

1. Definitions

- 1.1 "Contract" means the terms and conditions contained herein, together with any Quotation, order, invoice or other document or amendments expressed to be supplemental to this Contract.
- 1.2 "Gloss Boats" means Gloss Boats Marine Spraying Specialists Limited, its successors and assigns or any person acting on behalf of and with the authority of Gloss Boats Marine Spraying Specialists Limited.
- 1.3 "Customer" means the person/s, entities or any person acting on behalf of and with the authority of the Customer requesting Gloss Boats to provide the Services as specified in any proposal, quotation, order, invoice or other documentation, and:
- (a) if there is more than one Customer, is a reference to each Customer jointly and severally; and
 - (b) if the Customer is a partnership, it shall bind each partner jointly and severally; and
 - (c) if the Customer is a part of a Trust, shall be bound in their capacity as a trustee; and
 - (d) includes the Customer's executors, administrators, successors and permitted assigns.
- 1.4 "Services" shall mean all Services provided by Gloss Boats to the Customer at the Customer's request from time to time, and includes any goods, documents, designs, drawings or goods supplied, consumed, created or deposited incidentally by Gloss Boats in the course of it conducting, or providing to the Customer, any Services ("**Goods**"). Where the context so permits the terms 'Services' or 'Goods' shall be interchangeable for the other.
- 1.5 "Vessel" shall mean the boat/marine craft and/or any other accessories to which Gloss Boats will perform its Services as described in any documentation supplied by Gloss Boats to the Customer.
- 1.6 "Confidential Information" means information of a confidential nature whether oral, written or in electronic form including, but not limited to, this Contract, either party's intellectual property, operational information, know-how, trade secrets, financial and commercial affairs, contracts, client information (including but not limited to, "**Personal Information**" such as: name, address, D.O.B, occupation, driver's license details, electronic contact (email, Facebook or Twitter details), medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history) and pricing details.
- 1.7 "Price" means the price payable (plus any Goods and Services Tax ("GST") where applicable) for the Services as agreed between Gloss Boats and the Customer in accordance with clause 5 of this Contract.

2. Acceptance

- 2.1 The Customer is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Customer places an order for, or accepts Services provided by Gloss Boats.
- 2.2 In the event of any inconsistency between the terms and conditions of this Contract and any other prior document or schedule that the parties have entered into, the terms of this Contract shall prevail.
- 2.3 Any amendment to the terms and conditions contained in this Contract may only be amended in writing by the consent of both parties.
- 2.4 The Customer acknowledges that the supply of Services on credit shall not take effect until the Customer has completed a credit application with Gloss Boats and it has been approved with a credit limit established for the account.
- 2.5 In the event that the supply of Services request exceeds the Customers credit limit and/or the account exceeds the payment terms, Gloss Boats reserves the right to refuse delivery.
- 2.6 Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 226 of the Contract and Commercial Law Act 2017 or any other applicable provisions of that Act or any Regulations referred to in that Act.

3. Errors and Omissions

- 3.1 The Customer acknowledges and accepts that Gloss Boats shall, without prejudice, accept no liability in respect of any alleged or actual error(s) and/or omission(s):
- (a) resulting from an inadvertent mistake made by Gloss Boats in the formation and/or administration of this Contract; and/or
 - (b) contained in/omitted from any literature (hard copy and/or electronic) supplied by Gloss Boats in respect of the Services.
- 3.2 In the event such an error and/or omission occurs in accordance with clause 3.1, and is not attributable to the negligence and/or wilful misconduct of Gloss Boats; the Customer shall not be entitled to treat this Contract as repudiated nor render it invalid.

4. Change in Control

- 4.1 The Customer shall give Gloss Boats not less than fourteen (14) days prior written notice of any proposed change of ownership of the Customer and/or any other change in the Customer's details (including but not limited to, changes in the Customer's name, address, contact phone or fax number/s, change of trustees, or business practice). The Customer shall be liable for any loss incurred by Gloss Boats as a result of the Customer's failure to comply with this clause.

5. Price and Payment

- 5.1 At Gloss Boats' sole discretion the Price shall be either:
- (a) as indicated on any invoice provided by Gloss Boats to the Customer; or
 - (b) Gloss Boats' estimated Price (subject to clause 5.3) which will be valid for the period stated in the estimation or otherwise for a period of thirty (30) days. The final price can only be ascertained upon completion of the Services. Variances in the estimated Price of more than ten percent (10%) will be subject to Customer's approval before proceeding with the Services; or
 - (c) Gloss Boats' quoted price (subject to clause 5.3) which will be valid for the period stated in the quotation or otherwise for a period of seven (7) days.
- 5.2 Unless specified by Gloss Boats in writing, the Price is based on the existing condition and size of the Vessel, as stated by the Customer and/or detailed in Customer supplied digital images and/or photographs of the Vessel, or at the time of inspection by Gloss Boats. Any variation to the condition and/or size of the Vessel will be treated as a variation to the Price, in accordance with clause 5.3.
- 5.3 Gloss Boats reserves the right to change the Price:
- (a) if a variation to the Services originally scheduled (including any Goods, applicable plans or specifications) is requested; or
 - (b) where additional Services are required due to the discovery of hidden or unidentifiable difficulties (including but not limited to, high moisture content or obscured latent defects, etc.) which are only discovered upon the commencement of the Services; or
 - (c) in the event of increases to Gloss Boats in the cost of labour or Goods, which are beyond Gloss Boats' control.
- 5.4 Variations will be charged for on the basis of Gloss Boats' quotation, and will be detailed in writing, and shown as variations on Gloss Boats' invoice. The Customer shall be required to respond to any variation submitted by Gloss Boats within ten (10) working days. Failure to do so

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will entitle Gloss Boats to add the cost of the variation to the Price. Payment for all variations must be made in full at the time of their completion.

- 5.5 At Gloss Boats' sole discretion a non-refundable deposit may be required.
- 5.6 Time for payment for the Services being of the essence, the Price will be payable by the Customer on the date/s determined by Gloss Boats, which may be:
- (a) on delivery of the Services;
 - (b) by way of instalments/progress payments in accordance with Gloss Boats' payment schedule, which shall be:
 - (i) fifty percent (50%) deposit, due and payable upon commencement of the Services;
 - (ii) twenty-five percent (25%) progress payment, due and payable on the date specified on any progress payment claim; and
 - (iii) the balance owing shall be due and payable upon completion of the Services.
 - (c) payment for approved Customers shall be due twenty (20) days following the end of the month in which a statement is delivered to the Customer's address or address for notices;
 - (d) the date specified on any invoice or other form as being the date for payment; or
 - (e) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Customer by Gloss Boats.
- 5.7 Payment may be made by cash, cheque, bank cheque, electronic/on-line banking, credit card (Visa/MasterCard only, a surcharge per transaction may apply), or by any other method as agreed to between the Customer and Gloss Boats.
- 5.8 Gloss Boats may in its discretion allocate any payment received from the Customer towards any invoice that Gloss Boats determines and may do so at the time of receipt or at any time afterwards. On any default by the Customer Gloss Boats may re-allocate any payments previously received and allocated. In the absence of any payment allocation by Gloss Boats, payment will be deemed to be allocated in such manner as preserves the maximum value of Gloss Boats' Purchase Money Security Interest (as defined in the PPSA) in the Services.
- 5.9 The Customer shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Customer by Gloss Boats nor to withhold payment of any invoice because part of that invoice is in dispute.
- 5.10 Unless otherwise stated the Price does not include GST. In addition to the Price, the Customer must pay to Gloss Boats an amount equal to any GST Gloss Boats must pay for any supply by Gloss Boats under this or any other agreement for providing Gloss Boats' Services. The Customer must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Customer pays the Price. In addition, the Customer must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.

6. Provision of the Services

- 6.1 At Gloss Boats' sole discretion delivery of the Services shall take place when the Services are supplied to the Customer at Gloss Boats' address.
- 6.2 Delivery of the Services to a third party nominated by the Customer is deemed to be delivery to the Customer for the purposes of this Contract.
- 6.3 Gloss Boats may deliver the Services by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions in these terms and conditions.
- 6.4 It shall be the Customer's responsibility to ensure any requested commencement / completion date is realistic and truthful in order for Gloss Boats to provide the Services by the requested deadline. Gloss Boats shall not be liable for any loss suffered by the Customer where any requested date/s is inaccurate, unattainable or unreasonable.
- 6.5 Any time specified by Gloss Boats for delivery of the Services is an estimate only and Gloss Boats will not be liable for any loss or damage incurred by the Customer as a result of delivery being late. However both parties agree that they shall make every endeavour to enable the Services to be supplied at the time and place as was arranged between both parties. In the event that Gloss Boats is unable to supply the Services as agreed solely due to any action or inaction of the Customer then Gloss Boats shall be entitled to charge a reasonable fee for re-supplying the Services at a later time and date.
- 6.6 Any advice, recommendation, information or assistance provided by Gloss Boats in relation to Services is given in good faith and shall be accepted without liability on the part of Gloss Boats, and it shall be the responsibility of the Customer to confirm the accuracy and reliability of the same in light of the use to which the Customer makes or intends to make of the Services.

7. Risk

- 7.1 Irrespective of whether Gloss Boats retains ownership of any Goods all risk for such items shall pass to the Customer as soon as such items are delivered to the Customer and shall remain with the Customer until such time as Gloss Boats may repossess the Goods. The Customer must insure all Goods on or before delivery.
- 7.2 Gloss Boats reserves its right to seek compensation or damages for any damage, destruction or loss suffered in relation to the Goods as a result of the Customer's failure to insure in accordance with clause 7.1.
- 7.3 Gloss Boats shall be entitled to rely on the accuracy of any designs, specifications and other information provided by the Customer. The Customer acknowledges and agrees that in the event that any of this information provided by the Customer is inaccurate, Gloss Boats accepts no responsibility for any loss, damages, or costs however resulting from these inaccurate designs, specifications or other information.
- 7.4 The Customer acknowledges that Goods supplied may:
- (a) exhibit variations in shade, colour, texture, surface and finish, and may fade or change colour over time. Gloss Boats will make every effort to match batches of product supplied in order to minimise such variations but shall not be liable in any way whatsoever where such variations occur; and
 - (b) mark or stain if exposed to certain substances; and
 - (c) be damaged or disfigured by impact or scratching.
- 7.5 The Customer warrants that the surface in or upon which the Goods are to be applied to is free from any contaminants, does not have a high moisture content and will sustain the application and Services incidental thereto. Gloss Boats shall not be liable for any claims, demands, losses, damages, costs and expenses howsoever caused or arising in connection with the existing condition of the Vessel that may cause any failure or defects in the Services.
- 7.6 Where the Customer has supplied products for Gloss Boats to complete the Services, the Customer acknowledges that he accepts responsibility for the suitability of purpose, quality and any faults inherent in the materials. Gloss Boats shall not be responsible for any

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defects in the products, any loss or damage to the Services (or any part thereof), howsoever arising from the use of products supplied by the Customer.

- 7.7 Gloss Boats shall not be held liable for:
- (a) inferior existing paintwork where Gloss Boats' paint has bonded to the existing paintwork and weakened the previous paint causing any kind of flake, crack, blemish or surface defect; or
 - (b) the quality of the Services if the Customer does not follow Gloss Boats' recommendations as to the number of coats of paint required to obtain the final finish if the Customer chooses to accept a reduced Price based on fewer coats of paint; or
 - (c) any loss or damage to the Services (including, but not limited to, painted surfaces) that is caused by any other tradesmen.
- 7.8 Gloss Boats undertakes to maintain a reasonable duty of care towards the Vessel, but risk (including, but not limited to, insurance risk) in the Vessel remains with the Customer, notwithstanding that Gloss Boats is in possession of the Vessel. It is the Customer's responsibility to ensure that it's Vessel is insured against all possible damage (including, but not limited to, the perils of accident, fire, theft and burglary and all other usual risks) whilst stored at Gloss Boats' premises. The Vessel is at all times stored at the Customer's sole risk.
- 7.9 The Customer shall secure or remove any personal and/or valuable items from the Vessel prior to the Services. Gloss Boats will accept no responsibility for valuables or other items left in or on the Vessel.
- 7.10 The Customer accepts and acknowledges that the finished surface should be maintained in accordance with the manufacturer's recommendations, (*where applicable*) copies of said information can be provided upon request from Gloss Boats. The Customer acknowledges and agrees that Gloss Boats shall not be held liable for any loss, damages or costs arising due to the Customer's failure to comply with this clause.

8. Title

- 8.1 Gloss Boats and the Customer agree that where it is intended that the ownership of Goods is to pass to the Customer that such ownership shall not pass until:
- (a) the Customer has paid Gloss Boats all amounts owing for the Services; and
 - (b) the Customer has met all other obligations due by the Customer to Gloss Boats in respect of all contracts between Gloss Boats and the Customer.
- 8.2 Receipt by Gloss Boats of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised and until then Gloss Boats' ownership or rights in respect of the Goods shall continue.

9. Personal Property Securities Act 1999 ("PPSA")

- 9.1 Upon assenting to these terms and conditions in writing the Customer acknowledges and agrees that:
- (a) these terms and conditions constitute a security agreement for the purposes of the PPSA; and
 - (b) a security interest is taken in all Goods and/or collateral (account) – being a monetary obligation of the Customer to Gloss Boats for Services – that have previously been supplied and that will be supplied in the future by Gloss Boats to the Customer.
- 9.2 The Customer undertakes to:
- (a) sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which Gloss Boats may reasonably require to register a financing statement or financing change statement on the Personal Property Securities Register;
 - (b) indemnify, and upon demand reimburse, Gloss Boats for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register or releasing any Goods charged thereby;
 - (c) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods and/or collateral (account) in favour of a third party without the prior written consent of Gloss Boats.
- 9.3 Gloss Boats and the Customer agree that nothing in sections 114(1)(a), 133 and 134 of the PPSA shall apply to these terms and conditions.
- 9.4 The Customer waives its rights as a debtor under sections 116, 120(2), 121, 125, 126, 127, 129, 131 and 132 of the PPSA.
- 9.5 Unless otherwise agreed to in writing by Gloss Boats, the Customer waives its right to receive a verification statement in accordance with section 148 of the PPSA.
- 9.6 The Customer shall unconditionally ratify any actions taken by Gloss Boats under clauses 9.1 to 9.5.
- 9.7 Subject to any express provisions to the contrary (including those contained in this clause 9), nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.

10. Security and Charge

- 10.1 In consideration of Gloss Boats agreeing to supply Services, the Customer charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Customer either now or in the future, to secure the performance by the Customer of its obligations under these terms and conditions (including, but not limited to, the payment of any money).
- 10.2 The Customer indemnifies Gloss Boats from and against all Gloss Boats' costs and disbursements including legal costs of a solicitor and own client basis incurred in exercising Gloss Boats' rights under this clause.
- 10.3 The Customer irrevocably appoints Gloss Boats and each director of Gloss Boats as the Customer's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 10 including, but not limited to, signing any document on the Customer's behalf.

11. Defects and Warranties

- 11.1 The Customer shall inspect the Services on delivery and shall within thirty (30) days of delivery notify Gloss Boats of any alleged defect, shortage in quantity, errors, omissions or failure to comply with the description or quote. The Customer shall afford Gloss Boats an opportunity to inspect the Services within a reasonable time following delivery if the Customer believes the Services are defective in any way. If the Customer shall fail to comply with these provisions, the Services shall be conclusively presumed to be in accordance with the terms and conditions and free from any defect or damage.
- 11.2 For defective Services, which Gloss Boats has agreed in writing that the Customer is entitled to reject, Gloss Boats' liability is limited to either (at Gloss Boats' discretion) replacing the Services or rectifying the Services provided that the Customer has complied with the provisions of clause 11.1.
- 11.3 For Goods, the warranty shall be the current warranty provided by the manufacturer of the Goods. Gloss Boats shall not be bound by nor be responsible for any term, condition, representation or warranty other than that which is given by the manufacturer of the Goods.

12. Consumer Guarantees Act 1993

- 12.1 If the Customer is acquiring Services for the purposes of a trade or business, the Customer acknowledges that the provisions of the Consumer Guarantees Act 1993 do not apply to the supply of Services by Gloss Boats to the Customer.

13. Intellectual Property

- 13.1 The Customer warrants that all designs, specifications or instructions given to Gloss Boats will not cause Gloss Boats to infringe any patent, registered design or trademark in the execution of the Customer's order and the Customer agrees to indemnify Gloss Boats against any action taken by a third party against Gloss Boats in respect of any such infringement.
- 13.2 The Customer agrees that Gloss Boats may (at no cost) use for the purposes of marketing or entry into any competition, any Goods which Gloss Boats has created for the Customer.

14. Default and Consequences of Default

- 14.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at Gloss Boats' sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 14.2 If the Customer owes Gloss Boats any money the Customer shall indemnify Gloss Boats from and against all costs and disbursements incurred by Gloss Boats in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, Gloss Boats' collection agency costs, and bank dishonour fees).
- 14.3 Further to any other rights or remedies Gloss Boats may have under this Contract, if a Customer has made payment to Gloss Boats, and the transaction is subsequently reversed, the Customer shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by Gloss Boats under this clause 14, where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Customer's obligations under this Contract.
- 14.4 Without prejudice to Gloss Boats' other remedies at law Gloss Boats shall be entitled to cancel all or any part of any order of the Customer which remains unfulfilled and all amounts owing to Gloss Boats shall, whether or not due for payment, become immediately payable if:
- (a) any money payable to Gloss Boats becomes overdue, or in Gloss Boats' opinion the Customer will be unable to make a payment when it falls due;
 - (b) the Customer has exceeded any applicable credit limit provided by Gloss Boats;
 - (c) the Customer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
 - (d) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.

15. Dispute Resolution

- 15.1 If a dispute arises between the parties to this Contract then either party shall send to the other party a notice of dispute in writing adequately identifying and providing details of the dispute. Within fourteen (14) days after service of a notice of dispute, the parties shall confer at least once, to attempt to resolve the dispute. At any such conference each party shall be represented by a person having authority to agree to a resolution of the dispute. In the event that the dispute cannot be so resolved either party may by further notice in writing delivered by hand or sent by certified mail to the other party refer such dispute to arbitration. The arbitration should be under a single arbitrator agreed upon by both parties, or failing agreement, by two arbitrators (one to be appointed by each party) and their umpire (appointed by them prior to arbitration), such arbitration to be carried out in accordance with provisions of the Arbitration Act 1996.

16. Cancellation

- 16.1 Without prejudice to any other remedies Gloss Boats may have, if at any time the Customer is in breach of any obligation (including those relating to payment) under these terms and conditions Gloss Boats may suspend or terminate the supply of Services to the Customer. Gloss Boats will not be liable to the Customer for any loss or damage the Customer suffers because Gloss Boats has exercised its rights under this clause.
- 16.2 Gloss Boats may cancel any contract to which these terms and conditions apply or cancel delivery of Services at any time before the Services are commenced by giving written notice to the Customer. On giving such notice Gloss Boats shall repay to the Customer any money paid by the Customer for the Services. Gloss Boats shall not be liable for any loss or damage whatsoever arising from such cancellation.

17. Privacy Policy

- 17.1 All emails, documents, images or other recorded information held or used by Gloss Boats is Personal Information as defined and referred to in clause 17.3 and therefore considered confidential. Gloss Boats acknowledges its obligation in relation to the handling, use, disclosure and processing of Personal Information pursuant to the Privacy Act 1993 ("the Act") including Part II of the OECD Guidelines and as set out in Schedule 5A of the Act and any statutory requirements where relevant in a European Economic Area "EEA" then the EU Data Privacy Laws (including the General Data Protection Regulation "GDPR") (collectively, "EU Data Privacy Laws"). Gloss Boats acknowledges that in the event it becomes aware of any data breaches and/or disclosure of the Customers Personal Information, held by Gloss Boats that may result in serious harm to the Customer, Gloss Boats will notify the Customer in accordance with the Act and/or the GDPR. Any release of such Personal Information must be in accordance with the Act and the GDPR (where relevant) and must be approved by the Customer by written consent, unless subject to an operation of law.
- 17.2 Notwithstanding clause 17.1, privacy limitations will extend to Gloss Boats in respect of cookies where transactions for purchases/orders transpire directly from Gloss Boats' website. Gloss Boats agrees to display reference to such cookies and/or similar tracking technologies, such as pixels and web beacons (if applicable), such technology allows the collection of Personal Information such as the Customer's:
- (a) IP address, browser, email client type and other similar details;
 - (b) tracking website usage and traffic; and
 - (c) reports are available to Gloss Boats when Gloss Boats sends an email to the Customer, so Gloss Boats may collect and review that information ("collectively Personal Information")

In order to enable / disable the collection of Personal Information by way of cookies, the Customer shall have the right to enable / disable the cookies first by selecting the option to enable / disable, provided on the website prior to proceeding with a purchase/order via Gloss Boats' website.

- 17.3 The Customer authorises Gloss Boats or Gloss Boats' agent to:
- (a) access, collect, retain and use any information about the Customer;
 - (i) (including, name, address, D.O.B, occupation, driver's license details, electronic contact (email, Facebook or Twitter details), medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history or any overdue fines balance information held by the Ministry of Justice) for the purpose of assessing the Customer's creditworthiness; or
 - (ii) for the purpose of marketing products and services to the Customer.
 - (b) disclose information about the Customer, whether collected by Gloss Boats from the Customer directly or obtained by Gloss Boats from any other source, to any other credit provider or any credit reporting agency for the purposes of providing or obtaining a credit reference, debt collection or notifying a default by the Customer.
- 17.4 Where the Customer is an individual the authorities under clause 17.3 are authorities or consents for the purposes of the Privacy Act 1993.
- 17.5 The Customer shall have the right to request Gloss Boats for a copy of the Personal Information about the Customer retained by Gloss Boats and the right to request Gloss Boats to correct any incorrect Personal Information about the Customer held by Gloss Boats.

18. Service of Notices

- 18.1 Any written notice given under this Contract shall be deemed to have been given and received:
- (a) by handing the notice to the other party, in person;
 - (b) by leaving it at the address of the other party as stated in this Contract;
 - (c) by sending it by registered post to the address of the other party as stated in this Contract;
 - (d) if sent by facsimile transmission to the fax number of the other party as stated in this Contract (if any), on receipt of confirmation of the transmission;
 - (e) if sent by email to the other party's last known email address.
- 18.2 Any notice that is posted shall be deemed to have been served, unless the contrary is shown, at the time when by the ordinary course of post, the notice would have been delivered.

19. Trusts

- 19.1 If the Customer at any time upon or subsequent to entering in to the Contract is acting in the capacity of trustee of any trust ("Trust") then whether or not Gloss Boats may have notice of the Trust, the Customer covenants with Gloss Boats as follows:
- (a) the Contract extends to all rights of indemnity which the Customer now or subsequently may have against the Trust and the trust fund;
 - (b) the Customer has full and complete power and authority under the Trust to enter into the Contract and the provisions of the Trust do not purport to exclude or take away the right of indemnity of the Customer against the Trust or the trust fund. The Customer will not release the right of indemnity or commit any breach of trust or be a party to any other action which might prejudice that right of indemnity.
 - (c) the Customer will not without consent in writing of Gloss Boats (Gloss Boats will not unreasonably withhold consent), cause, permit, or suffer to happen any of the following events:
 - (i) the removal, replacement or retirement of the Customer as trustee of the Trust;
 - (ii) any alteration to or variation of the terms of the Trust;
 - (iii) any advancement or distribution of capital of the Trust; or
 - (iv) any resettlement of the trust property.

20. General

- 20.1 The failure by either party to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect that party's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 20.2 These terms and conditions and any contract to which they apply shall be governed by the laws of New Zealand and are subject to the jurisdiction of the courts of Auckland, New Zealand.
- 20.3 Gloss Boats shall be under no liability whatsoever to the Customer for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Customer arising out of a breach by Gloss Boats of these terms and conditions (alternatively Gloss Boats' liability shall be limited to damages which under no circumstances shall exceed the Price of the Services).
- 20.4 Gloss Boats may licence and/or assign all or any part of its rights and/or obligations under this Contract without the Customer's consent.
- 20.5 The Customer cannot licence or assign without the written approval of Gloss Boats.
- 20.6 Gloss Boats may elect to subcontract out any part of the Services but shall not be relieved from any liability or obligation under this Contract by so doing. Furthermore, the Customer agrees and understands that they have no authority to give any instruction to any of Gloss Boats' sub-contractors without the authority of Gloss Boats.
- 20.7 The Customer agrees that Gloss Boats may amend their general terms and conditions for subsequent future contracts with the Customer by disclosing such to the Customer in writing. These changes shall be deemed to take effect from the date on which the Customer accepts such changes, or otherwise at such time as the Customer makes a further request for Gloss Boats to provide Services to the Customer.
- 20.8 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.
- 20.9 Both parties warrant that they have the power to enter into this Contract and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this Contract creates binding and valid legal obligations on them.