

Terms and Conditions of Maintenance and Repair Order Services (REV 4 - OCT 2022)

1. Agreement. These Terms of Service, together with the Order Form (as defined below) create the agreement (“Agreement”) between Anchor Boatworks (ABWRX) and Customer for the purchase and sale of Services. In case of conflict, the documents shall control in the following order of precedence: the Repair Order Form and these Terms of Service. Any additional or different terms that the Customer may provide or communicate to ABWRX are material alterations and ABWRX expressly rejects them.

Parties to this Agreement; Definitions. As used in this Agreement, the terms: (a) “ABWRX” shall mean Anchor Boatworks; (b) “Customer” shall mean the Customer identified in the Service Authorization, estimate, work order, online request or other ordering document; (c) “Manufacturer(s)” shall mean the entity or entities that manufactured the Parts used in the Services; (d) “Repair Order Form” shall mean the estimate or work order which references these Terms of Service, prepared by ABWRX and signed by Customer (e) “Part(s)” shall mean the new and/or used parts, components, accessories or materials used in the Services; (f) “Services” shall mean the repair and/or maintenance services performed by ABWRX for Customer, together with the Parts; (g) “Terms of Service” shall mean these terms and conditions of maintenance and repair services, and (h) “Vessel” shall mean Customer’s vessel (under ownership or control on behalf of Customer) to be serviced by ABWRX.

The Customer hereby authorizes ABWRX to perform the Repair Order described services, and additional services which Customer may approve. Customer ACKNOWLEDGES THAT HE/SHE HAS REVIEWED A COPY OF, AND HAS READ, UNDERSTANDS AND AGREES TO THE ABWRX TERMS AND CONDITIONS OF MAINTENANCE AND REPAIR ORDER SERVICES, INCLUDING THE BELOW WARRANTY TERMS. Customer hereby grants ABWRX and its employees, agents or representatives’ permission to operate the Vessel, machinery gear and appurtenances, as deemed necessary or convenient for purposes of testing, evaluation and/or inspection.

2. WARRANTY DISCLAIMERS AND LIMITATIONS

LIMITED WARRANTY ON SERVICES: ABWRX warrants that the Services will be performed in a good and workmanlike manner (“Services Warranty”), and free from defects in material and workmanship. All parts, material, and all Customer-furnished equipment installed by ABWRX shall be installed in a workmanlike manner in accordance with the manufacturer's specifications and good marine practice. The Services Warranty is valid for a period of 30 days from the date the Services are performed. Customer’s sole and exclusive remedy, and ABWRX’s entire liability under the Services Warranty, is the repair of any nonconforming portion of the Services. The Services Warranty is valid only if the Vessel is returned, at Customer’s expense, to ABWRX’s repair facilities or if vessel remains at the same marina location where repairs took place. Any claim for repairs to be performed by other than ABWRX must be approved in writing by ABWRX prior to commencement of any work. The Services Warranty extends only to the Customer for whom the Services were provided and not any subsequent purchaser. ABWRX PROVIDES NO OTHER WARRANTIES CONCERNING ITS SERVICES AND DISCLAIMS ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED.

PARTS – MANUFACTURER WARRANTIES ONLY: Any warranties on any Parts are limited only to those written warranties provided by the applicable OEM Parts’ manufacturer. EXCEPT FOR ANY SUCH WARRANTIES MADE BY MANUFACTURERS, THE PARTS ARE SOLD WITHOUT ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, EACH OF WHICH IS EXPRESSLY DISCLAIMED. NO OTHER WARRANTIES: EXCEPT AS SET FORTH ABOVE, ABWRX EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED. ABWRX neither assumes nor authorizes any other person to assume for it any warranty liability in connection with the services for any parts provided to Customer in conjunction with the services.

What Is Not Covered By This Warranty: ABWRX does not warrant (1) any product not manufactured by ABWRX (Customer supplied parts are not warranted); warranty, if any, for parts or materials not manufactured by ABWRX shall be provided exclusively by the company manufacturing such parts or materials), (2) any Work not listed on the Repair Order (except for authorized additional repairs), (3) any Work not performed by ABWRX, (4) any damage caused by failure of the Customer to properly maintain the Vessel, (5) any unauthorized repairs to the Vessel, (6) damage caused by any other use or abuse by the Customer, (7) damage caused by any natural or other cause beyond ABWRX’s direct control, and (8) damage caused by the consequences of ABWRX’s negligence to a vessel in ABWRX’s custody, unless such damage results directly from ABWRX’s gross negligence or willful misconduct.

3. REPAIR ORDER ESTIMATES: Estimates ARE NOT GUARANTEES. When requested, ABWRX will provide cost and completion date estimates to Customers. Any such estimates are made honestly and in good faith based on ABWRX’s knowledge and experience, but ABWRX cannot guarantee their accuracy. Customer acknowledges that boat repair work cannot always be accurately estimated in advance; that once work begins, unforeseen conditions or problems frequently arise; and other factors can affect estimated costs and completion dates. Customer accepts these realities and agrees any estimates or quotes furnished are to be used as guidelines only

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and are not binding. Unless otherwise specified in writing, all ABWRX quotations are firm for ninety (90) days from the date of the quotation.

Repair Order Prices. All prices are effective only as set forth in an ABWRX quotation according to the schedule in that quotation, or as posted for ABWRX facility or Mobile Repair. All prices are subject to change without notice and are subject to correction of clerical errors.

Schedule. ABWRX strives to complete Repair Order work IAW initial estimates, however, does not warrant nor guarantee project completion schedule, or delivery deadlines due to unforeseen and uncontrollable circumstances. ABWRX will work to communicate issues as they arise and revise the project completion schedule to the best of our ability. It is expected that the Customer will make timely decisions regarding work completion in this process.

Taxes. Customer is responsible for and shall pay all taxes and/or duties applicable to the products (Parts). If ABWRX pays such taxes on Customer's behalf, Customer shall reimburse ABWRX in full.

Charges for Labor. ABWRX's charges for labor are based on the current posted labor rate and ABWRX's judgment of the time to complete the quoted work based on industry time allowances and adjusted to address requirements of the work. Unless otherwise agreed in writing prior to the commencement of the work: (i) any estimates or quotations rendered as to prices, time, material and labor required to perform the work are estimates only and are subject to variances (which will be communicated with the Customer); and (ii) the Customer shall be charged and shall pay for all time, parts, materials, and supplies at ABWRX's then prevailing rates (with respect to time) or prices (with respect to parts, materials and supplies).

Change Orders / Growth Work. If the Customer or ABWRX discovers that different or additional repairs are indicated, Customer will be contacted for authorization to make such additional repairs. Authorization may be given by Customer orally or in written form, including email. In the event that Customer authorizes commencement but does not authorize completion of a repair or service, a charge will be imposed for disassembly, reassembly, or partially completed work. Such charge will be directly related to the actual amount of mechanic's time and/or parts involved in the inspection, repair, or service performed. ABWRX will submit warranty claims on behalf of Customer for manufacturers for whom it is authorized to perform warranty service; however, Customer understands and agrees that it is responsible for full payment for any Services provided that are not covered by warranty. ABWRX is not responsible for any loss, damage, or other liability caused by, arising from, or related to repair or maintenance work recommended by ABWRX that is declined by Customer. Customer agrees that ABWRX employees may operate Customer's Vessel for purposes of facilitating the repairs, including but not limited to diagnosing, road testing, and sublet services.

Disposal of Abandoned Property. Any item removed and replaced during Work (other than a vessel) not removed from the premises within twenty (20) days after Work is completed will be deemed abandoned for all purposes, with Customer relinquishing all interest in such item and indemnifying and defending ABWRX from and against all liability arising from the disposal of such item. Such item will be offered for public sale, with ABWRX retaining all proceeds therefrom derived, without obligation to tender all or any part thereof to Customer.

Cancellation. In the event a Repair Order is cancelled by Customer in whole or in part, ABWRX will be paid all costs incurred (labor and materials). Any returnable materials incur a 20% restocking fee.

ABWRX REPRESENTATIONS: Unless otherwise agreed, ABWRX agrees to perform the work specified, with additional work on a time and material basis as ordered by the Customer. All additional work ordered will be in accordance with Customer's instructions and good marine practice. Labor will be charged at an agreed, or the current posted ABWRX hourly rate. ABWRX reserves the right to increase rates periodically. In the event ABWRX raises its rates during the term of this Agreement, Customer agrees to pay the increased rates for all work performed thereafter.

CUSTOMER'S REPRESENTATIONS: Customer represents he or she (1) is the Owner of the Vessel or has been authorized by the Owner of the Vessel to enter into this Agreement, (2) has read and agrees to comply with ABWRX's Yard Policies and Best Management Practices Agreement; (3) will maintain adequate marine insurance on the Vessel; and (4) will inspect and supervise the progress of the ordered work from time to time and will be solely responsible for ascertaining the suitability of the work performed and materials installed for Customer's intended purposes .

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4. OEM Parts. Customer acknowledges that estimates for non-warranty repairs may include parts not made by the original manufacturer. Parts used in the non-warranty repair of customer's Vessel by other than the original manufacturer are required to be at least equal in like kind and quality in terms of fit, quality and performance to the original manufacturer parts they are replacing. Customer agrees to pay for all services, parts and materials described herein and all other incidental services, parts, supplies and materials which are, in the opinion of ABWRX, reasonably necessary to perform the work specified by the Customer's instructions. Customer authorizes ABWRX to operate the Vessel for purpose of testing, inspection, delivery, docking and berthing, and when otherwise necessary, at Customer's risk.

5. Sublet Repairs. Customer acknowledges that portions of the repairs may be provided by a subcontractor hired by ABWRX and Customer hereby authorizes all sublet repairs that ABWRX, in its sole discretion, may deem necessary.

6. Damage or Theft. ABWRX is not responsible for loss of or damage to the Vessel due to or arising from fire, weather, theft or any other cause except the sole negligence of ABWRX. ABWRX is not responsible for any loss or damage to articles of personal property that have been left in the Vessel or for loss or damage to bodies, trailers or special equipment, including any cargo, materials or supplies carried on or in such bodies, trailers or special equipment, whatever the cause.

7. Payment. All charges for repairs (including insurance and 3rd party warranty claims) for labor, materials and services furnished are due and payable simultaneously with the redelivery of the Vessel or prior to redelivery upon the expiration of seven (7) days after notice to Customer that the repairs have been completed. Maximum allowable credit card payment is \$10,000. Repair Orders above \$10,000 require payment by Cashier's or personal Check. ABWRX reserves to right to hold the release of Vessel for clearance of personal checks. Customers paying by credit card agree NOT to reverse charges without first communicating with ABWRX to resolve any related issues.

Storage Fees. If the Vessel described herein is not picked up within seven (7) days after such notice is given, ABWRX may charge daily storage fees at rates that are ordinary and customary for the area, but not to exceed \$25.00 per day at ABWRX, the actual yard rate or dockage fees for off-site work, or the maximum rate allowable by applicable law.

Down Payment. ABWRX may request a down payment before commencing any work, with the balance is due at time of completion and before pick-up. Customer shall pay in advance for 100% of all non-returnable custom parts (installed electronics and custom fabricated parts) and materials, and 50% for outboard motor orders. For long-term projects (>30 days), the Repair Order requires a 20% of projected Labor deposit, and will include a description of project progress payments.

Late payment. All invoiced amounts unpaid and outstanding after 7 days will be subject to an interest charge of one- and one-half percent (1½%) per month (18% per annum) of the total outstanding balance from the date due or up to the maximum allowed by applicable law from the date due. These charges are in addition to any storage fees as indicated. Non-payment, or failure to make payment arrangements after 30 days may result in filing of a Mechanics Lien IAW state laws.

8. Mechanic's Lien / Lien Sale / Payment Collection. In addition to any and all other legal remedies available to ABWRX, Customer authorizes and acknowledges an express mechanic's lien in favor of ABWRX on the Vessel described herein for all charges for repairs, including labor and parts, storage and/or towing. Customer authorizes and acknowledges that if payment in full is not received within thirty (30) days after ABWRX has notified the Customer that the repairs are completed: (i) ABWRX may, in accordance with applicable state law, begin lien sale proceedings and sell the Vessel at public auction; and/or (ii) ABWRX may refer such account to its attorneys or a collection agency for collection. Customer shall be liable for space rental if the Vessel is not claimed by Customer within 7 days after completion of work performed under this work order or supplements thereto. If any charges, including but not limited to charges for construction, repairs and installations, and those for space rental and dockage, are not paid within thirty (30) days after delivery of any statement rendered by ABWRX, ABWRX shall have a lien on the Vessel, and may thereafter sell the vessel and its equipment at a public auction. The proceeds of the sale shall be applied to the discharge of the lien and the cost of maintaining, storing and selling the Vessel. The remainder, if any, shall be paid to the Customer.

9. Governing Law / Venue / Time to Commence Action. This Agreement shall be governed by and construed in accordance with the internal laws of the Commonwealth of Virginia without giving effect to any choice or conflict of law provision or rule that would cause the application of the law of any jurisdiction other than those of the Commonwealth of Virginia. Any legal suit, action or proceeding arising out of or related to this Agreement shall be instituted exclusively in the Federal District Court for the Eastern District of Virginia

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(Norfolk Division) or the Circuit Court or General District Court for the City of Virginia Beach, Virginia, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of process, summons, notice or other document by mail to such party's address set forth herein shall be effective service of process for any suit, action or other proceeding brought in any such court.

10. Customer's Assumption of Risk and Limitation of Damages.

CUSTOMER AGREES THAT IN THE EVENT OF ANY ACTION BROUGHT BY CUSTOMER AGAINST ABWRX, CUSTOMER SHALL NOT BE ENTITLED TO RECOVER ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES AS DEFINED IN THE UNIFORM COMMERCIAL CODE, INCLUDING, BUT NOT LIMITED TO INDIRECT OR SPECIAL DAMAGES, LOSS OF INCOME OR ANTICIPATED PROFITS, OR DOWN-TIME, OR ANY PUNITIVE DAMAGES. ABWRX'S TOTAL LIABILITY FOR ANY AND ALL LOSSES AND DAMAGES ARISING OUT OF ANY AND ALL CAUSES WHATSOEVER INCLUDING, WITHOUT LIMITATION, DEFECTS IN THE GOODS AND SERVICES SUPPLIED UNDER THIS AGREEMENT, SHALL IN NO EVENT EXCEED THE PRICE FOR THE SERVICES PAID UNDER THIS AGREEMENT. ABWRX ASSUMES NO LIABILITY OR RESPONSIBILITY FOR THE ADEQUACY OF THE DESIGN NOR THE STRENGTH OF ANY LIFTING LUG, CLEAT OR EYE ATTACHED TO THE VESSEL, TO WHICH ABWRX REASONABLY ATTACHES FOR HANDLING, LIFTING OR MOORING.

11. Indemnity, Insurance, Waiver of Subrogation and Assumption of Risk.

Customer agrees to hold ABWRX, including its affiliates, parent, officers, directors, independent contractors and subcontractors, agents, and employees (individually and collectively referred to in this "ABWRX"), free and harmless and to indemnify them from all claims, losses, damages, liabilities or expenses, including attorneys' fees incurred in the defense thereof, for death or injury to any person or persons (including persons hired by Customer to perform services at ABWRX's premises and employees, agents and/or invitees of Customer) or damage, loss or destruction of any property (including the Vessel and all her equipment, gear and appurtenances) and resulting directly or indirectly from the performance of this Contract. This indemnification shall include without limitation all court costs, attorneys' fees and costs of settlement or judgment. Nothing herein is intended to or may be construed as limiting ABWRX's liability for harm caused by gross negligence or willful misconduct, which shall not be presumed and must be affirmatively established.

Apart from the Repair Order covered under the warranty provided herein, Customer accepts the risk of all losses hereafter and shall look only to said insurance for compensation or damages related to any such loss regardless of the legal or physical responsibility hereof. As to all such policies of insurance and all claims made thereon, for himself/herself/itself and his/her/its insurers, Customer specifically waives all right of subrogation. Customer accepts these risks and agrees that ABWRX shall not be liable under any circumstances for any incidental, special or consequential damages of any nature whatsoever, whether such damages be predicated upon an alleged breach of this Contract, negligence, strict liability in tort, or upon any other basis whatsoever. Nothing herein is intended to or may be construed as limiting ABWRX's liability for harm caused by gross negligence or willful misconduct, which shall not be presumed and must be affirmatively established.

POLLUTION: The Vessel and Owner shall defend, indemnify and hold harmless ABWRX from all liability and expense, including without limitation cleanup costs, fines, penalties, civil damages, National Resource Damage Assessments, costs, and reasonable attorneys' fees, arising out of any environmental pollution attributable to vessel, unless such pollution is affirmatively proved to have been caused by the sole negligence of ABWRX or its employees

12. Waiver / Severability / Entire Agreement. No waiver of any term of this Agreement shall be valid unless it is in writing and signed by ABWRX's authorized representative. If any provision or part of any provision of this Agreement shall be deemed to violate any applicable law or regulation, such invalid provision or part of a provision shall be inapplicable, BUT the remaining part of that provision and the remainder of the Agreement shall continue to be binding and enforceable. This Agreement constitutes the entire agreement and understanding between the parties hereto and supersedes any and all prior agreements and understandings, oral or written, relating to the subject matter hereof.

13. Insurance. ABWRX reserves the right to require Customer and/or his agents, representatives or employees to provide a Certificate of Insurance confirming that they have sufficient marine insurance to satisfy any losses of any type which may occur while the Vessel, its equipment and personal property are on ABWRX's premises, BEFORE any work is undertaken by them or by ABWRX.

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14. Communication Consent / Use of Customer Data. ABWRX may use information Customer provides to ABWRX, including but not limited to email addresses, cell phone numbers, and landline numbers (“Customer Data”) to contact Customer for purposes related to this account, including debt collection, and for marketing and sales purposes. Customer also authorizes ABWRX and its affiliates to use and disclose Customer Data to third parties for any purpose in an anonymous or aggregated form that does not identify Customer. In addition, Customer Data and Vessel maintenance service and repair information arising from or created as a result of maintenance and repair services provided by ABWRX to Customer, including Vessel Customer information, Vessel identification numbers and Vessel specifications (“Vessel Repair Data”), may be provided to Vessel/component manufacturer(s) and the Vessel/component manufacturer(s) dealers, and their respective service management platform providers (“Maintenance Third Parties”) and used by ABWRX and such Maintenance Third Parties to support and enhance Vessel repair services provided to ABWRX and the Maintenance Third Parties’ customers. Customer also authorize ABWRX and the Maintenance Third Parties to use and disclose Vessel Repair Data to third parties for any purpose in an anonymous or aggregated form that does not identify Customer.

16. MISCELLANEOUS: These Terms and Conditions govern all Repair Order contracts, and is the final, exclusive and complete agreement of the parties. Except as provided in paragraph 3 above (additional and growth work), this contract may not be changed, modified or altered in any way except by a written instrument signed by the parties. Should any provision of this Agreement be deemed unenforceable, the parties agree that the remaining terms shall remain in full force and effect.

CLAUSE TO BE INCLUDED on REPAIR ORDER FORM:

I hereby authorize the described work to be completed with the necessary parts and materials, Subject to Anchor Boatworks Terms and Conditions of Maintenance and Repair Order Services (as provided separately, or viewed at www.abwrx.com). I understand that all Labor and Materials will be charged to an approved Repair Order at current posted rates. It is understood that Anchor assumes no responsibility for loss or damage by fire, theft or weather hazards to include incidental to boat or materials placed with them for sale, repair or water testing. All payments are due prior to delivery of vessel unless prior arrangements are made. The Vessel must be picked up within 7 days after notice of completion is given. After 7 days charges for vessel storage will be added at the rate of \$25.00/day or actual yard rate and/or dockage fees for other locations. Late payment interest is charged after 7 days of final invoice. After 30 days, ABWRX reserves the right to file a Mechanics Lien to secure the cost of repairs. Any item not picked up after 60 days from completion will be offered for Public Sale to cover Repair Cost.