

KEDGE PTY LTD STANDARD TERMS AND CONDITIONS

Definitions

“Surveyor”/“Consultant” is Kedge Pty Ltd and its employees, officers, subcontractors and agents, and is the Surveyor/Consultant trading under these conditions.

“Client” is the party at whose request or on whose behalf the Surveyor/Consultant undertakes surveying services.

“Report” means any report or statement supplied by the Surveyor/Consultant in connection with instructions received from the Client.

“Disbursements” means the cost of all reasonable photography, reproduction of drawings, diagrams, sketches and printing, duplicating and, where applicable, electronic transmission fees, and all reasonable and appropriate expenses including travel, refreshments and hotel accommodation where an overnight stay is necessary.

“Fees” means the fees charged by the Surveyor/Consultant to the Client and including any goods and services tax where applicable and any Disbursements.

1. Scope of work and variations

- (a) The Surveyor/Consultant shall provide its services solely in accordance with these conditions.
- (b) The Surveyor/Consultant will provide the Services with due care and skill and in accordance with the scope set out in the Quote/Work Order/Invoice.
- (c) Any change to scope, timing, location, access arrangements, or conditions (a Variation) must be agreed in writing. The Surveyor/Consultant may charge for a Variation at its then-current rates and may revise timeframes accordingly.
- (d) Where conditions are materially different from those reasonably assumed at quoting (including weather, sea state, access restrictions, contamination, vessel condition, third-party delays), the Surveyor/Consultant may revise pricing and/or suspend performance until revised terms are agreed.

2. Work

The Client will set out in writing the services which it requires the Surveyor/Consultant to provide. The Surveyor/Consultant will confirm in writing that it accepts those instructions or alternatively what services it will perform in connection with the Client's instructions. Once the Surveyor/Consultant and the Client have agreed what services are to be performed (the Services) any subsequent changes or additions must be agreed by both parties in writing. For the avoidance of doubt, if the instructions are not provided in writing but the surveyor nevertheless confirms their acceptance of these, the services will be provided in accordance with these conditions.

3. Payment Terms

- (a) The Client shall pay the Surveyor/Consultant's Fees punctually in accordance with these conditions, prior to the report being released to the client and in any event at the time the Kedge invoice is presented, or in such other manner as may have been agreed in writing between the parties.
- (b) Any delay in payment shall entitle the Surveyor/Consultant to accrue interest at on any overdue amounts at the pre-judgment interest rate as published by the Federal Court of Australia from time to time, calculated daily from the due date until payment in full.
- (c) No set-off: The Client must pay amounts due without set-off, deduction, or counterclaim.
- (d) Recovery costs: The Client is liable for all reasonable costs incurred by the Surveyor/Consultant in recovering overdue amounts, including debt recovery agent fees, legal costs (solicitor/client basis), and enforcement expenses.

4. Obligations and Responsibilities

- (a) Client: The Client undertakes to ensure that full instructions are given to the Surveyor/Consultant in writing and are provided in sufficient time to enable the required Services to be performed effectively and efficiently and to procure all necessary access for the Surveyor/Consultant to goods, premises, vessels, installations and transport and to ensure that all appropriate safety measures are taken to provide safe and secure working conditions. The Surveyor/Consultant shall not be liable for any loss or damage, resulting from late, incomplete, inadequate, inaccurate or ambiguous instructions.
- (b) Client: The Client warrants that the Vessel is safe and seaworthy for the purposes of the Services; all required licences/permits/permissions (including port authority permissions) are

in place; and the Client has authority to engage the Surveyor/Consultant and to grant the security interest described in clause 10 (PPSA). The Client must promptly disclose any hazards, prior incidents, or known defects relevant to the Services.

- (c) Surveyor: The Surveyor/Consultant shall use reasonable care and skill in the performance of the Services in accordance with sound marine surveying/consulting practice.
- (d) Reporting: The Surveyor/Consultant shall submit a final written Report to the Client following completion of the agreed Services describing the Surveyor's/Consultant's findings and the condition and/or quality of the object and/or purpose of the assignment, unless otherwise expressly instructed by the Client not to do so.
- (e) Confidentiality: The Surveyor/Consultant undertakes not to disclose any information provided in confidence by the Client to any third party and will not permit access to such information by any third party unless the Client expressly grants permission save where required to do so by an order of a competent court of law. If information is provided by the Client in confidence the Client undertakes to make it clear in writing what information is provided in confidence.
- (f) Property: The right of ownership in respect of all original work created by the Surveyor/Consultant remains the property of the Surveyor/Consultant.
- (g) Conflict of Interest/Qualification: The Surveyor/Consultant shall promptly notify the Client of any matter including conflict of interest or lack of suitable qualifications and experience, which would render it undesirable for the Surveyor/Consultant to continue its involvement with the appointment. The Client shall be responsible for payment of the Surveyor/Consultant's Fees up to the date of notification.

5. Report - permitted reliance

- (a) The Report is prepared solely for the use of the Client and for the purpose stated in the Report. Notwithstanding this clause, the Surveyor authorises Permitted Third Parties to rely

on the Report only for their legitimate insurance underwriting/claims assessment purposes or financing/credit assessment purposes in relation to the Vessel.

- (b) Any reliance by a Permitted Third Party is limited strictly to matters expressly addressed in the Report and is subject to:
 - i. the scope, assumptions, exclusions and limitations stated in the Report and these Terms; and
 - ii. the condition of the Vessel at the time and date of inspection (or other stated reference time).
 - iii. A marine survey is not a guarantee of future condition, performance, seaworthiness, or compliance beyond what is expressly stated.
- (c) The Surveyor has no obligation to provide updates, supplementary reports, or notifications to any Permitted Third Party unless agreed in writing and paid for by the Client or the Permitted Third Party.
- (d) Except as expressly permitted by this clause, the Report is not prepared for and must not be relied upon by any other person, including (without limitation) any purchaser, prospective

purchaser, broker, charterer, operator, manager, refit contractor, regulator, classification society, or any other third party.

- (e) To the maximum extent permitted by law, the Surveyor disclaims all liability to any person other than the Client and Permitted Third Parties for any loss or damage arising out of or in connection with:
 - i. the provision of the Report; or
 - ii. any use of, or reliance upon, the Report.
- (f) The Client must not provide the Report (or any extract) to any other person without the Surveyor's prior written consent.
- (g) Any permission for reliance under this clause is personal to the Permitted Third Parties and does not create any duty to, or confer any benefit on, any other person (including by assignment, novation, trust, or otherwise), unless the Surveyor agrees in writing.
- (h) The Client indemnifies the Surveyor against any claim, loss, liability, cost or expense (including legal costs on a solicitor/client basis) arising from or connected with any unauthorised disclosure, use, or reliance on the Report by any person other than a Permitted Third Party.

6. Suspension and termination

- (a) The Surveyor/Consultant may suspend the Services immediately if:
 - i. the Client fails to pay any amount when due;
 - ii. the Surveyor/Consultant reasonably considers there is a safety risk; or
 - iii. access, instructions or cooperation are not provided.
- (b) The Surveyor/Consultant may terminate the agreement at its discretion by written notice if the Client commits a material breach and fails to remedy within a reasonable time (or immediately where breach is incapable of remedy).

- (c) Suspension or termination does not affect accrued rights, including the right to payment, interest, and recovery costs.

7. Timing

- (a) Any stated dates are estimates only, unless expressly stated to be fixed.
- (b) Time is of the essence in respect of the Client's payment obligations.

8. Liability

- (a) The Surveyor/Consultant shall be under no liability whatsoever to the Client for any loss, damage, delay or expense of whatsoever nature, whether direct or indirect and howsoever arising UNLESS same is proved to have resulted solely from the negligence, gross negligence or wilful default of the Surveyor/Consultant or any of its employees or agents or sub-contractors.
- (b) Without limiting the generality of the foregoing, the Surveyor/Consultant is not liable for: indirect or consequential loss (including loss of profit, loss of revenue, loss of opportunity, or business interruption); loss arising from the Client's failure to provide accurate information, safe access, or proper instructions; delay caused by weather, port restrictions, third parties, or other events outside the Surveyor/Consultant's reasonable control.
- (c) Where the Australian Consumer Law consumer guarantees do not apply and in the event that the Client proves that the loss, damage, delay or expense was caused by the negligence, gross negligence or wilful default of the Surveyor/Consultant aforesaid then, save for where loss, damage, delay or expense has resulted from the Surveyor's/Consultant's personal act or omission committed with the intent to cause same or recklessly and with knowledge that such loss, damage, delay or expense would probably result, the Surveyor's/Consultant's liability for each incident or series of incidents giving rise to a claim or claims shall never exceed a sum calculated on the basis of ten times the Surveyor's/Consultant's charges or Australian \$100,000, whichever is the lesser.
- (d) Notwithstanding anything set out in these conditions, they are subject to the Australian Consumer Law as set out in Schedule 2 of the Competition and Consumer Act 2010 if and to the extent consumer guarantees apply to this Contract and prevent the exclusion, restriction or modification of any such consumer guarantee. The liability of the Surveyor/Consultant, if any, for breach of any consumer guarantee which applies (other than where the Services are of a kind ordinarily acquired for personal, domestic or household consumption) shall be limited at

the option of the Surveyor/Consultant to the supply of the Services again or the payment of having the Services supplied again.

- (e) The Surveyor/Consultant shall not be liable for loss of or damage to equipment and other items placed at its disposal by or on behalf of the Client, however such loss or damage occurs.
- (f) Where an opinion of valuation is stated, the surveyor will not be responsible for any losses arising from a change in the market value due to the geographical location of the vessel, or a change in market condition.
- (g) Non-excludable rights: Nothing in these Terms excludes consumer guarantees or other rights that cannot be excluded by law (including under the Australian Consumer Law, where applicable).

9. Indemnity

Except to the extent and solely for the amount therein set out that the Surveyor/Consultant would be liable under Clause 6, the Client hereby undertakes to keep the Surveyor/Consultant and its employees, agents and sub- contractors indemnified 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, and against and in respect of all costs, loss, damages and expenses (including legal costs and expenses on a full indemnity basis) which the Surveyor/Consultant may suffer or incur (either directly or indirectly) in the course of providing the Services under these Conditions.

10. Force Majeure

Neither the Surveyor/Consultant nor the Client shall, except as otherwise provided in these conditions, be responsible for any loss, damage, delay or failure in performance hereunder arising or resulting from act of God, act of war, seizure under legal process, quarantine restrictions, strikes, boycotts, lockouts, riots, civil commotions and arrest or restraint of princes, rulers or people.

11. Insurance

- (a) The Surveyor/Consultant shall effect and maintain, at no cost to the Client, Professional Liability Insurance for such loss and damage for which the Surveyor/Consultant may be held liable to the Client under these terms and conditions.
- (b) The Client must, at its own cost, maintain for the duration of the Services and for any reasonable period thereafter:

- i. public liability insurance of not less than AUD 20,000,000 per occurrence;
 - ii. hull and machinery insurance for the full value of the Vessel, where the Client has insurable risk in the vessel;
 - iii. workers' compensation cover for all personnel engaged by the Client; and
 - iv. any other insurance reasonably necessary for risks associated with the Services and the Vessel.
- (c) The Client must provide evidence of insurance on request.

12. Surveyor's/Consultant's Right to Sub-contract

The Surveyor/Consultant shall have the right to sub-contract any of the services provided under these conditions, subject to the Client's right to object on reasonable grounds. In the event of such a sub-contract the Surveyor/Consultant shall remain fully liable for the due performance of its obligations under these conditions.

13. PPSA — Security interest

- (a) Security agreement: The Client acknowledges and agrees that, for the purposes of the Personal Property Securities Act 2009 (Cth) (PPSA), these Terms constitute a security agreement.
- (b) Grant of security interest: To secure payment and performance of all present and future obligations owed by the Client to the Surveyor/Consultant on any account (Secured Obligations), the Client grants to the Surveyor/Consultant a security interest (as that term is defined in the PPSA) in:
- i. the Vessel (including any equipment, fittings, machinery, and accessories on or forming part of the Vessel at any time); and
 - ii. to the extent permissible, any proceeds of the Vessel,
 - iii. to secure the Secured Obligations.
- (c) PPSR registration: The Client expressly authorises the Surveyor/Consultant to register a financing statement and/or financing change statement on the PPSR in respect of the security

interest granted under clause 10 and to do anything the Surveyor/Consultant considers necessary or desirable to perfect, maintain, or enforce that security interest.

- (d) Further assurances: The Client must promptly (and in any event within 2 business days of request) do all things and execute all documents the Surveyor/Consultant reasonably requires to:
 - i. register, maintain or enforce the security interest;
 - ii. enable the Surveyor/Consultant to exercise rights under the PPSA; and
 - iii. correct any defect or error in any PPSR registration.
- (e) Verification statement: To the maximum extent permitted by law, the Client waives the right to receive a verification statement under section 157 of the PPSA (and any equivalent notice) unless the Surveyor/Consultant elects otherwise.
- (f) No contracting out where prohibited: Nothing in these Terms is intended to exclude, restrict, or modify rights which cannot be excluded under the PPSA.
- (g) Ratification: The Client unconditionally ratifies any action taken by the Surveyor/Consultant under this clause 10

14. Title, equipment and property

- (a) Any tools, equipment, or materials brought to site by the Survey/Consultant remain the property of the Surveyor/Consultant.
- (b) The Survey/Consultant may remove its equipment at any time, subject to reasonable safety and access constraints.

15. Privacy

- (a) The Survey/Consultant will handle personal information in accordance with the Privacy Act 1988 (Cth) and the Surveyor/Consultant's privacy policy (as amended from time to time).

- (b) The Client consents to the Surveyor/Consultant collecting, using, and disclosing personal information for the purpose of providing Services, invoicing, debt recovery, and PPSR registration (where applicable)

16. Time Bar

The Surveyor/Consultant shall be discharged of all liability in respect of any claim for loss, damage, delay or expense suffered by the Client unless, within 12 months from the date on which the Surveyor/Consultant submits a final report to the client (or, if no report is issued, the date on which the report would have been issued), suit is brought against the Surveyor/Consultant in the proper forum and written notice thereof is received by the Surveyor/Consultant.

17. Jurisdiction and Law

- (a) These conditions shall be governed by and construed in accordance with the laws of Tasmania, Australia and any dispute shall be subject to the exclusive jurisdiction of the Tasmanian Courts.
- (b) A party must give written notice of a dispute with reasonable details. Senior representatives must meet (in person or by electronic means) within 7 days to attempt resolution in good faith. Nothing prevents a party from seeking urgent interlocutory relief.

18. General

- (a) Entire agreement: These Terms, together with any Quote/Work Order/Invoice, form the entire agreement.
- (b) Priority: If there is an inconsistency, the Quote/Work Order prevails to the extent of the inconsistency, then these Terms, then any Client purchase order (which is otherwise excluded).
- (c) Severability: If any provision is invalid or unenforceable, it is severed and the remainder continues in force.
- (d) Assignment: The Client must not assign its rights without the Surveyor/Consultant's prior written consent. The Surveyor/Consultant may assign or subcontract performance.

19. General Terms for Marine Surveys

- (a) A condition survey provides an opinion on the structural condition of all visible and significant aspects of the structure of the vessel, as presented for survey, with reference to hull condition.
- (b) Machinery, masts, spars, rigs and sails, and ancillary equipment, gas, electrical, electronic, pumping and plumbing equipment, sewage treatment plant, refrigeration equipment, air conditioning, navigational aids and other sundry services including all piping and wiring, and tankage are inspected only for visual appearance and installation standards without dismantling or specific test unless it is commented otherwise in the report.
- (c) Where masts are stepped only those parts of the mast and rig up to head-height are inspected in detail. Condition is assessed by general non-destructive examination, and if applicable by assessment of the condition of sample areas where coatings are removed. Where hulls carry heavy layers of paint, pitch or epoxy or other finishes the condition of all areas of the substrate cannot be guaranteed and condition can only be estimated based on the evidence gleaned from the sample areas scraped clean.
- (d) The survey does not provide an opinion on the condition of areas not presented visible: - for example behind linings, beneath fixed flooring et cetera. It assesses those areas accessible through visible portable traps and should not be taken to preclude completely the existence of isolated damage or deterioration concealed by paints, fillers or other means.
- (e) The engines and where applicable the generator installations are inspected visually and where possible if presented commissioned the engines and generators may be run up to assess the general running characteristics, vibration levels et cetera. No dismantling of the engine or associated equipment is carried out within the scope of this survey so no detailed comment upon the condition of internal parts is possible without a separate full strip down and mechanical survey.
- (f) Electrical, plumbing, heating and other services are inspected where visible but not operated unless presented in commission. Electrical wiring is inspected visually only in all cases. If present, the bottled gas installation is inspected visually only. Pressure tests are not undertaken in the course of the survey. Gas systems and CO detectors should be regularly tested by person qualified to do so.
- (g) Tanks are inspected where visible but not internally and pressure tested. Windows hatches and external doors are not tested for water tightness. Hull fastenings and skin fittings are not withdrawn for inspection.

- (h) Particulars such as registration numbers, tonnage, build and refit years and dimensions are normally stated as advised or as exhibited aboard the ship and are not authenticated. Dimensions checked are measured by means of steel tape measures and should not be relied on for total accuracy. This survey does not seek to establish clear title to the vessel exists, or that it is being offered for sale (if applicable) free of all debts and encumbrances.
- (i) Unless specifically instructed to the contrary inspection and any comments made relative to design performance or suitability of the vessel are based on the assumption that the vessel will be used solely for the purposes for which it was originally intended in appropriate conditions by properly trained, qualified and experienced persons in waters of an appropriate nature and condition.
- (j) Unless specifically stated to the contrary this inspection report does not seek to address compliance with any national or international codes, standards, or regulations. If a valuation is stated it's based on it is valued at the location it was valued and at no other geographical location. You should be aware that geographical location may affect the sale value of a vessel.