

Terms & Conditions

These Terms and Conditions ("Terms") apply to all dealings between Rigging WA Pty Ltd ("the Company") and the customer ("Customer") unless the Company otherwise agrees in writing.

1. General

- 1.1 These Terms bind the Customer, its successors and assignors and are for the benefit of the Company and its successors and assignors.
- 1.2 The Customer shall not transfer, assign, charge, or otherwise dispose of the Customer's rights or liabilities under these Terms, or any of the Customer's rights or obligations arising under it, without the prior written consent of the Company.
- 1.3 The Company may transfer, assign, charge, sub-contract or otherwise dispose of any of the Company's rights or obligations arising under these Terms, at any time without the Customer's prior consent.
- 1.4 The Company may, from time-to-time, request certain information from the Customer including in relation to the specifications of the Customer's vessel, components, or previous works performed on the vessel. The Customer warrants as to the correctness of such information and any other information which it has furnished to the Company, and acknowledges that the Company has relied upon this information. The Company shall not be liable for incorrect information supplied by the Customer.
- 1.5 By placing an order with the Company, the Customer consents to the Company providing the Customer's name, contact details, and vessel details to third parties (including the Company's contractors) for the purpose of fulfilling and delivering the Customer's order.
- 1.6 The parties agree that the Purchase Price does not include GST unless otherwise stated.
- 1.7 The Customer agrees to pay to the Company any ancillary costs which the Company, in its discretion, reasonably determine are required for the Works, including but not limited to the cost of additional materials or components, permits or approvals, consumables including fuel, oils, and lubricants, travel costs, storage costs, and disposal costs.

2. Scope of Works

- 2.1 The Customer authorises the Company to perform the services as specified on the Scope of Works panel of the Order Form, as amended by the Company, and any other works that the Company determines are necessary following the inspection of the vessel or the commencement of the Works ("Works").
- 2.2 The Customer authorises the Company to order on its behalf any parts, components, or materials necessary to carry out the Works.
- 2.3 Unless otherwise agreed in writing, the Customer must pay to the Company the full cost of obtaining any such parts, components, or materials.
- 2.4 In the event the Company is required to purchase or order parts or materials on behalf of the Customer, the Customer agrees to pay the Company in advance for any componentry or materials.
- 2.5 The Customer may in writing, orally or by an agent, authorise additional work to be performed or materials to be supplied. If additional work or materials are duly authorised, the Customer will be liable to pay for the additional work or materials.
- 2.6 In the event the Company provides a quotation for requested Works, the Customer agrees and acknowledges that a quotation represents an estimate of the costs associated with the Company completing the Works.
- 2.7 The Customer expressly acknowledges that the Company's estimate is not a fixed quote and the customer agrees to pay the amount invoiced by the Company for any work performed by the Company for the Customer or in connection with the Works.
- 2.8 The Customer must, at all times, ensure that the Company is provided unfettered access to the vessel to perform the Works. This may include the provision of access information, directions, keys, access codes, and mooring authority documentation.

2.9 If the Customer fails to provide access to the vessel in accordance with clause 2.8 above, then the Company shall charge to the Customer, and the Customer agrees to pay, all reasonable costs of the Company, including, where applicable, a standby rate of \$300 per hour.

2.10 Should the Customer fail to arrange for adequate access to the vessel, the adequacy of same being at the discretion of the Company, the Company may, at its discretion, elect to terminate this Agreement and the Customer agrees to forfeit any deposit paid or due to be paid to the Company.

3. Payment

3.1 The Customer must, unless otherwise agreed between the parties, pay the purchase price to the Company in accordance with the Payment Terms provided on the Order Form. In the event that there are no payment terms on the Order Form, the Customer agrees to pay:

3.1.1 50% of the Company's estimate of the Works prior to the rig inspection or other Works;

3.1.2 25% of the Company's estimate of the Works on the first day of the Works; and

3.1.3 the balance of the incurred costs within 14 days of the final invoice being issued by the Company.

3.2 It is the Customer's responsibility to ensure that its payment method details are valid and up to date and to ensure that sufficient funds are available at the time of payment processing.

3.3 The Company accepts payment by cash, bank cheque, electronic funds transfer, Visa, MasterCard and American Express credit cards, and PayPal.

3.4 A 1.5% surcharge applies to all credit card transactions.

4. Passing of Risk

4.1 Goods (including materials, consumables, and components) (**Goods**) supplied by the Company to the Customer shall be at the Customer's risk immediately upon delivery to the Customer, including by installation or use on the Customer's vessel.

4.2 The Customer shall insure the goods from the time of that delivery at its cost against such risks as it thinks appropriate.

4.3 Property in the Goods supplied by the Company to the Customer under these Terms shall not pass to the Customer until those Goods and other goods have been paid for in full.

4.4 The Customer irrevocably authorises the Company at any time to enter onto any premises or vessel upon which:

(i) the Goods are stored, or installed, to enable the Company to inspect the Goods and/or if the Customer has breached these Terms, reclaim the goods;

(ii) the Customer's records pertaining to the Goods are held to inspect and copy such records.

5. Inspection and Acceptance

5.1 If the Customer is a consumer, nothing in these Terms and Conditions limits any remedy available pursuant to the ACL save as permitted under the ACL.

5.2 The Customer must inspect all goods and services provided by the Company within 48 hours of the works and give written notice with full details and description to the Company if the Customer alleges that the goods are not in accordance with the Customer's order. Failing such notice, the goods and services shall be deemed to have been delivered to and accepted by the Customer.

5.3 When any non-compliance with the Customer's order is accepted by the Company, the Company may, at its sole discretion, replace the goods, or refund the price of the goods and/o services.

6. Returns

6.1 Unless otherwise agreed, refunds other than those required pursuant to the Australian Consumer Law ("ACL") must be approved by the Company.

6.2 To the greatest extent permitted by law, the Company shall not be liable to the Customer for defective parts or components if:

6.2.1 further works have been performed to the Vessel since the company's Works were performed; or

6.2.2 the vessel has been used since the Company's Works were performed; or

6.2.3 another tradesperson or business has performed work on the Customer's vessel after the supply of the parts by the Company; or

6.2.4 the supplier of the defective parts or components is liable to the Customer for such defects.

6.3 The Company reserves its right to examine any parts or components that the Customer alleges are defective prior to providing a repair or replacement.

6.4 To the greatest extent permitted by law, the Company's liability in respect of faulty workmanship or defective parts is limited to direct rectification and the replacement or repair (at the Company's discretion) of defective parts or components free of charge.

7. Customer's Cancellation

7.1 To the greatest extent permitted under law, the Customer shall have no right to terminate the Agreement or cancel an order which has been accepted by the Company unless otherwise agreed in writing. If a right of cancellation is granted to the Customer, such right of cancellation must be exercised in accordance with the relevant terms of cancellation and by notice in writing from the Customer to the Company not later than 7 days prior to the estimated date of performance of the Works by the Company.

7.2 Despite any cancellation request made by the Customer, the Company may, in its discretion, require the Customer to purchase the goods or components which were procured or ordered by the Company for and on behalf of the Customer for the proposed Works.

7.3 Unless otherwise agreed between the Company and the Customer, upon cancellation any deposit paid by the Customer shall be forfeited to the Company.

7.4 If the Company has incurred travel, storage, or shipping costs associated with a cancelled Order, the Company may, in its absolute discretion charge the Customer those travel, storage, or shipping costs.

8. Company's Cancellation

8.1 If the Company is unable to perform the Works, then it may cancel the Customer's order (even if it has been accepted) by written notice to the Customer and limits its liability to the Customer in that regard to the greatest extent permitted under law.

8.2 If the Customer commits a breach of its obligations under the Agreement, then the Company may, without prejudice to any other rights or remedies terminate the Agreement and seek damages for any loss suffered.

9. Payment Default

9.1 If the Customer defaults in payment by the due date of any amount payable to the Company, then all money which would become payable by the Customer to the Company at a later date on any account, becomes immediately due and payable without the requirement of any notice to the Customer, and the Company may, without prejudice to any of its other accrued or contingent rights:

- (i) charge the Customer interest on any sum due at the prevailing rate of 15% per annum for the period from the due date until the date of payment in full;
- (ii) charge the Customer a storage fee with respect to a vessel, trailer, goods, or components remaining at the Company's premises at a rate of \$150.00 per day;
- (iii) charge the Customer for, and the Customer must indemnify the Company from, all costs and expenses (including without limitation debt collection costs and/or legal costs on an indemnity basis) incurred by it resulting from the default or in taking action to enforce compliance with the Agreement or to recover any goods or components;
- (iv) cease or suspend the performance of any further Works to the Customer; and/or
- (v) by written notice to the Customer, terminate any uncompleted Agreement with the Customer.

9.2 Clause 9.1 may also be relied upon, in the Company's discretion if:

- (i) where the Customer is a natural person and becomes bankrupt or enters into any scheme of arrangement or any assignment or composition with or for the benefit of his or her creditors or any class of his or her creditors generally; or
- (ii) where the Customer is a corporation and it enters into any scheme of arrangement or any assignment or composition with or for the benefit of its

creditors or any class of its creditors generally, or has a liquidator, administrator, receiver, manager or similar functionary appointed in respect of its assets, or any action is taken for, or with the view to, the liquidation (including provisional liquidation), winding up or dissolution without winding up of the Customer.

10. Lien

10.1 The Customer hereby grants the Company a lien over the Customer's vessel (including its equipment accessories and contents) to secure the due payment of all charges arising under this Agreement, including storage charges, interest charges and any additional charges.

11. Charge

11.1 The Customer hereby charges all their right, title and interest in any land that they own currently or may acquire in the future solely or jointly, or have or at a later date have a beneficial interest in, in favour of the Company, with due and punctual observance of all of the obligations of the Customer ("Secured Real Property").

11.2 The Customer hereby acknowledges that the Company may at its discretion register and lodge an absolute caveat(s) on such property or properties in respect of the interest conferred on it under this clause 11. Such registration of a caveat by the Company over the Customer's property or properties must not be challenged by the Customer in any way whatsoever, and the Customer agrees not to take any steps to have the caveat removed, until such time that the Customer has paid all monies owing by it to the Company as claimed from time to time.

11.3 The Customer indemnifies the Company against all expenses and legal costs (on an indemnity basis) for preparing, lodging and removing any caveat.

11.4 As security for performance of its obligations under this Deed, the Customer hereby charges in favour of the Company all of the Customer's estate and interest in all present and after acquired personal property and the proceeds arising in respect of any dealing in such property ("Secured Personal Property").

11.5 The Customer agrees and consents to:

11.5.1 the Company conducting searches of the Customer on the Personal Property Securities Register ("PPSR"); and

11.5.2 the Company effecting and maintaining a registration on the PPSR over such personal property; and

11.5.3 waiving its right to receive notice of a verification statement in relation to such registration; and

11.5.4 the Company doing all things required to register or maintain such PPSR registration and the Customer irrevocably appoints any director of the Company to be the Customer's lawful attorney to execute and register such instruments.

11.6 If the Customer fails to pay any money payable under this Deed within 14 days of demand, the Company may (in addition to any other remedies available to it) give 14 days' notice of intention to appoint a receiver or receiver and manager over the Secured Real Property and/or the Secured Personal Property and, if such default is not remedied prior to expiry of that notice, the Company may then appoint a receiver or receiver and manager ("the Receiver") over the Secured Real Property or Secured Personal Property, as the case may be. The Receiver will be the agent of the Customer and will have the power to exercise all of the Customer's rights over the Secured Property and all powers set out in Section 420 of the *Corporations Act 2001* (Cth), as though the Customer were a corporation. The Customer must pay the Receiver's costs and the Receiver may retain money received by the Receiver and apply such money towards the Receiver's costs. The Customer must reimburse the Company for any payment made by or on behalf of the Company to a Receiver so appointed.

12. Timeframe for Completion

12.1 The Company shall endeavour to complete the work within the estimated timeframe provided to the Customer.

12.2 The timeframe completion of the Works may, amongst other reasons, be impacted by weather conditions, access restrictions, and the availability of personnel, machinery, or equipment.

12.3 To the greatest extent permitted by law, the Company shall not be liable to the Customer for delays in completing the works.

13. Importation & Currency

13.1 Where it is necessary to import parts, materials, or components into Australia in order to complete the Works, the Customer agrees to pay to the Company any costs the Company may incur in relation to such importation, including but not limited to import duties, taxes, shipping fees, handling fees, quarantine costs, bank fees, international transfer fees, and currency conversion fees.

13.2 The Customer agrees that in the event of any adverse variation in the price of the imported items arising from a fluctuation in exchange rates between the date of the Customer's order and the date of payment by the Company, the Customer will pay the difference to the Company.

14. Warranties and Liability

14.1 The Company makes no express warranties under these Terms.

14.2 Except as these Terms and Conditions specifically state, or as contained in any express warranty provided in relation to the goods or services, the Agreement does not include by implication any other term, condition or warranty in respect of the quality, merchantability, acceptability, fitness for purpose, condition, description, assembly, manufacture, design or performance of the goods or components or Works or any contractual remedy for their failure.

14.3 If the Customer is a consumer, nothing in these Terms restricts, limits or modifies the Customer's rights or remedies against the Company for failure of a statutory guarantee under the ACL save as permitted under the ACL.

14.4 If clause 14.3 above does not apply, then other than as stated in the Terms and Conditions or in any written warranty statement, to the greatest extent permitted under law, the Company is not liable to the Customer in any way under or in connection with the sale, installation, use of, storage, or any other dealing with any supplied goods or components or the performance of the Works.

14.5 To the greatest extent permitted under law the Company is not liable for any indirect or consequential losses or expenses suffered by the Customer or any third party, howsoever caused, including but not limited to loss of

turnover, profits, business or goodwill or any liability to any other party.

14.6 The Customer expressly acknowledges and agrees that:

(i) it has not relied upon, any service involving skill and judgement, or on any advice, recommendation, information or assistance given by the Company, its agents or employees in relation to the goods or components or services or their use or purpose.

(ii) it has not made known, whether expressly or by implication, to the Company any purpose for which it requires the goods or services and it has the sole responsibility of satisfying itself that the goods or services as suitable for the use of the Customer.

14.7 The Customer acknowledges that their vessel is not covered by any insurance policy held by the Company and the Customer undertakes to ensure that their vessel is adequately insured for any damage caused by the Company or any third-party for the period that the Company is contracted to perform the Works.

14.8 The customer acknowledges that servants or agents of the Company may carry out tests of the Customer's vessel at the discretion of the Company.

14.9 To the greatest extent permitted by law, the Company shall not be liable to the Customer for any damage which occurs to or is caused by the Customer's vessel during the Works or during testing, unless it arises from the negligence of the Company or its servants or agents.

15. Force Majeure

15.1 If the Company's performance or observance of any obligations is prevented, restricted or affected by reason of a force majeure event including strike, lock out, industrial dispute, embargo, war or conflict, act of God, raw material shortage, breakdown of plant, transport or equipment, availability of personnel, availability of machinery or components, restrictions on movement, restrictions on access, pandemic or epidemic, natural disaster, inclement weather, or any other cause beyond the Company's reasonable control, the Company may, in its absolute discretion, elect to either:

15.1.1 terminate any Agreement with the Customer; or

15.1.2 revise the Company's estimated timeframe for completion.

15.2 If the Company elects to terminate or delay the performance of the works in accordance with clause 15.1 above, then the Customer agrees that the Company shall not be liable to the Customer for any loss, any indirect or consequential losses or expenses suffered by the Customer or any third party.

16. Governing Terms and Conditions

16.1 These Terms are to be read in conjunction with the Company's Rig Report Disclaimer.

16.2 By completing an Order Form, the Customer warrants that it has received a copy of these Terms and the Rig Report Disclaimer, and has had the opportunity to obtain independent legal advice on their effect.

17. Governing Law

These Terms shall be governed by the laws of Western Australia. The parties agree to submit to the exclusive jurisdiction of the Courts in Perth, Western Australia.

18. Dispute resolution

18.1 If a dispute arises between the parties regarding any matter relating to this Agreement ("Dispute"), then any party may notify the other party in writing of the dispute ("Dispute Notice").

18.2 Within 7 days of the service of the Dispute Notice, the parties must meet in good faith and use their best endeavours to resolve such Dispute to their mutual satisfaction.

18.3 If the parties are unable to resolve the Dispute under clause 18.2 above, then the parties, by mutual agreement will appoint a mediator to mediate the Dispute. Failing such agreement, the parties will jointly request that the Law Society of Western Australia appoints a mediator.

18.4 The parties involved in a Dispute will share equally the costs relating to any mediator appointed under clause 18.3 above.

18.5 Notwithstanding the dispute resolution procedures set out in this clause, a party to this agreement may seek injunctive relief from an appropriate Court.

19. Waiver

The Company's failure to enforce any of these Terms shall not be construed as a waiver of any of the Company's rights.

20. Rigging WA Website

20.1 The Company may collect and hold a range of different information about the Customer for the purpose of performing the Works you have requested. This may include your name, date of birth, contact details (including address, email address, phone number or mobile telephone number) occupation, driver's licence number, vessel details, vessel registration details, insurance details, and financial information (such as credit card or bank account numbers).

20.2 The Company may collect your information in a number of ways, including:

- (i) directly from you (e.g. when you complete an order form or contact us with a query);
- (ii) from third parties such as our related entities, business partners, credit reporting bodies, wholesale or other customers, or your representatives;
- (iii) from publicly available sources of information or when we are legally authorised or required to do so.

If you choose not to provide to us certain information about you, the Company may not be able to provide you with the services that you require.

20.3 We take reasonable steps to maintain the security of your information and to protect it from unauthorized disclosures. While we take these steps to maintain the security of your information, you should be aware of the many information security risks that exist today and take appropriate care to help safeguard your information.

20.5 We reserve the right to disclose your personally identifiable information as required by law and when we believe that disclosure is necessary to protect our rights and/or comply with a judicial proceeding, court order, or legal process served on our website.

20.6 Your access to or use of our Rigging WA website ("Site") does not constitute or create a licence or any other right to use our name, trade dress, trademarks, copyrights, or any other intellectual property.

20.7 You must take your own precautions to ensure that the process which you employ for accessing the Site does not expose you to the risk of viruses, malicious computer code or other forms of interference which may damage your computer system or any other computer system. The Site may contain links to other websites (“Linked Websites”). Those Linked Websites are provided for convenience only and may not remain current or be maintained.

20.8 The Linked Websites should not be construed as an endorsement, approval, or recommendation by us of the owners or operators of those Linked Websites, or of any information, graphics, materials, products, or services referred to or contained on those Linked Websites, unless and to the extent we stipulate to the contrary.

Our goods and services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the service, you are entitled:

- to cancel your service contract with us; and*
- to a refund for the unused portion, or to compensation for its reduced value.*

You are also entitled to choose a refund or replacement for major failures with goods. If a failure with the goods or a service does not amount to a major failure, you are entitled to have the failure rectified in a reasonable time. If this is not done you are entitled to a refund for the goods and to cancel the contract for the service and obtain a refund of any unused portion. You are also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the goods or service.