

1. GRANT OF LICENCE

From the Start Date and for the duration of the Term, Marlborough Sounds Marinas grants the Licensee the right to:

- (a) use and occupy the Berth for the Permitted Use;
- (b) pass and repass from the Marina entrance to the Berth;
- (c) enter the Marina from land or sea via the identified accessways; and
- (d) use any shared facilities and common areas at the Marina, as may be determined by Marlborough Sounds Marinas from time to time,

subject to and in accordance with these Terms and Conditions, which Marlborough Sounds Marinas may at its discretion update and amend as is reasonably necessary for it to manage and operate the Marina in a safe, effective and commercially sustainable manner and for the benefit of all Marina users. Notice of any updates or amendments to these Terms and Conditions will be provided to the Licensee in writing.

2. CASUAL AND PERMANENT LICENCES

2.1 Casual Licence

This Licence will be a 'Casual Licence' where the Booking Confirmation expressly states that a 'Casual Licence' applies and specifies an End Date for the Licence (which will not be more than three months after the Start Date, or such longer or rollover period which Marlborough Sounds Marinas in its absolute discretion may confirm is applicable).

2.2 Permanent Licence

This Licence will be a 'Permanent Licence' where no End Date is specified in the Booking Confirmation and which will be for the Term specified in clause 3.1(b).

3. TERM

3.1 This Licence commences on the Start Date and expires on the sooner of:

- (a) the End Date; or
- (b) the date that this Licence may be terminated in accordance with clause 9,

(the **Term**).

3.2 At any time prior to the Start Date the Licensee may notify Marlborough Sounds Marinas that it no longer requires this Licence, in which case:

- (a) this Licence will not commence on the Start Date and the Licensee will have no right to use and occupy the Berth or the Marina; and

3.3 if the Licensee provides its notice after the date that is 14 days prior to the Start Date, the Licensee shall be liable to pay Marlborough Sounds Marinas the Cancellation Fee. If the Licensee wishes to extend the Term of a Casual Licence, it must provide written notice to Marlborough Sounds Marinas requesting an extension no less than seven days prior to the End Date (**Extension Request**).

3.4 Marlborough Sounds Marinas may at its discretion elect to grant or otherwise reject the extension as set out in an Extension Request. Marlborough Sounds Marinas may:

- (a) grant the requested extension, in which case the Term will be extended and this Licence will continue on these Terms and Conditions for the duration of the extended Term, unless terminated earlier in accordance with clause 9;
 - (b) propose an alternative shorter extended term, in which case Marlborough Sounds Marinas will notify the Licensee of the proposed alternative shorter extended Term, and if accepted by the Licensee, the Term will be extended and this Licence will continue on these Terms and Conditions for the duration of the alternative extended Term, unless terminated earlier in accordance with clause 9; or
- 3.5 reject the extension for any reason, in which case this Licence will not be extended and will expire on the End Date, unless terminated earlier in accordance with clause 9. If, in the absence of an extension in accordance with clause 3.4, Marlborough Sounds Marinas permits the Licensee to remain in occupation of the Berth after the expiration of the Term, the Licensee's occupation will be on a holding over basis at the Fee then payable calculated on a daily basis, terminable by either party by one days' written notice to the other and otherwise on the Terms and Conditions of this Licence.

4. FEE

Casual Licences

- 4.1 Where this Licence is a Casual Licence, the Licensee must pay the Fee to Marlborough Sounds Marinas:
- (a) where the End Date is less than one month after the Start Date, paid in full in advance on or before the Start Date;
 - (b) where the End Date is one month or more after the Start Date, paid monthly in advance; and
 - (c) for any extended Term pursuant to clause 3.4, paid in full in advance, immediately upon the grant of such an extension,

in each case by phone or in person in the Marina office during opening hours.

Permanent Licences

- 4.2 Where this Licence is a Permanent Licence, the Licensee must pay the Fee to Marlborough Sounds Marinas:
- (a) monthly on the 20th day of each month (the first monthly payment will include any Fee for the period from the Start Date up to the first monthly payment date); and
 - (b) by direct debit from the Licensee's nominated bank account to Marlborough Sounds Marinas' bank account.
- 4.3 Where the Licensee intends to pay the fee by direct debit, the Licensee must complete and return to Marlborough Sounds Marinas, within three Working Days of written request by Marlborough Sounds Marinas to do so, all documents and authorisations necessary for Marlborough Sounds Marinas to take payment by direct debit, including nominating a bank account or credit card capable of making payment by direct debit. If the Licensee fails to provide the documents and authorisations required by this clause 4.3 within three Working Days, Marlborough Sounds Marinas, in its absolute discretion, will be entitled to revoke the Booking Confirmation by written notice to the Licensee, in which case the Licence deemed by the Booking Confirmation and these Terms and Conditions will be immediately at an end.

General

- 4.4 In addition to the Fee, the Licensee must pay Marlborough Sounds Marinas the cost of any works or services provided or arranged by Marlborough Sounds Marinas, including but not limited to
- (a) any electricity supply taken or utilised by the Licensee and as invoiced by Marlborough Sounds Marinas,

- (b) any works or services provided or arranged as a result of:
 - (i) any emergency event; or
 - (ii) the Licensee's default under this Licence.

- 4.5 In the event that the Licensee defaults in payment of any moneys payable under this Licence then the Licensee shall pay on demand interest on any unpaid amount at the rate of 12% per annum from the due date for payment until the payment is made.

- 4.6 For clarity, the Fee and all other amounts payable by the Licensee under this Licence are payable regardless of whether or not the Licensee is occupying the Berth or using any of the Marina facilities at any given time.

- 4.7 The Fee is for "non-commercial" use of the Berth. The Fee will automatically increase by 10% if the Licensee makes the Vessel available for charter or otherwise uses or intends to use the Vessel or the Berth for any other commercial purpose. The Licensee must notify Marlborough Sounds Marinas as soon as reasonably possible if it intends to use its Vessel or the Berth for charter or commercial purposes.

- 4.8 Marlborough Sounds Marinas may at its discretion review the Fee annually with any increase effective from 1 October each year. Notice of any increase in the Fee will be provided to the Licensee in writing. If the Licensee does not wish to accept the increased Fee, the Licensee may, within 20 Working Days of being notified of the increased Fee, elect to terminate this Licence by notice in writing to Marlborough Sounds Marinas.

- 4.9 For clarity, the Fee and all other amounts payable by the Licensee under this Licence are payable regardless of whether or not the Licensee is occupying the Berth or using any of the Marina facilities at any given time.

5. RULES AND DIRECTIONS

- 5.1 The Licensee must:
 - (a) comply with the Marina Rules and Regulations posted on Marlborough Sounds Marinas' website at any given time as may be amended or added to from time to time by Marlborough Sounds Marinas and, to the extent that there is any conflict between the Marina Rules and Regulations and these Terms and Conditions, these Terms and Conditions shall prevail;

 - (b) comply with all signs posted in and around the Marina and all directions given by Marlborough Sounds Marinas and its employees, contractors or agents;

 - (c) keep the Vessel in a good and seaworthy state of repair so not to obstruct, interfere with or endanger other vessels navigating, or berthed, in the Marina and in the event of the Vessel falling into disrepair or any damage occurring to the Vessel, repair and otherwise rectify any damage as soon as possible;

 - (d) not reside or live on board the Vessel when it is in the Berth or the Marina without the prior written consent of Marlborough Sounds Marinas, which may be withheld in its sole discretion or granted subject to any conditions which Marlborough Sounds Marinas considers appropriate. For the purposes of this clause 5.1(d), 'residing' or 'living on board' means staying on the Vessel overnight for more than 7 days over the course of a one month period;

 - (e) not cause or do anything that is likely to cause damage to any part of the Berth, Marina or to any other property or vessels within the Marina and notify Marlborough Sounds Marinas as soon as practicable of any damage;

 - (f) not make any alterations or additions to the Berth;

 - (g) keep the hull of the Vessel clean and free of:
 - (i) all Designated Marine Pests;

 - (ii) any Conspicuous Bio-fouling; and

- (iii) any other biosecurity threats, including but not limited to Mediterranean fanworm and clubbed tunicate (styella clayva);
- (h) comply with the provisions of all statutes, regulations and by-laws relating to use of the Berth and the Marina and in respect of the Health and Safety at Work Act 2015 (HSWA):
 - (i) consult, co-operate and co-ordinate with Marlborough Sounds Marinas in relation to matters relating to the HSWA;
 - (ii) notify Marlborough Sounds Marinas of any significant risks and hazards at the Berth or Marina and where possible to do so, eliminate such risks or hazards; and
 - (iii) ensure any contractor invited into the Marina by the Licensee has successfully completed the Contractor Induction as set out on the Marlborough Sounds Marinas website from time to time.
- (i) immediately inform Marlborough Sounds Marinas of any changes to the Licensee's address or contact details;
- (j) ensure that any person under its control complies with these Terms and Conditions;
- (k) if connecting the Vessel to a shore power connection:
 - (i) hold, display and have provided evidence to Marlborough Sounds Marinas, of a current Electrical Warrant of Fitness (**EWO**F) issued in accordance with the Electricity Act 1992 before connecting to any shore power;
 - (ii) comply with any and all policies or directions issued by Marlborough Sounds Marinas from time to time in respect of shore power connections; and
 - (iii) immediately disconnect from shore power and advise the Marina manager in writing if the Vessel fails an EWO

where the Licensee fails to comply with this clause 5.1(k) Marlborough Sounds Marinas may disconnect the Vessel from shore power; and

- (l) ensure that the dimensions of the Vessel (including spars, bowsprits, anchors, davits and tenders or any other thing affixed to the Vessel) are true and correct and do not at any time exceed the dimensions of the Vessel specified by the licensee in the berth application process. The Licensee will immediately notify Marlborough Sounds Marinas in writing if any changes are made to the dimensions of the Vessel and failure to do so will be a material default under this Licence. Marlborough Sounds Marinas reserves the right to measure the Vessel to ensure compliance with this requirement and reserves the right to charge additional fees at a per metre rate determined by Marlborough Sounds Marinas for every metre of vessel longer than the assessed length of the Berth and if deemed necessary by Marlborough Sounds Marinas, remove such vessel from the Berth and relocate it to another berth. Failure by the Licensee to comply with this clause 5.1(l) will be a material breach of this Licence.

6. CHANGE OF VESSEL

- 6.1 The Licensee may make a request to occupy the Berth with a new vessel replacing the Vessel by providing advance written notice to Marlborough Sounds Marinas requesting its consent and providing all relevant information regarding the new vessel (including name, type of vessel, dimensions, colour and whether it is equipped with holding tanks).
- 6.2 The vessel described in clause 6.1 shall become the "Vessel" for the purposes of these Terms and Conditions upon written notice by Marlborough Sounds Marinas to the Licensee of Marlborough Sounds Marinas' consent, which shall not be unreasonably withheld or delayed, provided that:
 - (a) the dimensions of the new vessel do not exceed the Vessel dimensions specified in the initial berth application process and

- (b) Marlborough Sounds Marinas is satisfied that the new vessel is free of all Designated Marine Pests; and Conspicuous Bio-fouling.

7. RIGHTS OF MARLBOROUGH SOUNDS MARINAS

7.1 Marlborough Sounds Marinas may (or may direct a third party to):

- (a) enter on or into the Berth or Vessel (by force if necessary) to:
 - (i) secure the Berth or Vessel;
 - (ii) prevent injury or harm to any person or loss or damage to the Vessel or any other vessel or property in the Marina;
 - (iii) assess the condition of the Berth or the Vessel;
 - (iv) assess the nature of the Licensee's use of the Berth or Vessel; or
 - (v) undertake repairs, alterations or improvements to the Berth;
- (b) relocate the Vessel to another berth in the Marina or to a different marina for any reason deemed reasonably necessary by Marlborough Sounds Marinas including but not limited to:
 - (i) in the event of an emergency; or
 - (ii) so that Marlborough Sounds Marinas can undertake maintenance, repair or development work on or at the Berth or Marina; or
- (c) undertake repair work to:
 - (i) the Vessel (where deemed reasonably necessary by Marlborough Sounds Marinas); and
 - (ii) remedy damage to the Berth or Marina caused by the Vessel,

and recover the cost of such repair work from the Licensee, provided that the work undertaken shall be no more than is necessary in the circumstances.

7.2 Where Marlborough Sounds Marinas intends to exercise any of its rights pursuant to this clause 7, it will, where it is practicable to do so, use reasonable endeavours to give the Licensee prior notice of any relocation of or entry on or into the Vessel.

8. ASSIGNMENT

8.1 This Licence is personal to the Licensee and the Licensee shall not assign, sublet the Berth or otherwise part with its interest in this Licence without the express written consent of Marlborough Sounds Marinas, which may be withheld in its sole discretion and may be given subject to any conditions Marlborough Sounds Marinas considers appropriate, including the Licensee procuring from the assignee or sublessee its unconditional agreement to be bound by and comply with these Terms and Conditions.

8.2 Marlborough Sounds Marinas may at its discretion and without the consent of the Licensee, assign its interest in this Licence or otherwise transfer its interest in the Berth or the Marina.

9. EXPIRY AND TERMINATION

9.1 Termination by Marlborough Sounds Marinas

- (a) Where this Licence is a Casual Licence, Marlborough Sounds Marinas may at its discretion terminate this Licence immediately at any time by providing written notice to the Licensee, in which case this Licence will immediately terminate upon provision of the written termination notice.

- (b) Where this Licence is a Permanent Licence, Marlborough Sounds Marinas may terminate this Licence at any time by providing 40 Working Days' written notice to the Licensee, in which case this Licence will terminate on the date that is 40 Working Days after the date of the termination notice.
- (c) Without limiting clause 9.1(a), 9.1(b) or any rights or remedies available to Marlborough Sounds Marinas at law, where the Licensee is in material breach of the terms of this Licence, Marlborough Sounds Marinas may provide written notice to the Licensee requiring the Licensee to remedy that breach within five days after the notice (in respect of which time will be of the essence) and if the Licensee has failed to remedy that breach at the expiry that period that will be grounds for immediate termination.

9.2 Termination by Licensee:

- (a) Where this Licence is a Casual Licence, the Licensee may terminate this Licence at any time by providing five Working Days written notice to Marlborough Sounds Marinas, in which case this Licence will terminate on the date that is five Working Days after the date of the termination notice.
- (b) Where this Licence is a Permanent Licence, the Licensee may terminate this Licence at any time by providing 40 Working Days' written notice to Marlborough Sounds Marinas, in which case this Licence will terminate on the date that is 40 Working Days after the date of the termination notice.

9.3 Consequences of Expiry or Termination

On expiry or termination of this Licence:

- (a) the Licensee will no longer be entitled to use the Berth or enter the Marina and the Term of this Licence will absolutely cease but without releasing the Licensee from any liability for:
 - (i) any unpaid amount of the Fee or other money due up to the date of such expiry or termination
 - (ii) any prior breach by the Licensee of any of the Terms and Conditions of this Licence; or
 - (iii) any costs, losses or damage incurred by Marlborough Sounds Marinas in accordance with clauses 9.3(b) or 10.5 below;
- (b) the Licensee must immediately remove the Vessel from the Berth and the Marina. If the Vessel is not removed on the date of expiry or termination, the Fee shall apply until the Vessel is removed and the Licensee shall be responsible for any cost or expense incurred by Marlborough Sounds Marinas associated with the Licensee's delay, which may include costs, losses or damages incurred by Marlborough Sounds Marinas in removing the Vessel (or any other property of the Licensee) from Berth or the Marina and placing it in storage; and
- (c) provided that Licensee has not defaulted in the observance or performance of any of its obligations under this Licence, Marlborough Sounds Marinas will reimburse the Licensee for any part of the Fee which has been paid in advance for any period following termination.

10. SECURITY INTEREST

- 10.1 The Licensee grants Marlborough Sounds Marinas a security interest in respect of the Vessel or other property in the ownership or possession of the Licensee in or about the Berth and Marina for the purpose of recovering all moneys due whether on account of non-payment of fees, debt collection cost incurred by the Marlborough Sounds Marinas in respect of this Licence, non-payment of other moneys due to Marlborough Sounds Marinas, recompense for damage done or otherwise howsoever.
- 10.2 Marlborough Sounds Marinas may enforce the security interest, in accordance with Part 9 of the Personal Property Securities Act 1993 (**PPSA**) if, at any time, the Licensee defaults on its obligations to Marlborough Sounds Marinas under this Licence.
- 10.3 Marlborough Sounds Marinas may at any time register a financing statement on the Personal Property Securities Register in relation to the security interest described above. The proceeds of any enforcement action taken by Marlborough Sounds Marinas in respect of its security interest will be distributed in accordance with the PPSA.

- 10.4 The Licensee waives, to the maximum extent permitted by law, the right to receive notices or statements otherwise required to be issued under the PPSA.
- 10.5 In the event of the Licensee committing a default, and where the Licensee has failed to remedy the default in the period of time specified in any default notice, Marlborough Sounds Marinas may:
- (a) remove the Vessel and any other property from the Berth or Marina;
 - (b) retain the Vessel and other property until such time as all outstanding moneys payable to Marlborough Sounds Marinas by the Licensee have been paid in full; and
 - (c) dispose of the Vessel and any other property and distribute the proceeds of any sale in accordance with the PPSA,

on the basis that Marlborough Sounds Marinas shall act with all reasonable care but shall otherwise attract no liability in respect of exercising any of its rights pursuant to this clause 10. Any costs incurred by Marlborough Sounds Marinas in exercising any of its rights under this Licence shall also be a charge against the Vessel or other property and may be recovered in the same manner as if such costs were the Fee in arrears.

- 10.6 The Licensee will provide any additional information Marlborough Sounds Marinas may require from the Licensee in order to register a financing statement against the Vessel in accordance with this clause 10.

11. INSURANCE

- 11.1 Marlborough Sounds Marinas strongly recommends that the Licensee keeps and maintains comprehensive insurance cover for the Vessel for the duration of the Term, including cover for any loss or damage to third parties caused by the Vessel or the Licensee.

12. EXCLUSION OF LIABILITY

- 12.1 The Licensee will occupy and use the Berth and Marina at the Licensee's risk in all respects and the Licensee releases, to the full extent permitted by law, Marlborough Sounds Marinas from all claims, demands and liability which may arise in respect of any:
- (a) accident, damage or injury occurring to any person in or about the Marina; and
 - (b) loss of or damage to any property in or about the Marina, including but not limited to the Vessel.
- 12.2 The Licensee indemnifies Marlborough Sounds Marinas, to the full extent permitted by law, from and against all costs, losses, liability, damages and expenses incurred or sustained by Marlborough Sounds Marinas arising from or caused by the Licensee's (and persons under its control) occupation or use of the Berth and Marina. Without derogating from the generality of the foregoing, it is acknowledged by the Licensee that this indemnity extends to indemnify Marlborough Sounds Marinas from any liability or obligation that may be incurred by it as a result of any substance or pollutant entering the Marina by reason of any action or inaction on the part of the Licensee or persons under the Licensee's control.

13. DISPUTE RESOLUTION

- 13.1 In the event of any dispute arising in relation to this Licence the parties must endeavor to resolve the dispute between themselves. In the event that the parties cannot resolve the dispute between themselves, the dispute shall be determined by a single arbitrator to be agreed on by the parties or in default of agreement to be appointed by the District Law Society having jurisdiction in the District of Marlborough.

14. AUTHORITY

- 14.1 The Licensee and the person signing the Licence Agreement warrant to Marlborough Sounds Marinas that:
- (a) the person signing the Licence Agreement has the capacity or authorisation to bind the Licensee and the obligations under this Licence are valid and binding and enforceable against the Licensee;

- (b) no administrator, receiver or statutory or official manager has been appointed in respect of the Licensee and no application or process for the dissolution, winding-up, bankruptcy or appointment of an administrator, interim liquidator or liquidator has been made, or resolution passed, for the bankruptcy, administration, liquidation or dissolution of the Licensee; and
- (c) all information provided to Marlborough Sounds Marinas by the Licensee from time to time is true, complete and accurate in all respects.

15. NOTICES

- 15.1 Any notice to be given by either party under this Licence to the other shall be in writing and shall be emailed, delivered or posted to the address for notices specified in the Booking Confirmation or otherwise notified to Marlborough Sounds Marinas or the Licensee (as applicable) from time to time.
- 15.2 Any notice posted shall be deemed to be served:
- (a) in the case of delivery by person, when delivered to or left at the address of the recipient;
 - (b) in the case of email, on the date and time at which it enters the recipient's information system (as shown in a confirmation of delivery report from the sender's information system, which indicates that the email was sent to the email address of the recipient notified for the purposes of this clause); and
 - (c) in the case of mail, on the third Working Day after the date on which the notice is accepted for posting by the relevant postal authority.

16. PRIVACY

- 16.1 The Licensee authorises Marlborough Sounds Marinas to obtain and collect any relevant personal information about the Licensee from any person (including credit reference agencies) and to use this personal information and other any information about the Licensee already held by Marlborough Sounds Marinas for purposes associated with the performance of its obligations under this Licence. The Licensee has the right to access any personal information (within the meaning of the Privacy Act 2020) held by Marlborough Sounds Marinas and to request correction of any errors in that information.
- 16.2 In the event of default by the Licensee under these Terms and Conditions, the Licensee hereby authorises Marlborough Sounds Marinas to disclose personal information held by it relating to the Licensee to the membership of the New Zealand Marina Operators Association for the purposes of each member operating its marina in a safe, effective and commercially sustainable manner.

17. FORCE MAJEURE

- 17.1 Marlborough Sounds Marinas shall not be liable for any delay in performance or non-performance of its obligations under this Licence due to any event outside of the reasonable control of Marlborough Sounds Marinas (including, without limitation, pandemic, extreme weather, changes in applicable laws, or damage or destruction to any part of the Marina) (**Force Majeure Event**).
- 17.2 On the occurrence of a Force Majeure Event, Marlborough Sounds Marinas may, by written notice to the Licensee:
- (a) immediately suspend this Licence for a specified period of time which, in the opinion of Marlborough Sounds Marinas, is necessary to overcome or mitigate the effect of the Force Majeure Event on its ability to perform its obligations under this Licence; or
 - (b) where Marlborough Sounds Marinas considers in its sole discretion that it will no longer be able to perform its obligations under this Licence due to the Force Majeure Event, terminate this Licence immediately.

18. GUARANTEE

- 18.1 The Guarantor guarantees the payment of the Fee and the performance by the Licensee of all other covenants in these Terms and Conditions, and indemnifies Marlborough Sounds Marinas against any loss Marlborough Sounds Marinas might suffer should the Agreement be lawfully disclaimed or abandoned by any liquidator, receiver or other person.
- 18.2 The Guarantor covenants with the Marlborough Sounds Marinas that:
- (a) As between the Guarantor and Marlborough Sounds Marinas, the Guarantor may for all purposes be treated as the Licensee and Marlborough Sounds Marinas shall be under no obligation to take proceedings against the Licensee before taking proceedings against the Guarantor.
 - (b) The guarantee and indemnity in this clause 18 shall extend to any extended Term or any holding over by the Licensee in accordance with clause 3.5.
 - (c) The guarantee and indemnity in this clause 18 is for the benefit of and may be enforced by any person entitled for the time being to receive the Fee (including any assignee of Marlborough Sounds Marinas).
 - (d) The Guarantor's obligations are not released, reduced, or affected by any variation, addition or change to these Terms and Conditions in accordance with clause 1, whether or not such change is notified to the Guarantor.

19. GENERAL

- 19.1 This Licence may be executed on the basis of exchange of Booking Request and Booking Confirmation and the Licensee will be bound by these Terms and Conditions upon Marlborough Sounds Marinas providing notice to the Licensee with the Booking Confirmation.
- 19.2 This Licence is a contractual licence only, and nothing in this Licence gives the Licensee any estate, right or interests in the Berth or Marina.
- 19.3 The illegality, invalidity or unenforceability of a provision of this Licence under any law will not affect the legality, validity or enforceability of that provision under another law or the legality, validity or enforceability of another provision.
- 19.4 Any waiver or failure by Marlborough Sounds Marinas to enforce a provision of this Licence shall not in any way limit Marlborough Sounds Marinas' future right to enforce any provision of this Licence.
- 19.5 This Licence is governed by and must be construed in accordance with the laws of New Zealand. The parties submit to the non-exclusive jurisdiction of the courts of New Zealand in respect of all matters arising out of or relating to this Licence, its performance or subject matter.

20. DEFINITIONS

- (a) **Berth** means the berth licensed to the Licensee described in the Booking Confirmation.
- (b) **Booking Confirmation** means the booking confirmation or licence agreement particulars provided by Marlborough Sounds Marinas to the Licensee by email or in person at the Marina office in response to an approved Booking Request, which will confirm, as applicable, the grant of a Casual Licence or a Permanent Licence in accordance with such confirmation and these Terms and Conditions.
- (c) **Booking Request** means a written request submitted by the Licensee for either a Casual Licence or Permanent Licence (as specified by the Licensee in the request) for use of a berth at the Marina:
 - (i) through the Marlborough Sounds Marinas Website, by way of electronic acceptance by the Licensee of these Terms and Conditions; or
 - (ii) at the Marina office, by way of acceptance by the Licensee of these Terms and Conditions by signing a copy of Marlborough Sounds Marinas' berthage licence agreement.

- (d) **Cancellation Fee** means an amount equal to either:
 - (i) two weeks of the Fee; or
 - (ii) the total Fee for the Term,whichever is the lesser.
- (e) **Casual Licence** has the meaning set out in clause 2.1.
- (f) **Conspicuous Bio-fouling** means more than 16% of the hull surface below the waterline covered in macro-fouling organisms.
- (g) **End Date** applies only to Casual Licences and means the date set out in the Booking Confirmation as may be extended in accordance with clause 3.4.
- (h) **Designated Marine Pests** means any unwanted organism declared by the Ministry for Primary Industries or named in any Regional Pest Management Plan as set out in section 76 of the Biosecurity Act 1993.
- (i) **Fee** means the fee set out in the Booking Confirmation or notified to the Licensee by Marlborough Sounds Marinas in accordance with clause 4.8.
- (j) **Guarantor** means the person(s) stated as Guarantor in the Booking Confirmation.
- (k) **Licence** means this licence granted pursuant to these Terms and Conditions and the Booking Confirmation.
- (l) **Licensee** means the licensee of the Berth and, where applicable, includes any employees, contractors, agents or invitees of the Licensee and any other person under its control or for whom the Licensee is responsible.
- (m) **Marina** means the marina set out in the Booking Confirmation and as further described on the Marlborough Sounds Marinas website.
- (n) **Permanent Licence** has the meaning set out in clause 2.2.
- (o) **Permitted Use** means storage of the Vessel in accordance with these Terms and Conditions.
- (p) **Marlborough Sounds Marinas** means Port Marlborough New Zealand Limited, as licensor of the Berth.
- (q) **Start Date** means the date set out in the Booking Confirmation.
- (r) **Term** means the term of this Licence, as set out in clause 3.1.
- (s) **Terms and Conditions** means these terms and conditions of berthage licence, including as revised by Marlborough Sounds Marinas from time to time in accordance with clause 1.
- (t) **Vessel** means the Licensee's vessel, described and identified in the Booking Confirmation.
- (u) **Working Day** means any day of the week other than Saturday, Sunday or a statutory holiday observed in the district of Marlborough.