

## Consulting Terms and Conditions

Consulting Agreement Terms and Conditions described herein shall apply to all services proposed or performed by Nautican Research & Development Ltd, hereafter referred to as the Consultant, for the Client except as contracted through a separately written and signed project specific Consulting Agreement or Contract.

- 1. Existing or Prior Contracts** - These Terms and Conditions are in effect for the services described herein. Any existing or prior contracts for services shall remain in effect and are not altered except as specifically stated herein.
- 2. Hourly Rates, Scope of Work and Budget** - Hourly service rates are listed in the Consultant's rate sheet and will generally increase annually. Services shall be considered as Time & Materials (T&M) except where a budget or Fixed Price (FP) project scope of work and budget has been negotiated for specific projects and phases as described in the proposal letter and project scope of work or by other verbal or written agreement for such project.
- 3. Commencement of Work** - In no case will work be required to begin prior to executing a signed contract proposal with specified Terms and Conditions. Where the Consultant may elect to commence work prior to a signed contract proposal, these Terms and Conditions as described herein shall apply.
- 4. Ownership of Documents** - All designs, drawings, specifications and other work developed by the Consultant shall be used solely with respect to the proposed project. Client agrees not to use, reuse, or adapt any work product developed by Consultant if Consultant's services have been terminated prior to completion, unless agreement has been reached for such further use. The Consultant shall accept liability only for documents or instruments of service that can be verified as having been produced and submitted by the Consultant in hard-copy by a hand applied signature or in electronic copy by a verified digital signature. Documents or files supplied in an editable or native format are provided solely for the convenience of the Client as non-verifiable information and not considered as instruments of service.
- 5. Marketing Information** – Consultant reserves the right to publish information generated as part of this Agreement for the purpose of marketing or use in scientific research papers, unless specifically prohibited in writing by the Client. Consultant will make attempt in good faith to contact the client before such information is published.
- 6. Term of Agreement** - The consulting agreement will become effective when a project proposal is signed by the Client, or verbal or written notice to proceed is given by the Client, and will terminate on the earlier of the date the: a) Consultant completes the services required by this Agreement, or b) Consultant or Client terminates the Agreement as provided below.
- 7. Termination of the Agreement** - Either party may terminate this agreement effective immediately, with reasonable cause, by giving written notice of cause for termination. Reasonable cause includes: a) a material violation of this Agreement, or b) non-payment of Consultant's compensation after 30 days invoice or written request for payment. Consultant shall be entitled to full payment for services performed prior to the effective date of termination.
- 8. Payment Terms** - Consultant shall send the Client an invoice monthly based on the hours of work completed, or upon completion of a project or phase. Client shall pay Consultant within 30 days from the dated invoice. A fee of 1.5% per month, prorated daily, will be applied to any accounts past due. Consultant reserves the right to suspend services for non-payment of invoices past 45 days from the date of invoice.
- 9. Modifying the Agreement** - If any unintended changes or other events beyond the Consultant's or Client's control require substantial adjustments to this Agreement or the scope of work of proposed services, the parties shall make a good faith effort to agree on all necessary modifications of this Agreement. Any modification to the proposed scope of work shall be made in writing and added to the proposed Scope of Work and Agreement.
- 10. Client Provided Information** - The Client shall furnish in a timely manner all information required for completion of services covered under this Agreement, including, but not limited to information specified in the Scope of Work. The Consultant may use such information, requirements, reports, data, surveys and instructions in performing its services and is entitled to rely upon the accuracy and completeness thereof.

**11. Third Party Beneficiaries** - Nothing contained in this Consulting Agreement shall create a contractual relationship or a cause of action with a third party against either Client or Consultant. Consultant's services under this Agreement are performed solely for Client's benefit. No other party or entity shall have any claim against Client or Consultant because of this Agreement or the performance or non-performance of services hereunder. Client and Consultant agree to require a similar provision in all contracts with contractors, subcontractors, subconsultants, vendors and other entities involved in services covered under this Agreement to carry out the intent of this provision.

**12. Consequential Damages** - Neither party to this Agreement, nor their respective officers, employees, contractors, subconsultants, shall be liable to the other or shall make any claim for incidental, indirect or consequential damages arising out of or connected in any way to the services covered under this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income or any other consequential damages that either party may incur from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty.

**13. Corporate Protection** - It is intended by the parties to this Agreement that Consultant's services in connection with the services covered under this Agreement shall not subject the Consultant's individual employees, owners, officers or directors to any personal legal exposure for the risks associated with this Agreement. Therefore, and notwithstanding anything to the contrary contained herein, the Client agrees that as the Client's sole and exclusive remedy, any claim, demand, or suit shall be directed and/or asserted only against the Consultant, a Corporation registered in the state of Washington, and not against any of the Consultant's individual employees, officers, or directors.

**14. Limitation of liability** - This provision allocates the risks under this Agreement between Consultant and Client. Consultant's pricing reflects the allocation of risk and limitation of liability specified herein. Consultant agrees to perform services described in accordance with the standard of care normally exercised by professionally licensed naval architects and marine engineers in the state of Washington. Consultant's aggregate liability to Client under this Agreement for damages, costs and expenses, shall not exceed Consultant's Fees for the specific project services or \$50,000, whichever is less. This limitation shall apply regardless of the cause of action or legal theory pled or asserted.

**15. Indemnification** - Consultant and Client mutually agree, to the fullest extent permitted by law, to indemnify and hold each other harmless from any and all damage, liability, or cost, including reasonable attorneys' fees and costs of defense, arising solely from their own negligent acts, errors or omissions (including subcontractors) in the performance of their services under this Agreement, to the extent that each party is responsible for such damages, liabilities and costs on a comparative basis of fault.

**16. Extent of Limitation of Liability and Indemnification** - The Client agrees that any and all limitations of the Consultant's liability and indemnification by the Client to the Consultant shall include and extend to those individuals and entities the Consultant retains for the performance of the services under the agreement, including but not limited to the Consultant's officers, partners and employees and their heirs and assigns, as well as the Consultant's subconsultants and their officers, employees, heirs and assigns.

**17. Delay of Services** - Consultant shall be entitled to additional time and/or compensation for delays caused by or resulting from acts of Client, contractors, sub-contractors, suppliers, or other third parties over whom Consultant has no control so long as the delay(s) are not directly caused by Consultant.

**18. Force Majeure** - Neither party to this Agreement will be liable to the other party for delays in performing the Scope of Services, or for the direct or indirect costs resulting from such delays, that may result from labor strikes, riots, wars, acts of governmental authorities, extraordinary weather conditions or other natural catastrophe, or any other cause beyond the reasonable control or contemplation of either party.

**19. Applicable Law** - This Agreement shall be governed by the laws of the State of Washington.

**20. Assignment and Delegation** - Either Consultant or Client may assign its rights or may delegate its duties under this Agreement.