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Boat Storage Plus: Waihi Beach Road, Waihi

Postal Address: 232 Trig Road South, RD1, Waihi 3681

www.boatstorageplus.co.nz

Licence Agreement

BETWEEN BOAT STORAGE PLUS LIMITED (hereinafter called 'BSPL')

AND (hereinafter called the 'Licensee')

THE PARTIES AGREE:

1. BSPL grants to the Licensee a licence to occupy Unit at the Boat Storage Plus facility at the Premises on the terms and conditions set out here and in Schedule 1. The Licensee's right to occupy the Unit shall commence on the day of 20
2. The Licensee accepts the terms and conditions set out in this Agreement and agrees to abide by them and further agrees to pay the License Fee being \$..... plus GST per month in the manner set out in Schedule 1.
3. The Licensee agrees to pay the deposit of \$..... on the signing of this agreement which shall be held by BSPL in the manner and for the purpose set out in clause 3.3 of Schedule 1 and elsewhere in the Agreement.
4. The Licensee agrees that the terms and conditions set out in Schedule 1 are an integral part of the Agreement and have effect between the parties as though set out here in full.
5. The Licensee's address is

Date:

Signed by BOAT STORAGE PLUS LIMITED:

Signed by the Licensee:

Schedule 1: Terms of Agreement

1. DEFINITIONS AND INTERPRETATIONS

1.1. In this Agreement, unless the context requires otherwise:

- (a) Accessways means the roads paths entrances corridors of the Premises the use of which is necessary to obtain access to and egress from the Designated Space or those of them that afford reasonable access and egress thereto and there from and that BSPL in its absolute discretion designates from time to time on 28 days notice to the Licensee.
- (b) Address For Service in respect of the Licensee means the address recorded in the Agreement or such other address that that party may from time to time advise BSPL as being that party's address for service. BSPL's Address For Service is the Premises or such other address that that party may from time to time advise the Licensee as being that party's address for service.
- (c) Agreement means this agreement including the schedule.

- (d) BSPL includes any employee or agent of BSPL and if more than one includes every one of them severally.
- (e) Building means the building or structure on the Premises in which the Designated Space is located.
- (f) Common Areas means the Accessways and the Wash Bay and all other parts of the Premises intended by BSPL to be used by all Licensees in common with each other and with BSPL but excludes any Designated Space.
- (g) Deposit means the amount of the deposit as specified in the Agreement.
- (h) Designated Hours means between the hours of 7.00 am and 9.00 pm on any and every day of the year.**
- (i) Designated Space means the unit identified in the Agreement or such other space in the Building as BSPL may from time to time in its absolute discretion designate by giving the Licensee 20 working days notice in writing.
- (j) GST means goods and services tax pursuant to the Goods and Services Tax Act 1985.
- (k) Interest Rate means the interest rate charged by BSPL's principal bank for unsecured commercial overdrafts plus 5%.
- (l) Item means any vehicle, boat or other item of any form or description that is being stored in a Designated Space.
- (m) Licence means the rights granted to the Licensee in Clause 2.
- (n) Licence Fee means that monthly or other amount to be paid by the Licensee to BSPL as set out in the Agreement or such other amount as BSPL shall determine in its absolute discretion on 20 working days notice to the Licensee.
- (o) Licence Period means the period commencing on the Commencement Date specified in the Schedule until the date upon which the Licensee's rights under clause 2 hereof are determined in accordance with Clause 4.
- (p) Licensee if more than one includes every one of them severally and includes every invitee of the Licensee.
- (q) Licensees means every licensee of the Licensor in common.
- (r) Motor Bath means that part of the facility designated to be used by the Licensee for the running of Boat motors.
- (s) Notice of the Determination means a notice given by either party pursuant to clause 4.2.
- (t) Permitted Purpose means the storage of any Item and (for clarification) excludes any individual commercial, industrial, business or personal activities that are not associated with the main purpose of storage of any Item and (for further clarification) excludes any maintenance, repair, manufacture or construction of any Item or of any part thereof.
- (u) Premises means that property situated at 296 Waihi Beach Road, Waihi being Lot 1 Deposited Plan DP442591 and being the land contained in computer freehold register 552261.
- (v) Services means the services supplied by BSPL in respect of electricity, water, drainage and other items as agreed to be provided from time to time by BSPL for the use of the Licensees in common (and including the use of all hoses, pipes, wires and the like through which such electricity, water, drainage and other items are conveyed) the costs of which (to the extent of each Licensee's proportion thereof) are included in the Licence Fee but which services may be varied by addition to and / or by subtraction from from time to time by BSPL as BSPL determines in its absolute discretion on 28 days notice given to the Licensees in common by affixing a notice in a prominent place on the Premises and the details of which Services shall be supplied by BSPL to the Licensee upon request.
- (w) Wash Bay means the designated wash bay areas.
- (x) Working Day has the same meaning as in the Property Law Act 2007.
- (y) Headings in the Agreement do not form part of the Agreement and must not be taken into account in its construction or its interpretation.
- (z) Any reference in the Agreement to a Clause or Sub-Clause without further designation is to be construed as a reference to the Clause or Sub-Clause of the Agreement so numbered.
- (aa) Any reference to a Clause shall be construed to include reference to every Sub-Clause forming part of that Clause.
- (bb) Words importing the singular number shall include the plural and words importing the plural number shall include the singular.
- (cc) Words indicating a person of either or any gender shall include individuals of either or any gender, companies, limited partnerships, partnerships, incorporated societies, unincorporated societies or any other entity whether having legal personality or not.
- (dd) Where two or more persons are bound by a provision in this Deed that provision shall bind those persons jointly and each of them severally.
- (ee) All references to currency are to New Zealand dollars (\$NZ) and are exclusive of GST unless expressly specified to the contrary.
- (ff) Any reference to a statute includes reference to regulations, orders or notices made under or pursuant to that statute and reference to a statute or regulation includes references to all amendments to that statute or regulation and to any statute or regulation passes in substitution for that statute or regulation.

2. THE LICENCE

2.1. BSPL grants the Licensee for the duration of the Licence Period the right:

- (a) to use the Designated Space for the Permitted Purpose.
- (b) to enter into and exit from the Designated Space using the Accessways during the Designated Hours. and
- (c) to use the Common Areas and the facilities contained in or on the Common Areas for their intended purpose.

2.2. BSPL grants the Licensee the right for the duration of the Licence Period in common with BSPL and all others granted such rights by BSPL the right:

- (a) to enter onto, move along and otherwise use the Accessways whether on foot or in any vehicle for the purpose of gaining access to or egress from the Designated Space, storing in or removing from the Designated Space any Item, preparing any Item for storage or for removal (including, in the case of a boat, of putting to sea but subject to the restrictions contained in this Deed) during the Designated Hours. and
- (b) to use any of the Services for the purposes of preparing any Item for storage or for removal (including, in the case of a boat, of putting to sea but subject to the restrictions contained in this Deed) during the Designated Hours.

2.3. The Licensee acknowledges that the rights granted in Clause 2.2 are rights granted to the Licensee in common with all other persons authorised by BSPL.

2.4. The Licensee acknowledges accepts and agrees that the rights granted in Clause 2.1 and 2.2 are granted subject to the terms and conditions of the Agreement.

3. LICENSEE'S UNDERTAKINGS AND REQUIREMENTS

3.1. In consideration of the licence granted to the Licensee the Licensee shall pay the Licence Fee together with GST thereon to BSPL in advance on the first day of each and every month throughout the duration of the Licence provided that the first payment or a due proportion of it to be apportioned on a day to day basis is to be paid on the date of signing of the Agreement.

3.2. Notwithstanding Clause 3.1 the Licensee may elect to pay six month's rent in advance (such rent being non-refundable in the event of determination of the Licence during that period) and in which case the Licensee shall at the expiry of that six month period be permitted to one weeks free use of the facilities but otherwise in all respects on the same terms and conditions as contained in the Agreement. Any Licensee electing to pay six month's rent in advance shall at the expiry of that period and of the one week's free use of the facility then pay rent for the remainder of that month then current and shall from the commencement of the following month pay rent in accordance with Clause 3.1 or, at the Licensee's election, Clause 3.2.

- 3.3. The Licensee shall pay the Deposit as security for the due and timely performance and observance of the undertakings of the Licensee contained in the Agreement which deposit shall be repayable to the Licensee less any amount due to BSPL in compensation for any costs incurred by BSPL in respect of any non-observance or non-performance by the Licensee within 14 days of the determination of the Licence Period or such longer time as may be necessary to ascertain any amount due to BSPL. For the avoidance of doubt the Licensee shall not be entitled to receive interest on any sum paid to BSPL as deposit.
- 3.4. The Licensee shall not bring any furniture equipment goods or chattels onto the Premises without the consent of BSPL except as is necessary for the exercise of the rights given in Clause 2.
- 3.5. The Licensee shall not install or affix any item to any wall of the Building or in any other way modify any Building or the Designated Space.**
- 3.6. The Licensee shall not access or attempt to access the Designated Space, the Premises or any part of it other than during the Designated Hours.**
- 3.7. The Licensee shall keep the Designated Space clean and tidy and clear of rubbish and leave the Designated Space in a clean and tidy condition and free of rubbish and of the Licensee's furniture, equipment, goods and chattels at the end of the Licence Period.**
- 3.8. The Licensee shall not obstruct the Accessways or make them dirty or untidy or leave any rubbish or pollutant on them.
- 3.9. The Licensee shall clean up at the Licensee's cost and to BSPL's satisfaction any spill of any oil grease fuel or other contaminant from any Item of the Licensee or that under the Agreement is deemed to be under the Licensee's control.
- 3.10. The Licensee shall not display any sign or notices at the Designated Space or elsewhere on the Premises.**
- 3.11. The Licensee shall not use the Designated Space or the Accessways in such a manner as to cause a nuisance damage disturbance annoyance inconvenience or interference to BSPL or to anyone permitted by BSPL to use the Premises or any part thereof or to any adjoining or neighbouring property or to the owners occupiers or users of any adjoining or neighbouring property provided that subject to Clauses 3.12 and 3.13 the reasonable running of any boat motor in a designated outdoor motor bath for the purposes of preparing the motor to be used at sea or preparing the motor for storage shall not be a breach of this provision.**
- 3.12. The Licensee shall not operate any boat motor before 10 am on any day.**
- 3.13. The Licensee shall not cause or allow any Item motor to emit excessive noise and without limiting the generality of this provision shall not cause noise to be emitted that if measured at the Premises boundary would contravene the relevant rule in the district plan of the Hauraki District Council which are:

Standard	L10	Lmax
Monday to Saturdays		
7am to 10.00 pm	50dBA	NA
10pm to 7.00 am	40dBa	75dBa
Sunday and Public Holidays		
7am to 10.00 pm	45dBA	NA
10pm to 7.00 am	40dBa	75dBa.

3.14. The Licensee shall not operate any boat motor on the Premises other than in a Motor Bath.

- 3.15. The Licensee shall not do anything that will or might constitute a breach of any statutory requirement affecting the Premises or that will or might wholly or partially vitiate any insurance effected in respect of the Premises or of BSPL's business from time to time.
- 3.16. The Licensee shall ensure that all boat washing activities are conducted in the Wash Bay.**
- 3.17. The Licensee shall observe any rules and regulations BSPL makes and advises to the Licensee (by whatever means) from time to time governing the Licensee's use of the Designated Space and the Accessways.
- 3.18. The Licensee shall not in any way impede BSPL in the exercise of its rights or BSPL's possession and control of the Premises and every part of the Premises. The Licensee acknowledges that BSPL may enter the Designated Area at such times as it requires to monitor compliance by the Licensee with the terms of this agreement and may do anything reasonably required to ensure such compliance.
- 3.19. The Licensee shall maintain a current policy of insurance of the Item and of every thing brought onto the Premises by the Licensee under which policy the Licensee is indemnified for the full insurable value of the Item and of every such thing. In no event shall BSPL be liable for any loss suffered by the Licensee as a consequence of the Licensee exercising the rights granted to it in the Agreement.**
- 3.20. The Licensee shall not store any fuel, flammable or combustible material or other dangerous or hazardous good in the Designated Space (not being a component of any Item being stored in that space) other than the reasonable on-board or in-vehicle storage of fuel in the appropriate fuel storage tank of any Item.**
- 3.21. The Licensee when exercising any of the rights given in Clause 2 may be accompanied by such invitees as the Licensee wishes. Notwithstanding this the Licensee is at all times responsible to BSPL for the behaviour and conduct of the Licensee's invitees and liable for any and all losses claims demands actions proceedings damages costs or expenses or other liability incurred by BSPL as a consequence of any action or omission of any invitee of the Licensee. For the purposes of the Agreement any Item or any boat vehicle machinery or thing belonging to or in the possession of or under the control of any of the Licensee's invitees shall be deemed to be under the control of the Licensee.
- 3.22. The Licensee shall not use any fire fighting equipment for any purpose other than the legitimate extinguishing of fire or the minimisation of harm or damage resulting from fire or explosion.
- 3.23. The Licensee shall not use any drain for any purpose other than the disposal of water and shall not drain or cause to be drained into any such drain any dirty or polluted water or any other substance that would or could be expected to pollute any receiving environment.
- 3.24. The Licensee shall not cause any damage hurt or harm to the property of BSPL, the Designated Space, the Building or the Premises or any part thereof or to any property of any other person permitted to use the Premises or any part thereof and in the event of such damage hurt or harm being caused by the Licensee the Licensee shall at its cost remedy any such damage hurt or harm without delay and in any event before the end of the Licence Period.

4. DETERMINATION OF THE LICENCE

- 4.1. the Licence may be terminated and determined by BSPL (without prejudice to BSPL's rights in respect of any breach of the undertakings or obligations of the Licensee) before the end of the Licence Period if any of the following occurs:
- If the Licence Fee is in arrears for more than 5 days; or
 - the Licensee breaches any provision of this Agreement.
- 4.2. If this Licence continues after the Expiry Date with the consent of BSPL then (unless an Extended Expiry date has been agreed by the parties) the Licence may be determined by either party giving to the other not less than 5 days notice.
- 4.3. Immediately upon termination of the Licence under clause 4.1 above, or upon Notice of the Determination of the Licence being given under clause 4.2 above, the Licence Fee due to the end of the Licence Period shall become due and payable. The Licensee shall pay all monies owing by the Licensee to BSPL whether being Licence Fee (arrears or otherwise) to the end of the Licence Period or any other monies payable by the Licensee to BSPL under the Agreement.
- 4.4. Subject to Clause 4.5 the Licensee shall remove all property of the Licensee from the Designated Space and from the Premises before the end of the

Licence Period or on termination; otherwise BSPL shall be entitled to remove such items from the Premises and BSPL will have no liability or responsibility in respect of such items.

4.5. If at the time of termination or the time that a Notice of the Determination of the Licence is given to either party by the other:

- (a) any monies remain owing by the Licensee to BSPL arising from or in any way connected to the Licence or the Agreement; or
- (b) any keys, electronic devices or other property of BSPL that have been issued to the Licensee at the commencement of the Licence Period or during the Licence Period remain outstanding;

then BSPL may apply the Deposit towards compensation of any of the above, and if the amount due to BSPL for such items exceeds the amount of the Deposit then BSPL have and may exercise a general lien over any goods or possessions of the Licensee then remaining on the Premises.

4.6. In the event BSPL exercises any lien pursuant to the Agreement BSPL shall at the expiry of one month from the date of determination of the Licence provide notice to the Licensee of BSPL's intention to sell any goods or possessions of the Licensee then remaining on the Premises at the expiry of 20 working days after the date of service of said notice. At the expiry of that period BSPL shall be entitled to remove and sell any goods or possessions of the Licensee remaining upon the Premises whether by public auction or by private treaty. BSPL shall apply the proceeds of any such sale in payment of any monies remaining owing by the Licensee to BSPL including (without limitation) any storage costs incurred during the period since the date of determination of the Licence (at the same rate as the Licence Fee), any costs of sale, all costs of defending the lien and in payment of any amounts necessary to obtain the release of any security interest(s) registered over any goods sold.

5. LIMITATION OF LIABILITY, INDEMNITY

- 5.1. The Licensee shall indemnify BSPL and keep BSPL indemnified against all losses claims demands actions proceedings damages costs or expenses or other liability incurred by BSPL arising in any way from the Licence or from the exercise or purported exercise of any of the rights contained in the Agreement.
- 5.2. The indemnity in clause 5.2 is extended to include any liability of BSPL to any third party as a consequence of BSPL exercising any lien or power of sale of the Licensee's goods.
- 5.3. BSPL gives no warranty other than to the extent required by law that the Premises or the Building are legally or physically fit for any particular purpose and by accepting the Licence the Licensee is acting on its own judgement and not in reliance on any warranty or undertaking given by the Licensee other than as set out in the Agreement.
- 5.4. BSPL shall not be liable for any damage to the Licensee's property or person howsoever caused (including if caused or contributed to by the negligence of BSPL) or for any losses claims demands actions proceedings damages costs or expenses or other liability incurred by the Licensee (including consequential loss thereof) as a consequence of the Licence or in any way arising from the Agreement.

6. GENERAL

- 6.1. The benefit of the Licence is personal to the Licensee and not assignable or able to be sub-licensed to the intent that the rights given in Clause 2 may only be exercised by the Licensee.
- 6.2. Nothing in the Licence or in the Agreement confers exclusive possession of the Designated Space or of any part of the Premises on the Licensee. Notwithstanding this BSPL warrants that during the continuation of the Licence Period and for so long as the Licensee is observing or performing all the covenants in the Agreement for the Licensee to observe or perform BSPL shall not grant to any other person any licence to occupy the Designated Space.
- 6.3. BSPL reserves for itself and its agents employees and contractors the right to enter and to remain in the Designated Space for any purpose authorised in this Deed and as required from time to time for the protection of the Premises or of any thing contained therein (whether the property of BSPL, the Licensee or of any other person) PROVIDED THAT in every case where BSPL is required as aforesaid to enter the Designated Space BSPL shall securely lock the Designated Space upon its exit from that space and shall use its best endeavours to advise the Licensee that it has entered the Designated Space and shall give its reasons for doing so.
- 6.4. Nothing in the Licence or in any way arising from the Agreement confers on the Licensee an interest in the Premises or in any property of BSPL other than a licence to occupy part of the Premises on the terms set out in Clause 2.
- 6.5. Other than as provided in clause 6.6 all notices given by either party to the other party pursuant to the provisions of the Agreement must be in writing and are to be considered sufficiently served if delivered by hand or sent by registered post or recorded delivery or sent by facsimile to the other party at that party's Address For Service.
- 6.6. Any notice of to be served on BSPL pursuant to clause 4.1 shall be served in the manner required by section 353 of the Property Law Act 2007.
- 6.7. The Licensee shall pay to BSPL on demand all costs and expenses including (without limitation) any professional fees incurred by BSPL in the preparation of the Agreement and of any variation to it.
- 6.8. To secure payment of the Licence Fee and of all other monies that may become owing to BSPL under the Agreement the Licensee grants a Security Interest in the Item to BSPL.
- 6.9. BSPL shall use its best endeavours to provide the Services to the Accessways and Common Areas throughout the duration of the Licence Period provided always that BSPL shall not be liable to the Licensee nor shall the Licensee have and claim against BSPL in respect of any interruption in any of the Services by reason of necessary repair or maintenance of any installation or apparatus or damage thereto or destruction thereof by any cause beyond BSPL's reasonable control or by reason of mechanical breakdown or lack of supply to BSPL by any service provider or for any other reason whatsoever. BSPL shall not provide any of the Services to any Designated Space other than the provision of internal lighting provided by sealed lighting fixtures and switches.
- 6.10. Where any monies payable under this agreement by the Licensee to BSPL remain unpaid five working days after the due date for payment the Licensee shall in addition pay interest at the Interest Rate in respect of those monies from the due date for payment until the date payment in full is made.

