

**MARLBOROUGH SOUNDS STORAGE LIMITED
 COMPANY NO. 1871995
 7 MARKET STREET, PICTON
 PO BOX 683 PICTON**

SERVICES AGREEMENT

Customer

Name _____

Street Address _____

Postal Address (if different) _____

Phone Numbers _____

E-mail Address _____

Driver's Licence No. _____

Registration No. _____

Commencement Date _____

Business Purposes Yes / No (delete one)

Declaration

I am the Customer or the Customer's authorized agent and declare the above information to be true and correct. I have read and understood the terms of trade, which are set out below.

I agree that by signing this declaration I accept and agree to abide by the terms of this agreement including the Terms of Trade. I confirm that I have read Clause 9 of the Terms of Trade and agree to enter into this Services Agreement at my own risk. For the avoidance of doubt, I accept that if I do not sign and return the agreement to you, but still have you do work for me, the terms of this agreement will still apply. I agree to be bound by the Terms of Trade displayed on the Company's website at any given time and acknowledge that it is my responsibility to review those Terms of Trade before engaging the Company's services.

Signed _____

Date _____

Terms of Trade

These terms, and any other additional terms the Company informs the Customer of, govern all services provided and any business undertaken by the Company for the Customer. These terms prevail over any additional terms in the event of any inconsistency between such terms. Use of the Company's services constitutes an acceptance of these terms by the Customer.

The Company reserves the right to amend these Terms of Trade by displaying an amended electronic version of this document on their website (www.soundsstorage.co.nz). The version of the Terms of Trade displayed on the Company's website will be the version in force at any given time and the Customer is charged with reviewing those Terms of Trade in advance of engaging the Company to provide services. The Customer will be deemed to have agreed to be bound by the Terms of Trade on the Company's website by engaging the Company to provide services, notwithstanding that the Customer may not have read them.

1. Definitions

- 1.1 "Company" means Marlborough Sounds Storage Limited
- 1.2 "Fees" means the Annual Storage Fee and Launching Fee and Retrieval Fee and the fees for any other services provided by the Company to the Customer at the Customer's request as notified to the Customer from time to time.
- 1.3 "Goods" means the whole or any part of any boat, car or any other chattel, article or thing tendered under this agreement by the Customer and includes any Trailer.
- 1.4 "Trailer" means any trailer, container, pallet or other packaging or article used to carry, consolidate, store or package the Goods.
- 1.5 "Dangerous Goods" means goods which are in fact or at law noxious, dangerous, hazardous, explosive, radioactive, flammable or capable by their nature of causing damage or injury to their Trailer, other goods or to any persons, or animals, or property.
- 1.6 "Services" means all services requested by the Customer and which the Company has agreed to provide (whether gratuitously or not).

2. Fees

- 2.1 The Customer agrees to pay the Annual Storage Fee monthly in advance on the 1st working day of the month without any deduction, set off or adjustment. The first payment of the Annual Storage Fee shall be paid on the Commencement Date.
- 2.2 The Customer agrees to pay the Fees in each case on demand without any deduction, set off or adjustment.
- 2.3 The Company may review the Fees and these terms after the period of 2 months from the Commencement Date by giving the Customer not less than 1 month's written notice of the revised Fees and any revised terms. The Customer agrees to pay the revised fees and abide by the revised terms from the date specified in the notice.
- 2.4 The Customer agrees to reimburse the Company for any costs or expenses that the Company incurs on behalf of and at the request of the Customer (including re-fuelling, charges or repair or maintenance costs and all relevant Port Marlborough New Zealand Limited charges) without any deduction, set off or adjustment.

3. Term

- 3.1 This agreement commences on the Commencement Date and will continue for a minimum period of 2 months (or such shorter period as the Customer and the Company agrees) and thereafter shall continue until terminated by either party on not less than 1 month's written notice.

4. Consequences of Breach

- 4.1 Subject to any other provision of this agreement, if the Customer fails to pay the Fees or any costs or comply with these terms then the Company shall be entitled to a fee for the Company's costs (including legal costs and expenses calculate on a solicitor and own client basis) in recovering the outstanding amount or remedying the breach (where capable of remedy) and such fee shall be payable upon demand.
- 4.2 If any moneys due to the Company pursuant to this agreement are unpaid for 20 days from the date of demand (whether in writing or not), the Company may, at its discretion, charge the Customer.
- a. interest at the rate of 15% per annum calculated on a daily basis, compounded monthly, from the date payment was due to be made until the date payment is made in full and such interest rate shall apply as well after as before any judgment; and
 - b. any additional costs or expenses that are incurred by the Company as a result of the Company incurring costs and expenses on behalf and at the request of the Customer (including late payment charges incurred by the Company for re-fuelling costs where the Customer has failed to reimburse the Company on time).

5. Rules and Regulations

- 5.1 The Customer shall ensure that all Goods (a) have a current warrant of fitness and certificate of registration (where applicable), (b) do not present a danger or risk to any other Goods or persons, (c) are roadworthy or seaworthy (where applicable) and will keep all Goods fully insured. The Customer will provide the Company with a current insurance certificate relating to the Goods immediately on request by the Company.
- 5.2 If at any time any Goods do not comply with the requirements set out in clause 5.1 then, without prejudice to the Suppliers other remedies, the Supplier may suspend any Services until such time as the Goods do comply with such requirements.
- 5.3 The Customer shall observe and perform all other rules and regulations from time to time notified to the Customer by the Company and the requirements of any applicable law relating to the Goods and the expenses and charges of the Company in complying with the provisions of any such law or any order or requirement thereunder or with the requirement of any harbor, dock, railway, shipping, customs, warehouse or other authority or corporation shall be paid by the Customer and the Customer shall provide to the Company all such assistance, information and documents as may be necessary to enable the Company to comply with such laws, orders or requirements.

6. Dangerous Goods

- 6.1 The Customer shall not tender any Dangerous Goods or storage without presenting to the Company a full description of such goods and complying with all applicable laws, regulations or other requirements.
- 6.2 If in the opinion of the Company any Goods become an immediate danger the Company may at any time destroy, dispose, abandon or render them harmless without compensation to the Customer and at the Company's cost.
- 6.3 Whether or not the Customer was aware of the nature of the Goods the Customer shall indemnify the Company against all claims, losses, damages or expenses arising in consequence of any breach of clause 6.1.

7. Lien

- 7.1 All Goods shall be subject to a particular and general lien for moneys due in respect of such Goods any other moneys due from the Customer to the Company. If any moneys

due to the Company are not paid within 30 days after notice has been given to the Customer that the Goods have been detained, they may be sold at the discretion of the Company and at the Customer's expense and the proceeds applied on account of such general or particular lien.

- 7.2 Notwithstanding any transfer of physical possession, the Goods are not released until all moneys owing have been paid to the Company. In the event of any Goods for any reason being delivered to the owner or his nominee without payment having been made in full, the Company retains a lien on such goods and may retake possession of them pending payment and may enter any premises for that purpose.

8. Warranties

- 8.1 The Customer warrants that:

- a. it has, and throughout the term of this agreement shall continue to have, comprehensive insurance (including without limitation adequate property, public and third party liability insurance) for their Goods and themselves and, on or before the Commencement date and at such other times as the Company requests, it shall produce to the Company such insurance policy or policies;
- b. it is the owner or the authorised agent of the owner of the Goods, and enters into this agreement on its own behalf or as an agent for the owner of the Goods, and indemnifies the Company against all claims by any other person for any loss or damage whatsoever arising out of or incidental to or in connection with the Services provided by the Company;
- c. all information provided by it to the Company in connection with the Goods is accurate and adequate and the Customer agrees to indemnify the Company against all loss, damage, fees and expenses arising or resulting from any inaccuracies or inadequacy in that information.

9. Liability

- 9.1 While the Company will take all reasonable care in the provision of its services, the Customer accepts that the Company is not liable for any loss to, destruction of, diminution in value of, or damage to the Customer's Goods or any articles or personal belongings inside it, whether owing to the negligence of the Company or otherwise, unless such destruction, loss of or damage is solely and directly due to the willful misconduct of the Company.
- 9.2 For the avoidance of doubt, the Company is not liable for any loss to, destruction of, diminution in value of, or damage to the Customer's Goods or any articles or personal belongings inside it arising from fire, earthquake damage, rough seas, flood (or any other such catastrophic event), theft or the unauthorized actions of a third party, which for the purposes of this Clause includes any employee or agent of the Company acting outside the scope of his or her employment or agency.
- 9.3 The Company is not liable for any loss to, destruction of, diminution in value of, or damage to the Customer's Goods while the Customer's Goods are being docked at the Company's berth, or while the goods are in transit either to or from the berth and are under the control of the Company. Clauses 9.1 and 9.2 also govern the Company's services with regard to the docking of the Customer's Goods at the Company's berth.
- 9.4 From time to time other customers of the Company and third parties may access the Company's property. The Company will not be liable for any loss to, destruction of, diminution in value of, or damage to the Customer's Goods or any articles or personal belongings inside it arising out of the actions of such customers or third parties while on the Company's property.

10. Consumer Guarantees

- 10.1 If the Customer has acknowledged on the first page of this agreement that the supply of Services is for the Customer's business purposes (as that term is defined in the Consumer Guarantees Act 1993) then the provisions of the Consumer Guarantees Act shall not apply to the transaction. Otherwise nothing in these terms shall affect or diminish the rights of any Customer under the Consumer Guarantees Act. In the event of conflict between these terms and the Consumer Guarantees Act then the provisions of the Consumer Guarantees Act shall prevail and any such conflict shall be deemed not to be an attempt to contract out of the Consumer Guarantees Act.

11. Sub-Contracting

- 11.1 The Company shall be entitled to sub-contract, on any terms, the whole or part of the Services.
- 11.2 Any person providing the Services (other than the Company) shall have the benefit of these provisions as if they were expressly for his benefit and in entering into this agreement, the Company does so as agent and trustee for such person.
- 11.3 If the Company sub-contracts the whole or part of the Services to another person, the Services provided by the Company are also subject to the terms of any agreement between the Company and that other person and the Company shall have the benefit of all provisions benefitting that other person as if those provisions were expressly for the benefit of the Company. In the event of and to the extent of any inconsistency between these terms and the terms of the agreement between the Company and the other person, these terms shall prevail.

12. Miscellaneous

- 12.1 The Customer acknowledges:
- a. boat trailers may be stored outside away from the Company's main facility when the Customer's boat is in use;
 - b. a minimum of 24 hours' notice for any services performed by the Company including but not limited to launch or retrieval, access to the Company's premises whether by the Customer or the Customer's appointed agent must be given. The Company will not be deemed responsible for any failure to perform its services "described in this subclause" where less than 24 hours' notice is given.
- 12.2 These terms are to be read subject to relevant statutory provisions having effect in New Zealand which by law cannot be excluded, restricted or modified. Any such term and condition of these terms which is inconsistent with or repugnant to that legislation shall be null and void to the extent (but no further) of such inconsistency or repugnance.
- 12.3 Each term of this agreement is severable from the other, and if for any reason a term is invalid or unenforceable it shall not prejudice or affect the validity or enforceability of any other term.
- 12.4 These terms shall be governed and construed in accordance with New Zealand law and any proceedings shall be brought in the courts of New Zealand.

13. Access

- 13.1 The Customer acknowledges that it will not access any storage area of the Company's property except in the presence of a Company employee. This clause applies whether or not a Customer holds an access key and whether or not a Customer has previously been given consent to access the storage area of the Company's property.