

**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 authorised 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 14 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 "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 Goods, other goods or to any persons, or animals, or property.
- 1.3 "Fees" means the Monthly Storage Fee and Launching Fee and Retrieval Fee as notified to the Customer by the Company from time to time, and including any variations made in accordance with clause 19 together with 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.
- 1.4 "Force Majeure Event" means the occurrence of an event after the date of this agreement that is beyond the reasonable control of the Company which cannot reasonably be avoided or overcome by the Company and which is not attributable to the actions of the Company, including (but not limited to) natural disasters, outbreaks of disease and epidemics, exceptionally adverse weather and acts of government authority (whether lawful or unlawful).
- 1.5 "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.
- 1.6 "House Rules" means the Company's house rules document which may be varied by the Company (in its sole discretion) at any time by written notice to the Customer. The House Rules will be displayed at the Company's premises and will otherwise be available upon request.
- 1.7 "Permitted User" has the meaning given at clause 3.2.
- 1.8 "Services" means all services requested by the Customer and which the Company has agreed to provide (whether gratuitously or not), including the storage of the Customer's Goods by the Company.
- 1.9 "Trailer" means any trailer, container, pallet or other packaging or article used to carry, consolidate, store or package the Goods.

2. Services

- 2.1 The parties agree that the Company will perform the Services, and all services incidental to the Services, in accordance with these terms of trade.
- 2.2 The Customer acknowledges that:
 - 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 must be given by the Customer prior to any performance of Services by the Company (including, but not limited, to launch, retrieval, or provision of access to Goods stored at the Company's premises (whether by the Customer or the Customer's appointed agent), except for storage services. The Company will not be deemed responsible for any failure to perform the Services described in this subclause where less than 24 hours' notice is given.

2.3 The Customer acknowledges that, where launch and / or retrieval Services are provided by the Company, the Customer's Goods may be berthed at the Company's leased facility in the Picton Marina. For the avoidance of doubt, and without limiting the application of clause 14, the Company accepts no liability 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, while the Customer's Goods are berthed in the marina (whether the Goods are left unattended or not).

2.4 The Company may establish rules in relation to the Customer's access to the Picton Marina from time-to-time and such rules will be contained in the House Rules.

3. Permitted Users

3.1 In circumstances where the Customer wishes to allow other individuals (including family members) to access their Goods, the Customer must provide a list of its proposed permitted users to the Company using the form attached as Schedule 1, which may be updated by the Customer at any time.

3.2 An individual will only become a permitted user ("Permitted User") upon written approval by the Company.

3.3 Following approval by the Company under clause 3.2, the Customer must provide each Permitted User with a copy of these Terms of Trade and require that the Permitted User comply with them.

3.4 The Customer acknowledges that:

- a. each of its Permitted Users will be entitled to access or collect the Customer's Goods in accordance with the Company's terms of trade as if the Permitted User was the Customer;
- b. it must contact the Company by telephone if it wishes to urgently revoke any individual's status as a Permitted User;
- c. no individual other than the Customer or a Permitted User will be permitted to access or collect the Customer's Goods; and
- d. the Customer will be liable for any acts or omissions of a Permitted User as if those acts or omissions were performed by the Customer.

3.5 Where the Customer has provided, and the Company has approved, a list of Permitted Users, reference to the word 'Customer' in this document will, where the context requires, be deemed to be replaced with the words 'Permitted User'.

4. Access to Premises

4.1 The Company's usual hours of operation are set out in the House Rules.

4.2 The Customer acknowledges that it will not access any storage area of the Company's property except in the presence of a Company employee during the hours specified at clause 4.1 or as otherwise directed by the Company to the Customer from time to time. 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.

- 4.3 The Customer may only access the storage area of the Company's property for the purpose of access to or collection of the Customer's own Goods.
- 4.4 Any access to the storage area of the Company's property granted by the Company under this clause 4 is subject at all times to the requirements of clause 15.3.

5. Fees and Expenses

- 5.1 The Customer will pay the Monthly Storage Fee, together with any other fees charged by the Company in accordance with this agreement, without deduction, set off or adjustment, on or before the date specified in the Company's relevant invoice.
- 5.2 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.

6. Term

- 6.1 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.

7. Consequences of Breach

- 7.1 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. charge the Customer 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 amount shall be payable upon demand; or
 - b. suspend its performance of the Services in accordance with clause 8.1a; or
 - c. terminate this agreement in accordance with clause 8.3a.
- 7.2 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).

8. Suspension or Termination

- 8.1 The Company may suspend the supply of Services to the Customer if:
 - a. the Customer does not pay any Fees when due;
 - b. the Company has any concerns about the Customer's creditworthiness; or

- c. the Company otherwise reasonably determines that it is necessary to suspend the supply of Services to the Customer, including where clause 10.2 applies.
- 8.2 If the Company suspends the supply of Services to the Customer in accordance with clause 8.1, the Customer must, within a reasonable period of time and in any case not more than 7 days after the date of the suspension, make arrangements for the collection of all of the Customer's Goods held by the Company. For the avoidance of doubt, the Customer will continue to be charged the Monthly Storage Fee up to and include the date the Customer collects its Goods from the Company.
- 8.3 These terms may be terminated immediately by either party giving written notice to the other as a result of:
- a. the other party's default under these terms; or
 - b. the other party becoming insolvent, or being subject to the appointment of a receiver, manager, liquidator, or statutory manager, or committing an act of bankruptcy, or making a scheme of arrangement with its creditors.

9. Force Majeure

- 9.1 The Company shall not be liable to the Customer, or be deemed to be in breach of these terms, as a result of any delay or failure to perform its obligations due to any Force Majeure Event, provided that it:
- a. takes all reasonable steps to perform its obligations and/or alleviate the delay; and
 - b. provides written notice of the nature and extent of the Force Majeure Event and the likely delay to the Customer as soon as reasonably practicable.
- 9.2 In the event that a Force Majeure Event continues for more than 40 working days then either party may terminate this agreement immediately by giving written notice to the other party.
- 9.3 Provided that the Company is able to continue providing any part of the Services during the Force Majeure Event, then the Customer must continue paying the relevant Fee in respect of those Services. For example, where the Force Majeure Event does not prevent the provision of storage services by the Company, the Customer must continue paying the Monthly Storage Fee in accordance with clause 5.1.
- 9.4 This clause 9 shall cease to apply in respect of a Force Majeure Event when:
- a. the Force Majeure Event no longer has any effect on the performance of the Company's obligations under this agreement; and
 - b. the Company has given written notice to the Customer that the Force Majeure Event has ceased.

10. Rules and Regulations

- 10.1 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.
- 10.2 If at any time any Goods do not comply with the requirements set out in clause 10.1 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.
- 10.3 The Customer shall observe and perform all other rules and regulations from time to time notified to the Customer by the Company. Such rules include the House Rules 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.

11. Dangerous Goods

- 11.1 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.
- 11.2 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.
- 11.3 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 11.1.

12. Lien

- 12.1 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.
- 12.2 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.

13. Warranties

- 13.1 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.

14. Liability

- 14.1 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.
- 14.2 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 unauthorised 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.
- 14.3 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 14.1 and 14.2 also govern the Company's services with regard to the docking of the Customer's Goods at the Company's berth.
- 14.4 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.
- 14.5 The Company will not be liable to the Customer for any loss of profits or any indirect or consequential loss or damage arising out of these terms or the Company's dealings with the Customer.
- 14.6 If, despite this clause 14, the Company is liable to the Customer for any reason, the Company's liability will be limited to an amount equal to the Fees paid by the Customer in respect of the relevant Services.

15. Health and Safety

- 15.1 The Customer acknowledges that the site(s) where the Services will be provided which are controlled by the Company will comply with any health and safety laws in relation to the Services and any other relevant safety standards or legislation.
- 15.2 The Customer undertakes to the Company that there are no hazards or risks known to exist upon or in relation to the Goods.
- 15.3 In circumstances where the Customer is given access to the Company premises (for any reason), the Customer agrees that it will follow all reasonable directions of the Company in relation to health and safety.

16. Consumer Guarantees

- 16.1 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.

17. Sub-Contracting

- 17.1 The Company shall be entitled to sub-contract, on any terms, the whole or part of the Services.
- 17.2 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.
- 17.3 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.

18. Privacy and Security of Information and Data

- 18.1 Unless the Company has the Customer's prior written consent, or is required by law to do anything to the contrary, the Company will use reasonable endeavours to ensure that all information received by the Company when performing the Services is kept secure and is not disclosed or made available to any third-party.
- 18.2 The Company will comply with the Privacy Act 2020 ("Privacy Act") and will deal with all "personal information" received by the Company (as that term is defined in the Privacy Act) in accordance with the information privacy principles contained within the Privacy Act.

19. Variation

- 19.1 The Company may amend these terms or the Fees from time to time by giving the Customer one month's notice in writing, provided that no variation can occur within the first two months of the Commencement Date. Any amendment to these terms or the Fees will apply upon the expiry of the notice period specified in this clause 19.1.
- 19.2 If the Customer does not agree to any varied terms or Fees notified to the Customer in accordance with clause 19.1, the Customer may, within 10 working days of receipt of such notice, provide written notice of its termination of these terms.
- 19.3 Termination of these terms by the Customer in accordance with clause 19.2 will take effect from the expiry of the notice given by the Company under clause 19.1.

20. Miscellaneous

- 20.1 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.
- 20.2 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.
- 20.3 The Company will not be deemed to have waived any right under this agreement unless the waiver is in writing and signed by the Company. A failure to exercise or delay in exercising any right by the Company under this agreement will not operate as a waiver of that right. Any such waiver will not constitute a waiver of any subsequent or continuing right or of any other provision in this agreement.
- 20.4 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.

- 20.5 This agreement may be executed and delivered in any number of counterparts, including by way of electronic transmission where a party signs a counterpart and sends it as a PDF to the other party by email. All such counterparts, when taken together will constitute one and the same instrument.
- 20.6 A party may sign this agreement by way of the application of that party's electronic signature in accordance with Part 4 of the Contract and Commercial Law Act 2017.

SCHEDULE 1 – FORM OF PERMITTED USER AUTHORISATION

I, _____, hereby authorise the following individual(s) as Permitted User(s) for the purposes of clause 3 of the Services Agreement that I have entered into with Marlborough Sounds Storage Limited (the **Company**).

I acknowledge that:

1. the individual(s) named below will be entitled to access or collect any goods owned by me and held by the Company in accordance with the Company's terms of trade as if the Permitted User(s) were me;
2. I must contact the Company by telephone if I wish to urgently revoke the authorisation of any Permitted User(s); and
3. no individual other than myself or the individual(s) named below (or previously authorised by me) will be permitted to access or collect my goods held by the Company.

Permitted User(s)

Name	Contact Details (including telephone)

Signed by the Customer:

Dated: