TERMS AND CONDITIONS

INTERPRETATION

1.1 The following terms shall have the following meanings:

"Conditions" means these terms and conditions.

"Contract" means any purchase order, agreement for sale/purchase or other instrument for the sale and purchase of the Goods as between the Seller and the Purchaser.

"Purchaser" means the person(s), firm or company whose details are provided to the Seller as the Purchaser of the Goods or as set out in the Invoice supplied by the Seller.

"Seller" means Superyachts Tenders & Toys Limited.

"Total Price" or "Total" includes the Purchase Price of the Goods, plus any applicable value added tax, sales or import taxes or levies of a similar nature and/or packaging and/or transport costs as notified to the Purchaser by the Seller.

"Goods" means the goods to be purchased by the Purchaser from the Seller and any components, products or other items or services that the Seller supplies.

"Invoice" means the invoice for the supply of the Goods rendered by the Seller to the Purchaser.

1.2 The terms "Seller" and "Purchaser" include their respective successors in title and the masculine shall include the feminine and vice versa.

1.3 Any reference to any provision of a statute shall be construed as a reference to that provision as or as may have been amended, re-enacted or extended at the relevant time.

SALE AND PURCHASE

2.1 The Seller agrees to sell and the Purchaser agrees to purchase the Goods free of all debts, liens, claims, and/or other charges in consideration for the Total Price.

2.2 All sales/purchases of Goods shall be pursuant to these Conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Purchaser purports to apply under any purchase order, confirmation of order, specification, or other document) save if a particular Contract has its own terms and conditions annexed thereto. For the avoidance of doubt, no terms or conditions endorsed upon, delivered with, or contained in, the "Purchaser" purchase order, confirmation of order, specification, or other document will be applicable simply as a result of such document being referred to in this Agreement or at all.

2.3 The Seller’s employees or agents are not authorised to make any representations concerning the Goods unless confirmed in writing by the Seller. In entering into the agreement to purchase, the Purchaser acknowledges that it does not rely on any representations that are not so confirmed.

2.4 With respect to the sale of tenders (and the agreements for such used by the Seller), the Seller accepts no liability unless and until the Purchaser and an authorised representative or director of the Seller have both signed such agreement.

2.5 The quantity, quality and description of, and any specifications of, the Goods shall be notified by the Seller to the Purchaser and the Purchaser acknowledges that all other drawings, descriptions, and advertising issued by the Seller and any drawings, descriptions, or illustrations contained in the Seller’s catalogues and brochures (if any) are issued or published for the sole purpose of giving an approximate idea of the Goods described in them and so do not form part of these Conditions.

2.6 No part of these Conditions may be cancelled or varied by the Purchaser except in accordance with Condition 17 and on the terms that the Seller will indemnify the Seller in full against all losses (including loss of profits), costs, damages, charges and expenses (including legal fees) incurred by the Seller as a result of such cancellation or variation.

3. PRICE AND PAYMENT

3.1.1 The Seller hereby reserves the right to increase the Total Price of the Goods, by giving written notice to the Purchaser, only to reflect any increase in the cost to the Seller which is due to any factor beyond the Seller’s control, (including without limitation any foreign exchange rate fluctuations, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture) or any change in the delivery date or specifications of the Goods which are requested by the Purchaser, or any delay caused by any instructions of the Purchaser or failure of the Purchaser to provide adequate information and/or instructions to enable the Seller to perform its obligations under these Conditions.

3.2 If such is applicable, any change in the delivery date or specification of the Goods which are requested by the Purchaser must be notified to the Seller in writing. The Seller will advise the Purchaser of any consequential change to the Total Price in writing. In the event that the Purchaser does not accept the amended Total Price within 14 days of receipt of the notice from the Seller, the Seller shall continue with the provision of the Goods on the basis that the changes requested are not agreed by the Purchaser.

3.3 The Seller shall be under no obligation to commence carriage of the Goods to the delivery location unless and until the total price has been received in cleared funds in full, the Total Price, or proportion thereof due under this Agreement on or before Delivery.

3.4 The Purchase Price is exclusive of any applicable value added tax, sale or import taxes or levies of a similar nature which are imposed or charged by any competent fiscal authority in respect of any Goods. The Purchaser is responsible for all and any such charges and the Seller shall notify the Purchaser of such charges as soon as reasonably practicable after becoming aware of the same. The Purchaser shall pay such charges to the Seller, or pay as the Seller may direct, on demand by the Seller. Such charges shall form part of the Total Price payable under this Agreement.

5. RISK AND THE PASSING OF TITLE

5.1 The risk in the Goods shall pass to the Purchaser on delivery of the Goods to the delivery location unless and until the total price has been received in cleared funds in full, the Total Price, or proportion thereof due under this Agreement on or before Delivery.

5.2 The Seller shall not be liable for any delay in Delivery of the Goods, however caused. Time for Delivery shall not be of the essence unless previously agreed by the Seller in writing. The Goods may, at the Seller’s option, be delivered by the Seller and paid for by the Purchaser in advance of the quoted delivery date by the giving of reasonable notice to the Purchaser.

5.3 Where the Purchaser fails to accept Delivery of the goods on the delivery date then, without prejudice to any other right or remedy available to the Seller, the Seller may at its option:

(a) store the Goods until actual Delivery and charge the Purchaser for the costs (including insurance of storage); or

(b) if the Purchaser does not accept Delivery of the Goods within 14 days of the advised delivery date, the Goods shall be the Seller’s cost. The Purchaser shall be credited only in respect of the Goods.

6. RISK AND THE PASSING OF TITLE

6.1 The risk in the Goods shall pass to the Purchaser on Delivery of the Goods and the Seller shall properly induce the Goods in its name from the date of Delivery. Subject to Condition 6.2, title to the Goods shall also pass to the Purchaser on Delivery of the Goods.

6.2 Notwithstanding Delivery and the passing of the risk in the Goods, or any other provision in these Conditions, title in the Goods shall not pass to the Purchaser until the Seller has received all sums which are due, or which become due to the Seller from the Purchaser on or before Delivery, in full in cash or cleared funds.

6.3 The provisions of this Condition 6 shall survive termination of this Agreement.
14.4 In the event that the Contract is terminated by either party, the Purchaser agrees to indemnify the Seller in full in respect of all costs and expenses incurred by the Seller up to the date of termination. Further, in the event that the Seller terminates the Contract pursuant to clause 14.2, the Purchaser further agrees to pay to the Seller an amount equal to the Seller's loss of anticipated profit, as notified by the Seller to the Purchaser.

14.5 Subject as herein provided and to any rights and obligations accrued prior to termination neither party shall have any further obligations to the other under this Agreement, save that notwithstanding termination, no party shall by virtue of such termination be relieved from any of its obligations which is expressly, or by implication, intended to come into force on or after termination.

15. INTELLECTUAL PROPERTY
15.1 Any copyright and other intellectual property rights in all drawings, reports, documents and computer-generated data prepared by the Seller shall remain the property of the Seller.

15.2 Photographs reproduced on the Seller’s website and promotional material are re-produced with the owner and/or manufacturer’s permission and any intellectual property in the same remains with the manufacturer and/or owner as applicable.

16. PURCHASER WARRANTIES
16.1 The Purchaser hereby warrants that:
   a) it is legally capable of entering into the Contract and has the person signing on behalf of the Purchaser has full authority, power and capacity to enter into the Contract on behalf of the Purchaser; and
   b) any information provided to the Seller, in connection with the Contract, and whether provided before or after the date of the Contract is accurate and complete.

17. THIRD PARTIES
17.1 For the purposes of the Contracts (Rights of Third Parties) Act 1999, these Conditions and/or the Contract relating to the Goods do not and are not intended to give rights to enforce any of its provisions to any person who is not a party to the Contract or any failure to supply the Goods in accordance with the Contract or their use or resale by the Purchaser and the entire liability of the Seller shall not exceed the price of the Goods, except as expressly provided in these Conditions.

18. NOTICES
18.1 Any notice served and required under a Contract shall be in writing and shall be sufficiently served if delivered personally or posted to the last known address or sent by email. Any notice shall be deemed received within 48 hours after the time of posting and any notice given by facsimile or email shall be deemed to have been received within 48 hours after dispatch to the correct email address of the addressee.

19. VARIATION
19.1 No variation or addition to the Contract shall be binding unless contained on the face of the Contract or set out in a written instrument and signed by the Purchaser and a director or authorised representative of the Seller.

20. COUNTERPARTS
20.1 The Contract may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but all the counterparts shall together constitute one and the same instrument.

21. ARBITRATION AND GOVERNING LAW
21.1 The Contract and these Conditions shall be governed by English law and any dispute arising out of or in connection with this Agreement shall be referred to arbitration in London.

21.2 In the event that a dispute between the parties arising out of or in connection with this Agreement cannot be resolved between the parties, the parties shall will be submitted to and settled by binding Arbitration in London in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment thereof.

21.3 The arbitration shall be conducted in accordance with the London Maritime Arbitrators Association (LMAA) Terms current at the time when the arbitration proceedings are commenced.