

MARINE CRAFT BERTHING, STORAGE AND MOORING AGREEMENT

SAVAGES WHARF PTY LTD

2017/18

ABN: 17 633 627 828

AGREEMENT

Agreement No. SW

Between.....(Licensee).
of.....
Telephone (H).....(B).....(M).....
(Email).....

AND **SAVAGES WHARF PTY LTD.** (Licensor) of **158 - 170 NELSON PLACE, WILLIAMSTOWN. VIC. 3016.** ABN: 17 633 627 828
Telephone (03) 9397-6513 Email: info@savageswharf.com.au

To supply Marina Berth

LICENSEE'S MARINE CRAFT ("the craft")

Registration Number:.....Name of the Craft:.....
Type:.....Model:.....
Year:.....Manufacturer:.....

Inboard / Outboard / Stern Drive / Sail Drive / Single / Twin / Petrol / Diesel / Fibreglass / Aluminium / Steel / Wood. Please circle.

Centreline Length (include all appendages)m. Max Beam.....m. Draft:.....m.

Insurance Company:.....Policy No:.....Expiry Date:.....

SECURITY DEPOSIT

On the signing of this Agreement the Licensee shall pay to the Licensor or its authorised agent the sum of **\$500.00** as a security deposit which shall be refunded to the Licensee on the termination of this Agreement subject to the right of the Licensor to deduct from the security deposit any amounts whatever that are due and payable by the Licensee to the Licensor under this Agreement.

LICENCE FEE and SERVICE FEE

The Licensee shall pay to the Licensor a License Fee of \$..... Which Includes a 11% Service Fee.

Payable: Quarterly, Annually, in advance or as the licensor may direct in writing.

All Licence Fees shall be paid by way of credit card, or direct deposit via EFT.

A copy of your credit card with security number shall be kept on file for use to pay for marina and servicing fees when they fall due.

By signing this document you give us the authority to use your credit card for payment of marina and service fees only.

All fees and payments are inclusive of GST and are subject to change without notice. Pricing is reviewed annually.

LICENCE TERM

The Licence Term shall be: Quarterly, Annually, or Casual. Commencing on/...../20....

In the case of early departure or termination there will be no refunds available.

LICENSEE'S ACKNOWLEDGEMENT

I, the Licensee acknowledge that I have received a copy of this Agreement signed by me and certify that I have carefully read the Agreement including the Conditions printed on page two (2) of this Agreement and agree that the Conditions form part of the Agreement. I am over the age of eighteen (18) years of age.

Dated this.....day of20.....

Signature of Licensee.....

CONDITIONS**1. INTERPRETATION**

In this Agreement:

- (a) words importing the singular number include the plural and vice versa and words denoting a gender include all other genders;
- (b) the word person includes a firm, a body corporate, an unincorporated association and an authority;
- (c) headings are for convenience only and do not affect interpretation; and
- (d) references to any party to this Agreement shall include that party's executors, administrators and permitted assignees.

2. LICENCE TO USE AND OCCUPY THE LICENSOR'S MARINA FACILITIES ("the facilities")

The Licensor grants to the Licensee a personal non-exclusive right to use and occupy the Facilities to: berth the craft.

3. OBLIGATIONS OF LICENSEE

The Licensee agrees that

- (a) it shall operate, maintain and store the vessel and its equipment with due care and diligence;
- (b) it shall at the Licensee's own expense keep and maintain the vessel and its equipment including but not limited to the ropes, lines, chains and tackle of, on or attached to the vessel (which ropes, lines, chains and tackle shall remain the property of the licensee) in good condition and proper working order and condition and in good and substantial repair;
it shall be responsible for all damage to the Property, or to persons using the Property arising from any act, omission, neglect or default by the Licensee or its employees, agents, contractors or invitees;
- (c) it shall indemnify and keep indemnified the Licensor from and against all actions, claims, demands, losses, costs and expenses for which the Licensor shall or may become liable in respect of or arising from loss, damage or injury to any person or property arising out of the use of the Facility or any, omission, neglect, breach or default by the Licensee or its employees, agents, contractors or invitees;
- (d) it shall comply with the rules and regulations by the Licensor from time to time with respect to the management of the Property, including any amendments made thereto by the Licensor from time to time;
- (e) it shall use the Facility solely for the use and enjoyment of the Craft;
- (f) it shall not assign, sub-license or part with possession of the Facilities;
- (g) during the term of this Agreement and while the craft is berthed at the Facilities, it shall not sell or attempt to sell the Craft or advertise the Craft for sale without the prior written consent of the Licensor or its authorised agent;
during the term of this Agreement and while the Craft is berthed at the facilities, it shall not carry out or have carried out repairs and/or maintenance on the Craft.
- (h) the Licensee shall note that all forms of pollution are prohibited. Any person or Licensee contravening this legislation leaves themselves open to action by the EPA and/or Parks Victoria.
- (i) it shall take out and maintain proper and adequate insurance including public liability insurance in respect of the Craft and its fittings and contents;
- (j) it shall promptly comply with the requirements of all statutes, regulations and by-laws relating to the use and occupation of the Property. Without limiting the generality of the foregoing, the Licensee shall comply with and shall cause all of its employees, agents, contractors and invitees to comply with the provisions of any legislation and regulations made thereunder relating to pollution affecting any part of the environment and however caused. The Licensee shall indemnify and keep indemnified the Licensor from and against all actions, claims, demands, losses, damages, costs and expenses for which the Licensor shall or may become liable in respect of or arising from any act, omission, breach or default by the Licensee, its employees, agents, contractors, or invitees under this clause.

4. LIABILITY OF LICENSOR

The Licensee agrees and acknowledges that the Licensor shall not be liable for the care and protection of the Craft or its fittings and contents and contents and shall not be liable for any loss or damage (including consequential loss or damage) however caused which maybe suffered or incurred or which may arise directly or indirectly by or in respect of the Craft or its fittings or contents. To the full extent permitted by law, all implied terms and conditions are hereby excluded. Where an implied term cannot be excluded, the liability of the Licensor is limited (to the extent permitted by law) to the re supply of the affected goods or services or the cost of re supply of those goods or services.

5. EMERGENCY PROCEDURES

The Licensee agrees and acknowledges that the Licensor may in the event of any emergency and at its sole discretion move the Craft at the risk and expense of the Licensee.

6. LIEN

The Licensor shall have a lien on the Craft, its fittings and contents for the payment of all moneys due to the Licensor under this Agreement. The Licensee authorizes the Licensor to take possession of the Craft, its fittings and contents on default in payment of an account and authorises the Licensor to sell the Craft, its fittings and contents if the account remains unpaid for 21 days after demand for payment has been made in writing by the Licensor to the Licensee.

7. TERMINATION

- (a) Either party may terminate this Agreement after the expiration of the Licence Term by not less than one month's prior written notice expiring at the end of that period or at any time thereafter. Notice of Termination from the Licensee shall be accompanied by payment of all fees and other amounts payable by the Licensee.
- (b) The Licensor may immediately terminate this Agreement by written notice to the Licensee:
 - (i) if the Licensee is in breach of any of the provisions of this Agreement or the Rules and Regulation;
 - (ii) if in the opinion of the Licensor any of the Facilities become unserviceable; or
 - (iii) if in the opinion of the Licensor any conduct by the Licensee or its employees, agents, contractors, or invitees is prejudiced to the interests of the Property or of the Licensor.
- (c) either party may immediately terminate this Agreement by written notice to the other party if:
 - (i) a receiver, liquidator, trustee in bankruptcy or official manager or administrator of the other party or any of its business or property is appointed;
 - (ii) the other party enters into any dissolution or liquidation proceedings or any event equivalent.

8. LICENSEE NOT TO BE A TENANT

Nothing in this Agreement shall confer on the Licensee any right as a tenant of the Property or any part, nor create the relationship of landlord and tenant.

9. RULES AND REGULATIONS

The Licensor reserves the right to amend or cancel the Rules and Regulations or any of them if the Licensor considers that those amendments or their cancellation is necessary for the proper management safety; care or cleanliness of the Property or for the preservation of good order in and all amendments and cancellations shall bind the Licensee when notice of them has been given to the Licensee in writing by the Licensor. The Licensor shall not be liable for any non-enforcement of any Rule or Regulation.

10. AUTHORITY

The Licensee certifies that the legal and beneficial owner or duly authorised agent of the owner of the Craft and that it will be personally liable for all fees, accounts, costs, claims or liabilities of whatever nature arising out of this Agreement. The Licensee undertakes to pay all such moneys on demand.

11. LICENSEE'S RELIANCE ON OWN JUDGEMENT

The Licensee acknowledges and warrants that it has examined the Facilities and relies on its own judgment in accepting the use of the Facilities.

12. NOTICES

Any notice to be served under this Agreement shall be duly served if delivered personally to the other party or sent through the post in a prepaid envelope addressed to the party at its address set out in this Agreement or any other address notified by one party to the other in writing as being its address for service of notice and any notice sent through the post shall be deemed to have been duly served at the time when such letter would in the ordinary course or the post be delivered. The Licensee agrees to notify the Licensor of change of address and contact details within 14 days.

13. WHOLE AGREEMENT

This Agreement constitutes the whole Agreement between the Licensor and the Licensee in relation to its subject matter and the Licensee warrants that it has not relied upon any statement, representation or warranty made by the Licensor or its servants or agents which is not expressed in this Agreement.

14. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of Victoria and the parties agree to submit to the jurisdiction of the courts of Victoria.