

**ANNUAL LICENCE FOR USE AND OCCUPATION
OF A NOMINATED VESSEL PARK**

**AT THE OUTBOARD BOATING CLUB OF AUCKLAND,
WHAKATAKATA BAY, AUCKLAND**

PREAMBLE:	Whereas the Licensor is the owner of certain land at Whakatakataka Bay, Auckland and whereas Licences in form similar hereto have been and will be granted to Licensee(s) for approved vessel parking purposes to full financial members of the Licensor
LICENSOR:	OUTBOARD BOATING CLUB OF AUCKLAND INCORPORATED
LICENSEE(S):	
PREMISES:	All that the approved vessel parking area to be nominated from time to time by the Licensor to the Licensee(s) situated on part of the land owned or leased by the Licensor being Lot 1 Deposited Plan 135204 Certificate of Title NA79D/175 (North Auckland Registry) and Lot 1 Deposited Plan 203310 Certificate of Title NA131D/818 (North Auckland Registry) and leasehold land leased from New Zealand Rail Limited.
TERM OF LICENCE:	The Licence shall be renewed annually on the 1 st day of June subject to the provisions of clauses 17 and 18 hereof.
USE OF PREMISES:	The Licensee(s) shall use the premises solely for the purpose of the parking of an approved vessel(s)
LICENCE FEE:	The Licensor shall determine and publish annually a schedule of Licence Fees based on Boat Length bands. (a) The applicable Licence Fee for each Licensee shall be the fee corresponding to the Boat Length of the nominated vessel at the commencement of, or renewal of, this Licence, as determined by the Licensor. (b) Licence Fees are payable in advance either: (i) Equal quarterly direct debit instalments due on 30 June, 1 September, 1 December, and 1 March; <i>OR</i> (ii) One annual payment due on 30 June. (c) Failure to pay any Licence Fee when due may result in suspension of access rights and/or termination of this Licence. (d) Failure to maintain an active direct debit authority, or cancellation of a direct debit authority without prior written approval of the Licensor, shall constitute a breach of this Licence. (e) Where any direct debit payment is dishonoured, declined, reversed, rejected or otherwise fails for any reason (other than an error caused by the Licensor or its bank), the Licensee(s) shall pay the Licensor a failed direct debit administration fee of NZ\$100.00 for each failed payment. This fee shall be payable immediately upon demand and may be added to the Licensee(s)'s account as a debt due under this Licence.
VALUE ADDED TAXES:	The Licensee(s) will pay all value added taxes (such as Goods and Services Tax) levied or charged to the Licensee(s) either in respect of the premises or in respect of any payments to be made by the Licensee(s) under the provisions of this Licence.
RIGHTS HEREBY GRANTED TO THE LICENSEE(S):	The right to park an approved vessel on the premises subject to the terms and conditions and agreements hereinafter appearing.

IN CONSIDERATION of the Licence fee hereinafter reserved and the agreements on the part of the Licensee(s) herein contained, the Licensor hereby grants to the Licensee(s) in respect of the premises the

rights more particularly above described. The Licensee(s) in consideration of the aforesaid grants of rights for its part hereby agrees with the Licensor well and faithfully to observe perform and keep all the agreements on the Licensee(s)'s part herein contained and in addition the reservations and restrictions more particularly set out below and which form part of this Agreement **AND HEREBY ACCEPTS** this grant of rights of Licence.

AGREEMENTS, RESERVATIONS AND RESTRICTIONS REFERRED TO IN AND FORMING PART OF THE ABOVE WRITTEN GRANT OF LICENCE THE LICENSEE(S) AGREES WITH THE LICENSOR AS FOLLOWS:-

1. That the Licensee(s) will maintain a full current financial membership in the Licensor during the term of this Licence. Where there is more than one Licensee, this Licence is conditional upon every Licensee remaining a full financial member of the Licensor. If any Licensee ceases to be a full financial member, the Licensor may require that person to cease being a Licensee or may terminate this Licence in accordance with its terms.
2. The Licensee(s) is/are the owner(s) of the nominated vessel and shall, during the term of this Licence, retain such ownership.
 - (a) If the Licensee(s) ceases to own the nominated vessel for any reason during the term of this Licence, this Licence shall automatically terminate, and the Licensee(s) shall immediately remove the vessel from the premises, unless otherwise agreed in writing by the Licensor.
 - (b) Where the Licensee(s) acquires a replacement vessel during the term of this Licence, the Licensee(s) may apply to the Licensor for consent to substitute the replacement vessel for the nominated approved vessel.
 - (c) Any substitution of nominated vessel is subject to the absolute discretion of the Licensor and, if approved, shall take effect only upon written confirmation by the Licensor and shall be conditional upon:
 - (i) Reassessment of the Licence Fee in accordance with the Boat Length of the replacement vessel;
 - (ii) Compliance with the Licensor's current policies, rules, and bylaws; and
 - (iii) Any conditions imposed by the Licensor, including relocation to a different hardstand area if required.
 - (iv) The Licensor is under no obligation to approve any substitution.
3. The Licensee(s) will during the term of this Licence:-
 - (a) Generally maintain and keep the approved vessel in a neat and tidy condition and in particular will ensure that all fitted covers are securely fastened.
 - (b) Ensure that the trailer is in good operational order and has at all times a current and valid vehicle registration and Warrant of Fitness as required by law;
 - (c) Ensure that the vessel has completed an OBC safety inspection recognised by the Licensor, where such inspection is required by the Licensor's rules or bylaws
 - (d) The Licensee(s) acknowledges and accepts that the allocation of the hardstand is solely for the purposes of recreational boating and that the allocated hardstand is not to be used in relation to any commercial enterprise or activity.

Failure to comply with this clause shall constitute a breach of this Licence and may result in suspension or termination.
4. **Launching Credits**

Unless the Licensor is satisfied that extraordinary circumstances exist the Licensee(s) must launch the vessel from the OBC ramps a minimum of ten occasions over the 52-week term of the License period to retain the allocated hardstand position. The following exceptions can apply:

 - (a) Should the Licensee(s) be allocated a hardstand position for a lesser period than the 52 weeks the number of required launches will be pro-rated by the Licensor.
 - (b) Should the Licensee(s) take their vessel offsite for a period of more than one month, launch credits towards the attainment of the ten launches can be given provided the Licensor is notified in writing beforehand by the Licensee. In this circumstance the Licensee(s) agrees that the vacated hardstand can be used by the Licensor at the Licensor's discretion.
 - (c) Launch credits can be applied at the discretion of the Licensor for other extraordinary circumstances as the licensor sees fit.
5. **Insurance**

- (a) The Licensee(s) shall at all times maintain insurance for the approved vessel and all associated equipment against loss or damage from fire, theft, accident, and all usual marine related and storage related risks.
 - (b) The Licensee(s) shall also maintain public liability insurance covering death or bodily injury to any person and loss of or damage to property arising out of or in connection with the use, launching, retrieval, parking, or presence of the vessel and trailer on or about the premises.
 - (c) The public liability cover shall be not less than NZD \$5,000,000 or such higher amount as the Licensor may notify from time to time.
 - (d) The Licensee(s) shall provide evidence of such insurance upon request by the Licensor.
6. The Licensee(s) covenants to abide by the rules and bylaws of the Licensor and any future rules or bylaws that the Licensor may implement at any time and from time to time.
7. The Licensee(s) will ensure that all activities concerning launching, retrieving and parking the vessel and trailer will be undertaken with safety in mind
8. To the extent permitted by law, the Licensor shall not be liable and accepts no responsibility for loss or damage to the vessel or trailer, any other property or persons using the same in or about the premises. The Licensee(s) in addition shall indemnify the Licensor against any loss, expense, legal liability, claims and costs incurred by the Licensor arising as a result of the Licensee(s)'s act or omissions or the acts or omissions of others in which the Licensee(s) has contributed or the acts or omissions of any person invited to the premises by the Licensee(s).
9. **Assignment and Subletting**
 - (a) The Licence is personal to the Licensee(s) and may not be transferred, assigned, sublet, licensed, or otherwise dealt with in any way without the prior written consent of the Licensor, which may be granted or withheld in the Licensor's absolute discretion.

The Licensor may, in its absolute discretion and on a case-by-case basis, approve a temporary subletting arrangement only where:

 - (i) the proposed substitute user is a current full financial member of the Licensor (or becomes a member prior to approval);
 - (ii) the Licensee(s) remains fully responsible for all obligations under this Licence during the period of any approved subletting;
 - (iii) the subletting is for recreational boating purposes only and does not involve any commercial use; and
 - (iv) any other conditions imposed by the Licensor are complied with.
 - (b) Any approved subletting shall be for a specified period only and may be revoked by the Licensor at any time on written notice.
 - (c) Any unauthorised subletting or use of the premises by a person other than the Licensee(s) or an approved substitute shall constitute a material breach of this Licence and may result in immediate termination under clause 11.
10. The Licensee(s) has the right to terminate this Licence in writing giving a minimum of the 30 days' notice and request a refund of the unused portion of the Licence fee provided that the Licensor has received the equivalent Licence fee in respect of that storage area from another Licensee(s).
11. The Licensee(s) acknowledges that the Licensor has the right to terminate this Licence with the Licensee(s) at any time without disclosing any reason whatsoever and on the expiry of that notice of termination of no less than 30 days the Licence shall forthwith cease and determine.
12. Notwithstanding clause 11, if the Licensee(s) is in arrears in the payment of any Licence fee or other monies payable under this Licence, the Licensor may terminate this Licence at any time by written notice to the Licensee(s), and such termination shall take effect on the date specified in that notice.
13. Upon the termination of the Licence pursuant to clauses 10 and 11 hereof the Licensee(s) shall forthwith remove the vessel and trailer from the premises and the Licensor's immediately.
14. In the event that this Licence is terminated and the Licensee(s) fails to remove the vessel and trailer from the premises as required by this Licence then the Licensee(s) does hereby nominate constitute and appoint the Commodore or General Manager for the time being of the Licensor the Licensee(s)'s true and lawful attorney to remove the trailer boat and trailer from the premises and the Licensor's land and to arrange storage elsewhere in the name of the Licensee(s) and the Licensee(s) does hereby

agree and covenant to ratify and confirm all the Licensor's actions and contracts completed in that regard.

15. The Licensee(s) acknowledges and agrees that the allocation of any hardstand or parking location is entirely at the discretion of the Licensor. The Licensor may, at any time and for any reason, allocate, reallocate, relocate or require the relocation of the Licensee(s)'s vessel and trailer to any other position within the Licensor's premises. The Licensee(s) shall have no right to any particular parking space or location on the premises, and the Licensor shall not be required to provide prior notice of any such allocation or relocation.
16. Wherever in this Licence the Licensor is required to give notice or communicate with the Licensee(s), such notice or communication shall be given primarily by email to the most recent email address recorded by the Licensor for the Licensee(s)
 - (a) Communication shall be deemed to have been received on the day it is transmitted, provided it is sent before 5.00 pm on a Business Day, or otherwise on the next Business Day.
 - (b) The Licensee(s) shall ensure that the Licensor is promptly notified of any change to their email address or other contact details.
 - (c) If the Licensee(s) cannot provide a valid email address, or if the Licensor reasonably considers that email communication is not practicable, notice or communication may instead be given in writing by post to the Licensee(s)'s last recorded postal address and shall be deemed to have been received two (2) Business Days after the date of posting.
17. Where there is more than one Licensee, each Licensee is jointly and severally liable for all Licence Fees, other monies payable under this Licence, compliance with the terms and conditions of this Licence, and the obligation to maintain full financial membership of the Licensor throughout the term of this Licence.

RENEWAL AND VARIATION OF LICENCE

18. Variation of Licence

The Licensor may amend, vary or replace the terms and conditions of this Licence from time to time where it considers it necessary for the efficient management, operation, safety or administration of the trailer boat park or to comply with any legal or regulatory requirement.

- (a) The Licensor shall notify the Licensee(s) of any variation by email to the Licensee(s)'s last recorded email address not less than 30 days before the variation takes effect, unless the variation is required immediately to address safety, legal or operational requirements.
- (b) If a Licensee(s) does not wish to accept a material variation to this Licence, the Licensee(s) may terminate this Licence by giving written notice to the Licensor before the variation takes effect. In that event, the Licensor shall refund the unused portion of the Licence Fee on a pro rata basis, and the Licensee(s) shall remove the trailer boat and trailer from the premises within fourteen (14) days of the termination taking effect.
- (c) Continued use of the premises after the effective date of any variation constitutes acceptance of the varied terms and conditions.

19. Renewal of Licence

The Licence may be renewed annually at the sole discretion of the Licensor, provided that the Licensee(s):

- (a) has achieved the required number of launches set out in clause 4(c) over the previous full term of the Licence, or the equivalent pro-rated number where applicable;
- (b) is not in arrears in the payment of any Licence Fee or any other monies payable under this Licence at the end of the previous term;
- (c) has complied with all terms and conditions of this Licence, the Licensor's Rules and Bylaws, and any policies in force from time to time;
- (d) remains a full financial member of the Licensor and, where there is more than one Licensee, each Licensee remains a full financial member of the Licensor; and
- (e) continues to meet any eligibility criteria or operational requirements determined by the Licensor from time to time.

For the avoidance of doubt, satisfaction of the above conditions does not create any entitlement to renewal, and the Licensor reserves the right, in its absolute discretion, to decline to renew this Licence.