delivery, completion dates are given in good faith and we shall not be responsible for any delay in completion of the work or for the consequences of any such delay.

4 Vessel movements

- 4.1 We reserve the right to move any vessel, gear, equipment or other property at any time for reasons of safety, security or good management of our business and premises.

5 Payment

- 5.1 Unless otherwise agreed between us payment for all work, goods and services shall be due immediately on invoice date unless otherwise stated and before removal of vessel or goods.
- 5.2 If invoice is not settled within the stated time we will charge a 10% credit charge each month thereafter until the total amount is paid. If payment is received by cheque, payment will not be deemed accepted until funds are cleared in our bank.
- 5.3 We reserve a general right (*a general Lien*) to detain and hold onto a customer's vessel, gear, or other property pending payment by the customer of all sums due to us including any credit charge. We shall after 10 days unless otherwise agreed of non payment or collection of the vessel, gear or other property be entitled to charge the customer for storage or mooring at the current rate until payment is made in full and the vessel, gear or other property is removed from our premises.

6 RETENTION OF TITLE / RISK

- 6.1 Title to goods, equipment and materials supplied by us to a customer shall remain with us until full payment has been received by us.
- 6.2 Risk in all goods, equipment and materials supplied by us to a customer shall pass to the customer at the time of supply to the customer.

7 GUARENTEE

- 7.1 Our work is guaranteed for a period of 12 months from completion against all defects which are due to poor workmanship or defective materials supplied by us. This guarantee only applies to the person whom the work or materials were supplied. We shall be liable under this guarantee only for defects which appear within this 12 month period and which are promptly notified to us in writing to our address on the letter heading. The geographical area within this guarantee will be honoured is restricted to the United Kingdom.
- 7.2 On notification of any such defect we will investigate the cause and if they are our responsibility under the terms of this guarantee we will promptly remedy them or, at our option, employ other contractors to do so. Any remedial work which is put into hand by the customer, or someone instructed to do so by the customer without allowing us appropriate time to investigate and agree such work will invalidate this guarantee in respect of those defects.
- 7.3 Where we supply to goods or services to a person who buys in the course of a business (*a business customer or Trade sales*). No article supplied by us to a business customer shall

- 7.4 carry any express or implied term as to its quality or its fitness for any particular purpose unless prior to the supply the Business customer has sufficiently explained the purpose for which it is required and made it clear that he is relying on our skills and judgment.
- 7.5 No proprietary article specified by name, size or type by a business customer shall carry any such express or implied term but we will assign to the business customer any rights we may have against the manufacturer or importer of that article.

- 7.5 We accept no liability to indemnify a business customer against any loss of profit or turnover which he or his customer or any other person may sustain in consequence of the failure of any faulty or unfit article supplied by us.

8 QUALITY STANDARDS

- 8.1 We will complete our work to the agreed specification and in the absence of any other contractual term as to quality to a satisfactory quality.

9 ACCESS TO PREMISES/WORK ON THE VESSEL

- 9.1 No work or services shall be carried out on a vessel, gear or equipment or other property on our premises without our written consent, except for minor running repairs or minor maintenance of a routine nature by the customer or his regular crew. It shall be an absolute condition that all work is carried out in full compliance with our health and safety, environmental and access policy and it does not cause any nuisance or annoyance to us, any other customer or person residing in the vicinity and does not interfere with our schedule of work or the good management of our business and our said consent to work or services being carried out may be revoked with immediate effect in the event of any breach of conditions.

- 9.2 We shall not be responsible to customers or third parties for the consequences of any persons failure to respect any part of this clause 9.1 but we shall be entitled to demand the immediate cessation of any work which in our view breaches the requirements of this clause 9.1.

- 9.3 Prior written consent for work to be carried out on our premises will not without good cause be withheld where

- 9.3.1 The work to be carried out is work for which we, or our concessionaries or those who normally carry out work on our behalf would normally employ a specialist subcontractor,

- 9.3.2 Or the whole of the work is being carried out under warranty of the manufacturer and/or supplier of the vessel or any part of the equipment to which the warranty relates.

- 9.4 While we or our subcontractors are working on a customer's vessel, gear or equipment the customer shall not have access to it except by prior arrangement. We will agree reasonable access when it is safe to do so and when it will not interrupt or interfere with our work schedule.

10 RIGHT OF SALE

- 10.1 We accept vessels, gear, equipment and other property for repair, refit, maintenance or storage subject to the provisions of the Torts (interference with goods) Act 1977. This act confers a Right of sale on us in circumstances where the customer fails to collect or accept re-delivery of the goods (which includes a vessel and any other property). A sale will not take place until we have given notice to the customer in accordance with the act. For the purpose of the Act it is recorded that

- 10.1.1 goods for repair or other treatment are accepted by us on the basis that the customer is the owner of the goods or the owners authorised agent and that he will take delivery or arrange collection when the repair or treatment has been carried out.

- 10.1.2 Our obligation as custodian of goods accepted for storage ends when we give notice to the customer.

- 10.1.3 The place for collection and delivery shall normally be at our premises or the waterway adjacent unless otherwise agreed and stated or agreed in writing

- 10.2 Maritime law entitles us in certain circumstances to bring action against a vessel to recover a debt or damages. Such action may involve the arrest of the vessel through the courts and its eventual sale by the court. This right of arrest and sale may continue to exist against a vessel after a change of ownership. Sale of a vessel or other property may also occur through the enforcement of a court order or judgment.

- 10.3 Except as stated under clause 7.3 all goods are supplied with the benefit of the appropriate undertakings particularly as to conformity of goods with description or sample as to their quality or fitness for a particular purpose which are implied by the Sale of Goods Act 1893 as amended. Nothing in these terms affects those statutory rights.

11 SUBCONTRACTING

- 1.1 We may subcontract all or part of the work entrusted to us by the customer, on terms that any such subcontractor shall have the protection and benefit of all rights and conditions, and of all limitations and exclusions of liability, which exist for us under these Terms of Business. Where we exercise this right we shall remain responsible to the customer for the performance of our subcontractor.

12 NOTICES

- 12.1 In all cases where a contract of hire or licence to occupy any moorings, berth, storage space, property or facilities may lawfully be terminated by notice given in writing, notice to a customer shall be sufficiently served if personally given to him or if sent by first class post to the last known address. Notice to us shall be sent to our principal trading address stated at the top of correspondences