



Seaborne Enterprises Limited
Trading As: Seaborne Marine Services

TERMS & CONDITIONS OF ENGAGEMENT
FOR THE PROVISION OF GOODS & SERVICES

About:

SEABORNE Marine Services encompass a broad range of activities dedicated to the upkeep, repair, & enhancement of your vessel. Our focus is on engineering, fairing & maintenance.

We ensure your boat is in optimal condition, both mechanically & aesthetically!

Contracting Party / Customer details:

Full legal name of person or entity:	
Address:	
Phone number:	
E-mail address:	
Contact person:	

By signing this document, the contracting party agrees to be bound by the attached Terms and Conditions of Engagement for the Provision of Goods and Services.

Contracting Party / Customer:

Name: _____ Signature of the contracting party: _____

Date: _____

Seaborne Enterprises Limited

Name: _____ Signature of Contractor: _____

Date: _____



Seaborne Enterprises Limited
Trading As: Seaborne Marine Services

**TERMS & CONDITIONS OF ENGAGEMENT
FOR PROVISION OF GOODS AND SERVICES**

1. Definitions: In these terms and conditions:

"Business Day" means a day other than a Saturday or a Sunday.

"Goods" means the goods, components and materials specified in each Order Form.

"GST" means goods and services tax as defined in the Goods and Services Tax Act 1985.

"Order Form" means any validly authorised order form between us for Goods and/or Services.

"Price" means the price payable by you to us for the Goods as set out in each Order Form.

"Rate" means the rate to be paid for Services as set out in each Order Form.

"Services" means the services specified in each Order Form.

"Specifications" means the specifications of the Goods and/or Services as specified in each Order Form.

"we", "us" and "our" means Seaborne Enterprises Limited.

"you" means the contracting party whose name appears on the Order Form to which these terms are attached.

2. Interpretation: In these terms and conditions, unless the context otherwise requires:

- (a) "\$" means New Zealand dollars;
- (b) "including" and similar words do not imply any limitation;
- (c) a reference to a party is also a reference to that party's permitted assigns or successors; and
- (d) in the event of any inconsistency, these terms and conditions will prevail over the Order Form.

3. Appointment: You appoint us to:

- (a) provide the Services to you; and/or
- (b) supply you with the Goods.

4. Comply with Terms: By signing the front page of this document, we and you agree to be bound by these terms and conditions.

5. Payment for Services: You will pay us the Rate for performing the Services. Unless otherwise stated, the Rate excludes GST but is inclusive of any other costs, charges, duties or levies. Where Rates are GST exclusive, you will pay us GST in addition to the Rate.

6. Payment for Goods: You will pay the Price for the Goods we supply. Unless otherwise stated in the Order Form, prices for Goods are exclusive of freight, delivery and insurance costs. Where the Price is quoted as exclusive of GST you will pay us GST in addition to the Price.

7. Invoice: We will issue you with a valid GST invoice for the Services and/or Goods supplied to you preceding the job completion.

8. Payment Date: Subject to clauses 7 and 9, you will pay each such invoice by the 7th day following the date of the invoice (unless agreed otherwise on the Order Form).

9. Disputed Invoice: If you dispute any amount claimed in an invoice or the amount payable for any Goods supplied, you will provide us with any information that we reasonably require in order to verify whether any disputed amounts are in fact correct. Within five (5) Business Days of resolution of any disputed invoice or the disputed amounts, you will pay us the amount that has been resolved as payable.

10. Making Orders: All orders for Services and/or Goods must be in writing, using our Order Form. Each Order Form must be signed by you and us, unless impractical for electronic communications, in which case the staff member that authorised the Order Form must be able to be positively identified. These terms and conditions apply to each order. In the event of any inconsistency, these terms and conditions will prevail over the terms of any Order Form.

11. Delivery: We will deliver the Services and/or Goods as per the terms specified in the Order Form. We will do our best to meet this or any other time frame we give you for supplying and delivering the Services and/or Goods. However, given the weather dependent nature of the Services, these time frames are not guaranteed. We will not be liable for any claims in respect of weather related delays.

12. **Representations:** In providing the Goods and/or performing the Services we will:
- (a) Perform our obligations under these terms and conditions with care, skill and diligence;
 - (b) Ensure that only staff and permitted contractors that have the necessary skills, experience and qualifications undertake the work;
 - (c) Provide the Services in accordance with the Specifications and your reasonable instructions;
 - (d) Ensure that the Services are completed in a timely manner;
 - (e) Ensure that the Goods are of merchantable quality and are fit for the purpose for which they are intended to be used;
 - (f) Comply with any reasonable instructions that you give us, including instructions in relation to health and safety, security and any other operational matters;
 - (g) Comply with all applicable statutes, by laws and regulations.
13. **Warranties:** We warrant that:
- (a) We have the necessary skills, experience, facilities and qualified staff available to perform our obligations under these terms and conditions;
 - (b) The Goods supplied to you will be of merchantable quality and fit for any purpose you have specified or for which Goods of their type are commonly put; and
 - (c) We will advise you of any circumstances that may materially limit or affect our ability to comply with our obligations under these terms and conditions.
14. **Risk:** Risk in all Services and/or Goods we supply passes to you upon delivery of the Services and/or Goods.
15. **Title/recovery of Goods:** Prior to receiving payment in full for all Goods supplied to you, title in any Goods supplied by us will remain with us and we have a security interest over the proceeds of the Goods if such Goods are sold or disposed of by you. If you have sold the relevant Goods, the proceeds of sale shall be held in trust by you for our benefit. If you fail to pay on the due date, or if you are in breach of these terms, you authorise us to enter any premises to recover Goods supplied by us or in respect of which we have title or a security interest. If the premises are the premises of a third party, we will enter and recover the Goods as your agent. You will be responsible for any damage we cause in recovering the Goods and you indemnify us for any losses or costs we incur. We will be entitled to sell any Goods and apply the proceeds towards funds owed by you.
16. **Security interest:** You agree that, under clause 15 above, we have a security interest for the purposes of the Personal Property Securities Act 1999 ("PPSA"). You agree that we may take all steps required to perfect our security interest under the PPSA and you agree to execute any documents and provide us with all necessary information in order to enable us to do this. To the maximum extent permitted under the PPSA, you agree to waive your rights as debtor. In particular (but without limitation) you agree to waive your right to receive a verification statement under s148 of the PPSA.
17. **Default interest/costs:** We may charge you interest at 2% per month (or part month) on any amounts due and unpaid. Payment of default interest is without prejudice to our other rights and remedies. If we take action to protect our interests in relation to Goods over which we hold security or to recover any moneys due from you, or to otherwise protect our interests, you agree to pay our costs (including solicitor/client costs).
18. **Extent of liability:** To the maximum extent permitted by law warranties implied by customary practice, statute or at law are excluded. Our liability under clause 13 (Warranties) or otherwise for any defective or damaged Goods or for any cost, loss, damage or claim arising directly or indirectly in relation to any Services and/or Goods supplied by us, whether arising from contract, tort (including negligence) or otherwise, shall be limited to (at our option): (a) replacing the affected Services and/or Goods or (b) providing you with a refund of the purchase price paid for the affected Services and/or Goods or a credit for the invoice value of the affected Services and/or Goods (as the case may be). We are not responsible for any defect in Services and/or Goods that results partly or wholly from: (a) the act or omission of any third party; (b) a cause beyond our reasonable control; or (c) failure to comply with any storage or handling instructions that we give you regarding the Goods. We are not responsible in any circumstances for any indirect, consequential or special loss, loss of profits or economic loss.
19. **Limitation of liability:** If, notwithstanding clause 18, we are found to be liable to you in any circumstances then the maximum combined amount we will be liable for to you under any Order Form shall be the price paid by you to us for the Services and/or Goods under the Order Form.
20. **Consumer Guarantees Act:** If you are a consumer (as defined in the Consumer Guarantees Act 1993 ("CGA")) nothing in these terms limits or excludes any right you have under the CGA. Where you acquire Services and/or Goods from us that are for the purposes of a business or are for re-sale or supply to other persons in trade, you agree that the CGA does not apply to our supply to you.

21. Claims process: Any claim in respect of defects in the Services and/or Goods for non-conformity with your order must be submitted in writing setting out the alleged problem with the Services and/or Goods within 30 days of the date of delivery. We will investigate your claim and confirm whether or not your claim is accepted within 30 days of us receiving your written claim. If you do not make the claim within the 30 day period (time being of the essence) you are deemed to have accepted the Services and/or Goods supplied, conformity of the order and to have waived any right to reject the Services and/or Goods or claim compensation or any other remedy. Any costs incurred to you during a period in which you are hiring a piece of our equipment will not be covered in the event of equipment failure.

22. Force Majeure: No failure or omission by any party to carry out or observe any of these terms or conditions including the obligation to pay money will, except as expressly provided to the contrary in these terms and conditions, give rise to any claim against the party in question or be deemed a breach of these terms and conditions if such failure or omission arises from any cause reasonably beyond the control of such party provided that this clause will not extend to excuse the consequences of insolvency or financial difficulty.

23. Termination for default: Either party may terminate these terms and conditions with immediate effect by giving written notice of termination to the other party ("**Defaulting Party**"):

- (a) If the Defaulting Party breaches any provision of these terms and conditions and fails to remedy that breach within five (5) Business Days after written notice requiring it to do so;
- (b) If the Defaulting Party breaches any provision of these terms and conditions which is not capable of remedy;
- (c) On the occurrence of any of the following events:
 - (i) The Defaulting Party is incapable of carrying out its obligations under these terms and conditions for a period of more than ten (10) Business Days;
 - (ii) The Defaulting Party ceases to carry on business;
 - (iii) The Defaulting Party is unable to pay its debts as they become due;
 - (iv) Any step is taken to enter into any arrangement between the Defaulting Party and its creditors; or
 - (v) Any step is taken to appoint a receiver, a trustee or manager (including a statutory manager), a

liquidator, an administrator or other like person of the whole or part of the Defaulting Party's assets, operations or business.

24. Termination without cause: Either party may terminate these terms and conditions at any time by giving written notice to the other party, in which case termination will be effective on the 5th Business Day following receipt of such notice.

25. Consequences of Termination: On termination under either clause 23 or 24, you will be liable to pay for any outstanding invoices and to pay for Goods delivered and/or Services performed by us up to the date of termination. Termination of these terms and conditions will not affect any rights or remedies each party may have accrued prior to the date of termination.

26. Survival: Clauses 18 and 19 (Extent of Liability and Limitation of Liability), and any other provision that is intended by its nature to survive termination, will survive the termination or expiry of these terms and conditions.

27. Information: You authorise us to disclose any information provided to us to any person or organisation for the purpose of assessing your credit worthiness. The Privacy Act 1993 may entitle you to have access to, and if necessary, to request the correction of any personal information that we hold about you.

28. Miscellaneous: These terms prevail over the terms of any Order Form or terms or contracts submitted by you. No variation to these terms shall be effective unless it is in writing and signed by us. No delay or failure by us to act or insist on any right shall be regarded as a waiver and every right remains enforceable and may be exercised by us at any time.

29. Relationship: Nothing in these terms and conditions will create, constitute or evidence any partnership, joint venture, agency, trust or employer/employee relationship between the parties.

30. Changes: We reserve the right to alter these terms and conditions by giving you 30 days prior written notice.

31. Governing Law: These terms and conditions are governed by New Zealand law.

Seaborne Enterprises Limited

WORK ORDER FORM

* work required on vessel.

Vessel Name	
Name of Owner	
Name & Address for invoices	
Email for Invoices	
Name of Contracting Party requesting the work	
Contact Person:	
Phone Number:	
Email	
Specifications of Services or Goods to be provided:	
Marine insurances	Three (3) percent of the total invoice before GST for marine insurances

Equipment Hire	Any Seaborne Enterprises Limited equipment hired to the contracting party is on a per day* basis at rates negotiated.	
Price for Labour (+ GST)	\$110.00 per hour	Initial here

Acknowledgements:	1. You acknowledge that you are informed of the pricing and terms for the work.	Initial here
	2. You acknowledge that you will be invoiced for the labour and parts on a weekly basis, with payment due within 7 days of invoice date.	Initial here
	3. You acknowledge that you are aware that there is an agreement with the slip master, that no vessel will be returned to the water, without the account being paid in full.	Initial here
	4. You acknowledge that work will not commence until the vessel and surrounding site is safe under the Health & Safety rules.	Initial here

Please note:

*Day means any part of any calendar day.

** Hire begins at the place of delivery and ends at the place of return. For clarity every day is charged between place of delivery and place of return and including delivery and return days.

Seaborne Enterprises Limited Address for Service:

Seaborne Marine Services
25c Birch Avenue
Judea
Tauranga
3110

PH: +64 21 145 9410
Email: seaborneenterprises@gmail.com