



# HAUL-OUT AND HARDSTAND CONTRACT

**CUSTOMER DETAILS**

Name: .....

Address: .....

.....

.....

.....

Mobile: .....

Home: .....

Business: .....

Email: .....

**VESSEL DETAILS**

Name: .....

Length Overall: .....

Beam: .....

Draft: .....

Vessel Type: .....

Design: .....

Tonnage: .....

Haul-Out Date: .....

Relaunch Date: .....

**INSURANCE DETAILS**

Insurer: .....

Policy Number: .....

Expiry Date: .....

Copy of policy must be provided prior to service commencing

Policy must include Third Party Public Liability Insurance for a minimum sum of NZ \$5,000,000

**OTHER**

Under waterline external protrusions? (please provide details) .....

Do you have any specific questions or concerns? .....

Other Information: .....

.....

**CREDIT CARD DETAILS (Optional)**

I acknowledge I am the holder of the below credit card and any charges relating to this contract may be charged to this card.

Card Type: MasterCard / VisaCard Number: ..... Expiry: .....

Cardholder Name: ..... Cardholder Signature: .....

**TERMS AND CONDITIONS**

**I acknowledge I have read and/or received a copy of the Terms and Conditions and the Boat Maintenance Facility Rules and agree to be bound by these.**

Customer Signature ..... Date ..... / ..... / .....



(a division of Marsden Maritime Holdings Ltd)

## BOAT MAINTENANCE FACILITY TERMS AND CONDITIONS

### 1. DEFINITIONS:

1.1 In these terms and conditions:

“**Boat**” means the vessel identified on the front page of the Contract.

“**Boatlifter**” means the machinery and associated equipment for the transportation of boats to and from the water and around the Hardstand.

“**Boatramp**” means the concrete structure from which the Boatlifter operates to lift boats into and out of the water.

“**Company**” means Marsden Maritime Holdings Ltd, or its nominees or assignees, and includes, where appropriate, its officers, agents and employees.

“**Contract**” means the Haul-Out and Hardstand contract between the Company and the Customer.

“**Customer**” means the customer identified on the front page of this Contract.

“**Facility**” means the boat maintenance facility at Marsden Cove including Boatramp, jetty, Hardstand and all associated amenities located thereon.

“**Hardstand**” means all sealed areas situated at or leading to the Company’s boatyard and utilised for the storage of boats and masts, for the general manoeuvring of boats, and for the washing, cleaning, spraypainting and other repair and maintenance work of boats.

“**Boat Maintenance Facility Rules**” means the Company’s rules, policies and operational guidelines in respect of the boat maintenance facility.

“**Marina**” means Marsden Cove Marina.

### 2. TERMS AND CONDITIONS OF USE:

2.1 The Customer shall:

- (a) At all times keep the area of the Hardstand immediately adjacent to and surrounding the Boat in a clean and tidy condition, and shall not store supplies and materials, accessories or debris on that area.
- (b) Deposit all garbage in the receptacles provided, provided that where the amount of waste to be removed from and around the Boat is considered by the Company, in its sole discretion, to be excessive, then the removal of this waste shall be at the Customer’s expense.

2.2 The Customer shall not:

- (a) Move or attempt to move or adjust any cradle, boat stand or any other means of vessel support. **THIS IS STRICTLY FORBIDDEN!**
- (b) Make nor permit any noise or disturbance, or perform any act which in the opinion of the Company, in its sole discretion may be an annoyance or cause a nuisance to any other person or body in or around any part of the Facility.
- (c) Carry out any work on the Boat or on the Hardstand between the hours of 6.00pm and 7.00am unless the Company has provided prior written consent for this.
- (d) Carry out any spray painting work without the prior written consent of the Company, and any such spray painting work shall be undertaken only with adequate covers and drop sheets for the protection of other vessels and the Hardstand.
- (e) Undertake or allow to be undertaken, dry sandblasting of the Boat on the Hardstand.
- (f) Undertake any dry sanding without the use of approved vacuum equipment.
- (g) Undertake any wet sanding unless suitable drop sheets and absorbent containment booms or similar, are used to collect all residue.
- (h) Carry out any welding or grinding without firstly obtaining the express written approval of the Company, which may be withheld at the Company’s absolute discretion.
- (i) Refuel the Boat whilst it is located on the Hardstand.
- (j) Create any hazard for any other person on the Hardstand or anywhere else within the Facility.
- (k) Allow any work or activity to be carried out or undertaken on the Boat or on the Hardstand in contravention of any statute including (but not limited to) the provisions of the Resource Management Act 1991 and the Health and Safety at Work Act 2015.

### 3. CHARGES AND PAYMENTS:

3.1 The Company shall be entitled to charge the Customer a fee of \$250 in the event of the Customer failing to keep an appointment for the use of the Boatlifter.

3.2 The Customer shall duly and punctually pay all charges and amounts owing for work or services provided by the Company when required by the Company, and in any event, before the Boat is removed from the Hardstand.

3.3 Payment for Boats on the Hardstand is due monthly by the 10th day of each month. Any amounts outstanding thereafter shall be subject to interest charges at the rate of 1.5% per month.

- 3.4 If any moneys are owing under this contract by the Customer for the use of the Boatlifter, or for the use of the Hardstand, or otherwise, the Company shall be entitled to seize the Boat and shall, from the date of such seizure, have a general lien upon, and the right of retention of the Boat so seized until all moneys payable by the Customer under this Contract have been paid in full.
- 3.5 If the moneys owing remain unpaid for a period of 14 days after the Company has given notice to the Customer of seizure of the Boat, the Company shall be entitled without further notice to sell the Boat by auction or otherwise, together with any chattels situated on or in the Boat, and the proceeds of such sales shall be applied first towards the expense of seizure and sale; secondly the payment of moneys due to the Company; thirdly towards payment of any legal and other costs incurred by the Company in attempting to collect the outstanding money owing by the Customer; and lastly payment of the balance (if any) to the Customer. If there shall be a deficiency of funds from any sale pursuant to this clause, the Company may proceed to recover such deficiency from the Customer in a summary manner.
- 3.6 The Customer agrees to indemnify and hold harmless the Company from all claims, suits and demands made by any person or entity in respect of the Boat or any chattels seized and sold pursuant to this contract.

#### **4. RISKS AND INDEMNITIES:**

- 4.1 The Customer acknowledges that the Boat placed on the Hardstand in accordance with this Contract, and any chattels in, on or fixed to the Boat shall not be deemed to be in the custody, possession or control of the Company in any manner whatsoever unless and until the Company exercises its rights of seizure and sale referred to in clause 3.4.
- 4.2 Without limiting any rights of the Customer under the Consumer Guarantees Act 1993:
- (a) the Boat, and any other craft which is transported to or from, or stored upon the Hardstand in accordance with the provisions of this Contract, is entirely at the risk of the Customer, and shall remain at the risk of the Customer throughout the term of this Contract;
  - (b) the Company shall not either directly or vicariously, nor shall any officer, agent, contractor or employee of the Company be liable in negligence or otherwise for any damage to or theft or loss from the Boat, and any goods, gear or machinery situated on or around the Boat whilst the Boat is on the Hardstand, the Boatlifter or in the Marina howsoever occurring including but without limiting the generality of the foregoing loss or damage caused by the removal of the Boat by any person not authorised by the Customer to remove it, whether such removal was permitted by the Company or not.
  - (c) the Company shall not, either directly or vicariously, nor shall any officer, agent, invitee contractor or employee of the Company be liable in negligence or otherwise for any injury, loss or damage sustained or suffered by the Customer, or any agent, employee, contractor or invitee of the Customer or any other person on the Hardstand or the Boatlifter or in and around the Facility, or inside the adjoining Marina buildings howsoever such loss, damage or injury may occur.
- 4.3 To the extent permitted at law, the Customer indemnifies and will keep the Company indemnified against all actions, suits, claims, debts, obligations and other liabilities arising out of this contract, or out of any act or omission of the Customer, or the agents, employees, contractors or invitees of the Customer and the Customer agrees to compensate the Company for any loss or damage to the Hardstand, Boatlifter, Marina or any of the craft in the Marina or on the Hardstand, or to any other property caused by, or resulting from the acts or omissions of the Customer or its agents, employees, contractors or invitees.
- 4.4 If the signatory to this Contract, executes this Contract as “agent”, or for or on behalf of the owner of the Boat, then the signatory to this agreement warrants to the Company that all work carried out by the Company under this Contract has been carried out with the full knowledge and consent of the owner of the Boat, and the signatory further indemnifies the Company from and against all and any claims against the Company in addition to the provisions contained above.
- 4.5 If the rights acquired by the Customer are acquired for business purposes, the Customer agrees that the Consumer Guarantees Act does not apply to this Contract.
- 4.6 Nothing in this Contract is intended to have the effect of contracting out the provisions of the Consumer Guarantees Act except to the extent permitted by that Act, and these terms are to be modified to the extent necessary to give effect to that intention.

#### **5. COSTS:**

- 5.1 The Customer must pay the Company’s costs (including legal costs, as between solicitor and client) of and incidental to the enforcement or attempted enforcement of the Company’s rights, remedies and powers under these Terms and Conditions and the Company’s Boat Maintenance Facility Rules.

#### **6. PRIVACY OF INFORMATION:**

- 6.1 The Customer authorises the Company:
- (a) to collect, retain and use information about the Customer from any person for the purpose of assessing the Customer’s creditworthiness;
  - (b) to disclose information about the Customer:
    - (i) to any person who guarantees, or who provides insurance, or who provides any other credit support, in relation to the Customer’s obligations to the Company;
    - (ii) to such persons as may be necessary or desirable to enable the Company to exercise any power or enforce or attempt to enforce any of the Company’s rights, remedies and powers under these Terms and Conditions and the Company’s Boat Maintenance Facility Rules.

**7. GUARANTEE:**

- 7.1 Where the Customer is a company or other incorporated body then in consideration of the Company providing work or services to the Customer the person signing this Contract is deemed to have personally requested the Company to undertake such work or services for the Customer and on that basis the person signing this Contract:
- (a) Unconditionally guarantees to the Company the due and punctual payment by the Customer of all charges and amounts payable in accordance with the Contract when the same become due and payable;
  - (b) Agrees to be deemed as a principal debtor for all amounts owed to the Company by the Customer under the Contract;
  - (c) Agrees that this guarantee shall be a continuing guarantee and shall not be discharged by any settlement or payment of any invoice or account.

**8. GENERAL:**

- 8.1 The Company shall be entitled, from time to time, to deliver up the Boat stored in accordance with this Contract to any person producing this Contract or offering such other evidence of ownership authority to receive the Boat as the Company may, in its sole discretion, deem satisfactory.
- 8.2 Any notice required to be given to the Customer may be delivered to the Customer either personally, or by posting it by ordinary mail to the Customer at the address noted on the front page of this Contract or by sending it by email to the Customer's email address noted on the front page of this Contract.
- 8.3 The Customer agrees to be bound by these Terms and Conditions and the Company's Boat Maintenance Facility Rules, a copy of which the Customer acknowledges receipt of, has read and is familiar with.