



## NEW ZEALAND DIVING AND SALVAGE LIMITED STANDARD TERMS AND CONDITIONS

### 1.0 GENERAL

#### 1.1 Confidentiality

- a. The information in this proposal is confidential and subject to privilege it is intended only for the named company(s) and recipient(s).
- b. Media enquiries during operational activities will be redirected to the Client or nominated representative.

#### 1.2 Currency

Unless specified otherwise all currency values are in New Zealand dollars (NZD).

#### 1.3 Taxes, Fees, Permits and Insurances

Unless stated this proposal is exclusive of;

- All local (New Zealand) Goods and Services Tax (GST)
- Goods and Services Taxes applicable to Countries other than New Zealand
- Port fees and Services
- Customs
- Carnets
- Permits
- Any project specific contract insurance requirements
- costs from third parties and suppliers not specifically included in NZDS rates will be on charged to the Client at cost + 15%

#### 1.4 Parties

- New Zealand Diving and Salvage Ltd – NZDS
- Client – The named recipient of the supplied quotation, proposal and / or service

#### 1.5 Intellectual Property

- a. Methodologies, solution statements, specialised purpose built equipment and/or practices provided by NZDS as part of a quotation, proposal, tender bid and / or service are considered the property of NZDS and shall not be reproduced or provided to third parties without written consent from NZDS.
- b. Copies of photographs, drawings, survey data and video recordings will remain in the possession of NZDS for the purposes of reporting production, referencing and training. The client agrees that NZDS may use such material for the purposes of promotions on the conditions that no direct reference is made to who the client is / was without prior consent.

#### 1.6 Scope of Works

- a. The scope as understood by NZDS is supplied by the client either verbally or in writing. It is the expectation of NZDS that the client will disclose all relevant information to enable NZDS to provide an accurate assessment for quoting purposes and operational planning.
- b. On acceptance of an NZDS quotation / proposal it is considered that the stated scope is correct and accepted.

#### 1.7 Variations and Delays

- a. Changes and / or additions to the agreed scope of works, following the acceptance of a quotation / proposal, will be considered variations and will be subject to additional charges.
- b. Where a variation and / or amendment to the agreed scope and / or methodology, NZDS has the right to halt all works until a variation has been approved by NZDS, in writing.
- c. Delays and prolonged operations caused by circumstances outside of NZDS's control inclusive of but not limited to client delays, shipping movements, weather, client instrumentation / equipment failing, inefficient site induction processes, third party contractors and/or material supplies may incur additional charges.

#### 1.8 Confirmation

- a. immediately possible written acceptance must be provided within 24 hours of operations commencing.
- b. Unless otherwise specified, NZDS requires confirmation of at least 48 hours prior to mobilising.
- c. Termination of a works order within 24 hours of mobilisation may incur either a partial charge of or; the full quoted amount.

#### 1.9 Termination

- a. These terms and conditions continue until ended:
  - i. By completion of the works as set out in the scope of works including any agreed variations or amendments;
  - ii. By agreement between the parties; or
  - iii. In accordance with clause b.
- b. NZDS can end these terms and conditions by notice in writing to the Client if:
  - i. The Client does not fulfil any of its obligations as set out in these terms and conditions or as reasonably requested by NZDS and either:
    1. The default is material and cannot be remedied; or
    2. The default can be remedied but has not been 7 days after the Client has been made aware of the default by NZDS; or
  - ii. In the reasonable opinion of a senior representative of NZDS it is unsafe to continue operations; or
  - iii. In NZDS's sole discretion, the cost of operations to be incurred becomes unreasonable due to unforeseen circumstances; or
  - iv. In NZDS's sole discretion, NZDS may incur a financial loss by continuing operations;
  - v. The Client commits an act of insolvency or makes any assignment or composition with its creditors;

- vi. The Client becomes liable to be, or takes steps to be, or is placed in liquidation, or cannot pay its debts when they fall due, or is deemed not to be able to pay them in accordance with s287 of the Companies Act 1993;
- vii. The Client has an order or final judgement made against it, its property or assets.
- viii. There is a change in effective control of the Client.
- c. On termination, the Client will pay NZDS (without set off) for all work undertaken as part of the operations up until the date of termination.
- d. Any termination of these terms and conditions will be without prejudice to the rights of either party arising prior to termination.
- e. Nothing in this clause affects the operation of any clauses in these terms and conditions which are expressed or implied to have effect after termination.

### **1.10 Compliance and Legislation**

All NZDS operations will be compliant and not limited to the following;

- NZDS Management Systems, Policies, Procedures and Manuals
- New Zealand Laws, Regulations and Standards
- Relevant Diving and Maritime Laws, Regulations, Industry Best Practices, Guidelines and Standards
- Local / Regional and District Government Regulations and Legislation
- Project Specific Regulations, Industry Best Practices, Guidelines and Standards
- Unless specified as a requirement to NZDS; it is the expectation of NZDS that the Client holds available any applicable permits, resource consents, access and permissions for NZDS to perform the required.

### **1.11 Validity**

This quotation / proposal is valid for thirty (30) days.

### **1.12 Limitation of Liability**

- a. Legislation may impose warranties, conditions or obligations upon NZDS which cannot by law (or which can only to a limited extent by law) be excluded. NZDS excludes all such imposed warranties, conditions or obligations to the extent permitted by law and excludes any warranty, condition or obligation imposed or implied under common law, equity or otherwise.
- b. Except as set out in clause 1.12(a) NZDS shall not be liable for any loss or damage or liability of any kind whatsoever (including consequential loss or lost profit or business) whether suffered or incurred by the Client or another person and whether in contract, or tort, or otherwise and whether such loss or damage arises directly or indirectly from goods or services provided by NZDS to the Client.
- c. To the extent that NZDS is liable for any reason for any loss suffered or liability incurred by the Client arising from any breach of these Terms and Conditions or for any other reason, such liability is limited to the amount of the price of the goods or services provided.

## **2.0 OPERATIONS**

### **2.1 Safety**

- a. Safety is paramount to all NZDS undertakings; the onsite senior (nominated) NZDS representative(s) will have the final decision regarding safe working conditions for the deployment, operation and recovery of equipment and personnel.
- b. It is the requirement of NZDS that any other persons, contractors, facilities personnel and client representatives' onsite participate in NZDS safety briefings, tool box meetings and risk assessments processes.

### **2.2 Inductions**

Unless stated this quotation / proposal is exclusive of site / client inductions and processes.

### **2.3 Operating Conditions**

All operations are subject to weather, sea state conditions, operating limits of vessels, confirmation of plant and facility isolations and safe working parameters.

### **2.4 Personnel**

This proposal has been submitted with the intention of using only NZDS personnel under NZDS health, safety and quality policies. NZDS will supply suitably qualified and medically fit personnel as determined by the scope of works, relevant country / industry legislation, laws, guidelines and standards.

### **2.5 Normal Operational Day (excluding Offshore)**

An operational day inclusive of mobilisation, demobilisation, personnel, plant, equipment and tooling is based on a maximum of ten (10) hours, unless otherwise stated. Normal operations are conducted during daylight hours 0700 – 1800 Monday – Sunday.

### **2.6 Hourly Rates**

Hourly rates inclusive of personnel, plant, equipment and tooling incur a minimum charge of three (3) hours and are door to door from the nominated base.

### **2.7 Public Holidays and Outside of Normal Operations**

Operational activities undertaken on Public Holidays and or/ outside of a normal operational day hours may be subject to a 50% increase to personnel rates.

### **2.8 Overtime**

- a. Overtime will be subject to agreement with the onsite senior (nominated) NZDS representative(s) and will be subject to health, safety, driving (travel) and fatigue considerations. A maximum of fifteen (15) hours can be undertaken in one (1) day. This is a normal operational day with five (5) additional hours. Overtime requirements are considered an exception and not the rule.
- b. Unless specified overtime rates for personnel, plant and equipment will be charged at standard NZDS hourly rates.

## **2.9 Equipment, Plant and Tooling**

- a. It is the responsibility of the client to satisfy themselves that the plant, equipment and tooling are suitable and sufficient for the scope of work, as subsequent exchanging of any will entail additional charges.
- b. Equipment / plant provided does not purport to be new stock, or equal to new, but when sent out, all items will be in maintained condition and fit for purpose.
- c. At Clients request / agreement all additional equipment / plant supplied to those enumerated will be charged for at NZDS standard hire rates.
- d. Where a subassembly or component is not functional and does not prevent NZDS from performing any other part or portion of the scope of work, then the operations will continue and not be construed as downtime.
- e. The Client is fully liable to pay the full repair and / or replacement costs and associated fees deemed required by NZDS for any and all hired equipment lost and / or not returned in the same state that it was issued from NZDS.

## **3.0 MEETINGS, DOCUMENT / PROCEDURAL DEVELOPMENT AND REPORTING**

- a. Meetings, document development and onsite planning phases undertaken prior to the commencement of works may be subject to NZDS standard rates.
- b. Unless specified as inclusive of the proposal any project specific documentation development; including but not limited to operational procedures, health, safety and quality may be subject to additional charges. NZDS requires a minimum of one (1) working week to produce this documentation, prior to works commencing.
- c. Unless specified as inclusive of the proposal any provision for periodic, interim or project completion reporting / meetings has been excluded.

## **4.0 PRICE AND PAYMENT TERMS**

- a. Payment terms are strictly 20th day of the month following our invoice/statement. If payment is not received on due date interest will be charged at the current overdraft bank rate.
- b. NZDS has the right, at their sole discretion, to immediately on-charge material / consumable costs incurred.
- c. The client is fully and completely liable for any collection costs incurred relating to any outstanding accounts.
- d. Banking fees and associated costs will be at the client's expense. The amount quoted/invoiced is the amount to be deposited into NZDS's account.

## **5.0 BIOSECURITY**

- a. Should NZDS identify any actual or potential notifiable / unwanted organisms while undertaking operations, they are obliged to immediately notify the New Zealand Ministry for Primary Industries (MPI) under the NZ Biosecurity Act 1993.

# **ADDITIONAL TERMS AND CONDITIONS**

## **6.0 NZDS VESSEL(S) SUPPLY**

- a. All vessels provided by NZDS are subject to availability and the completion and signing of a BIMCO agreement or another acceptable contract, if deemed necessary by NZDS.
- b. Towing operations are subject to the completion and signing of a BIMCO TOWHIRE 2008 agreement prior to mobilisation.
- c. It is the responsibility of the client to satisfy themselves that the vessel(s) is/are suitable and sufficient for the scope of work.
- d. NZDS personnel typically operate on a two (2) week on two (2) week off rotation for prolonged vessel campaigns.
- e. Unless specifically stated, personnel rotation charges will be additional
- f. Unless stated this proposal is exclusive of all vessel fuels, oils and lubricants.

## **7.0 IN-WATER SHIP SERVICING**

### **7.1 General**

- a. In-water operations during loading and unloading of vessels are subject to compliance with the vessel management system, port regulations and the onsite assessment of the senior (nominated) NZDS representative(s).
- b. Unless specifically stated, this proposal is exclusive of any client management, agent fee(s) or commission. Any applicable / agreed fees will be paid once NZDS has received payment in full for the completed scope of works.
- c. Unless specifically requested the client is responsible for arrangement and availability of any respective Class Society Surveyors, Surveyors and / or applicable vessel representatives. In non-class survey circumstances, it is NZDS recommendation to have the vessels Chief Engineer or Master present during in-water video inspections.
- d. It is the expectation of NZDS that any applicable drawings, schematics, general arrangements and ship hull expansion plans are made available for the purpose of planning, locating, reporting and performing the scope of works.
- e. In-water visibility can affect photographic and video quality.
- f. Charges will still apply in the event that in-water survey, inspection, repairs, cleaning, biosecurity works are delayed, unable to be undertaken or completed due to reasons outside of NZDS control including; direction of the Surveyor, restrictions imposed by authorities, bunkering, shipping movements and schedules, prolonged vessel isolations, poor in-water visibility, currents and sea state.
- g. Additional charges including but not limited to accommodation and hire will apply where team(s) are mobilised to site and operations are delayed due to circumstances outside of NZDS control.
- h. Where applicable NZDS requires confirmation of any designated safe zones or (intrinsically safe sites) for the safe operations of petrol and electrical powered equipment.

### **7.2 Class Surveys / In-water Inspections**

- a. All survey work undertaking and duration of will be at the direction of the Class Society Surveyor and / or the nominated representative.

- b. Where pintle readings are required, the accessibility and ease of access to the inspection hatch can affect the survey duration and/or ability to take the readings.
- c. Where poker gauge readings are required, the accessibility to undertake these can be prohibited by other components and may not be able to be undertaken.
- d. Unless specified this quotation proposal does not allow for works that require the use of hydraulic, pneumatic or other cutting tooling to perform the inspection. This is inclusive but not limited to the removal of rope guard(s) and / or pintle inspection hatch.

### **7.3 In-water Cleaning**

- a. In-water cleaning operations may be subject but not limited to Bio-Security New Zealand requirements, local and regional council consenting processes, approval and plans, which may include a pre-works inspection.

### **8.0 CONSTRUCTION WORKS**

- a. In-water operations during transfers of overhead loads are subject to compliance with the port regulations, construction site and the onsite assessment of the senior (nominated) NZDS representative(s).
- b. It is the expectation of NZDS that any applicable drawings, schematics and construction plans are made available for the purpose of planning, locating, reporting and performing the scope of works.
- c. In-water visibility can affect photographic / video quality and ability to perform detailed works.
- d. Charges will still apply in the event that construction / inspection works are unable to be undertaken or completed due to reasons outside of NZDS control including; direction of the client or nominated representative, port authority directive, poor in-water visibility, bunkering, shipping movements and schedules, currents and sea state.
- e. Additional charges including but not limited to accommodation, personnel rates and equipment / plant hire will apply where team(s) are mobilised to site and operations are delayed due to circumstances outside of NZDS control.
- f. Where applicable NZDS requires confirmation of any designated safe zones or (intrinsically safe sites) for the safe operations of petrol and electrical powered equipment.

### **9.0 SALVAGES**

- a. All salvage operations are subject to the completion and signing of a BIMCO Wreckstate 2010 agreement or another acceptable contract, if deemed necessary by NZDS.
- b. Where towing works are involved, the completion and signing of a BIMCO TOWHIRE 2008 agreement will be required, prior to works commencing.
- c. A deposit to cover initial mobilisation may be required prior to the commencement of any operations; and / or letter of guarantee of payment or coverage from owner's insurance.

### **10.0 OFFSHORE AIR DIVING SYSTEM AND OPERATIONS**

#### **10.1 AS023 Air Diving System**

AS023 is an IMCA D 023 Rev.01 compliant air diving system permanently housed in 2 x 20' containers complete with dedicated rigging slings for ease of mobilisation, and with only one cable required to power-up the entire system. Further details / specifications and pricing are available on request.

#### **10.2 Normal Offshore Operational Day**

An operational day is based on a maximum of twelve (12) hours, unless otherwise stated, inclusive of mobilisation and demobilisation. Normal operations are conducted during daylight hours 0600 – 1800 Monday – Sunday.

#### **10.3 Rotation**

- a. NZDS personnel operate on a two (2) week on two (2) week off rotation
- b. Unless specifically stated, personnel rotation charges will be additional

#### **10.4 Additional Procedure development / Tooling / Reporting**

- a. Additional tooling and reporting will be subject to the supply of a detailed scope of works.
- b. Development of project specific documentation and procedures will be subject administrative costs following supply of a detailed scope of works and client requirements.

### **11.0 CONTAMINATION DIVING**

- a. Unless stated this proposal is exclusive of vaccination programs and will be subject to advice and recommendations of a medical practitioner.
- b. Client is responsible for the supply of fresh water on site for wash down.
- c. Client is responsible for disposal of, wash down, run off and any applicable permission(s) or permits.
- d. Where practicable the client is requested to flush pipes / systems in advance to minimise contamination and increase visibility.
- e. On request NZDS requires any relevant water quality test results to be made available.