

TRAVELIFT & HARDSTAND STORAGE CONDITIONS

In these conditions the Auckland Maritime Foundations is referred to as the Company and you means you the Customer.

1. You acknowledge that you are not putting the craft (or any of the tackle, goods, gear, machinery or other property on it) in the Company's custody. Accordingly, this is not a bailment agreement.
2. **Payment Matters.** The Company reserve the right to review the charges for the use of the Travelift and Hard Storage area at any time without notice. The Company may charge you a fee of \$50.00 if you do not keep an appointment for use of the Travelift.
 - 2.1 Payment for boats on the hardstand is due monthly and within seven days of invoice. Any amounts outstanding after seven days may be chargeable at the rate of 2.5% per month.
 - 2.2 Over Due accounts. Full legal and collection costs will be added to all overdue accounts.
 - 2.3 All accounts owing to either the Company or its Tenants must be paid in full before the craft leaves the yard.
3. **Lien.** The Company will have a general lien on the craft, for payment for any monies outstanding for any marina services (Travelift, Hard Storage, Berths, Trailer Park or other). Accordingly the Company may seize the craft until you have paid all outstanding monies. Notice of seizure will be given to the email address or to your street address you have stated on the front of this document, or to your last known address. If the monies remain unpaid for 21 days after that notice, the Company may without further notice sell the craft (including any tackle, goods, gear, machinery or other known property on it) by auction or otherwise. The proceeds of sale will be applied firstly towards the expenses of seizure and sale, and secondly towards payment of the monies due to the Company. Any credit balance will be paid to you, though the Company may proceed to recover any deficit balance from you. You agree to indemnify the Company against any claims made by any third party in respect of the seizure and/or sale. Nothing in this clause limits or restricts any rights or remedies that may be available to you as against the Company pursuant to the Consumer Guarantees Act.
4. All costs associated with the collection of any outstanding debt will be charged to the customer plus interest at current overdraft rates for the period the debt remains outstanding.
5. You agree with the Company reserving the right to circulate the name of any customer who becomes a bad debtor to other Marina Operator Association members.
6. 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.
7. **Delivery Up.** The Company may deliver up the craft from hard storage to you, any person producing this agreement, any person with your written authority, or any person offering satisfactory evidence of ownership or right to possession of the craft.
8. **Living on Board.** You must not live on board the craft, and must make sure that nobody else does.
9. **Tidiness.** The area surrounding the craft must be kept tidy. No materials or debris may be stored there. All garbage and waste materials must be placed in the receptacles provided.
10. **Nuisances.** You must not cause annoyance or disturbance to other occupiers of the Hard Storage area or to the Company or their employees or agents. You must ensure that anybody you invite or allow on to the Marina observes this requirement.
11. **Hours of Work.** The hours for working in the hard storage area are 7.00am to 7.00pm. It is prohibited to work outside those hours.
12. **Business and Sales Activities.** You must not carry on any business activity, or allow any business activity to be carried on at the Marina, without the Company's prior written approval. Nor must you promote the sale of any craft on the hard storage area, except through the trading facilities offered by the Company.
13. **Tradespeople.** You must obtain the Company's approval before any offsite tradespeople commence work on the craft. The Company will not unreasonably withhold approval, but they do reserve absolute discretion in that matter.
14. **Compliance with Public Acts and Regulations.** You must at all times comply with the requirements of the Auckland Council and its By-laws, the General Harbour Regulations 1968, the Marine Pollution Act 1974, the Water Recreation Regulations 1980, the Resource Management Act 1991, Health & Safety in Employment Act 1992, the Ships Registration Act 1992 (if applicable) and all other relevant authorities Act, Regulations and By-laws. In particular, you must not dispose of refuse or ships garbage or dunnage or pump bilge tanks into the harbour. You must use the public lavatories and must not discharge excreta in the Marina precincts. You must ensure that anybody you invite or allow onto the Marina observes these requirements.
15. **Marina Regulations.** Any Regulations promulgated by the Company are deemed to be conditions of this Agreement, and you must comply with them and ensure that anybody you invite or allow onto the Marina complies with them.
16. **Insurance.** You must keep the craft fully insured at all times. The insurance must be with a company nominated or approved by the Company. The Company will not unreasonably withhold approval. The insurance must cover against loss or damage by fire, storm, tempest, typhoon, Act of God, explosion, public liability, all other usual maritime risks, and any other risks the Company might require you to insure against. If you do not observe this condition, or do not produce evidence of proper insurance, the Company may arrange insurance as they think fit and require you to pay the cost of it.
17. **No Transfer of Assignment.** You have no right to assign or transfer this Agreement.
18. **Termination.** The Company may terminate this Agreement if you (or anybody you invite or allow into the Marina) breaches or fails to observe or perform any of these conditions, or fails to comply with any of the Half Moon Bay Marina Regulations. On terminations, you must promptly remove the craft including all goods and effects) from the Marina precincts. In default, the Company may seize and/or remove the craft and arrange for it to be stored, in which case you will be liable for all storage, insurance and incidental costs the Company may incur.
19. **Indemnity.** You agree to indemnify and keep the Company indemnified against all claims, debts, or other liabilities arising out of this Agreement, or of any act of omission of you the Customer or your agents or employees or invitees or licensees. You specifically agree to indemnify the Company against any loss or damage to the marina or slips, or to any craft in the precincts of the Marina, or to any other property which is damaged as a result of you or your agents, employees, invitees or licensees acts or omissions. Nothing in this clause limits or restricts any rights or remedies that may be available to you as against the Company, pursuant to the Consumer Guarantees Act.
20. **Exclusion of Liability and of Consumer Guarantees Act Where Acquisition is for Business Purposes.** If you acquire or hold yourself out as acquiring Marina services, facilities or goods under this agreement for business purposes, the Consumer Guarantees Act does not apply, and the following exclusion of liability provisions do apply:

The Company will not (either directly or vicariously) be liable for any damage to or theft or loss of the craft (or any tackle, goods, gear, machinery or other property on it) whilst in the precincts of the Marina.

Nor will the Company be liable for any injury, loss or damage sustained or suffered by the Customer or any other person in the precincts of the marina (whether on the craft or not) howsoever arising, and including (but not limited to) injury, loss or damage occasioned by the negligence of the Company or any of their agents or employees, or caused by the use or removal of the craft or property by any person not authorized by the Customer, whether such use or removal was permitted by the Company or not.
21. **General Safety Matters.** The Company is committed to the safe operation of all aspects of the Marina's operation. You should report any matter that may have an impact on safety. You must report any accidents within the Marina precincts.
22. **Safety: Fire Fighting Equipment. You must ensure that the craft has adequate on-board fire prevention and fire fighting equipment. Irresponsible use of the Marina's or your own or any other person's firefighting equipment is prohibited.**
23. **Travelift Operation Safety Matters.** If there are any unusual features to the underwater design of your craft, or if you have any concerns as to the placement of the strops, you must notify the Travelift operator. For unusual vessels, the operator may elect to obtain the services of a diver to place the strops accurately. Vessels are lifted to the level of the dock to allow you to disembark. It is prohibited to have any persons on board the vessel at any other time during the lifting process, in the absence of instructions from the Travelift operator. You must keep well clear of the travelift and the mobile boat trolley when they are operating.
24. **Wash Down Safety Matters.** You must keep well clear of the vessel during the wash down process. It is prohibited to climb underneath the keel of the vessel until the operator has confirmed that the vessel has been properly supported.
25. **Hard Storage Area Safety Matters.** The vessel will be placed in a cradle or on blocks. In many cases the operators will also use additional props to support the vessel. If the vessel has any unusual features, or if you have any concerns as to the adequacy of the support for your vessel, you must promptly notify the Marina office. Do not ask the operators to lift or store your vessel in any unsafe manner, e.g. to place the vessel at a higher level to enable you to work on the underside of the keel. Any such special requests must be made to the Marina office, to enable the Company's staff to make a safety assessment. You must not remove or shift any props, or other supports, nor must you undo any cradle arms or chains. If you need to do any of these things (e.g. to paint or polish the surface of the vessel) you must arrange for the Travelift operators to make the adjustment for you. You must ensure that any sails (and in particular self-furling types) are properly secured to prevent them from setting. In no circumstances must you attempt to check or set your sails while the vessel is in the hard storage area. The cradle and prop systems are not designed to support vessels when sails are set, and unexpected wind gusts can make such procedure particularly hazardous. You must take care when climbing on and off your vessel. In particular, you must make sure that ladders are properly secured and are capable of taking the load. You must not tamper with the electrical supply. The fuses in the transformers are set at a pre-determined level for your safety. You must ensure that only safe equipment is used on your vessel, and that you and any person you invite or allow into the hard storage area uses appropriate protective care. Always wear safety glasses to prevent eye injury when using machine tools. Always wear a breathing mask to prevent inhalation of dust and fumes when sanding and painting. If you start your motor on the hard storage area you must ensure that a responsibly adult is at all times keeping other people well clear of the propeller shaft. You are responsible for containing, cleaning up and disposing of all oils and hydrocarbons that may result from this activity. The Company strongly recommends that you not allow children into the hard storage area. If you must have children in this area, they must be kept under the strict and full-time supervision of a responsible adult other than any person who is working on or around the vessel.
26. **Privacy Act Disclosure and Consent**

You hereby authorise the Company to:

 - (a) Use, and to disclose to any other agency or person, any personal information the Company has obtained from and about you, for any purposes connected with any aspect of the Marina's business.
 - (b) To receive from any other agency or person any personal information about you and to use and disclose that information for any purpose connected with any aspect of the Marina's business.
- 26.2 The purpose referred to in (b) hereof include (but are not limited to) sending you Marina newsletters or marketing material, material marketing Marina tenants goods or services, provision of information to and from Half Moon Bay Berth-Owners Association Inc., provision of information to and from other customers or berth tenants or occupiers, and to or from other marina users.
- 26.3 You have the right during normal Marina Office business hours to request access to any material held by the Company concerning you to enable you to correct such material which may be factually incorrect