



The following terms apply to the Hardstand Boat Storage & Works Agreement.

1. TERM

- 1.1 The Term of the Agreement shall be ongoing unless a fixed storage period is indicated on the Hardstand Boat Storage & Works Application form.
- 1.2 This Agreement will end on the earlier of:
 - (a) if the storage period is "fixed", then at the end of the fixed period nominated in the Hardstand Boat Storage & Works Application form. If the fixed period is exceeded and the Client is not in default, then this Agreement continues as an ongoing agreement until terminated by either party giving 20 working days' written notice to the other; and
 - (b) if the storage period is "ongoing", the date that it is terminated by either party giving the other party 20 Working Days' notice; and
 - (c) the date that it is otherwise terminated by Marina Management in accordance with these terms and conditions.
- 1.3 If any Services are provided by the Marina after this agreement comes to an end, then the terms of this agreement shall apply to the provision of and payment for such Services.

2. FEES AND STORAGE RATES

- 2.1 For lifting services and hardstand services, the Client agrees to pay the rates set out on the Hardstand Boat Storage & Works Application form or as otherwise advised by the Marina from time to time.
- 2.2 The Marina may increase the hardstand services and storage rates payable under this agreement by giving 20 working days' written notice to the Client. Applicable rates from time to time will be published and displayed at the Marina office on the Marina's website www.seaviewmarina.co.nz.
- 2.3 The Client agrees to pay the published rates and fees for services as they are updated.

3. INSURANCE

- 3.1 The Client shall, throughout the term of this Agreement keep all of the Client's Vessel, equipment and other property in the Marina fully insured against loss

or damage by any reason and/or other usual maritime risks including storm and natural disaster.

- 3.2 The Client shall hold no less than \$5,000,000.00 in public liability insurance.
- 3.3 The Client shall, if requested by Marina Management, provide Marina Management with copies of the policies together with a certificate of currency for such policies.

4. CONTRACTOR WORKS

- 4.1 If Contractor Works are to be carried out on the Vessel, details of the proposed works must be advised on the Application Form or otherwise advised to Marina Management by emailing admin@seaviewmarina.co.nz.
- 4.2 The Client must, if required by Marina Management, demonstrate that the Contractor Works are being undertaken. Failure to do so, may result in the termination of the Agreement by the giving of notice to terminate this Agreement by Marina Management, in which case the Vessel must be removed from the Hardstand by the Client and all charges paid.

5. BOND

- 5.1 A bond may be required at the discretion of Marina Management as set out in the Hardstand Boat Storage & Works Application form. If a bond is required, it will be invoiced prior to commencement of this Agreement and must be paid before the Vessel is brought onto the Hardstand.
- 5.2 The Bond will be held by the Marina in its bond-holding account. Any interest earned will be for the credit of the Marina.
- 5.3 The Marina will repay the bond back to the Client (less any charges or other outstanding sums owed to the Marina, including for the cost of, or incidental to, the repairing or fixing of any damage caused to any part of the Marina by the Client or the Client's Contractors) within 10 working days of the termination of the Agreement and the removal of the Vessel from the Marina or return of the Vessel to the water.

6. RIGHT TO STORE VESSEL ON THE HARDSTAND

- 6.1 Subject to the Marina's rights under this Agreement, the Client has a non-transferable licence to:
 - (a) store the Vessel in the Hardstand Area for the period specified in the Hardstand Boat Storage & Works Application (or until given 20 working days' notice to remove the Vessel from the Marina), and in connection with the provision of the relevant Services and/or the performance of Contractor Works in respect of the Vessel as applicable; and

- (b) access and use the Marina facilities as permitted by the Marina from time to time.
- 6.2 Any extension to the period of time the Client may store the Vessel on the Hardstand is at the Marina's sole discretion and is subject to prior bookings.
- 6.3 The Client and its agents and visitors must not, and the Client shall ensure that any Contractor and its agents do not, enter or access any other parts of the Marina.
- 6.4 The rights granted under this Agreement are subject always to Marina Management's right to enter the Hardstand Area at any to inspect the Vessel and the Works being carried out.

7 PROVISION OF SERVICES

- 7.1 If any Services are to be provided by the Marina in respect of the Vessel, in providing the Services, the Marina shall act with reasonable care, skill and diligence and ensure that all personnel who provide the Services are suitably trained.
- 7.2 The Marina shall use reasonable endeavours to perform the Services, but shall not be liable to the Client or to any other person for any delay or any failure to do so.
- 7.3 After the Services have been performed or this Agreement has been terminated or has expired, the Marina shall be entitled to deliver the Vessel to, or in accordance with the instructions of, the Client or any person expressly authorised by the Client.

8. OBLIGATIONS OF CLIENT

- 8.1 The Client will:
 - (a) be responsible for safely delivering the Vessel to the Marina nominated hauling location and receiving the Vessel from the Marina nominated launching location upon its return to the water;
 - (b) ensure that the Marina is made fully aware of all features of the Vessel (including underwater or structural features) that may be relevant to the placement of strops and the operation of the Travel Lift, or the positioning and placement of any equipment used to stand the Vessel on the Hardstand;
 - (c) provide the Marina with all other information required to ensure the Marina is able to safely and securely perform the Services having regard to (among other things) the specific nature and structure of the Vessel;
 - (d) promptly respond to all requests for information made by the Marina in relation to the Services and the Contractor Works;

- (e) promptly comply with all requirements and directions of the Marina in relation to the provision of the Services and the performance of any Contractor Works; and
 - (f) provide reasonable cooperation and access to the Vessel to enable the Marina to perform the Services and to verify the Client's (and any Contractor's) compliance with the terms of this Agreement.
- 8.2 The Client must not, and must not allow others, to sleep, stay overnight or live aboard the Vessel while it is on the Hardstand.
- 8.3 The Client will not sell, transfer or otherwise dispose of (or permit the sale, transfer or disposal of) the Vessel during the Term without the prior written approval of the Marina, which shall not be unreasonably withheld, provided that all charges owed to the Marina are paid in full prior to the sale or transfer date and the new Owner undertakes to be bound by the terms of this Agreement or a new Agreement is put in place between the Marina and the new Owner. If the Vessel is sold, transferred or disposed of during the Term without the approval of the Marina, the Client shall remain liable for all Charges and this Agreement shall continue to apply unless and until all Charges owed to the Marina at the relevant time are paid in full and the new Owner undertakes to be bound by the terms of this Agreement or a new Agreement is put in place between the Marina and the new Owner.
- 8.4 The Client and its Contractors and invitees must comply with the Marina Rules (as varied from time to time) and all other terms of this Agreement.
- 8.5 The Client and its Contractors and invitees will not do or permit to be done anything that causes a nuisance or disturbance to the Marina or any other client of the Marina. In particular, the Client and its Contractors and invitees must leave any items, tools and equipment being used in connection with the Vessel in a safe and tidy state at the end of each day and must not allow items to be placed on the paved surface or stored outside the allocated area for the Vessel.
- 8.6 Any pet brought onto the Marina by the Client or the Client's Contractors or invitees must comply with the Pet Code of Conduct. The Marina reserves the right to order a pet's removal from the Hardstand at the Marina's sole discretion. In particular, pets may not freely roam, must be kept under strict control and be within close proximity to its owner at all times. Any faeces or other mess made by such pets must be cleaned up and disposed of appropriately and immediately.

9. CONTRACTOR WORKS

- 9.1 Contractor Works may be performed on the Vessel by a Contractor while the Vessel is located in the Hardstand Area.
- 9.2. Before any Contractor Works are performed, the Client must provide the Marina with a "Contractor Works Plan", which sets out: (a) a description of the

Contractor Works to be performed, the name and contact details of all Contractors that will perform each aspect of the Contractor Works; (b) the proposed timeframe for the Contractor Works to be completed; (c) the nature of any identifiable health and safety risks and how those will be mitigated; (d) a copy of the Client's health and safety plans and a description of how the Client intends to otherwise comply with its obligations set out in clause 13 (regarding health and safety); (e) the nature of any specific identifiable nuisances or hazards that may arise in the course of performing the Contractor Works (including noise or the use of Hazardous Substances); and (f) any other matter reasonably requested by the Marina from time to time (whether before or after the Contractor Works Plan is provided to the Marina).

- 9.3 Contractor Works may only be performed during the hours of 7.30am and 6pm, or as otherwise specified in the Marina Rules from time to time, unless expressly agreed otherwise with the Marina.
- 9.4 Without limiting anything else in this Agreement, the Client shall be liable to the Marina and to other users of the Marina for the acts and omissions of all Contractors.
- 9.5 The Client shall notify the Marina as soon as possible of any significant changes to the Works being carried out, in particular any changes to the duration of any occupation or a change to a scheduled use of the Travel Lift.

10. CHARGES AND SERVICES COSTS

- 10.1 The Client will pay all charges for storage or any Services as per the Hardstand Boat Storage and Works application, and otherwise as advised on the Marina's website from time to time.
- 10.2 Until the Vessel is removed from the Hardstand, the Client is required to pay the daily rate for storage of the Vessel if any fixed term has expired.
- 10.3 If the Client is late for or cancels any scheduled operation of the Travel Lift without giving 48 hours prior notice to the Marina, the Client shall remain liable to pay the Charges for that scheduled operation and any replacement scheduled operation.
- 10.4 The Client must pay the charges due for storage and any Services promptly and in full on the due date for payment and in particular prior to the date that the Vessel is scheduled to be removed from the Hardstand following the completion of the Services or the earlier termination of this Agreement. For the avoidance of doubt, unless and until the Marina has received full payment of all sums due to the Marina, the Marina is not obliged to remove a Vessel from the Hardstand and return it to the water. Late payments will incur default interest at the rate of 10% per annum from the date the charges were due for payment until the date payment is received in full.

- 10.5 The Marina reserves the right to require a Client to pay charges for Services to be provided or storage costs in advance or to require payment of a deposit prior to the provision of any Services to the Client.
- 10.6 If any charges are not paid by the due date for payment, the Marina shall be entitled to suspend any Services not yet provided.

11 GUARANTEE

- 11.1 In consideration of the Marina agreeing to allow the Client to store the Vessel on the Hardstand and/or to provide the Services to the Client, and at the request of the Client, the Guarantor (if any) guarantees to the Marina the due and punctual performance and observance by the Client of each of the Client's obligations under this Agreement including payment of sums due to be paid to the Marina ("Guaranteed Obligations") and indemnifies the Marina against all losses suffered or incurred by the Marina that arise directly out of any breach of non-observance by the Client of any of the Guaranteed Obligations.
- 11.2 The Guarantor's Obligations under clause 11.1 are principal obligations and not obligations merely as a surety and no indulgence, granting of time, variation, waiver, or forbearance to sue on the part of the Marina, nor the bankruptcy, insolvency or liquidation of the Client, shall in any way relieve the Guarantor from liability under this Agreement.

12 LIEN

- 12.1 If any charges are not paid by the due date for payment, the Marina shall be entitled to seize the Vessel and shall, from the date of seizure, have a general lien upon, and the right to retain and have exclusive possession of the Vessel until all sums payable by the Client to the Marina under this agreement (including any costs incurred by the Marina in recovering the unpaid amount or exercising its rights under this lien) have been paid in full. The Marina must promptly provide written notice to the Client of such seizure to the last email address notified to the Marina by the Client.
- 12.2 For so long as the Marina retains the Vessel under this clause 12, the Marina may restrict access to the Vessel in its sole discretion (including restricting access for the Client, its agents, or any Contractors), and the Marina shall not be liable to any person in respect of such restrictions.
- 12.3 If any sums remain unpaid for a period of 20 working days after the Marina has given notice to the Client of seizure of the Vessel, the Marina shall be entitled to do one or both of the following:
- (a) subject to the Marina first giving written notice to the Client (to the last email address notified to the Marina by the Client) of its intention to do so, remove the Vessel from the Marina and store it at another location (and the Marina shall not be liable to any person for any damage caused to the Vessel during such removal provided that the Marina has used reasonable skill and care in relocating the Vessel); and/or

- (b) subject to the Marina first giving written notice of its intention to do so to the Client (to the last email address notified to the Marina by the Client) and to the Owner (if the Client is not the Owner), sell the Vessel by public auction or private treaty, together with any chattels situated on or in the Vessel.
- 12.4 For the avoidance of doubt, if the Marina exercises any of its rights under this clause 12, the Client shall continue to be liable for and shall pay all sums incurred by the Marina relating to the continued storage of the Vessel at the Marina (or at another location) or otherwise incurred until such time as the Vessel is either sold to a third party under clause 12.3(b) or possession is given back to the Client by the Marina following payment of all outstanding sums owing under this agreement.
- 12.5 The proceeds of any sales under clause 12.3(b) shall be applied as follows:
 - (a) first, towards the costs incurred by the Marina of such seizure and sale (including any costs incurred in recovering the unpaid amount or exercising its rights under this lien and of any removal and relocation of the Vessel);
 - (b) second, the payment of all other sums owing to the Marina by the Client under this agreement; and
 - (c) lastly, the payment of the balance (if any) to the Owner of the Vessel.
- 12.6 If the proceeds of sale are insufficient to satisfy all amounts owed by the Client to the Marina, the Marina may proceed to recover the balance owing from the Client.
- 12.7 The Client indemnifies and holds harmless the Marina in respect of all and any actions, proceedings, claims, suits and demands against, or losses incurred by, made by the Marina arising directly or indirectly from the exercise of the Marina's rights under this clause 12.
- 12.8 The Client acknowledges and agrees that the Marina's rights under this clause 12 constitute a security interest in the Vessel for the purposes of the Personal Property Securities Act 1999 ("PPSA"). The Client will do (and will procure that the Owner does) all things reasonably requested by the Marina for the Marina to perfect its security interest in the Vessel. The Client waives any right it may have to receive a copy of the financing statement, verification statement or financing change statement relating to the Vessel (as these terms are defined in the PPSA).

13. HEALTH AND SAFETY

- 13.1 The Client shall, and must ensure that any Contractor to the Client does, comply with the Marina's Health & Safety Policy.

- 13.2 Any Contractor be a currently compliant contractor as determined by the Marina's management and must first complete a contractor induction before carrying out any Contractor Works on the Hardstand and to the Vessel.
- 13.3 Though the Marina will comply with its obligations under the HSWA, it is relying on this clause and the Client's obligations to ensure the health and safety of workers and Contractors working on the Vessel. The Client will apply best industry practice to ensure the safety of all workers and other persons at all times. As part of the consultation, co-operation and co-ordination between the Client and the Marina, the Marina will advise the Client of all known risks to health and safety of which it is aware and for which it is not reasonably practicable to eliminate. The Client will advise what risk control measures it has or will implement to minimise any risks to health and safety, and review and revise these measures as necessary to ensure a healthy and safe workplace is maintained.
- 13.4 The Marina has the right to inspect the Client's documentation related to health and safety in connection with this Agreement, monitor the Client's activities and carry out a safety audit from time to time during the term of this Agreement.
- 13.5 The Client will record and report incidents, accidents and near misses, analyse injury and near miss data and notify WorkSafe New Zealand if an accident is deemed as a notifiable incident under the HSWA within the applicable notification timeframe.
- 13.5 The Client indemnifies and holds harmless the Marina in respect of all and any actions, proceedings, claims, suits or demands against, or losses incurred by, the Marina arising directly or indirectly from a breach of the HSWA by the Client, to the extent permissible under the Law.
- 13.6 The Client acknowledges and agrees that the Marina shall be entitled to access the Vessel and the Hardstand area without notice, and carry out any actions which, in the Marina's reasonable opinion, are deemed necessary to minimise and/or prevent damage or risk to people or property in the event of an emergency. The Client indemnifies and holds harmless the Marina in respect of all and any actions, proceedings, claims, suits or demands against, or losses incurred by, the Marina arising directly or indirectly as a result of the Marina acting pursuant to this clause.

14. **RELOCATION**

- 14.1 The Marina reserves the right to relocate the Vessel to another part of the Hardstand on either a temporary or permanent basis to allow repairs or maintenance to be carried out at the Marina, or to use the original space allocated on the Hardstand in cases of emergency or to permit construction, reconstruction, alteration or any development within the Marina.
- 14.2 The Marina will not be liable to pay any compensation to the Client in respect of any vacation or relocation pursuant to this clause.

- 14.3 The Marina may at any time require the Client, the Contractors and invitees to temporarily vacate the allocated Hardstand area or any other area within the Marina if it considers it reasonable to do so to ensure the safety of persons and property (including, by way of example only, where the Travel Lift is in operation for another vessel in close proximity to the Vessel).
- 14.4 The Marina (in its sole discretion) reserves the right to either terminate this agreement or impose and/or change conditions in respect of the Client's right to use the Hardstand if the Marina (or any part of it) becomes unsuitable or unsafe for use or it becomes reasonably necessary for any other reason in the Marina's opinion.
- 14.5 If the Marina terminates this Agreement under clause 14.4, the Marina will refund to the Client a proportion of any moneys paid in advance and the Client agrees to abide by the Marina's decision. No compensation shall be payable by the Marina in respect of any termination of this agreement, or the imposition or change of conditions in connection with use of the Hardstand under clause 14.4.

15. HAZARDOUS SUBSTANCES

- 15.1 Except with the Marina's prior written consent, the Client must not use or allow the Marina to be used for the use, transfer, handling, movement, carriage, placement or storage of any Hazardous Substance.
- 15.2 The Client must comply with all applicable Laws and industry standards for the use, transfer, handling, movement, carriage, placement or storage of Hazardous Substances.

16. ENVIRONMENTAL OBLIGATIONS / RMA

- 16.1 The Client must not cause or permit any Contamination to the Marina. The Client must immediately upon becoming aware of any Contamination give both verbal and written notice to the Marina with particulars of such Contamination.
- 16.2 The Client must, at its own expense, clean-up and rectify any Contamination; and comply with any lawful direction issued by the Marina in connection with any Contamination and its consequences including as to the time to carry out any such direction.

17. MARINA'S RIGHT OF ACCESS

- 17.1 The Marina may at all reasonable times enter and remain on the Hardstand to examine and view the condition and state of repair of any applicable Marina equipment or Structures or the Hardstand area, to carry out any structural work, alterations, repairs, redecoration or cleaning of any Structures or the Hardstand area.
- 17.2 The Marina or its agents may at all reasonable times enter and remain on the Hardstand in order to exercise its rights under this agreement, including

verifying the Client's (and its Contractors') compliance with the terms of this agreement.

18. RISK AND INSURANCE

- 18.1 The Client acknowledges and agrees that the terms and conditions of this agreement are not in any way intended by either party to create a bailment, and the Client understands that the Marina accepts no responsibility for the care or protection of the Vessel or its contents, or in respect of any equipment used to carried out Works on the Hardstand.
- 18.2 Neither the Vessel placed at the Hardstand or any chattels in, on or fixed to the Vessel or stored at the Marina by the Client shall be deemed to be in the possession or custody of the Marina unless and until the Marina exercises its rights of seizure and sale under clause 12. The Vessel remains entirely at the risk of the Client during the term of this agreement.
- 18.3 The Client must provide or (where the Owner of the Vessel is not the Client), ensure the Owner of the Vessel provides to the Marina certificates of currency evidencing that the Owner holds and maintains insurance for the Vessel and any other associated equipment against loss or damage by any reason and/or other usual maritime risks including storm and natural disaster.
- 18.4 The Client shall hold no less than \$5,000,000.00 in public liability insurance. in respect of the Nominated Vessel: (a) suitable hull and machinery insurance of an appropriate value (having
- 18.5 The Client shall ensure that every Contractor (including the Client itself, where it is a Contractor) obtains and maintains at all times during the Term: (a) Ship repairer's liability insurance of not less than \$5 million; (b) Statutory liability insurance of not less than \$2 million; and (c) Any other insurance cover required under the Marina's Contractor accreditation policies.
- 18.6 The Client must provide the Marina with a certificate of currency of each insurance policy required to be held under this clause 18 prior to any Services being provided.

19. LIABILITY OF MARINA

- 19.1 To the extent permitted by law, the Marina is not under any circumstances responsible or liable for any loss or damage to the Vessel, or any loss or damage to other property in or about the Marina (belonging to or in the possession of the Client or any Contractor), whether the loss is attributable to storm or natural disaster, or to acts of other Marina users or the public.
- 19.2 Where the Marina is operating the Travel Lift or providing other Services under this agreement, the Marina will only be liable for any damage or loss caused by the negligent operation or malfunction of the Travel Lift or the negligent provision of the Services to a maximum amount of \$5,000,000. The Marina shall not be liable for consequential economic loss.

20. LIABILITY OF CLIENT

- 20.1 The Client uses the Marina at its own risk in all respects. Other than as provided under clause 19, the Marina has no liability to the Client, the Owner, a Contractor or to any other person for any loss suffered in respect of the use of the Marina.
- 20.2 The Client acknowledges and agrees that it will be fully responsible and liable to the Marina for all acts or omissions of the Client, its agents and invitees and all acts and omissions of each Contractor engaged by the Client or the Owner, on the basis that all acts or omissions of any such parties will be deemed to be acts or omissions of the Client under this Agreement.
- 20.3 The Client indemnifies and holds harmless the Marina against loss caused by the Client's acts, omissions or conduct in the course of use of the Marina and against any loss caused by any agent or invitee of the Client, or by the Owner or a Contractor.

21. TERMINATION

- 21.1 The Marina may terminate this agreement by giving written notice:
- (a) if the Client becomes insolvent, or is made subject to an application for winding up, or resolves to wind up voluntarily (other than for the purposes of a solvent reconstruction), or has a receiver appointed in respect of any of its assets, or ceases to carry on business; or
 - (b) pursuant to clause 14.4; or
 - (c) where it is not satisfied that the requirements of clause 13 are being met (regarding health and safety).
- 21.2 The Marina may terminate this agreement by giving notice in writing (by email to the last notified email address for the Client) if the Client commits any breach of its obligations under this agreement (“**default notice**”).
- 21.3 If the breach is one that is capable of remedy and the Client fails to remedy such breach within 10 working days after receiving the default notice or the Client commits any breach of its obligations under this agreement which are not capable of remedy, then the Marina may terminate this agreement immediately.
- 21.4 If this agreement is not for a fixed period, either the Client or the Marina may terminate this agreement by giving 20 working days' notice in writing.
- 21.5 Upon termination of this agreement, all sums payable by the Client to the Marina shall become immediately due and payable and the Client shall immediately pay such sums. The Client shall otherwise do all things necessary to facilitate the prompt removal of the Vessel from the Marina. In the event the Client fails to pay or fails to remove the Vessel from the Marina, within 10

working days' notice in writing from the Marina (by email to the last notified email address for the Client), the Marina shall be entitled to exercise its rights of seizure and sale under clause 12.

22. DISPUTE RESOLUTION

22.1 Except where urgent interlocutory or injunctive relief is sought:

(a) The Marina and the Client ("the parties") may not commence any Court proceedings relating to a dispute under this agreement unless they have complied with clauses 22.1(b) to 22.1(c) inclusive.

(b) A party to this agreement claiming that a dispute has arisen must, within 20 working days of the dispute arising, give written notice to the other party specifying the nature of the dispute.

(c) Once such notice has been given, the parties must first endeavour to resolve the dispute using informal dispute resolution procedures, including mediation.

(d) In the event that the parties cannot resolve the dispute through informal dispute resolution procedures then unless the dispute falls within the jurisdiction of the Disputes Tribunal, the matter will be determined in the District Court.

23. NOTICES

23.1 All notices to be given under this agreement will be given to the Client's last known email address (or last known postal address if there is no email address), and it is the obligation of the Client to inform Marina of a change of address from time to time.

23.2 Notices given to the Marina by post must be sent to PO Box 33230, Petone, Lower Hutt or may be hand delivered to the Marina office and given to a staff member. Notices may also be sent by email to admin@seaviewmarina.co.nz.

23.3 All notices given under this agreement will be treated as delivered and received:

(a) Immediately upon sending by email; or

(b) Immediately upon personal delivery to the Client; or

(c) 5 working days where affixed to the vessel; or

(d) 3 working days from the date of posting (if sent by post).

23.4 The Marina's management may also give general notices to users of the Marina by fixing notices in or around the Marina or uploading the notices to its website. The Berth Occupier will be considered as having been properly notified of these matters when notice is given in this manner.

24. GENERAL

- 24.1 Amendments: The Marina may vary this agreement (or any document comprising this agreement) by written notice to the Client, from time to time, as may be necessary or desirable provided that no such variation shall unreasonably derogate from the rights of the Client under this agreement (except where such variation is required the Marina to comply with any obligations at Law).
- 24.2 Assignment: The Client shall not assign or transfer any of part of this agreement without the written consent of the Marina (which consent may be withheld in its sole discretion). Change in the effective control of a party is deemed to be an assignment.
- 24.3 Entire agreement: This agreement is the entire agreement of the parties and supersedes all prior agreements and representations between the parties relating to the matters dealt with in this agreement and the occupation of, or works or Services carried out on, the Hardstand.
- 24.4 Further assurances: Each party shall, at its own expense, promptly sign and deliver any documents, and do all things, which are reasonably required to give full effect to the provisions of this agreement.
- 24.5 Survival: Following termination or expiry of this agreement, provisions that are by their nature intended to survive termination will remain in effect.

INTERPRETATION

A. DEFINITIONS

"Working Day" has the same meaning as in the Legislation Act 2019 or any replacement legislation, and does not include Wellington Anniversary Day.

"Client" means the person recorded as the Client in the Hardstand Boat Storage and Works application.

"Commencement Date" If no start date is set out in the Hardstand Boat Storage and Works application, then the commencement date is the date the application is signed by the Client, or submitted to the Marina through its website.

"Contamination" means the discharge into the air, onto land or into water of any substance (including gases, odorous compounds, liquids, solids, and micro-organisms) or energy or heat which is or might become hazardous, dangerous, radioactive, oxidising, poisonous, infectious, flammable, explosive, noxious, toxic, corrosive, irritating, offensive, or damaging to health of any person or to otherwise cause contamination or that would breach any regulation or Law.

"Contractor" means a person engaged by or on behalf of the Client to perform Contractor Works, and includes the Client to the extent that the Client performs any Contractor Works.

"Contractor Works" means any works and services to be performed by a Contractor while the Vessel is on the Hardstand (but for the avoidance of doubt, excluding any Services to be performed by the Marina).

"Hardstand" means that part of the Marina that is designated by the Marina for on-land storage and maintenance of vessels from time to time.

"GST" means goods and services tax, as provided for under the Goods and Services Tax Act 1985.

"Guarantor" means a person that agrees to be responsible for the Client's debt or performance under this Agreement pursuant to clause 11 herein.

"Hazardous Substance" means any hazardous, dangerous, flammable, explosive, noxious, damaging, toxic, radioactive, oxidising, poisonous or infectious substance including any hazardous substance as defined in the Hazardous Substances and New Organisms Act 1996.

"HSWA" means the Health and Safety at Work Act 2015.

"Marina" means both Seaview Marina Limited and that part of the land owned or occupied by Seaview Marina Limited at Port Road, Seaview, Lower Hutt, and operated as a boat marina with associated on-land activities.

"Marina Rules" means the rules established by the Marina from time to time in relation to the Marina, and includes any amendment to those rules.

"Vessel" means the nominated vessel described in the Hardstand Boat Storage & Works application.

"Owner" means the party or parties in which the legal title to, and the right of exclusive possession of, the Vessel is vested.

"Services" means vessel lifting and other hardstand services offered by the Marina from time to time, including water blasting and forklift and driver hire.

"Structures" means all seawalls, piers, jetties, walkways, wharves, pontoons, piles, fingers, gangways, ramps and all other structures or improvements, fixtures and fittings that may be erected or placed in the Marina at any time during the Term.

"Term" means the duration of this agreement determined in accordance with clause 1.1.

"Travel Lift" means the travel lift machine located at the Marina and includes any other equipment that may be used from time to time in performing movement of a vessel on the Hardstand.

In this Agreement, unless the context requires otherwise:

- (a) the headings to clauses are inserted for convenience only and shall be ignored in interpreting this Agreement;
- (b) a person includes any company or body of persons (incorporated or not, and whether or not having separate legal personality);
- (c) the plural includes the singular and vice versa;
- (d) any obligation not to do anything shall be deemed to include an obligation not to suffer, permit or cause that thing to be done;
- (e) a reference to a statute includes any legislative instrument or other subordinate legislation made under it and amendments to or replacement of any of them from time to time; and
- (f) a reference to any obligation of the Client in this agreement is deemed to include a reference requiring the Client to ensure that the Client's Contractors, agents and invitees comply with that obligation.