

# MARINE DATA (ISLE OF MAN) LTD

## AGREEMENT ~ TERMS AND CONDITIONS

### DEFINITIONS

<b>Consultant Client</b>	Marine Data (Isle of Man) Limited (MDIOM) Person, group, corporate body or company to which the services are provided
<b>Services Agreement</b>	The services which are the subject of this agreement A document which sets out the terms and conditions with a schedule detailing the services to be supplied
<b>Appointment</b>	The letter from the Client formalising the agreement and appointing the Consultant
<b>Project</b>	The body of works committed by the client to which the Contractor applies the Services

### DISCIPLINE

The Consultants discipline is "Naval Architect and Marine Consultant"

### SERVICES

The scope of the Services to be provided to the Client by the Consultant will be agreed in writing between them. The services would be included in a schedule attached to this Agreement

If the Client requires any additional services or any change to the agreed Services, the Consultant will be entitled to an adjustment of the fees and an estimate of the additional fees which may be due will be provided to the Client upon request.

The Consultant shall at all times consult fully with the client and keep them properly informed of all matters arising in relation to the services and act in good faith to them.

### COMMENCEMENT / DURATION OF SERVICES

If the commencement date for the Services is not agreed in advance, the Services will be treated as having commenced on the date the Consultant begins to execute the Services.

The Services will continue until completion, unless the Appointment is terminated early in accordance with these Terms of Engagement.

### FEES & EXPENSES

The fees payable for the Services will be as agreed in writing between the Client and the Consultant. Unless otherwise specified, fees will be payable by monthly instalments against the Consultant's invoices (payment to be due 30 days after the invoice date).

Unless otherwise agreed expenses (including travel, telecommunications and other costs) will be recoverable plus 10% in addition to fees and the amounts will be added to the Consultant's invoices.

The daily and hourly rates quoted to the Client are subject to annual review on 1<sup>st</sup> April each year.

The Consultant will be entitled to interest on overdue accounts at the rate of 4% above the Base Rate as stated by the Bank of England on [www.bankofengland.co.uk](http://www.bankofengland.co.uk), calculated on a daily basis from the due date until payment is received by MDIOM.

Unless otherwise agreed any additional services will be charged at the normal daily and hourly rates as quoted to the Client.

Fees are quoted exclusive of any VAT at the applicable rate. If applicable, this will be added to each invoice and payable by the Client. If the services are executed on a vessel or marine structure that is to be exempt by virtue of export then the client will be liable for the VAT until the said vessel or marine structure has completed any export voyage as agreed by the relevant tax authority.

MDIOM require overseas clients to pay 30% of the agreed budget on signing the agreement.

Payment is in either Pounds Sterling or in Euros and is payable by BACS, electronic transfer or bankers draft. Invoices will list both Pounds Sterling and Euros.

### INFORMATION & APPROVAL

Information will be provided by the Client for the Consultant in good time to enable the Consultant to execute the Services and the Consultant will be entitled to depend on that information.

The Client will give all decisions and approvals in a timely manner and provide any further resources, which the Consultant may reasonably request.

### STANDARD OF CARE

The Consultant will exercise reasonable skill, care and diligence in the performance of the Services in accordance with the Code of Professional Conduct as published by the Royal Institution of Naval Architects.

The Consultant will also use reasonable endeavors to adhere to the programmes agreed with the Client for the provision of the Services, but will not be responsible for any delay which is due to reasons attributable to the Client or otherwise beyond the Consultant's control.

### HEALTH AND SAFETY

The Consultant shall, at all times and in all respects, take all reasonable care to prevent danger of death, injury or ill-health to any person or of damage to property, whilst carrying out their work or as a consequence of it.

### RISK ASSESSMENT

The Consultant shall in the course of his/her professional work carefully assess possible hazards, their mitigation and countermeasures in order to minimise risk, particularly to the public and the environment.

The Consultant will assess his/her potential liability for the accuracy and consequences of the work and, where appropriate, hold professional indemnity insurance.

### LIABILITY & INSURANCE

The Consultant will take appropriate steps to remedy any defect in the Services for which it is responsible and which is immediately notified to it by the Client at any time up to 12 months following completion of the Services.

The Consultant will have no other liability to the Client, whether in contract or in tort, for any loss or damage suffered by the Client, whether direct, indirect or consequential.

### PROTECTION OF THE ENVIRONMENT

The consultant shall, at all times and in all respects, take all reasonable care to prevent adverse impact on the working environment of themselves and others, and on the wider environment as a consequence of their work.

The Consultant, as far as is reasonably possible, will only select approved materials for use in the Project and that no substances or materials known to be deleterious at the time of specification or approval, or which are prohibited by building contract (if any) or which do not comply with the applicable Code of Practice shall be specified or approved for use on the Project.

### INTELLECTUAL PROPERTY & CONFIDENTIALITY

Subject to the Client paying all fees and expenses, which are due, the Client will have a licence to copy and use those documents and data for any purpose related to the project for which the Services are provided, but not for any other purpose.

Copyright in all drawings (hand drafted or CAD), reports, documents and computer-generated data prepared by the Consultant will remain the property of the Consultant.

The Consultant will not disclose information concerning the business of the client, past clients or any other customer not already in the public domain unless clearly authorised to do so or it is clearly in the public interest under the health and safety responsibilities referred to in this agreement and all other reasonable avenues have been exhausted.

The Consultant shall not improperly use confidential information either for his/her own benefit or for the benefit of a third party.

### PERSONNEL

The Consultant may designate an individual to act as the principal representative of the Consultant in dealings with the Client concerning the Services. The Consultant reserves the right to change that individual but will not do so without good reason and will inform the Client of any such change.

Details of the professional qualifications and experience of staff will be provided to the Client by the Consultant on request.

### TERMINATION

The Consultant may terminate the Appointment at any time by giving notice to the Client if the Client commits a material breach of any of the terms agreed between them, which are not remedied within 10 days. Failure to pay fees and expenses on the due date will constitute a material breach.

The Client may terminate the Appointment by notice to the Consultant if the Consultant commits a material breach of any of the terms agreed between them and fails to take steps to remedy the breach within 10 days of notice requiring it to do so from the Client.

Upon termination, the Client will pay the Consultant all fees and expenses due up to the termination date. In the event of wrongful termination by the Client, the Client will in addition pay the Consultant an appropriate amount of compensation for the Consultant's loss of anticipated profit.

Termination will not prejudice the statutory rights of the parties.

### ASSIGNMENTS & SUBCONTRACTING

Neither party will assign or subcontract its obligations without the consent of the other. In the event of the Consultant wishing to subcontract any of the Services, the Client will not unreasonably withhold its consent. The Consultant will not be relieved of any of its liabilities to the Client in the event of any subcontracting.

### LAW & JURISDICTION

The agreement between the parties is governed by English law.

Any disputes which cannot be resolved amicably will be resolved by the courts of England and Wales.

Each party will give serious consideration to a request by the other that any dispute should be referred to mediation.