

Terms and Conditions

1. DEFINITIONS

1.1 The Client:

The company, firm or person with whom the agreement is made - referred to as you/your.

1.2 The Vessel:

The motor yacht or sailing yacht or ship with whom the agreement is made.

1.3 The Company:

da Gama Limited- referred to as we/our/us.

1.4 The Agreement:

The Agreement between 'Da Gama Limited.' and 'The Client' constituted by the attached fax / letter / purchase order / electronic mail and incorporating inter alia these Terms and Conditions.

2. SERVICES

2.1 Da Gama's mission is to provide a personalized service focused on all aspects of Navigation Chart Management and Bridge Operation throughout a vessels life. We aim to support the Owner, Captain and Crew with an individual, bespoke support team dedicated to sharing their experience to assist professional mariners in the day to day safe navigation and conduct of their yacht or ships.

3. ASSIGNMENT

3.1 Neither party shall transfer or assign its rights or obligations under The Agreement without the prior written consent of the other party.

4. DELEGATION

4.1 If Da Gama Limited considers it more efficient or convenient, Da Gama Limited may in its discretion procure advice, assistance and services, which it renders under The Agreement, from other persons and may in its discretion delegate performance of one or more of its obligations under The Agreement.

4.2 Da Gama Limited may sub-contract all or part of the work entrusted by The Client, on terms that any such sub-contractor shall have the protection and benefit of all rights and conditions, and of all limitations and exclusions of liability, contained in these Terms and Conditions.

5. CONFIDENTIALITY

5.1 Da Gama Limited will not divulge or allow to be divulged to any party or person (other than those who out of necessity to complete any instruction under The Agreement require to be informed of) any confidential information of or belonging to The Client. Confidential information includes, but is not limited to, information relating to any affairs of any client or customer, information related to products, services, processes, trade secrets, market opportunities, operations, documentation, techniques, procedures, designs, specifications, research, development, accounting, engineering, marketing, pricing, selling, and lists of employees and customers.

5.2 The Client shall extend the same courtesy to Da Gama Limited as laid down in paragraph 5.1 of these Terms and Conditions.

5.3 The Client undertakes to keep confidential any information disclosed to it by Da Gama Limited and not to disclose the same either complete or in part to any third party (including subsidiary companies, holding companies or associate companies) without Da Gama Limited prior written approval, such undertaking to continue notwithstanding the expiry or termination of The Agreement for so long as the information in question has not become part of the public knowledge or literature without default on the part of The Client, or, been disclosed to The Client by the third party (other than one disclosing on behalf of Da Gama Limited) whose possession of such information is lawful and who is under no secrecy obligation with respect to the same, or, for a period of 15 years from the date The Agreement terminates, whichever is the sooner.

6. PRICES AND QUOTATION

6.1 Any quotation is valid from the date of quotation for a period of 30 days unless otherwise agreed by Da Gama Limited. If after the quotation has been agreed our prices are increased then these prices may be carried forward to The Client following a period of 30 days notice. Unless otherwise indicated all prices are excluding VAT.

7. PAYMENT

7.1 If any payments to be made under The Agreement shall be subject now or in the future to taxes, levies or charges of whatever kind in the country in which Da Gama Limited is incorporated and/or operating and which The Client or Da Gama Limited is required to pay or which Da Gama Limited is required to withhold, The Client shall pay such sums as shall yield to Da Gama Limited after payment or withholding of such taxes, levies or charges the full amounts payable to Da Gama Limited under The Agreement as if such taxes, levies or other charges were not paid or withheld.

In this clause The Client shall include any assignee of any of its rights hereunder.

7.2 The Client shall pay to Da Gama Limited in consideration for services provided; such fees shall be confirmed in writing to The Client and may, at the discretion of Da Gama Limited, be invoiced for in staged payments.

7.3 When giving an estimate or indication of price – in writing or orally – Da Gama Limited will exercise skill and judgement in doing so. Such estimates are subject to the accuracy of the information supplied by The Client and hence estimates may be amended.

7.4 For clients operating under an annual contract, unless otherwise agreed by Da Gama Limited payment is due within 7 days from invoice date. For all other purchases, payment is required in full prior to dispatch of goods.

7.5 The Client shall pay to Da Gama Limited for any services provided such fees as shall be confirmed under The Agreement. In addition to fees payable, Da Gama Limited shall be reimbursed by the client for all costs and expenses incurred whilst under the provision of the consultancy service provided without limitation.

7.6 We understand and will exercise our statutory right to claim interest and compensation for debt recovery costs under late payment legislation if we are not paid according to agreed credit terms stated at paragraph 7.4.

8. DELIVERY TIMES

8.1 Dates given are as per prior discussions with the operating crew and Captain of The Vessel. We shall not be held liable for any delay unless those delays are of a direct result of incorrect procedures by us. We shall track all corrections and shipments based on the current on board folio, publications within time and in accordance to local laws, regulations and codes applicable to the charts and publications in question.

9. NEW EDITIONS

9.1 The Vessel will automatically receive all new editions using the personal audits carried out by Da Gama Limited – these will only be new editions against the vessels current outfit and as agreed with crew or management representative. All issues of new editions will be charged at the current UKHO prices for specified items be they charts or publications.

10. CHART CORRECTIONS

10.1 Da Gama Limited will ensure The Vessel automatically receives all relevant paper and electronic chart corrections against the on board outfit on a weekly basis including all Pilot corrections and required loose leaf corrections.

10.2 The ChartCo©/NDMS© system used for all transmission of weekly chart corrections has been evaluated successfully by the UKHO and MCA for carriage of correction procedures for all chart corrections and meets all required criteria for this sector.

10.3 Stored charts will be corrected by an authorised team of chart correctors and as available, will examine, correct and stamp The Vessels existing charting, working to the exacting standards set down by the IHO/UKHO and further endorsed by CNITA 2-3 weeks prior to requiring the folios back on board. Charts will be corrected or replaced as necessary – making sure they are arranged in correct format and order of folios, stamped to latest Notice to Mariner then shipped to The Vessel.

11. NOTICE TO MARINERS

11.1 The Vessel under this service agreement will receive either or both paper and electronic Weekly Notice to Mariners for all required and on board data via the ChartCo© or NDMS© system.

12. DIGITAL CHARTING

12.1 The Vessel will receive the corrections for all subscribed and licensed Digital Charts and Digital Products (such as List of Lights or Radio Signals) currently under contract – this data will be supplied via ChartCo© or NDMS© from the UK Hydrographic Office.

13. LIABILITY AND INDEMNITY

13.1 Da Gama Limited shall dedicate such time, attention and skill as may be reasonably necessary for the proper performance of the obligations under this agreement.

13.2 In this clause Delegate(s) means: Employees and agents of Da Gama Limited. Any person to whom performance of work or services under The Agreement is delegated or sub-contracted by Da-Gama Limited any such person's employees and agents.

13.3 Da Gama Limited or any delegate shall not be liable to The Client for any loss, liability, damage, cost, claim or expense suffered or incurred by The Client in connection with or arising from the services provided by Da Gama Limited.

13.4 It is assumed that The Client undertakes to name Da Gama Limited or any such delegate as an additional insured under any third party liability insurances throughout the duration of which any services are provided.

14. OBLIGATIONS AND LIMITATION OF LIABILITY

14.1 If the goods supplied by Da Gama Limited are not what you ordered or are damaged or defective or the delivery is of an incorrect quantity, Da Gama Limited shall have no liability to

The Client unless you notify us by e-mail (info@da-gama.co.uk) of the problem within 14 days of the delivery of the goods in question.

14.2 If the Client has not received the goods ordered within 30 days of the date on which you ordered or expected delivery, Da Gama Limited shall have no liability unless The Client notifies us by e-mail (info@da-gama.co.uk) of the problem within 40 days of which you ordered or expected delivery of the goods, whichever is the later date.

14.3 If the Client notifies a problem to Da Gama Limited under condition 14.1 and 14.2, Da Gama Limited's only obligation will be, at its opinion:

14.3.1 To make good any shortage or non-delivery

14.3.2 To replace or repair the goods that are damaged or defective; or

14.3.3 To refund The Client the amount paid by The Client for the goods in question together with any agreed costs incurred by The Client in returning any incorrect or damaged goods if so agreed to Da Gama Limited.

14.4 Da Gama Limited shall not be held responsible for the completion of charting corrections or publication corrections forwarded to the vessel. All proof of shipping and delivery advice notes are recorded to ensure a successful delivery is made to The Client and to verify arrival dates and activation of sleeping folios for use in all audit purposes. Once these corrections are on board it is then the responsibility of the Captain and/or Crew to ensure they are completed in the correct manner, filed and recorded as on board maintenance, internal procedures and Flag State regulations require.

14.5 Da Gama Limited shall not be held responsible for any accidents or damage incurred whilst the vessel is under navigation. We shall also not be held responsible for any damage incurred to vessel or crew following miss-use of navigational information.

14.6 Da Gama Limited are not to be held responsible for any incidents occurring from the use of Third Party navigational information or correctional data such as electronic navigation charting software or such like. This is to be used following all manual instructions and at no time be misused.

14.7 Da Gama Limited shall not at anytime be held responsible for any routing planned using the information / navigational data supplied by Da Gama Limited. This is at all times to be used at the discretion and under the responsibility of the vessel's Captain.

14.8 Da Gama Limited act on behalf of the United Kingdom Hydrographic Office (UKHO), Kelvin Hughes, Chart Co©, NDMS© and other reputable suppliers as providers of navigational services, consultancy and supplies to ensure The Client is supplied as required and requested. All copyright of any sold products is held with the product creator and thus each individual establishment's Terms and Conditions apply herewith.

14.9 Nothing in this condition is, however, intended to limit any rights The Client may have as a consumer under English Law or under any applicable local law which may not be executed by law, nor in any way to exclude or limit Da Gama Limited's liability to The Client for any death or personal injury resulting from its negligence.

15. FORCE MAJEURE

15.1 Neither party to The Agreement shall be in breach of any obligation hereunder (other than the obligations of The Client to make payment of any monies due to Da Gama Limited) insofar as performance thereof has been delayed hindered, interfered with or prevented by any circumstances beyond its reasonable control.

15.2 If either party is affected by Force Majeure it shall forthwith notify the other party of the nature and extent thereof.

16. APPLICABLE LAW AND ARBITRATION

16.1 The proper law of this Agreement is English Law and English Law shall be used in interpreting The Agreement and for resolving all claims or disputes arising out of or connected with The Agreement (whether based on contract, tort or any other legal doctrine). Any such

claim or dispute not settled by negotiation shall be settled by arbitration in London under the rules of the London Court of International Arbitration. The language of the Arbitration shall be English.

17. INTELLECTUAL PROPERTY RIGHTS OF PRODUCTS

17.1 The Client may not at anytime use the Intellectual Property Rights of the products sold by Da Gama Limited. Any license sold for third party software is covered under each individual product's own Terms and Conditions.

18. WAIVER

18.1 There shall be no forgoing, waving or varying of any Terms and Conditions by or on behalf of Da Gama Limited unless confirmed in writing by Da Gama Limited. Nor shall The Client be entitled to rely on any promise or indication that such a written confirmation will be forthcoming. Any variation of these Terms and Conditions shall not be binding unless set out in writing and signed by representatives of each parties.