

# DNA

Alloy Boats NZ



OWNERS MANUAL



420 HSD



500 XC



450 HSD



570 XHT



450 C



590 XHT



450 CC



630 XHT



450 JET



730 XHT



We at DNA Boats know you had many options to choose from, we thank you for choosing us to provide your new pontoon boat. We take great pride and care with the design and build of every boat that comes out of our factory and we are sure you will find this boat will give you the enjoyment , satisfaction and safety that comes with every DNA Boat

Please take the time to read through our owners manual to learn the ins and outs of caring for your aluminium boat, trailer, motor and most importantly safety information

Signed



Jason Elvines  
Managing Director

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New Zealand

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## PURCHASE DETAILS

**BOAT MODEL:** .....

Date Purchased .....

Boat Serial Number .....

**Trailer Brand** .....

Date Purchased .....

Trailer Reg No. ....

Trailer Serial No. ....

**Motor Make** .....

Horsepower .....

Motor Serial No. ....

Ignition Key No. ....

Prop Size .....

**Insurance Company** .....

Date Insured .....

Renewal Date .....

## **5 YEAR HULL & DECK STRUCTURE**

Any new model DNA boat purchased for non-commercial use from DNA Boats or any authorised DNA boat dealer in NZ or Australia by the original retail purchaser, will be warranted against major structural defects or workmanship for a period of five (5) years for the hull and deck structure. (Hull / deck, Hard top/Cabin, stringers, transom, all deck and hull joints)

All other, non-structural components of the boat used/Fitted or manufactured by DNA Boats from the date of purchase are subject to the limitations outlined below.

## **2 YEAR PROTECTION**

**STEERING** – Helm, hoses, cables, hydraulic cylinders and steering wheel

**ELECTRICAL** – Switches, wiring harness, lights (excludes bulb) anchor lights, 12 v receptacles

**FUEL DELIVERY** – Fuel tank, fuel vent, fuel hoses and fuel fills

**UPHOLSTERY** – Vinyl, stitching and workmanship

**ACCESSORIES** – Ladder, windshield, rod holders, tackle boxes, gas shocks, anchor bollards, cleats, T-top, outriggers, thru-hulls, bow/stern eyes.

## **1 YEAR PROTECTION**

**ELECTRICAL** – livewell, freshwater, bilge and wash down pumps, Float switches

## Legal Stuff

### Conditions of Warranty

In order for warranty claims to be valid the boat must be registered in DNA Boats warranty system within 14 days of the original purchase.

Owners shall be responsible to pay the tear down and repair costs if it is established that the part or parts thought to be defective are not covered by this warranty.

DNA Boats reserves the right to alter models, change colours, specifications, component parts, materials, equipment and prices or cease production of certain models at any time without notice. Such changes may be made without incurring obligations to equip or modify units produced prior to date of such changes. Removal of engines or other equipment not installed by DNA Boats prior to repairs and subsequent reinstallation of some after repair is not the responsibility of DNABoats and shall be paid for by the boat owner.

**ANY AND ALL WARRANTY CLAIMS MUST HAVE PRIOR FACTORY APPROVAL BEFORE ANY LIABILITY WILL CONSIDERED.**

### Warranty Transferability

The entire warranty can be transferred to the second owner. Once proof of ownership has been received the warranty will be transferred to the new owner. A warranty transfer form can be obtained from DNA Boats on request.

### Obtaining Repairs under Warranty

During the period of the warranty DNA Boats or its authorised representative will free of charge, repair or replace, at its sole discretion any part adjudged defective by DNA Boats due to faulty workmanship or material from the factory provided the original owner returns the boat, with transportation prepaid to authorised DNA Boats dealer or, if necessary to any other authorised place designated by DNA Boats. Should DNA Boats elect to replace the entire boats or any part thereof, i.e. deck or hull, the replacement boat shall be subject to the remaining duration and conditions of this warranty and not subject to an extended or new warranty, unless provided for by both parties in writing.

The liability of DNA Boats shall in no event exceed the actual cash value of the covered item. The boat owner will be responsible for all transportation, haul outs, loss of time, inconvenience, travel expense, loss of use, launch, towing, storage and other expenses incurred in returning the boat for warranty service. All parts replaced under warranty shall become ownership of DNA Boats

Customers Responsibility Under the terms of this warranty, the customer shall be responsible for ensuring the boat is properly operated, maintained, and stored at all times. The owner shall return the boat to an authorised DNA Boat dealer for review of all reported warranty defects within the specified warranty period. Warranty repairs will be performed by DNA Boats or its authorized representative in accordance with the other provisions of its limited warranty.

### General Exclusions from Warranty

This warranty will not cover the repair from damages as a result of abuse, alteration, modification or neglect. Examples of abuse, alteration, modification or neglect include but are not limited to:

1. Racing or competition use, modification of original parts, abnormal strain or commercial use.
2. Lack of proper maintenance and off-season storage, installation of parts or accessories that are not equivalent in design and quality to genuine DNA boats or failure to perform the periodic maintenance as required by a boat owner.
3. Damage as a result of accident, collisions, contact with foreign materials, improper trailering, submersion, unreasonable use, abuse, tampering or vandalism
4. Growth of marine organisms on hull or deck surface
5. Normal deterioration
6. Damage caused by overpowering according to the maximum horsepower specifications on the capacity plate provided on each DNABoat
7. Acts of God
8. Any representations relating to the speed and/or weight of the boat
9. Dealer preparation including but not limited to cleaning, final adjustments or alignments in repairing the boat for final delivery
10. All boats must be returned to an authorized DNA Boat dealer for corrections and defects within the specified warranty period.

### Specific Exclusions from Warranty

This warranty will not cover the following:

1. Window crazing or breakage
2. Varnishes, paints, chrome-plated, stainless steel and anodizing finishes
3. Deterioration caused by exposure to the elements or the use of cleaners/chemicals not recommended in writing by DNA Boats.
4. Boats used for government use, business or commercial purposes, including boats used for hire such as guides and charters.
5. Engine, propellers, controls, batteries, engine brackets, jack plates, electric trolling motors, depth finding devices, other equipment or accessories not recommended by DNA Boats whether or not warranted by other such manufacturers.
6. Damage to boat due to installation of engines, jack plates, brackets or accessories installed by others 8 Rips, tears, fading to carpets and upholstery, stainless steel fasteners.
7. Items not manufactured by DNA Boats makes no other warranty of any kind express or implied, all implied warranties of merchantability and fitness for a particular purpose exceed the obligation and the limits stated in the warranty and are hereby disclaimed by DNA Boats and excluded from this warranty.



## HULL

### Aluminium

To help prevent oxidation and corrosion fo your DNA boat it is important to wash the boat after every use.

Failure to do so may void your warranty.

Hose down the boat inside and out to remove any salt water and salt crystals. ( remember to remove the bung and tilt the boat to allow the water to drain) Use a quality wash and wax and gently scrub the boat taking care not to scratch the vinyl wrap and graphics.

rinse boat with fresh water

Glass windows can be cleaned with standard glass cleaner

(remember to hose out the anchor well by accessing via the hatch)

## MOTOR

*For more detailed information please refer to your outboard motor manual.*

After each use in salt water or dirty water, thoroughly clean and flush the outboard motor with fresh water.

Shut off the engine before performing the cleaning and flushing.

1. Tilt down the outboard motor
2. clean and wash the outside of the motor with fresh water
3. remove the flush plug connector and connect water hose, flush for 5 -10 mins.

## **INTERIOR**

All marine carpet can be vacuumed to remove any sand  
Udek can be lightly scrubbed with a brush and soapy water then rinsed with fresh water.

Seating and vinyl squabs can be wiped down with a wet cloth to remove salt and grime.

## **TRAILER**

Rinse trailer frame inside and out with fresh water, wash down lights and connectors and winch.

Wash with fresh water behind the rims around the bearings and spray under the mud guards to remove any road grime.

Grease bearing buddies (if fitted) regularly

Check brake fluid and lines on braked trailers



## **5 simple rules to help you stay safe:**

Before you go boating on our seas, lakes and rivers, get familiar with the Boating Safety Code. Five simple rules will help you to stay safe, no matter what kind of boat you use.

### **1. Life Jackets**

Take them – Wear them. Boats, especially ones under 6m in length, can sink very quickly. Wearing a life jacket increases your survival time in the water.

### **2. Skipper Responsibility**

The skipper is responsible for the safety of everyone on board and for the safe operation of the boat. Stay within the limits of your vessel and your experience.

### **3. Communications**

Take two separate waterproof ways of communicating so we can help you if you get into difficulties.

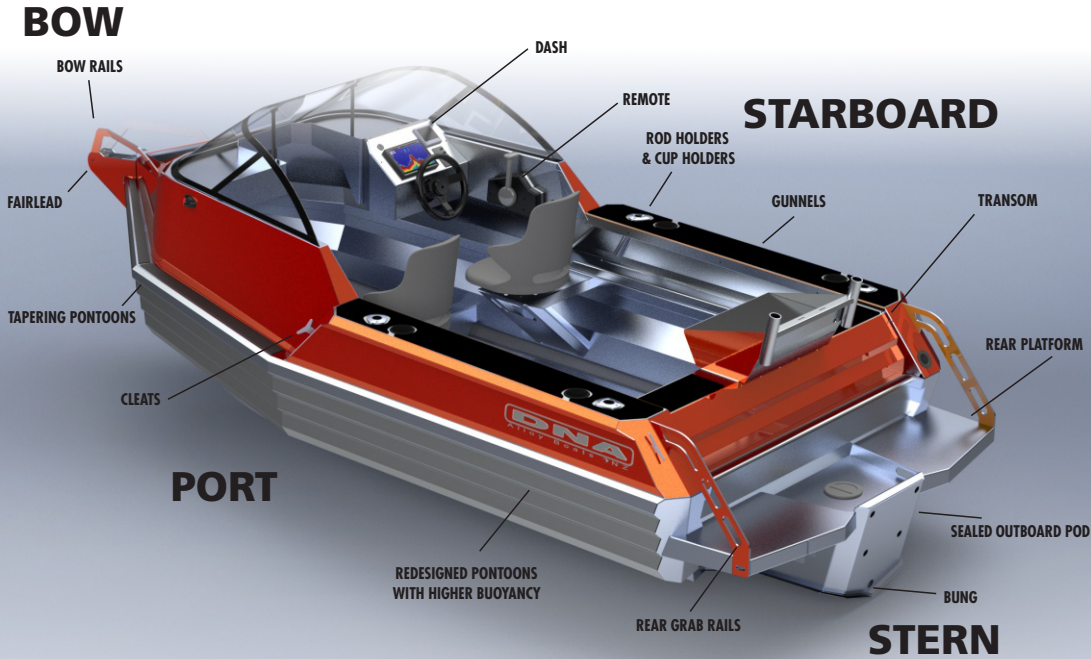
### **4. Marine Weather**

New Zealand's weather can be highly unpredictable. Check the local marine weather forecast before you go and expect both weather and sea state changes.

### **5. Avoid Alcohol**

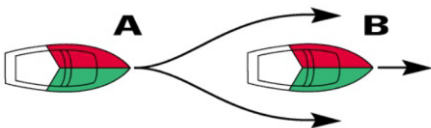
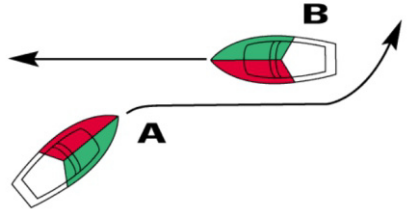
Safe boating and alcohol do not mix. Things can change quickly on the water. You need to stay alert and aware.

# BOAT DESCRIPTION



When two vessels are heading toward each other, each must reroute and pass to the right of the other. (A) blows one blast and alters course to starboard, (B) blows one blast and alters course to starboard.

A vessel approaching from the port side must give way. (A) keeps clear of and must avoid crossing ahead of (B).



A vessel approaching from the port side must give way. (A) keeps clear of and must avoid crossing ahead of (B).

**DNA**  
Alloy Boats NZ

## BOAT DEALERS

### **DNA BOATS**

Headquarters  
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Brightwater  
New Zealand

Ph. 64 3 542 3977  
sales@dnaboats.nz

### **AUCKLAND**

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Walkworth 0910

Ph. 64 9 945 2253  
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### **Australia**

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**www.dnaboats**



## GENERAL TERMS AND CONDITIONS

### ACE ENGINEERING NZ LIMITED

#### 1. DEFINITIONS

- 1.1 "amount owing" shall mean the price of the goods or services plus all applicable costs and taxes, and any other amount you are liable to pay us.
- 1.2 "applicable costs and taxes" shall mean all of those costs and taxes payable by you as indicated in these terms or the schedule and if not recorded or otherwise clear includes all fluctuations in the exchange rate to the detriment and as determined by us, GST, duties and any other cost directly relating to the supply of the goods or services.
- 1.3 "Ace Engineering", "we", "us", "our", "Vendor" or "Seller" shall mean Ace Engineering NZ Limited or any associated division, company, employee or agent, including but not limited to, DNA Boats.
- 1.4 "goods" means all goods and services supplied or manufactured by us to you including any goods specified in the schedule, and includes any accessory, installation or other addition at the time of delivery.
- 1.5 "GST" means goods and services tax under the Goods and Services Tax Act 1985.
- 1.6 "PPSA" means the Personal Properties Securities Act 1999 as amended or substituted from time to time. Unless the context requires otherwise, words and phrases herein shall have the meanings given to them in, or by virtue of, the PPSA.
- 1.7 "Price List" means the list of standard prices for goods and services which may be updated at any time, at our complete discretion, including after work has begun.
- 1.8 "schedule" means any schedule, quotation, estimate, specification or contract of sale attached to these terms or otherwise containing variables or further terms relating to specific goods or services being supplied to you by us.
- 1.9 "you", "your", "Buyer" or "Purchaser" shall mean you as the Purchaser of the goods or services or any person acting on your behalf and with your authority and include the Guarantor (if any) named in the schedule.

#### 2. ACCEPTANCE AND GENERAL

- 2.1 All goods and services are supplied on the basis of these terms and conditions ("terms") and any order or instruction received by us from you, or contract entered into with you, or use of your credit account with us (if any), shall constitute acceptance of these terms.
- 2.2 These terms may be amended by us from time to time and unless expressly altered, modified or waived in writing by us in any contract, schedule or service order form, shall:
  - (a) constitute the entire understanding and agreement between you and us;
  - (b) prevail and replace any other agreement, understanding or arrangement including, but not limited to, promotional material, brochures or purchase orders; and
  - (c) remain in full force notwithstanding any neglect, forbearance or delay by us in enforcing them.
- 2.3 These terms are to be read subject to relevant statutory provisions having effect in New Zealand that by law cannot be excluded, restricted or modified. Each term is severable and independent of each other and any such term which is inconsistent with or repugnant to that legislation shall be null and void to the extent (and no further) of such inconsistency or repugnance. The remaining provisions of these terms shall not be affected, prejudiced or impaired.
- 2.4 These terms are with you and you alone, and you shall not enter these terms as agent for any undisclosed third party. You shall not assign your rights and obligations under these terms without our consent such consent to be given or withheld in our sole discretion. Any revocation of an agent's authority shall not be deemed delivered and accepted by us unless we confirm the same in writing. You shall advise us of any alteration to your entity structure and/or of any revocation of an agent's authority to purchase goods or services pursuant to these terms. Where there is more than one Purchaser of the goods or services, those Purchasers shall be jointly and severally liable for the amount owing.
- 2.5 Any notice provided by us to you, including notification of any alterations of these terms, shall be deemed to be delivered and received by you five days after posting to your last known mailing address or immediately in the event of hand delivery or email to your last known email address. You and we consent to the use, provision and acceptance of information in electronic form.
- 2.6 You must satisfy yourself that the goods or services are fit and suitable for the purposes for which they are required and we give no warranty nor will we accept any liability in respect of the fitness or suitability for your purposes.

#### 3. PRICING

- 3.1 Unless specifically stated otherwise, all prices are stated in New Zealand dollars and are plus applicable costs and taxes which shall be paid by you.
- 3.2 Unless otherwise agreed by us in the schedule, the price of the goods or services shall be as per any written contract.
- 3.3 Where we do not enter into a written contract with you and it is instead verbally agreed that the Price List will apply, the price of the goods or services shall be as per the Price List which is current at the date of delivery of the goods or performance of the services.
- 3.4 Where an estimate is provided for goods and/or services, all estimates are based on rates and costs at the date of estimate and are available for acceptance for 30 days from the date of issue. We reserve the right to adjust any estimate prior to the date of dispatch of goods or prior to or following the performance of services for any reason. If additions or modifications to goods or services are requested by you after the acceptance of the estimate, the estimate shall be adjusted to reflect the additions or modifications and a surcharge may be applied at our sole complete discretion.
- 3.5 Where no price is stated in writing or agreed to orally, the price shall be indicated at our discretion on invoices provided by us to you in respect of goods or services supplied.
- 3.6 You acknowledge that there may be fluctuations in the cost of materials, labour, subcontractors and services associated with the supply or manufacturing of the goods due to various circumstances, including but not limited to epidemic, inflation, changes in local or international markets, laws or regulations. Where costs increase by 5% or more (**Price Increase**) after the date any contract is entered into and before the goods are provided to you, we reserve the right to amend the price of the goods by the amount of the Price Increase. The Price Increase will be an adjustment to the price for the goods. Price Increases will be due and payable in accordance with clause 4.1 below.

#### 4. PAYMENT TERMS

- 4.1 Unless otherwise agreed, all accounts shall be payable on the delivery of the goods or services or the 20<sup>th</sup> of the month following the date of invoice, whichever is earlier. We may refuse to deliver the goods where the amount owing has not been paid in full. Where credit facilities (including payment by instalment or progress payment arrangements) have been granted, all accounts shall be paid no later than the dates specified in the credit arrangement or, if not specified the 20<sup>th</sup> of the month following either date of invoice or delivery of goods or services, whichever is the earlier.
- 4.2 You acknowledge that:
  - (a) We supply all goods and services to you on condition that all payments made to us by you are valid and in the ordinary course of business. Any payment is agreed to be received in good faith and in the reasonably held belief that the payments are valid.
  - (b) By accepting payment from you, we alter our position in reliance on the validity of that payment.
  - (c) If there is an amount owing under two or more invoices, we may apply any payment by you in such manner as we think fit.
  - (d) Subject to clause 11.1(c), any payment owed by you shall be free of any counterclaim, condition, set-off, deduction or any other claim whatsoever.
  - (e) If you require delivery of the goods, unless otherwise agreed, all freight costs are payable by you.
  - (f) We shall not be bound by any typographical errors or omissions in any Price List, newsletter, invoice, statements or any other documents used by us.
  - (g) Orders may be placed by you by telephone or in writing by letter or by electronic means. We reserve the right to insist upon written confirmation prior to progressing your order.

- 4.3 We may at any time and without reason or notice to you:

- (a) Terminate or suspend any credit arrangement we have with you in which case any amount owing shall be immediately due and payable;
  - (b) In our sole discretion increase, decrease, suspend or revoke the amount of credit supplied to you; and
  - (c) Request additional security for payment for the goods or services.
- 4.4 Time shall not begin to run, for limitation purposes, until such time as we have sent you a formal written demand for any outstanding amount owing.

#### 5. OWNERSHIP, DELIVERY AND RISK

- 5.1 Where goods are supplied by us:
  - (a) delivery shall be deemed complete when we notify you the goods are available for collection, give possession of the goods to you or to a carrier for delivery to you, or otherwise give possession as you have directed. We reserve the right to deliver the goods by instalments and each instalment shall be deemed to be a separate contract subject to the same conditions as the main contract. Failure by us to deliver one or more instalments, shall not entitle you to cancel the main contract;
  - (b) unless otherwise specified in the schedule the place of delivery shall be our premises or such other premises we determine;
  - (c) risk shall pass to you when the goods are delivered. If you request and we agree to a delay in delivery, risk shall pass upon the later of the date of your request for such delay or the date the goods are ready to be delivered;
  - (d) title shall pass upon full payment for the goods has been received by us and we retain title until we receive payment in full; and
  - (e) we give no warranty or guarantee as to the timing of delivery of the goods and expressly record that delivery time is not an essential term of these terms, and we will not be liable to you for any loss or damage arising in any way from any delay in delivery or performance.
  - (f) It is further agreed that:
    - (i) Until title passes to you, we may give notice in writing to you to return the goods to us.

- (ii) If you fail to return the goods to us prior to title passing then the provisions of clause 9 shall apply.
  - (iii) Until such time as title to the goods shall pass from us to you, you will keep the goods separate from any other goods in your possession and will keep the goods properly stored, protected, insured and identified or identifiable as our property.
  - (iv) Until such time as title to the goods shall pass from us to you, you will keep the goods in same or better condition, including legal compliance, and you will be liable for all associated costs, including but not limited to servicing and repairs.
  - (v) If you sell the goods prior to title passing but are deemed to have given good title to any third party, then all moneys received by you from such sale shall be held on trust for us absolutely until title has passed to you in accordance with these terms.
  - (g) All goods delivered to or in our possession for repair or servicing are subject to a lien for any sums owed to us by you. When a lien is retained over any goods and you are more than 3 months overdue on any invoice, we may, without notice to you, sell the goods as outlined in clause 9.1 below.
- 5.2 Where we provide services:
    - (a) whilst all care is exercised, risk shall remain with you at all times, including if applicable where we gratuitously collect and deliver your goods to and from our premises;
    - (b) you agree to indemnify us fully for any losses or costs we incur as a result of us collecting or delivering your goods to you.
  - 5.3 You agree to promptly take delivery of goods when you are so entitled and to promptly collect your goods where we provide services to the same. If you fail to do so you agree, without prejudice to any of our other rights and remedies, to pay on demand any storage fee we determine for each day or part thereof that we store the same and/or we are entitled to sell the goods on reasonable terms to recover our costs and charge you for any shortfall.

#### 6. PPSA

- 6.1 You acknowledge and agree that:
  - (a) you grant a security interest to us in each and every part of the goods and any proceeds as security for payment for any amount owing and the performance by you of any of your obligations to us from time to time (**Buyer Indebtedness and Obligations**). You further grant us a security interest in all of your present and after acquired property for your Buyer Indebtedness and Obligations;
  - (b) you will not allow any goods to become an accession to any property that is not subject to the security interest granted pursuant to these terms; and
  - (c) you will not do, or omit to do, or allow to be done or omitted to be done, anything which might adversely affect any security interest in goods granted in our favour including, but not limited to, the creation of any lien, other security interest, sale of the goods, or transportation of goods outside New Zealand.
- 6.2 You acknowledge, agree and undertake (as the case may be) to:
  - (a) sign any further documents and/or provide any further information (which information you warrant to be complete, accurate and up to date in all respects) which we may reasonably require to register a financing statement or financing change statement on the register;
  - (b) irrevocably appoint us to be your attorney to do anything which you agree to do under these terms and anything which we think desirable to protect our interest under these terms and you ratify anything done by us as your attorney under this clause;
  - (c) not register a change demand without our prior written consent, which may be given or withheld at our absolute discretion;
  - (d) upon demand, meet our costs:
    - (i) in relation to registering a financial statement or financing change statement, or releasing any financing statement on the register;
    - (ii) in enforcing our security interest including our legal costs on a full indemnity basis; and
  - (e) give us not less than 14 days prior written notice of any proposed change in your name, and/or any other change in your details including, but not limited to, a change in your place of incorporation, address, location, nature of business, ownership, facsimile or phone number, or business practice.
- 6.3 You and we agree that to the maximum extent permitted by law:
  - (a) you waive your rights and, with our agreement, contract out of your rights referred to in section 107(2) of the PPSA; and
  - (b) nothing in sections 114(1)(a), 133, 134 and 148 (your right to receive a verification statement) of the PPSA shall apply to you.

#### 7. AVAILABILITY AND OTHER ALTERATIONS

- 7.1 The obligation on us to supply you the goods is conditional upon us having sufficient stock presently available, or becoming available, to enable us to supply to you such goods. Such condition is for our sole benefit and we may in our sole discretion at any time prior to delivery of such goods either satisfy or waive that condition, or if in our opinion such goods are not readily available we may notify you of this and we then shall have no obligation to you to deliver such goods, aside from refunding your deposit or other amounts received by us from you, or have any liability that arises from the lack of availability of such goods.
- 7.2 In the event of any alteration in the design or specification of any goods we shall have no liability howsoever arising and will be entitled to either:
  - (a) deliver the goods conforming to the altered design or specification in fulfilment of any order; or
  - (b) cancel the terms relating to the relevant supply of goods; or
  - (c) order replacement goods from the manufacturer.
- 7.3 If, after the date we enter into any contract with you, any product, part, fixture or service required by that contract:
  - (a) becomes impractical to carry out or procure; or
  - (b) cannot be carried out or is reasonably unprocureable; or
  - (c) becomes prohibited by law;we may substitute another reasonably equivalent product, part, fixture or service. If the substitution materially changes the good or results in an adjustment of the contract price, we will consult and agree any substitution with you before it is made. In that case, you must, within 3 Working Days of notice of the substitute product, part, fixture or service, advise us in writing whether you agree to the substitute. If we do not receive your notice of agreement to the substitute within 3 Working Days of our notice of the substitute, we may suspend performance of the Works until you have agreed to a substitute.
- 7.4 Where you request a variation to any contract you must give us written notice of the request. We are not obliged to agree to nor carry out any variations you request after the date the contract is entered into. However, we may, at our discretion, agree to any variation to the contract after that date. If we agree to the requested variation we may do one or all of the following:
  - (a) make an adjustment to the contract price to cover the agreed cost of the Variation including extras below;
  - (b) charge an administration fee;
  - (c) extend any expected completion date.
- 7.5 We will invoice you for all variations and such invoices will be payable within 5 working days of issue of that invoice, or upon delivery of the goods or services, whichever is the earlier.
- 7.6 If the value of any variation is not agreed before the variation work starts and you have agreed that the variation work can start, then you will pay us a fair price for the variation including our margin and costs, as per clause 3.5 above.

#### 8. DEPOSIT

We may require you to pay a deposit. If the terms relating to the relevant supply of goods are cancelled for non-satisfaction of any explicit condition or solely because of our default then the deposit shall be refunded to you, less our reasonable costs incurred to date.

#### 9. DEFAULT

- 9.1 If you default on any obligation (whether minor or significant) you authorise us or our agents to enter upon any premises or property occupied by you or any property where any goods are stored, without notice, in order to inspect, search for and remove the goods and you agree to procure all consents necessary and to indemnify us against any liability incurred in connection with such entry and removal. We may recover and resell the goods and apply the proceeds derived to all or part of the debt and all costs incurred in 9.3 and the cost of any entry and removal. You are liable to us for any shortfall and amounts due under clauses 9.2 and 9.3.
- 9.2 Interest on overdue invoices shall accrue from the date when payment becomes due at the rate of 5% per calendar month on the total amount owing.
- 9.3 Should we commence any action to recover the debt and interest or for any other breach of your obligations, you will reimburse us for all legal costs, debt collection and other costs (directly or indirectly) incurred by us enforcing the terms of the contract and/or your obligations, whether or not proceedings are filed.
- 9.4 In the event that:
  - (a) any money payable to us becomes overdue or if at any time you are in breach of an obligation to us or if you jeopardise our security interest in any goods, or in our sole opinion you will be unable to meet its payments as they fall due; or;
  - (b) You become insolvent, have a receiver appointed in respect of all or some of your assets, make or are likely to make an arrangement with your creditors or have a liquidator (provisional or otherwise) appointed or are placed under statutory or official management, then without prejudice to our other remedies at law:
    - We shall be entitled to cancel or suspend the provision of any goods or services to you which remain unperformed or unprovided and any of our other obligations under the contract and will not be liable to you for any loss or damage you suffer pursuant to this clause;
    - We shall be entitled to enter and remove the goods supplied as set out in clause 9.1;
    - All amounts owing to us shall, whether or not due for payment, immediately become due and payable and all credit facilities are cancelled;
    - We may enforce any security interest granted to us by you; and
    - We may require payment in advance for all orders, including existing orders.

- (c) You will be in breach of the contract, if within seven (7) days of being notified by us that the goods are ready for collection or delivery, you refuse or fail to take delivery of the goods, unless agreed otherwise in writing by us.
- 10. RECEIPT AND RETURN OF GOODS OR CANCELLATION OF ORDERS**
- 10.1 We may cancel any contract or cancel delivery of goods and services at any time before the goods are delivered or services carried out by giving written notice at our absolute discretion. On giving such notice we shall promptly refund to you any part of the price paid for those goods or services, less our reasonable costs incurred to the time of cancellation. If you cancel delivery of goods or services and we consent to the cancellation, you remain liable for any costs incurred by us up to the time of cancellation. We shall not be liable for any loss or damage to you whatsoever arising from such cancellation or from unavailability of goods.
- 10.2 We may discontinue the provision of any goods or services at any time without notice.
- 11. DISPUTES**
- 11.1 Should you dispute any portion of an invoice/account:
- (a) you must notify us in writing within seven days of receipt of that invoice;
- (b) supply us with full documentation in support of the disputed portion of the invoice within seven days of receipt of that invoice; and
- (c) pay the invoice in full provided however that the disputed portion shall be held by us, in escrow pending a resolution in accordance with the following terms:
- i. If any dispute arises out of a contract the party claiming that a dispute has arisen must give written notice to the other party specifying the matter in dispute. The parties must then try to resolve the dispute in good faith within 10 working days of the date the notice is served upon the other party and such attempts shall be without prejudice. If the parties cannot resolve the dispute within that timeframe, Clause 11.1(c)(ii) will apply.
- ii. You hereby agree that if the total amount in dispute is within the jurisdiction of the Disputes Tribunal it will be referred to that forum if it cannot be resolved directly between the parties pursuant to Clause 11.1(c)(i). If the amount in dispute cannot be heard at the Disputes Tribunal then the parties shall refer the matter to Arbitration as per Clause 11.1(c)(iii).
- iii. The dispute will be referred to arbitration by a sole arbitrator in accordance with the Arbitration Act 1996. If the parties cannot agree on the identity of the arbitrator within 10 working days from the date on which the dispute is referred to arbitration by either party, then the arbitrator will be appointed by the President of the Arbitrators' and Mediators' Institute of New Zealand Inc, upon the application of any party. The Arbitration will take place in New Zealand. The award in the arbitration will be final and binding on the parties. The parties will bear their own costs in the arbitration and will share equally the arbitrator's costs.
- 11.2 Should you fail to adhere to clause 11.1 above (time being of the essence) then you are deemed to have waived any right to dispute that invoice/account.
- 11.3 The governing law for the purposes of these terms and any contract to which they apply, is the law of New Zealand.
- 12. PRIVACY**
- 12.1 You authorise us to collect and hold personal information and other technical information, including but not limited to telemetry, location and performance tracking information, about any goods, from any source we consider appropriate for the purposes of considering your trade-ins, credit worthiness, marketing activities, debt collection purposes, maintenance, servicing and repair purposes and any other purpose related to us providing goods or services to you. You further authorise us to disclose personal and technical information held by us to any third party (including, but not limited to any transferee or assignee of us) for the purposes set out above. You understand that you have a right of access and may request correction of personal information held about you.
- 13. WARRANTY AND LIABILITY**
- 13.1 Our liability, arising directly or indirectly from any defect in any goods or services provided, shall be limited to the replacement or repair of such defect and shall not in any case exceed the invoice value of the particular good or particular service provided.
- 13.2 You shall inspect the goods upon delivery and the services upon completion.
- 13.3 Any complaint must be made in writing and communicated to us within 48 hours of the goods having been delivered or the services completed and you must allow us to inspect the goods within a reasonable time of receiving your complaint.
- 13.4 If we agree in writing that the goods are defective, then you may reject the goods provided:
- (a) The goods are returned at your cost within seven (7) days of the date of our written agreement that the goods are defective; and
- (b) We will not be liable for goods which have been stored or used improperly or tampered with or modified without our approval, or where there has been continued use of any goods after any defect becomes apparent or should be become apparent to a prudent user or if in our opinion any defects are of a cosmetic or non-substantial nature; and
- (c) The goods are returned to us in the condition and packaging in which they were delivered; and
- (d) We elect not to repair or remedy the defect. If we elect to repair or remedy the defect we will do so with minimum delay, although you acknowledge that this is dependent upon sourcing replacement parts and technical support and in some circumstances making claims against our suppliers or manufacturers. You cannot arrange a third party or your own serviceman to fix the problem and then claim for warranty, without our prior written approval.
- If you fail to comply with any of the above provisions, the goods are deemed to have been supplied in accordance with these terms and free from any defect or damage.
- 13.5 We will to the extent permitted or required by law, pass on to you any warranty provided by us (pursuant to any schedule) or by the relevant manufacturer, although we will not be directly liable to you under any warranty, unless otherwise agreed in writing. You are responsible for the cost of returning goods to us or the manufacturer under any warranty and you may be responsible for additional costs including but not limited to freight. We may refuse to assist with any warranties if any part of the price owed to us by you is over-due. Any warranties for goods or services provided by us must be in writing.
- 13.6 Unless otherwise agreed in writing, no warranty, manufacturer's or otherwise, is given for used or second hand goods and such goods are purchased by you on an "as is where is" basis.
- 13.7 You must follow any manufacturer's service, storage, maintenance and use recommendations. Failure to do so may result in any warranty being voided.
- 13.8 You acknowledge and agree that additions or alterations may affect the manufacturer's warranty and you shall be responsible to make your own enquiries as to the effect of any additions on any manufacturer's warranty.
- 13.9 Any goods supplied in remedying any defects shall not extend our liability.
- 13.10 Nothing in these terms excludes limits restricts or is intended to prejudice any conditions, warranties and limitations implied by law however:
- (a) where permitted by law, if we are able to exclude such warranties, such exclusions shall apply; and
- (b) no guarantees, conditions, warranties, representations or agreements made on our behalf shall be binding on us unless made in writing.
- 13.11 To the maximum extent permitted, we shall not be liable to you or any agents or employees howsoever arising and whether in contract, tort or otherwise for:
- (a) any minor variation in product specifications including but not limited to colour or design, which may occur from time to time;
- (b) any loss of profits, consequential, indirect or special loss; or
- (c) any delay in delivery or damage, injury, cost or loss of any kind arising directly or indirectly (including force majeure) from any breach of our obligations to you.
- 13.12 Unless otherwise agreed in writing, any maintenance, insurance, finance arrangements or other agreements between you and third parties are direct agreements between you and the parties concerned and do not affect these terms and we shall have no liability to you for the same howsoever arising but will use reasonable endeavours to assist you where appropriate and at your cost.
- 14. CONSUMER AND OTHER LEGISLATION**
- 14.1 If the Consumer Guarantees Act 1993 ("CGA") applies, these terms shall be read subject to the CGA, provided that where you acquire the goods or services for business purposes the CGA shall not apply and you agree it is fair and reasonable in the circumstances to contract out of the CGA.
- 14.2 If you on sell the goods to a third party, you hereby agree where permitted by law, to contract out of the CGA and further agree to neither give or make any assertion or representation in relation to the goods without our prior written approval nor hold yourself out to be our agent. You further agree to indemnify us for any losses incurred due to third party claims against us.
- 14.3 You indemnify us against any actions, claims, costs or liability incurred by us under the CGA as a result of any breach by you of the obligations contained in clause 14.2.
- 14.4 Where you and we are acting in trade for the purposes of the Fair Trading Act 1986 ("FTA") then all parties agree to contract out of s 9, 12A and 13 of the FTA and the parties agree that it is fair and reasonable for the parties to so agree.
- 14.5 All information not originating from us has been given to you gratuitously and without liability and you acknowledge that it may not be feasible or practical for us to verify the accuracy of that information and that it is your responsibility to do so. We take no responsibility nor shall we have any liability, for any information provided by third parties.
- 15. TRADE-IN**
- 15.1 Unless agreed otherwise in writing, and subject to any other arrangements, stipulations or conditions in any contract, if the schedule provides for a trade-in boat or other goods then the trade-in allowance recorded therein will be deducted from the amount owing upon satisfaction in our sole discretion of the following occurring prior to delivery of the goods by us or otherwise at the time indicated in the schedule:
- (a) we are provided with unencumbered title and are recorded as the registered owner of the trade-in goods;
- (b) the trade-in goods are delivered to us in the same or better condition as when last inspected by us;
- (c) the trade in goods are legally compliant and have WOF/COF/other regulatory certificate or permits that are satisfactory to us in our sole discretion.
- 15.2 If you do not comply with clause 15.1 above, then, at our sole discretion, we may do any or all of the

following:

- (a) cancel the supply of the particular goods in question or demand that you immediately pay a monetary sum equivalent to the trade-in allowance recorded;
- (b) make good the trade-in goods with any costs incurred by us in doing so increasing the amount owing accordingly;
- (c) fully discharge any encumbrance which will increase the amount owing accordingly and you authorise us to effect this.
- 15.3 Where the schedule records an allowance for discharge of encumbrances then any variance to the discharge amount actually payable will adjust the amount owing accordingly and you authorise us to do all things to discharge any encumbrance.
- 16. PERSONAL GUARANTEE**
- 16.1 If the Purchaser is a company or a trust this clause 16.1 shall apply. In consideration of Ace Engineering agreeing to supply the goods or services and/or credit to the Purchaser at the request of the director(s) or trustee(s) of the company or trust, all directors or trustees jointly and severally personally undertake as principal debtors of Ace Engineering the payment of any and all monies owed by the Purchaser to us and further indemnify us for any default by the Purchaser in respect of their obligations under the contract.