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MARINE ENGINE SURVEY CONTRACT

Having obtained permission from the owner (where relevant), I/We hereby request Josty Consulting to carry out a

MARINE ENGINE SURVEY

MARINE ENGINE SURVEY AND SEA TRIALS

subject to your normal terms and conditions of business as set out on the reverse of this Survey Contract and which I/We have read and understood. Any special instructions outside your standard survey specification are noted below.

NAME OF VESSEL..... TYPE.....

LOA BEAM DRAUGHT

NUMBER OF ENGINES ENGINE TYPE – inboard outboard

FUEL – diesel petrol other

MANUFACTURED BY Survey to be carried on (date)

I/We hereby agree to pay any fees and expenses reasonably incurred and charged by Josty Consulting and understand that I am/we are responsible for all charges for boat movements, slipping, docking removals, replacements and reinstatement work arising in preparation for and in the process of the survey. It is understood and agreed that the surveyor's report will be a factual statement of the examination carried out within stated limitations; and with recommendations given in good faith as far as seen and accessible at the time of the survey. It carries with it no guarantee against faulty design or latent defects or suitability of the vessel for any particular purpose nor any guarantee of compliance with any particular national or international rule, requirement, regulation, law, standard or code unless specifically requested as a special instruction on this form and confirmed in the text of the report. Liability for the report is solely to the instructing client and to no other third party unless otherwise specified and agreed. It is further agreed that no liability will arise for any consequential or economic loss, loss of profits, business interruption or loss of use.

Fee quoted (payable in advance) Date.....

Client Names(s).....

Signed

Address.....

Daytime phone no. Home no..... Mobile no.....

Vessel owner's name and phone number

Vessel broker's name and phone number

Purpose for which vessel will be used

– Canal – River – Tidal Estuary – Inshore – Offshore

Special Instructions *(use separate sheet if required)*

**TERMS AND CONDITIONS OF BUSINESS FOR THE SUPPLY OF ADVICE AND SERVICES
BY JOSTY CONSULTING, YACHT AND SMALL CRAFT SURVEYORS**

- 1. DEFINITIONS**
- THE CLIENT THE COMPANY, FIRM, PERSON OR PERSONS WITHWHOM THE AGREEMENT IS MADE.
- JOSTY CONSULTING THE FIRM WITH WHICH THE AGREEMENT IS DRAWN UP AND IS RESPONSIBLE FOR SUPPLYING THE SERVICES AND PRODUCTS.
- THE AGREEMENT THE AGREEMENT IS BETWEEN JOSTY CONSULTING AND THE CLIENT (CONSTITUTEDBY THE SURVEY CONTRACT DRAWN UP ON PAGE 1 OF THIS DOCUMENT) AND INCORPORATING, INTER ALIA, THESE TERMS AND CONDITIONS.
- DELEGATE
- A) EMPLOYEE OR AGENT OF JOSTY CONSULTING
 - B) ANY PERSON TO WHOM PERFORMANCE OF WORK OR SERVICES UNDER THE AGREEMENT IS DELEGATED OR SUB-CONTRACTED BY JOSTY CONSULTING
 - C) ANY SUCH PERSON'S EMPLOYEES AND AGENTS
- 2. ASSIGNMENT** NEITHER PARTY SHALL TRANSFER OR ASSIGN ITS RIGHTS OR OBLIGATIONS UNDER THE AGREEMENT WITHOUT THE PRIOR WRITTEN CONSENT OF THE OTHER. THE CLIENT MAY TRANSFER ANY OR ALL OF ITS RIGHTS UNDER THE AGREEMENT TO ANY OF ITS AFFILIATE COMPANIES, IN WHICH CASE THE CLIENT SHALL PROCURE THE ACCEPTANCEBY THE ASSIGNEE OF THE TERMS, CONDITIONS, EXCEPTIONS AND EXEMPTIONS OF THE AGREEMENT.
- 3. DELEGATION** IF JOSTY CONSULTING CONSIDERS IT MORE EFFICIENT OR CONVENIENT, IT MAY IN ITS DISCRETION PROCURE ADVICE, ASSISTANCE AND SERVICES, WHICH IT RENDERS UNDER THE AGREEMENT, FROM OTHER PERSONS AND MAY IN ITS DISCRETION DELEGATE PERFORMANCE OF ONE OR MORE OF ITS OBLIGATIONS UNDER THE AGREEMENT.
- 4. PAYMENT**
- (A) ANY OUTSTANDING PAYMENTS SHALL BE MADE WITHIN 14 WORKING DAYS FROM THE DATE OF THE INVOICE.
 - (B) INVOICES FOR WORK CARRIED OUT IN THE UK WILL NOT CARRY VAT .
 - (C) THE AGREEMENT SHALL BE SUBJECT, NOW OR IN THE FUTURE, TO LEVIES, TAXES, OR CHARGES OF WHATEVER KIND, IN THE COUNTRY IN WHICH THE CLIENT IS INCORPORATED AND/OR OPERATING. THE CLIENT SHALL PAY SUCH SUMS AS SHALL YIELD TO JOSTY CONSULTING AFTER PAYMENT OR WITHHOLDING OF SUCH LEVIES, TAXES, OR CHARGES, TO THE FULL AMOUNTS PAYABLE UNDER THE AGREEMENT.
 - (D) ANY OVERDUE PAYMENTS SHALL BEAR COMPOUND INTEREST FROM THE DUE DATE UNTIL PAYMENT AT A RATE OF 1% PER WEEK.
 - (E) EXCEPT WHERE THEIR ARE SELF-EVIDENT ERRORS IN THE INVOICE, PAYMENTSHALL BE MADE BY THE CLIENT NOTWITHSTANDING ANY DISPUTERELATING TO THE BILLINGS. ANY ADJUSTMENTS CONSEQUENT UPON SETTLEMENT OF SUCH DISPUTES SHALL BE MADE WITHIN 30 DAYS FOLLOWING THE SETTLEMENT.
 - (F) WHERE ANY PAYMENTBECOMES MORE THAN 60 DAYSOVERDUE , JOSTY CONSULTING SHALL BE ENTITLED , WITHOUT PREJUDICE TO ANY OF ITS OTHER RIGHTS, TO TERMINATE THE AGREEMENT WHEREUPON PAYMENT WILLBECOME IMMEDIATELY DUE FOR THE VALUE OF WORK DONE UP TO THAT DATE.
- 5. LIABILITY AND INDEMNITY**
- (A) JOSTY CONSULTING SHALL PERFORM THE AGREEMENT WITH ALL PROPER SKILLS AND IN ACCORDANCE WITH THE CODE OF CONDUCT OF THE INTERNATIONAL INSTITUTE OF MARINE SURVEYORS.
 - (B) IF ANY WORK OR SERVICES UNDER THE AGREEMENT ARE NEGLIGENTLY PERFORMED OR OMITTED THEN, SO FAR AS MAY BE REASONABLY PRACTICABLE, JOSTY CONSULTING, AT ITS OWN EXPENSE, WILL CAUSE SUCH WORK AND SERVICES TO BE CORRECTLY PERFORMED.
 - (C) THE CLIENT SHALL NOT SUE ANY DELEGATE FOR ANY LOSS OR DAMAGE OF ANY NATURE WHATSOEVER SUFFERED BY THE CLIENT AND CONNECTED WITH PERFORMANCE OF THE AGREEMENT. THE CLIENT'S SOLE REMEDY SHALL BE AGAINST JOSTY CONSULTING UNDER THIS CLAUSE.
 - (D) THE TOTAL LIABILITY OF JOSTY CONSULTING TO THE CLIENT FOR BREACH OF THE AGREEMENT AND THE TOTAL THIRD PARTY LIABILITY OF JOSTY CONSULTING AND DELEGATES SHALL NOT FOR ANY REASON WHATSOEVER (INCLUDING NEGLIGENCE) IN AGGREGATE OVER THE DURATION OF THE AGREEMENT EXCEED AN AMOUNT EQUAL TO TEN TIMES THE FEES PAID AND PAYABLE BY THE CLIENT TO JOSTY CONSULTING.
 - (E) IF JOSTY CONSULTING OR ANY DELEGATE DOES INCUR THIRD PARTY LIABILITY OF ANY NATURE WHATSOEVER ARISING OUT OF OR CONNECTED WITH PERFORMANCE OF THE AGREEMENT THEN (SUBJECT TO CLAUSE 5(F) BELOW) THE CLIENT SHALL INDEMNIFY JOSTY CONSULTING, OR SUCH DELEGATE, AGAINST SUCH THIRD PARTY LIABILITY INTER ALIA, SUMPTOS, AND THIS INDEMNITY SHALL APPLY EVEN IF THE THIRD PARTY CLAIM WAS BASED ON NEGLIGENCE. FURTHER TO THE EXTENT THAT JOSTY CONSULTING MAY HAVE INDEMNIFIED ANY DELEGATE AGAINST SUCH THIRD PARTY LIABILITY, COSTS OR EXPENSES (WHICH JOSTY CONSULTING AT ITS SOLE DISCRETION SHALL BE ENTITLED TO DO) THEN THE CLIENT SHALL THEREUPON BE LIABLE TO INDEMNIFY JOSTY CONSULTING ACCORDINGLY.
 - (F) WHERE THE REASON FOR THIRD PARTY LIABILITY, MENTIONED IN CLAUSE 5(E) WAS THE NEGLIGENCE OF JOSTY CONSULTING, OR ANY DELEGATE, THE THE CLIENT'S INDEMNITY UNDER CLAUSE 5(E) SHALL APPLY ABOVE THE LIMIT OF LIABILITY MENTIONED IN CLAUSE 5(D) AND JOSTY CONSULTING SHALL BE LIABLE UP TO SUCH LIMIT.
 - (G) IN ENTERING INTO THE AGREEMENT CONTAINED IN CLAUSE 5, JOSTY CONSULTING CONTRACTS BOTH ON ITS OWN BEHALF AND AS AGENT ON BEHALF OF DELEGATES AND ALSO AS TRUSTEE FOR THEIR BENEFIT.
 - (H) NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR INDIRECT OR CONSEQUENTIAL DAMAGES RESULTING FROM OR ARISING OUT OF THE AGREEMENT INCLUDING BUT NOT LIMITED TO LOSS OF USE OF PROPERTY, LOSS OF PROFITS, LOSS OF PRODUCT OR BUSINESS INTERRUPTION.
- 6. CONFIDENTIALITY**
- (A) THE CLIENT UNDERTAKES TO KEEP CONFIDENTIAL ANY CONFIDENTIAL INFORMATION DISCLOSED TO IT BY JOSTY CONSULTING AND NOT TO DISCLOSE THE SAME EITHER COMPLETE OR IN PART TO ANY THIRD PARTY (INCLUDING SUBSIDIARY COMPANIES, HOLDING COMPANIES OR ASSOCIATE COMPANIES) WITHOUT JOSTY CONSULTING'S PRIOR WRITTEN APPROVAL, SUCH UNDERTAKING TO CONTINUE NOTWITHSTANDING THE EXPIRY OR TERMINATION OF THE AGREEMENT FOR SO LONG AS THE INFORMATION IN QUESTION HAS NOT:-
 - (i) BECOME PART OF THE PUBLIC KNOWLEDGE OR LITERATURE WITHOUT DEFAULT ON THE PART OF THE CLIENT OR
 - (ii) BEEN DISCLOSED TO THE CLIENT BY THE THIRD PARTY (OTHER THAN ONE DISCLOSING ON BEHALFOF JOSTY CONSULTING) WHOSE POSSESSION OF SUCH INFORMATION IS LAWFUL AND WHO IS UNDER NO SECRECY OBLIGATION WITH RESPECT TO THE SAME OR
 - (iii) FOR A PERIOD OF 10 YEARS FROM THE DATE THAT THE AGREEMENT TERMINATES, WHICHEVER IS SOONER.
 - (B) JOSTY CONSULTING SHALL UNDERTAKE TO KEEP CONFIDENTIAL ANY CONFIDENTIAL INFORMATION DISCLOSED TO IT BY THE CLIENT: AND JOSTY CONSULTING SHALL BE LIABLE TO THE SAME CONSTRAINTS AS IMPOSED BY CLAUSE 6(A) ON THE CLIENT.
- 7. FORCE MAJEURE** NEITHER PARTY TO THE AGREEMENT SHALL BE IN BREACH OF ANY OBLIGATION HEREUNDER (OTHER THAN THE OBLIGATIONS OF THE CLIENT TO MAKE PAYMENT OF ANY MONIES DUE TO JOSTY CONSULTING) INSOFAR AS PERFORMANCE THEREOF HAS BEEN DELAYED, HINDERED, INTERFERED WITH OR PREVENTED BY ANY CIRCUMSTANCES BEYOND ITS REASONABLE CONTROL.
- 9. APPLICABLE LAW AND ARBITRATION**
- THE PROPER LAW OF THE AGREEMENT IS ENGLISH LAW AND ENGLISH LAW SHALL BE USED FOR INTERPRETING THE AGREEMENT AND FOR RESOLVING ALL CLAIMS OR DISPUTES ARISING OUT OF OR CONNECTED WITH THE AGREEMENT (WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER LEGAL DOCTRINE). ANY SUCH CLAIM OR DISPUTE NOT SETTLED BY NEGOTIATION SHALL BE SETTLED BY ARBITRATION IN LONDON UNDER THE RULES OF THE LONDON COURT OF INTERNATIONAL ARBITRATION. THE LANGUAGE OF THE ARBITRATION SHALL BE ENGLISH.