



HAUL OUT – BOAT LIFTER CONTRACT PORT GEOGRAPHE MARINA PTY LTD

TERMS: STRICTLY CASH BEFORE LAUNCHING OR REMOVAL OF VESSEL LIFTED

(To avoid disappointment, any booking should be made at least **ONE WEEK** beforehand)

PLEASE READ THE FOLLOWING, AND THE TERMS AND CONDITIONS OVERLEAF

- No responsibility will be accepted by Port Geographe Marina Pty Ltd for any damage to any parts of the boat such as underwater appendages.
- No cradle arm of prop shall be removed except by hardstand staff.
- Any welding, grinding, wet sandblasting, spray painting to be undertaken must be the subject of prior notification to staff of the company together with details of the contactor/s whom will undertake the work (NB is your contractor insured?) The company may in its absolute discretion refuse such work to be undertaken.

I ACCEPT THESE TERMS AND CONDITIONS AND THOSE OVERLEAF

Boat Owner/Agent Name _____ of _____

Boat Name _____ Lift Dates _____ To _____

Description Works to be completed _____

Insurance Certificate _____ Expiry Date _____

Bookings will not be processed without provision of credit card authorisation

- I authorise Port Geographe Marina to charge the full amount of all outstanding charges, together with this booking to the credit card nominated below without further notice.

Visa/MasterCard: _____/_____/_____/_____ Expiry Date ____/____/____

- I have read, understood, and agree to comply with all practices outlined in Port Geographe Marina's "Terms & Conditions of use of boat lifter, hard stand & mast gantry" form. I am the owner, or duly appointed agent of the owner of the vessel booked and as such, I am responsible for any fees and liabilities incurred in relation to this booking.

SIGNED by Boat Owner/Agent _____ **Date** _____

TERMS AND CONDITIONS OF USE OF BOATLIFTER, HARDSTAND AND MAST GANTRY

1. DEFINITIONS

1.1 In these terms and conditions:

"Boat" means the boat identified on the front page of the contract.

"Company" means (Port Geographe Marina PTY LTD), or its nominees or assignees, and includes, where appropriate, its officers, agents and employees.

"Customer" means the customer/owners agent identified on the front page of this contract under Boat Owner/Owners agent name.

"Hardstand" means the sealed area situated at the Marina and utilized for the storage of boats and masts, and for the lifting of boats into and out of the water by the Boat lifter, for the general maneuvering of boats on the sealed area and for the washing, cleaning, sandblasting, spray painting and other repair and maintenance work of Boats.

"Marina" means [Port Geographe Marina Pty Ltd, Busselton]

"Mast Gantry" means the gantry and associated equipment utilized in the removal of masts from boats situated at the Marina.

"Boat Lifter" means the machinery and associated equipment for the transportation of boats to and from the water and around the Hardstand.

2. TERMS AND CONDITIONS OF USE:

2.1 The Customer shall:

(a) At all times keep the area of the hardstand immediately adjacent to the 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 unusually excessive, then the removal of this waste shall be at the Customer's expense.

2.2 The Customer shall not:

- (a) Make nor permit to be made 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 and around the Marina.
- (b) Carry out any work on the Boat or on the Hardstand between the hours of sundown and 7.00am.
- (c) Undertake dry sandblasting of the Boat in and around any part of the Hardstand without prior written consent from the Company
- (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 for the protection of other vessels.
- (e) Move or cause to be moved any cradle arm or prop without prior permission from marina staff.
- (f) Nor shall the Customer permit, any work or activity to be carried out or undertaken on the Boat or on the Hardstand in contravention of any of the provisions of the Resource Management Act 1991, and the Health and Safety in Employment Act 1992.
- (g) Live aboard, or allow any other person to live aboard the vessel whilst it is in the marina hardstand.

2.3 Any breach of the above conditions shall be deemed to be a breach of this Contract entitling the Company to cancel this contract forthwith without notice.

3. CHARGES AND PAYMENT:

3.1 The Customer shall duly and punctually pay all charges when levied by the Company, and in any event, before the Boat is removed from the Hardstand, at the rate specified in the published scale of charges, subject only to:

- (a) The right of the Company to review those charges at any time without notice; and
- (b) Unless prior arrangements have been made with the Company, the storage charges levied will double after the Boat has been situated on the Hardstand for 60 continuous days.

3.2 The Company shall be entitled to charge the Customer a penalty fee of \$20 in the event of the Customer failing to keep an appointment for the use of the boat lifter.

- (a) If any moneys are owing under this contract by the Customer for the use of the Boat Lifter, or for the use of the Hardstand, Mast Gantry 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.
- (b) If the moneys owing remain unpaid for a period of 21 days after the Company shall have 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 and lastly the payment of the balance (if any) to the Customer.
- (c) If there shall be a deficiency of funds from any sale pursuant to this clause to meet the costs noted above, the Company may proceed to recover such deficiency from the Customer in a summary manner.
- (d) The Customer indemnifies and saves harmless the Company from all claims, suits and demands made by any person or corporation 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 3.2.

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. 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 of machinery situated on or around the Boat whilst the Boat is on the Hardstand, the Boat Lifter 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 authorized by the Customer to remove it, whether such removal was permitted by the Company or not.

(b) 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 boat lifter or in and around the Marina, or inside the adjoining Marina buildings howsoever such loss, damage or injury may occur.

4.3 It shall be the absolute responsibility of the owner or another person with whom this contract is made (the customer), to ensure that the vessel is fully insured whilst being lifted or on the hardstand area and Port Geographe Marina PTY LTD shall be entitled to request production of the current policy in this regard.

(a) 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 officers, agents, employees, contractors or invitees of the Customer and the Customer agrees to compensate the Company for any loss or damage to the Hardstand, Boat Lifter, Mast Gantry or the 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 officers, 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 The Consumer Guarantees Act does not apply to this Contract if the rights acquired by the customer are acquired for business purposes.

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. GENERAL:

5.1 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.

5.2 Any notice required to be given to the Customer may be delivered to the Customer either personally, or by posting it by registered letter addressed to the Customer at the address noted on the front page of this Contract.

Owners/ Owners Agent _____ Dated _____