

Tobias Clarke Pty Ltd

contact@tobiasclarke.com

ABN: 81 635 065 682



AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES

to be provided to the Client by Tobias Clarke (ABN 81 635 065 682) of Australia ("Consultant").

1. The Client contracts with Consultant for the purpose of obtaining professional consultations in accordance with the following terms and conditions.
2. Fees payable by Client for work performed by Consultant shall be \$110.00 per hour for the Naval Architect, \$35.00 per hour for draftspersons, \$25.00 per hour for administrative persons. These rates apply to all consulting, studying, advice, research, deposition and testimony time. Pure travel time will be invoiced at \$600.00 per day or part thereof. All rates are GST exclusive. All rates may be increased by five percent (5%) in each twelve-month period commencing January 1, 2019.
3. Client will pay reasonable and necessary direct costs incurred by Consultant in association with the required professional effort, 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 seven (7) days of receipt of the invoice regardless of the fee payment arrangement between Client and any other party. A service charge of one percent (1.0%) per fortnight will be payable for late payment of invoiced amounts.
5. The laws in force in the state of Western Australia govern this Agreement. Any dispute, controversy or claim arising out of, or relating to or in connection with this Agreement shall be resolved by arbitration in accordance with the Australian Centre for International Commercial Arbitration (ACICA) Arbitration rules. The seat of arbitration shall be Perth, Australia. The language of arbitration shall be English.
6. The parties are bound by this Agreement upon the Agreement being signed by both parties. Payment of the deposit without signing this agreement will constitute Client's agreement to these terms and conditions in full. Consultant is bound to use its best 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. Invoices for balance of estimate will be invoiced weekly or as work is completed. Client acknowledges that the actual total fees and expenses may exceed the estimate if the total work scope is undefined at the time of executing this Agreement, or if not all information requested is supplied initially, or if anomalies are discovered during assessment, or a change of project scope is requested after the Agreement has been executed. Where an anomaly or a project scope change request is received after executing the Agreement, any work will cease, and a new written estimate will be issued.
7. Consultant is not responsible for any error, inaccuracy or negligence in the manufacture of the vessel 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 any error, inaccuracy or negligence in the design or performance or manufacture of the vessel 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.
8. Where Consultant relies upon drawings and/or information provided, Consultant is not responsible for any errors and inaccuracies in drawings, measurements and/or any other base data provided. 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.
9. 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 willful default of Consultant or any of its employees or agents or sub-contractors.
10. Where the Trade Practices Act of 1974 (and any similar state legislation) implied warranties do not apply (and for these purposes, the parties agree to exclude those warranties to the extent that they can be excluded) and in the event that the Client proves that the loss, damage, delay or expense was caused by the negligence, gross negligence or willful 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 two times Consultant's charges or Australian \$100,000, whichever is the lesser.
11. Notwithstanding anything set out in this Agreement, the terms and conditions of this Agreement are subject to the Trade Practices Act 1974 as amended if and to the extent that this Act implies a warranty into this Agreement and prevents the exclusion, restriction or modification of any such warranty. The total liability of Consultant for direct and indirect damages, if any, for breach of any warranty so implied (other than where the Services are of a kind ordinarily acquired for personal, domestic or household consumption) shall be limited at the option of Consultant to the supply of the Services again or the payment of having the Services supplied again.
12. 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.
13. 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) formal arbitration proceedings are commenced in the ACICA by Client against Consultant.
14. 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 the services under this Agreement.
15. 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.
16. Consultant shall have the right to sub-contract or assign any of the services provided under the Conditions.
17. 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.
18. 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 license to use the intellectual property created by Consultant under this Agreement, for the purposes referred to in this Agreement.
19. This Agreement sets forth the entire understanding of the parties in respect of their respective rights and obligations relating to the subject

Naval Architect
Marine Surveyor

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- matter of this agreement and supersedes all prior agreements or understandings of the parties with respect thereto.
20. 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.
 21. 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.
 22. Payment of the deposit or issue of a purchase order number verifies that the client accepts these terms and conditions in full.