

**Boat Electrics & Electronics Limited ("BEE")**

**&**

**BUSINESS2BUSINESS CONTRACT**

**CONFIDENTIAL**



**BEE**

**BOAT ELECTRICS & ELECTRONICS**

## **Index**

Please find enclosed:

Schedule 1: Scope

**Schedule 1: Scope/Demarcation Schedule**

**Schedule 2: Invoice**

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**Schedule 3: Variation Order**

<b>Contract No./Name:</b> [INSERT CONTRACT NO./Name]	<b>Variation No.:</b> [VO NUMBER]	<b>Date:</b> [DATE]
<b>Party seeking variation:</b> [INSERT PARTY NAME]		
<b>Requested by:</b>		<b>Variation Value:</b>

[INSERT NAME OF INDIVIDUAL WHO HAS REQUESTED THE VARIATION]	Cumulative Total Estimate: [INSERT AMOUNT] GBP; to be invoiced in monthly instalments.
<b>Variation Time:</b>  Cumulative Total Time Estimate: [INSERT TIME IMPACT]	
<b>Clause No.:</b>  [INSERT RELEVANT CLAUSE NO.]  (Answer could be n/a)	<b>Variation Description</b>  [IDENTIFY CHANGE - SCOPE OF SUPPLY CHANGE - TERMS AND CONDITIONS CHANGE ]
Nothing contained in this Variation shall be construed as an amendment to the Contract. Except as modified by the terms of this Variation, all terms and conditions of the Contract as adjusted shall remain in full force and effect.	
Signed by _____ duly authorised for and on behalf of Boat Electrics & Electronics Limited  .....  Date:.....	Signed by [INSERT FULL NAME OF INDIVIDUAL] duly authorised for and on behalf of [CLIENT NAME]  .....  Date:.....

**Schedule 4: Terms and Conditions**

- 1.1 The Parties hereby agree to be bound by these Terms and Conditions upon the earlier of:
  - 1.1.1 the Contract being signed by both Parties; or
  - 1.1.2 payment of a any sort by the Client to BEE; or
  - 1.1.3 the issuance of a purchase order, anything in writing or any instruction by the Client; or
  - 1.1.4 BEE undertakes any Services on behalf of the Client.

- 1.2 These Terms and Conditions shall apply to the provision of any Goods or Services by BEE to the Client and to the exclusion of any other terms that the Client seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 1.3 Unless the Parties have agreed otherwise in writing, these Terms and Conditions shall also apply to any other goods or services of whatever nature which may be provided by BEE to the Client.
- 1.4 In the event of any conflict between these Terms and Conditions and any other document relied upon by either Party in relation to the Contract, these Terms and Conditions shall prevail.

## **2 DEFINITIONS**

- 2.1 In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:

**"Business Days"** means days that the Bank of Scotland is open;

**Boat Electrics & Electronics Limited "BEE"** is the Service and Goods provider;

**"Contract"** means the Scope Schedule (Schedule 1) and BEE's Terms and Conditions (Schedule 4);

**"Client"** means any partnership, firm, entity or corporate body (which expression shall, where the context so admits, include its successors) which purchases/utilises the Goods and/ or Services from BEE;

**"Goods"** means any goods provided to the Client by BEE under the Contract;

**"Parties"** means BEE and the Client;

**"Scope"** means the scope of the Services to be provided by BEE to the Client, as agreed between the Parties and evidenced in the Scope and/or Demarcation Schedule and documents which accompany these Terms and Conditions;

**"Services"** means the services provided by BEE to the Client as outlined in the Scope and/or Demarcation Schedule agreed between the Parties; and

**"Variation"** is any variation from the initial Scope agreed between the Parties in accordance with clause 11, and which is recorded by way of a Variation Order, a pro-forma copy of which is attached at Schedule 3 to these Terms and Conditions.

- 2.2 Any reference to a statute or a provision of a statute shall be construed as a reference to that statute or provision as amended, re-enacted or extended, unless expressly stated otherwise, shall be at the time in force.
- 2.3 Unless the context otherwise requires, words importing the singular shall include the plural, and words importing the masculine gender shall include the feminine and neutral genders, and vice versa. Words importing a person shall include a firm and any entity having legal capacity.
- 2.4 Unless the context otherwise requires:

- 2.4.1 the headings in the Contract are inserted for convenience of reference only and shall not be taken into consideration in the interpretation or construction of the Contract;
  - 2.4.2 any phrase introduced by the terms "including", "include", "in particular" or any similar expression shall be construed as illustrative and without limitation and the words following any of those terms shall not limit the sense of the words preceding those terms; and
  - 2.4.3 reference to any document or agreement shall be construed as reference to the same as it may have been, or may from time to time, be amended or modified in accordance with the Contract.
- 2.5 References in these Terms and Conditions to "holding company" and "subsidiary" shall have the same meanings as ascribed to them in section 1159 of the Companies Act 2006.

### **3 THE SERVICES**

- 3.1 In consideration of the fees being paid by the Client to BEE, BEE shall provide the Services to the Client as outlined in the Scope and/or Demarcation Schedule.
- 3.2 BEE shall use its reasonable care and skill in the performance of the Services and compliance of all of its contractual obligations. The Services are provided by BEE exclusively to the Client. BEE does not accept any responsibility or liability to any third party for the Services which it provides to the Client unless expressly agreed in writing.

### **4 TERMS OF PAYMENT**

- 4.1 BEE shall issue the Client with invoices for all of the Services undertaken by BEE.
- 4.2 Unless the invoice specifically states a different date for payment of the invoice, in which case the due date on the invoice shall be the applicable due date, the Client shall pay BEE's invoice in full and final settlement, without set-off, deduction or withholding within 30 days of receipt of the invoice.
- 4.3 Every invoice shall be paid in the currency stated in the invoice in cleared funds to BEE's bank account as set out in the invoice.
- 4.4 Time is of the essence in relation to every invoice payment. If the Client fails to make any payment in accordance with the Contract and/or invoice, BEE shall, without prejudice to any right which BEE may have pursuant to any statutory provision in force, have the right to charge the Client interest on a daily basis at an annual rate equal to the base rate of The Bank of Scotland plus three percent (3%) from time to time on any sum due and not paid on the due date. Such interest shall be calculated compounding on a daily basis from the due date until payment of the overdue sum, whether before or after judgment.
- 4.5 If the Client reasonably believes that an incorrect invoice has been issued by BEE, they shall notify BEE promptly in writing, but in any event no later than the due date on the invoice, specifying the reason for disputing the invoice. The Client shall pay the undisputed portion of the invoice but shall be entitled to withhold payment of the disputed amount. BEE shall be entitled to charge interest at an annual rate equal to the base rate of The Bank of Scotland plus three percent (3%) on such disputed amounts where resolved in favour of

BEE within five (5) Banking Days after the dispute is resolved. Should the Client's claim be valid, a corrected invoice shall be issued by BEE.

- 4.6 At any time while any sum due and payable by the Client to BEE is outstanding, BEE shall be entitled to suspend the performance of any or all of their obligations under this Contract.

## **5 CLIENT RESPONSIBILITIES**

- 5.1 The Client undertakes and shall use its best endeavours to:
- 5.1.1 provide full, accurate and complete information to BEE in sufficient time to enable the Services to be performed effectively and efficiently by BEE;
  - 5.1.2 procure all necessary accesses for BEE's representatives to everything required to carry out the Services, not limited to necessary information, goods, premises (including all stores on or offsite during working hours), vessels, installation and transport;
  - 5.1.3 ensure the working environment is safe and adequate in relation to facilities and arrangements for BEE's representatives, where it has control of the relevant working environment;
  - 5.1.4 procure that it shall, on reasonable notice (and in any event not more than 24 hours after notice is given), make its project management team available to BEE for any purpose deemed necessary by BEE including, but not limited to, meetings, discussions and taking necessary steps to resolve problems that may delay provision of the Services;
  - 5.1.5 inform BEE at the earliest opportunity of any possible delays of any nature including, but not limited to those that occur due to vessel availability, labour relations, production problems, design problems, or financial problems or any other risk of delay whatsoever;
  - 5.1.6 to supply BEE with water and sufficient electrical power to enable BEE to provide the Services;
  - 5.1.7 Take out necessary insurance policies in respect of the Goods, and BEE staff; and
  - 5.1.8 comply with each and every obligation it has under the Contract.
- 5.2 Any information provided by the Client which subsequently is confirmed by BEE as incorrect, incomplete and/or defective, shall be corrected by BEE at the sole risk and expense of the Client. The Client hereby agrees to indemnify BEE for any costs incurred dealing with Client's incorrect, incomplete and/or defective information.

## **6 TERM AND TERMINATION**

- 6.1 This Contract applies to the Services whenever performed for the Client (including before the date of this Contract).
- 6.2 The Contract or any part of the Services under the Contract may be terminated upon the written agreement by both Parties.



- 6.3 Without affecting any other right or remedy available to it, either Party may terminate the Contract immediately if:
- 6.3.1 the other Party commits a material breach of any term of this Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of five (5) Business Days after being notified in writing to do so; or
  - 6.3.2 the other Party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts; or
  - 6.3.3 the other Party is a company or limited liability partnership, is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the Insolvency Act 1986; or
  - 6.3.4 the other Party is a partnership, has any partner to whom any of the foregoing apply; or
  - 6.3.5 the other Party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts or makes a proposal for or enters into any compromise or arrangement with any of its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party; or
  - 6.3.6 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the other Party; or
  - 6.3.7 an application is made to court, or an order is made, for the appointment of an administrator, or a notice or intention to appoint an administrator is given or if an administrator is appointed over the other Party; or
  - 6.3.8 a floating charge holder of the assets of the other Party has become entitled to appoint or has appointed an administrative receiver; or
  - 6.3.9 a person becomes entitled to appoint a receiver over the assets of the Client or a receiver is appointed over the assets of the other Party; or
  - 6.3.10 any event occurs or proceeding is taken with respect to the other Party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 6; or
- 6.4 Without affecting any other right or remedy available to it, BEE may terminate the Contract immediately if:
- 6.4.1 the Client fails to pay any amount due under the Contract on the due date for payment and remains in default not less than five (5) Business Days after being notified in writing to make such payment(s);
  - 6.4.2 the Client suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or

- 6.4.3 any circumstances whatsoever beyond the reasonable control of BEE that necessitates the termination for whatever reason for the provision of Services.
- 6.5 In the event of termination, BEE shall retain any sums already paid to it by the Client without prejudice to any other rights either party may have whether at law or otherwise.
- 6.6 Either party may terminate this Contract by providing the other party with 30 days prior written notice.
- 6.7 The provisions of this Agreement that give either BEE or the Client rights or obligations beyond its termination shall continue indefinitely following the termination of this Agreement.

## **7 FEES**

- 7.1 The Client shall pay BEE all professional fees and reasonable and necessary additional costs and expenses, in the opinion of BEE, that it incurs carrying out the Services (for example: travel and accommodation insurance, packaging, printing/copying, communications and Services). BEE shall be responsible for booking all required travel and accommodation unless otherwise agreed in writing between the Parties.
- 7.2 The Client hereby acknowledges that the total costs and expenses incurred during the Contract may exceed BEE's estimate(s). For example, BEE's estimate(s) are likely to be incorrect if any of the following circumstances arise:
  - 7.2.1 the exact scope is undefined at the time of executing the Scope and/or the Demarcation Schedule; or
  - 7.2.2 all of the relevant and required information requested is not supplied by the Client when it is requested/required; or
  - 7.2.3 if anomalies in information provided by the Client or in the Services are discovered during the Contract; or
  - 7.2.4 there is any change to the project as set out in the Scope and/or the Demarcation Schedule.
- 7.3 If any of the eventualities listed in clause 7.2 or similar scenarios occur, BEE may at any time, in its reasonable discretion, suspend Services and issue a new Scope and/or the Demarcation Schedule or a Variation Order. All Services provided by BEE up to the date of the suspension shall be paid in accordance with the Contract.
- 7.4 Any estimate quoted for the installation of Goods are for BEE's company engineers services only and do not include storage, shipyard charges, shipwright charges or any other charges whatsoever incurred in relation to the transportation, handling and/or installation of the Goods.
- 7.5 BEE may charge additional professional fees if events beyond BEE's control (including your acts or omissions) affect our ability to perform the Services as originally planned or if you ask us to perform additional tasks.
- 7.6 Unless otherwise set forth in the Contract or agreed in writing between the Parties, payment is due upon presentation of each of BEE's invoices. If BEE does not receive payment of its invoice within 30 days of the invoice date or in accordance with the invoice due date, BEE

shall be entitled, without prejudice to any other rights that BEE may have, to suspend provision of the Services until all sums due are paid in full by the Client.

- 7.7 The risk and legal title to any Goods provided and /or supplied by BEE to the Client under this Contract shall only transfer to the Client when all invoice issued by BEE, up to and including the final invoice, have been paid in full by the Client and BEE has received remittance of such sums into the account specified on the invoice issued to the Client. This includes payment of any sums that are disputed.
- 7.8 Until such time as the title in the Goods transfers from BEE to the Client, BEE shall be entitled at any time to require the Client to deliver up the Goods immediately to BEE. If the Client fails to so deliver up the Goods on BEE's request within 48 hours from BEE's notice, BEE or BEE's agent may enter any premises of the Client, or any premises where the Goods are located, and repossess the Goods. The fact that the title to the Goods shall not pass to the Client until complete and final payment has been made of all invoices issued by BEE to the Client shall not in any way affect the Client's liability to make payment for the Goods.
- 7.9 Pending transfer in title of the Goods from BEE to the Client, the Client shall keep the Goods (or procure that that the Goods are kept);
- 7.9.1 fully insured against fire, theft and accidental damage; and
- 7.9.2 clearly identifiable as BEE's Goods and stored separately.
- 7.10 If the Goods to which BEE has title are sold, lost or damaged or indistinguishable from the goods to which BEE does not have title, the Client must fully indemnify BEE for the cost of the Goods and any costs incurred due to the Client's inactions/actions.

## **8 SUBCONTRACTING**

- 8.1 BEE has the right to sub-contract or assign any of its obligations under the Contract.

## **9 THIRD PARTIES**

- 9.1 No provision of this Contract shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not party to it.

## **10 LIMITATIONS ON LIABILITY**

- 10.1 BEE is not responsible for and accepts no liability whatsoever for any losses, damage, delay or expense arising from or in connection with any error, inaccuracy, negligence and/or non-compliance with any drawings or technical information prepared for the manufacturing of any object that is a subject of the Contract.
- 10.2 BEE is not responsible for and accepts no liability whatsoever for any losses, damage, delay or expense arising from or in connection with any error, inaccuracy, negligence and/or non-compliance with any drawings or technical information in the design, performance and/or manufacturing of any object that is not of BEE's design and that is the subject of this Contract.
- 10.3 Where BEE is reliant upon drawings and/or information provided by the Client and/or any third party, BEE is not responsible for any losses, damage, delay or expense arising from or in connection with errors and inaccuracies in the information, drawings, measurements and/or other base data provided in relation to the Contract. Unless otherwise expressly

stated in the Scope, BEE will not review the consistency and/or accuracy of any information on the certificate of compliance with any other material(s), plan(s), documentation or certificate(s) of compliance. Each certificate of compliance is limited to the verification of the specific plans and/or documentation as stated on each particular certificate.

- 10.4 BEE shall be under no liability whatsoever to the Client for any loss, damage, delay or expense of any nature, whether direct or indirect and howsoever arising unless liability is solely a result of BEE's negligence or wilful default under the Contract.
- 10.5 Any claims against BEE in relation to this Contract shall be deemed to be waived and absolutely time barred upon the expiry of one year from the date on which BEE issues its final invoice under the Contract.
- 10.6 The Client hereby undertakes to indemnify BEE and its employees, agents and sub-contractors 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 in connection with the provision of the Services.
- 10.7 The Client further undertakes to indemnify BEE against and in respect of all costs, loss, damages and expenses (including legal costs) which BEE may suffer or incur (either directly or indirectly) in the course of performing the Services under this Contract, unless such costs, loss, damages and expenses (including legal costs) arise solely as a result of BEE's negligence or breach of the Contract. The loss need not occur before BEE may rely on this indemnity.
- 10.8 BEE shall not be liable for any loss of or damage to equipment and any other items placed at its disposal by or on behalf of the Client however such loss or damage occurs. This includes but is not limited to damage caused by fire, sinking, partial or total loss of the equipment.
- 10.9 BEE shall not be liable for any loss or damage to property owned by the Client or put at BEE's disposal by or on behalf of the Client. This includes but is not limited to damage caused by fire, sinking, partial or total loss of the Client's property, or damage to machinery.
- 10.10 The Client undertakes that it shall not hold BEE liable for late completion of provision of the Services to the Client or any associated losses, damages or expense arising from or in connection with the late delivery of the Services, where BEE has varied the deadline for provision of the Services by completion of a Variation in accordance with clause 11 below.
- 10.11 The Client undertakes that it shall not hold BEE liable for injury to its staff or agents or person related to the Client with whom BEE interacts in relation to the provision of the Services unless such injury is caused by BEE's negligence.
- 10.12 Neither BEE nor the Client shall, except otherwise provided in the Contract, be responsible for any loss, damage, delay or failure in performance hereunder arising or resulting from act of God, act of war, seizure of legal process, quarantine restrictions, national strikes, riots, civil commotions and arrest or restraint of princes, rulers or people of any other usual force majeure type event.
- 10.13 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from this Contract.

- 10.14 The maximum aggregate overall liability of BEE (including any costs payable to the Client) in connection with the rectification of defects, default and delay or any termination for default to the Client under or in connection with the Contract shall not exceed the value paid by the Client to BEE at the date the liability arose for the Services, even where it is alleged or established that such liability arose from BEE's default, negligence or non-performance. This limitation shall apply in an absolute manner and shall apply in contract, at law, in tort or in any other legal proceedings or otherwise.

## **11 VARIATIONS**

- 11.1 Any Variation that may be required during the Contract shall be processed expeditiously and efficiently by BEE and the Client. A specimen copy of a Variation Order is included in Schedule 3 hereto.
- 11.2 The Client has the right to request BEE at any time to do any of the following:
- 11.2.1 make any revision to the Services which may include additions, omissions, substitutions and changes in quality, form, character, kind, position, dimension, level or line and changes in any method of construction or installation specified by the Client; or
  - 11.2.2 revise elements of the Services already completed in accordance with the Contract; or
  - 11.2.3 after commencement of the Services, accelerate the Services or any part thereof in order to recover all or part of any delay in respect of which BEE would otherwise have been entitled to an extension of time; or
  - 11.2.4 Re-programme the Services and reschedule its resources in order to complete the Services or any part thereof in accordance with any deadline the Client may request.
- 11.3 Unless such instruction by the Client is required as a result of a failure by BEE to comply with the Contract or any other negligent act or omission of BEE, an instruction under clause 11 will constitute a Variation.
- 11.4 If BEE considers that an instruction has been given or other event has taken place for which it is entitled to receive a Variation, BEE shall (and where practicable before proceeding with any work affected by such instruction) request that the Client accepts a Variation in respect of such instruction.
- 11.5 Any Variation request by BEE shall include details of the instruction, any relevant dates and the clause(s) of the contract under which BEE considers itself to be entitled to a Variation. BEE shall also provide both estimated cost and schedule impact associated with the Variation request.
- 11.6 All Variation requests shall be recorded in a Variation Order and submitted to the Client. The Variation Order should be signed and dated by the Client and returned to BEE within five (5) Business Days, unless otherwise agreed BEE. If the Client does not respond to a Variation request within five (5) Business Days, the Variation request is deemed to have been accepted and a Variation Order is deemed to have been issued and/or signed by the Client.

- 11.7 Subject to clause 11.6 above, no Variation shall become effective until the formal issue of a Variation Order is signed by BEE and authorised by the Client in accordance with clause 11.6 of these Terms and Conditions.
- 11.8 Subject to clause 11.6 above, the completed Variation Order signed by both Parties, or signed by BEE and authorised by the Client in accordance with clause 11.6, authorises BEE to proceed with such Variation.
- 11.9 Variations shall be paid by the Client as indicated in the Variation Order. Where no payment terms are indicated, Variations shall be paid in accordance with BEE's standard invoicing procedure.

## **12 APPLICABLE LAW AND JURISDICTION**

- 12.1 This Contract is governed by the laws of England and Wales.
- 12.2 Any dispute between BEE and the Client in connection with or arising out of the Contract shall be resolved by means of the following procedure:
- 12.2.1 One Party shall serve a notice of dispute in writing on the other Party setting out (i) the background facts to the dispute, (ii) the contractual clauses relied upon by the Party initiating the dispute process and (iii) the value of the dispute with a detailed explanation of how the value of the dispute has been calculated by that Party ("Notice of Dispute").
- 12.2.2 Within 10 Business Days of the Notice of Dispute being served on the other Party, the dispute shall be referred to the Client's representative and BEE's representative who shall discuss the matter, either in person or by telephone. The Parties' representatives shall make all reasonable efforts to reach an agreement. Each Party's representative for the purposes of the dispute process shall be an individual with the authority to deal with the dispute.
- 12.2.3 If no agreement is reached under clause 12 or 10 Business Days have passed since the Notice of Dispute was served on the other Party, the Parties shall, acting in good faith, within 40 days from the date of the Notice of Dispute, attempt to resolve the dispute by attending mediation. The mediation shall be in accordance with the Centre for Effective Dispute Resolution Model Mediation Procedure. The Parties shall exchange mediation papers (maximum 7 pages long) outlining their position five (5) Business Days in advance of the mediation. The mediation shall be conducted in Glasgow, United Kingdom.
- 12.2.4 In the absence of any agreement being reached at mediation or 40 days have passed since the Notice of Dispute, the dispute shall be finally settled by arbitration. The arbitration shall be conducted in accordance with London Maritime Arbitrators Association (LMAA) Terms current at the time when the arbitration proceedings are commenced. The reference shall be to one arbitrator. If within 14 days of one Party calling for arbitration, the Parties have not agreed upon a sole arbitrator, either Party may apply in writing for the appointment of a sole arbitrator by the President of the LMAA. The award of the sole arbitrator shall be binding on both Parties as if he had been appointed by agreement. Section 69 of the Arbitration Act 1996, appeal on a point of law, is excluded and shall not apply to any arbitration under this

Contract. The language of arbitration will be English. The seat of the arbitration shall be Glasgow.

- 12.3 Any dispute with a value of under £30,000 (Sterling) shall be referred to the LMAA Small Claims Procedure.

### **13 CONFIDENTIALITY**

- 13.1 All pricing, drawings, intelligence, any information contained within the Scope and technical information supplied by BEE shall be considered confidential.

- 13.2 All communications between the Parties shall be considered confidential.

- 13.3 Confidential information shall not be disclosed by either Party without prior written permission by the other Party.

- 13.4 All information provided by the Client which the Client wishes to remain confidential shall be clearly marked as confidential, provided always that any such information relating to the Client's trade secrets shall always be treated as confidential by BEE without the necessity on the part of the Client to clearly mark as such.

- 13.5 The provisions of clause 13 shall not apply to information which:

13.5.1 is part of the public domain;

13.5.2 was in the possession of BEE prior to the Contract and which was not subject to any obligation of confidentiality owed to the Client;

13.5.3 was received from a third party whose possession is lawful and who is under no obligation not to disclose; or

13.5.4 is required to be disclosed in order to comply with the requirements of any law, rule or regulation of any governmental or regulatory body having jurisdiction over the Services or BEE.

### **14 INTELLECTUAL PROPERTY**

- 14.1 All intellectual property created by virtue of BEE carrying out the Services under this Contract is owned by BEE. Unless otherwise expressly stated, the Client receives any intellectual property created during this Contract on a non-exclusive and royalty free license basis. If a license and/or royalty fee for the use of BEE's intellectual property is applicable, it shall be agreed between the Parties prior to commencement of each Service undertaken under this Contract.

- 14.2 Subject to clause 14.1, neither the Client nor BEE shall have the right of use, other than for the purposes of this specific Contract, whether directly or indirectly, of any patent, copyright, proprietary right or confidential know-how, trademark or process provided by the other Party and the intellectual property rights in such shall remain with the Party providing such patent, copyright, proprietary right or confidential know-how, trademark or process.

- 14.3 The Client shall release, defend, indemnify and hold harmless BEE from and against all claims, losses, damages, expenses (including without limitation legal costs and expenses and other costs of defence) and liabilities arising out of any alleged infringement of any

patent or proprietary or protected right or any other claim relating to information supplied by the Client to BEE, arising out of or in connection with the performance of the obligations under the Contract.

## **15 RELEVANT REQUIREMENTS**

- 15.1 Nothing contained in this Contract 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 provide by this Contract.
- 15.2 Any modification or amendment of this Contract shall be effective only if placed in writing and signed by both Parties.
- 15.3 Either Party corresponding under this Contract shall ensure such correspondence is effectively given and such correspondence shall be treated as received during BEE's office hours. If correspondence is sent outside BEE's office hours it shall be treated as received during BEE's next working day.
- 15.4 Each Party will not unreasonably withhold any information requested by the other Party and shall disclose to the other Party any information requested necessary by the other Party.
- 15.5 The Client's relationship is solely with BEE. No representative of BEE has any personal legal obligation and/or liability to the Client whether in contract, tort (including negligence) or otherwise. The fact that any representative of BEE signs any documentation, electronically or in writing, in his or her name in the course of carrying out the Services does not give rise to any personal legal liability separate to that of BEE.

## **16 ENTIRE CONTRACT**

- 16.1 This Contract (Schedules 1 & 4) constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. The provision of any other Terms and Conditions by any party and/or Client shall not bind BEE in any way. If there is any contradiction between the Schedules 1,2,3 and 4, the Contracts' Terms and Conditions shall take priority (Schedule 4).
- 16.2 Each Party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Contract.

## **17 WAIVER**

- 17.1 None of the Terms and Conditions of the Contract shall be considered to be waived by BEE unless a waiver is given in writing by BEE to the Client. No failure on the part of BEE to enforce any of the Terms and Conditions of the Contract shall constitute a waiver of such terms.

## **18 CONSEQUENTIAL LOSS**

- 18.1 Notwithstanding any provisions to the contrary elsewhere in the Contract, the Client shall release, defend, indemnify and hold harmless BEE from the Client's consequential loss and



BEE shall release, indemnify and hold harmless the Client from BEE's consequential loss. Consequential loss shall mean any indirect or consequential loss howsoever caused whether by virtue of any fiduciary duty, in tort or delict (including negligence) as a consequence of breach of any duty (whether statutory, contractual or otherwise) or under any other legal doctrine or principle whatsoever whether or not recoverable at common law or in equity, arising from or related to the performance of the Contract and whether or not any such losses were foreseeable at the time of entering into the Contract.

## **19 SUSPENSION OF SERVICES**

- 19.1 BEE shall have the right, by notice to the Client, to suspend the Services or any part thereof, to the extent detailed in the notice, for any of the following reasons:
- 19.1.1 if the Client is in breach of its obligations under the Contract or any other agreements between the Client and BEE; or
  - 19.1.2 in the event that suspension is necessary for the proper execution or safety of the Services or persons; or
  - 19.1.3 is deemed appropriate by BEE; or
  - 19.1.4 any of the circumstances listed in clause 7.2 arise.
- 19.2 All Services provided by BEE up to the date of the suspension shall be paid in accordance with the Contract.
- 19.3 BEE shall have the right, by notice to the Client, to recommence the Services or any part thereof, to the extent detailed in the notice. Following recommencement of the Services all Services shall be paid in accordance with the Contract.

## **20 WARRANTY**

- 20.1 BEE warrants that on delivery of Goods, and for a period of 12 months from the date of delivery (the "**Warranty Period**"), the Goods shall:
- 20.1.1 be free from material defects in design, material and workmanship;
  - 20.1.2 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and
  - 20.1.3 be fit for any purpose held out by BEE in the Contract.
- 20.2 Subject to clause 20.1 above, if the Client:
- 20.2.1 gives notice in writing to BEE during the Warranty Period within a reasonable time of discovery, not later than three (3) Business Days, that some or all of the Goods do not comply with the warranty;
  - 20.2.2 BEE is given a reasonable opportunity of examining such Goods;
  - 20.2.3 The Client (if asked to do so by BEE) returns such Goods to BEE's place of business; and
  - 20.2.4 BEE shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

- 20.3 BEE shall not be liable for the Goods' failure to comply with the warranty set out in 20.1 in any of the following events:
- 20.3.1 the Client makes any further use of such Goods after giving notice in accordance with clause 20.2;
  - 20.3.2 the defect arises because the Client failed to follow BEE's oral and/or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;
  - 20.3.3 the defect arises as a result of BEE following any drawing, design or Specification supplied by the Client;
  - 20.3.4 the Client alters or repairs such Goods without the written consent of BEE;
  - 20.3.5 the defect arises as a result of fair wear and tear, wilful damage, negligence, or inappropriate storage or working conditions; or
  - 20.3.6 the Goods differ from their description or the specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 20.4 Except as provided in this clause 20, BEE shall have no liability to the Client in respect of the Goods' failure to comply with the warranty set out in clause 20.1.
- 20.5 These terms shall apply to any repaired or replacement Goods supplied by BEE.

## **21 DATA PROTECTION**

- 21.1 "Data Protection Legislation" means the EU General Data Protection Regulation 2016/679, together with all other applicable legislation relating to privacy or data protection and including any statute or statutory provision which amends, extends, consolidates or replaces the same. The terms "personal data", "data subject", "controller", "processor" and "process" (and their derivatives) shall have the meanings given to them in the Data Protection Legislation.
- 21.2 The Client (including its employees, officers, representatives or other agents) and BEE shall be considered to be a controller in respect of personal data disclosed to BEE by or on behalf of the Client or otherwise processed by BEE in connection with our work for the Client ("Personal Data"). Any controller under these Terms and Conditions or the Contract shall comply with the Data Protection Legislation in connection with such processing.
- 21.3 BEE shall process the Personal Data in accordance with our Client Data Protection Policy, a copy of which is available at our website: [www.boatelectrics.com](http://www.boatelectrics.com). and the Client shall (and shall procure that any of your employees, officers, representatives or other agents) collect any necessary permission, provide any necessary notice and do all such other things as are required under the Data Protection Legislation in order for you to disclose Personal Data to us for the purposes described therein.

**Signed** by **[insert full name of individual]** duly authorised for and on behalf of **[name of Client]**

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[Director] [Secretary] [Authorised Signatory]

**Date:** \_\_\_\_\_

**Signed** by **[insert full name of individual]** duly authorised for and on behalf of **Boat Electrics & Electronics Limited**

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[Director] [Secretary] [Authorised Signatory]

**Date:** \_\_\_\_\_