

Genesis Craft
Website Terms and Conditions of Use

1. About the Website

- 1.1. Welcome to www.genescraft.com.au (the '**Website**'). The Website provides an opportunity to browse the site and Genesis Craft products and services (the '**Products and Services**').
- 1.2. The Website is operated by Delaney & Armenti Holdings Pty Ltd ATF The D & A Unit Trust (ACN 151 296 669) t/as Genesis Craft ('**Genesis Craft**'). Access to and use of the Website, or any of its associated Products and Services, is provided by Genesis Craft. Please read these terms and conditions (the '**Terms**') carefully. By using, browsing and/or reading the Website, this signifies that you have read, understood and agree to be bound by the Terms. If you do not agree with the Terms, you must cease usage of the Website, or any of the Products and Services, immediately.
- 1.3. Genesis Craft reserves the right to review and change any of the Terms by updating this page at its sole discretion. When Genesis Craft updates the Terms, it will use reasonable endeavours to provide you with notice of updates to the Terms. Any changes to the Terms take immediate effect from the date of their publication. Before you continue, we recommend you keep a copy of the Terms for your records.

2. Acceptance of the Terms

You accept the Terms by remaining on the Website. You may also accept the Terms by clicking to accept or agree to the Terms where this option is made available to you by Genesis Craft in the user interface.

3. Warranties

- 3.1 Genesis Craft provides a warranty against manufacturing defects arising from Genesis Craft's in-house manufacturing. You may make a claim (the '**Warranty Claim**') within 5 years of the delivery of the boat or trailer or within 1 year of the delivery of the boat or trailer if the boat or trailer is used for commercial purposes (the '**Warranty Period**').
- 3.2 To make a Warranty Claim during the Warranty Period:
 - (a) You must return the original "Cut Off" warranty card supplied at the time of delivery completed with all details as requested to Genesis Craft within 30 days from the date of delivery of the boat or trailer. Failing to adhere to this request may result in the warranty being negated;
 - (b) You must Send a written notice to Genesis Craft by email to info@genescraft.com.au within 14 days of the existence of any defects becoming apparent;

- (c) You must provide Genesis Craft with the opportunity to inspect the defect(s) within 28 days (or sooner if reasonably requested by Genesis Craft) of making a Warranty Claim;
 - (d) The boat or trailer must be used in accordance with the boat or trailer capacity and maintenance directions approved by Genesis Craft;
 - (e) The boat or trailer must not have been altered or operated outside the limits of the design specifications.
- 3.3 Where the Warranty Claim is accepted then Genesis Craft will, at its sole discretion, either repair any defects or replace any defective parts or part with a new or equivalent part at no cost to you during the Warranty Period.
- 3.4 You must bear all expenses of making a Warranty Claim, whether valid or otherwise, under this warranty.
- 3.5 Any work agreed to be repaired by Genesis Craft will be done ex-factory, and freighting costs to and from the factory will be Your responsibility.
- 3.6 This warranty does not cover:
 - (a) items replaced during normal service and maintenance operations and which are subject to wear.
 - (b) Damage by neglect, accident, improper use or use for competitive purposes.
 - (c) any consequential loss of any kind arising out of the supply or operation of the boat or trailer.
- 3.7 These arrangements apply regardless of any change in ownership during the Warranty Period.
- 3.8 In addition to this warranty, certain legislation, including the Australian Consumer Law, may give you rights and remedies which cannot be excluded, restricted or modified. This warranty must be read subject to that legislation and nothing in this warranty has the effect of excluding, restricting or modifying those rights.
- 3.9 Apart from this warranty and any implied rights and remedies arising under legislation that cannot be excluded, restricted or modified, all guarantees, warranties or other implied terms (including terms implied by custom or usage) are excluded to the extent permitted by law.
- 3.10 **The Products and Services come with guarantees that cannot be excluded under the Australian Consumer Law.** For major failures with the Products and Services, you are entitled:

- (a) to cancel your Agreement with us; and
 - (b) to a refund for the unused portion, or to compensation for its reduced value.
- 3.11 You are also entitled to choose a refund or replacement for major failures with goods. If a failure with the goods or service does not amount to a major failure, you are entitled to have the failure rectified in a reasonable time. If this is not done you are entitled to a refund for the goods and cancel the contract for the service and obtain a refund of any unused portion. You are also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the goods or service.
- 3.12 You agree that the above warranties are separate and in addition to any warranties provided by any third party or contractor. Genesis Craft is not liable or responsible for any defects, or poor workmanship of any third party or contractor, including but not limited to, paintwork, glass windscreens, upholstery, and electrics.
- 3.13 If an issue arises with the workmanship or warranties of a third party or contractor, Genesis Craft will assist you to make a claim under warranties provided by a third party or contractor.

4. Copyright and Intellectual Property

- 4.1 The Website, the Products and Services and all of the related products of Genesis Craft are subject to copyright. The material on the Website is protected by copyright under the laws of Australia and through international treaties. Unless otherwise indicated, all rights (including copyright) in the Products and Services and compilation of the Website (including but not limited to text, graphics, logos, button icons, video images, audio clips, Website, code, scripts, design elements and interactive features) or the Products and Services are owned or controlled for these purposes and are reserved by Genesis Craft or its contributors.
- 4.2 All trademarks, service marks and trade names are owned, registered and/or licensed by Genesis Craft, who grants to you a worldwide, non-exclusive, royalty-free, revocable license to:
- (a) use the Website according to the Terms;
 - (b) copy and store the Website and the material contained in the Website in your device's cache memory; and
 - (c) print pages from the Website for your own personal and non-commercial use.
- 4.3 Genesis Craft does not grant you any other rights whatsoever in relation to the Website or the Products and Services. All other rights are expressly reserved by Genesis Craft.

- 4.4 Genesis Craft retains all rights, title and interest in and to the Website and all related Products and Services. Nothing you do on or in relation to the Website will transfer any:
- (a) business name, trading name, domain name, trade mark, industrial design, patent, registered design or copyright, or
 - (b) a right to use or exploit a business name, trading name, domain name, trade mark or industrial design, or
 - (c) a thing, system or process that is the subject of a patent, registered design or copyright (or an adaptation or modification of such a thing, system or process), to you.
- 4.5 You may not, without the prior written permission of Genesis Craft and the permission of any other relevant rights owners: broadcast, republish, up-load to a third party, transmit, post, distribute, show or play in public, adapt or change in any way the Products and Services or third party Services for any purpose, unless otherwise provided by these Terms. This prohibition does not extend to materials on the Website, which are freely available for re-use or are in the public domain.

5. Privacy

Genesis Craft takes your privacy seriously and any information provided through your use of the Website and/or Products and Services are subject to Genesis Craft's Privacy Policy, which is available on the Website.

6. Information Disclaimer

- 6.1. Any information, advice, content or documentation provided on the Website, through the services or within Products, social media accounts, or on any other related platform does not constitute professional advice and is provided for general information and guidance purposes only.
- 6.2. All care is taken in the preparation of the information and published materials on the Website, through the Services or within Products, social media accounts, or on any other related platform. Genesis Craft does not make any representations or give any warranties about its accuracy, reliability, completeness or suitability for any particular purpose.
- 6.3. To the extent permissible by law, Genesis Craft will not be liable for any expenses, losses, damages (including indirect or consequential damages) or costs that might be incurred as a result of the information being inaccurate or incomplete in any way and for any reason or your reliance on the information, advice or documentation on the Website, through the services or within Products, social media accounts, podcast, blog, or on any other related platform.

7. General Disclaimer

- 7.1. Genesis Craft will make every effort to ensure a Product is accurately depicted on the Website, however, you acknowledge that measurements, colours and design may differ from what is displayed on the Website.
- 7.2. Nothing in the Terms limits or excludes any guarantees, warranties, representations or conditions implied or imposed by law, including the Australian Consumer Law (or any liability under them) which by law may not be limited or excluded.
- 7.3. Subject to this clause, and to the extent permitted by law:
- (a) all terms, guarantees, warranties, representations or conditions which are not expressly stated in the Terms are excluded; and
 - (b) Genesis Craft will not be liable for any special, indirect or consequential loss or damage (unless such loss or damage is reasonably foreseeable resulting from our failure to meet an applicable Consumer Guarantee), loss of profit or opportunity, or damage to goodwill arising out of or in connection with the Products and Services or these Terms (including as a result of not being able to use the Products and Services or the late supply of the Services), whether at common law, under contract, tort (including negligence), in equity, pursuant to statute or otherwise.
- 7.4 Use of the Website and the Products and Services is at your own risk. Everything on the Website and the Products and Services is provided to you "as is" and "as available" without warranty or condition of any kind. None of the affiliates, directors, officers, employees, agents, contributors and licensors of Genesis Craft make any express or implied representation or warranty about the Services or any Products or Services (including the Products or Services of Genesis Craft) referred to on the Website. includes (but is not restricted to) loss or damage you might suffer as a result of any of the following:
- (a) failure of performance, error, omission, interruption, deletion, defect, failure to correct defects, delay in operation or transmission, computer virus or other harmful components, loss of data, communication line failure, unlawful third party conduct, or theft, destruction, alteration or unauthorised access to records;
 - (b) the accuracy, suitability or currency of any information on the Website, the Services, or any of its Services related products (including third party material and advertisements on the Website);
 - (c) costs incurred as a result of you using the Website, the Services or any of the Products of Genesis Craft; and
 - (d) the Services or operation in respect to links that are provided for your convenience.

8. Limitation of liability

- 8.1 Genesis Craft's total liability arising out of or in connection with the Products or these Terms, however arising, including under contract, tort (including negligence), in equity, under statute or otherwise, will not exceed the most recent Purchase Price paid by you or where you have not paid the Purchase Price, then the total liability of Genesis Craft is the resupply of the Product to you.
- 8.2 You expressly understand and agree that Genesis Craft, its affiliates, employees, agents, contributors, third party content providers and licensors shall not be liable to you for any direct, indirect, incidental, special consequential or exemplary damages which may be incurred by you, however caused and under any theory of liability. This shall include, but is not limited to, any loss of profit (whether incurred directly or indirectly), any loss of goodwill or business reputation and any other intangible loss.
- 8.3 Genesis Craft is not responsible or liable in any manner for any site content (including the Content and Third Party Content) posted on the Website or associated social media accounts, whether posted or caused by users of the website of Genesis Craft or by third parties.

9. User Generated Content

- 9.1. If you choose to contribute any content to the Website or any other platform operated by Genesis Craft, you are solely responsible for it. This includes comments, reviews, tweets, posts, photos, pictures, images, videos, materials or other user-generated content or information ('**Your Content**').
- 9.2. By contributing content to the Website, you grant Genesis Craft a royalty-free, non-exclusive license to use Your Content in any way that it chooses. This may include the use of your photos or video on other parts of the Website, advertising, promotions or social media accounts held by Genesis Craft.
- 9.3. Additionally, if you post Your Content with any personal information including identifying information such as location or name, you agree Genesis Craft can use that information with Your Content for advertising and promotional purposes, or any other business purpose.
- 9.4. You confirm you own or have the right to use any copyright material included in Your Content (including replies to Genesis Craft social media posts, reviews, music, photos, quotes and excerpts of audio or video), and that you have the permission of anyone appearing or performing in Your Content and that you are not infringing any third-party rights by submitting the content to Genesis Craft. You also confirm you have, where appropriate, sought the consent of the parent or guardian of any person under the age of 18 who is featured in Your Content.
- 9.5. Please ensure you keep your own copies of Your Content as Genesis Craft may not archive, store or back-up Your Content nor continue to make Your Content accessible online.

- 9.6. Genesis Craft will endeavour to provide you with an appropriate credit when using Your Content on Genesis Craft platforms, though you understand and agree this may not always be possible.
- 9.7. Genesis Craft reserves the right to remove Your Content at any time. Your Content must not be malicious, libelous, false, inaccurate, threatening, abusive, obscene, defamatory or racially, sexually, religiously or otherwise objectionable and offensive.

10. Third Party Services

- 10.1 The Services may integrate, be integrated into, or be provided in connection with third-party websites, services, content, and/or materials ("**Third-Party Services**"). Genesis Craft does not control any Third-Party Services. Genesis Craft additionally makes no claim or representation regarding the Third-Party Services and accepts no responsibility for, the quality, content, nature, or reliability of Third-Party Services accessible from the Website, applications, software or any other element of the Services.
- 10.2 There is no implied affiliation, endorsement, or adoption by Genesis Craft of these Third-Party Services and Genesis Craft shall not be responsible for and does not condone any content provided on or through these Third-Party Services. You should read the terms of use and legal Agreements that apply to these Third-Party Services.
- 10.3 Genesis Craft may receive compensation for recommendations made about Third Party Services on the Website. This compensation may be in the form of money, services, products, discounts, or special access and could exist without any action from a Website visitor. Should you purchase a product or service that was recommended and/or linked on the Website, it is understood that some form of compensation may be made to Genesis Craft by the owners of that product or service.

11. Mailing List and SMS List Registration

- 11.1. You will be given the option to register for the Genesis Craft Mailing List (the '**Mailing List**') and SMS List (the '**SMS List**').
- 11.2. As part of the registration process, you may be required to provide personal information about yourself (such as identification or contact details), including:
 - (a) Email address
 - (b) Name and address
 - (c) Mobile telephone number
- 11.3. If you choose to register for the Mailing List or SMS List, you agree to receive promotional material, updates and other content from Genesis Craft.

12. Indemnity

- 12.1 You agree to indemnify Genesis Craft, its affiliates, employees, agents, contributors, third party content providers and licensors from and against:
- (a) all actions, suits, claims, demands, liabilities, costs, expenses, loss and damage (including legal fees on a full indemnity basis) incurred, suffered or arising out of or in connection with Your Content;
 - (b) any direct or indirect consequences of you accessing, using or transacting on the Website or attempt to do so; and/or
 - (c) any breach of the Terms.

13. Venue and Jurisdiction

The Services offered by Genesis Craft are intended to be viewed by residents of Australia. In the event of any dispute arising out of or in relation to the Website, you agree that the exclusive venue for resolving any dispute shall be in the courts of Western Australia, Australia.

14. Governing Law

The Terms are governed by the laws of Western Australia, Australia. Any dispute, controversy, proceeding or claim of whatever nature arising out of or in any way relating to the Terms and the rights created hereby shall be governed, interpreted and construed by, under and pursuant to the laws of Western Australia, Australia, without reference to conflict of law principles, notwithstanding mandatory rules. The validity of this governing law clause is not contested. The Terms shall be binding to the benefit of the parties hereto and their successors and assigns.

15. Independent Legal Advice

Both parties confirm and declare that the provisions of the Terms are fair and reasonable and both parties have taken the opportunity to obtain independent legal advice and declare the Terms are not against public policy on the grounds of inequality or bargaining power or general grounds of restraint of trade.

16. Severance

If any part of these Terms is found to be void or unenforceable by a Court of competent jurisdiction, that part shall be severed and the rest of the Terms shall remain in force.