

## DRystack SCHEDULE

### OWNER DETAILS

Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Mobile \_\_\_\_\_  
 Home \_\_\_\_\_  
 Business \_\_\_\_\_  
 Email \_\_\_\_\_  
 Password \_\_\_\_\_

### VESSEL DETAILS

Vessel Name \_\_\_\_\_  
 Length<sup>1</sup> (overall) \_\_\_\_\_  
 Beam \_\_\_\_\_  
 Height \_\_\_\_\_  
 Design \_\_\_\_\_  
 Model \_\_\_\_\_  
 Insurer \_\_\_\_\_  
 Insurance Expiry \_\_\_\_\_  
 Engine # \_\_\_\_\_  
 Engine Make & HP \_\_\_\_\_

Monthly Rate \_\_\_\_\_ Including GST (to be paid monthly in advance)

Commencement Date \_\_\_\_\_ Initial Term 12 months (unless extended under clause 4.2)

GHIL is the owner of the Drystack. In consideration of the Licensee paying to GHIL the Monthly Drystack Rate, GHIL agrees to grant to the Licensee a license to store the Vessel in the Drystack on the terms and conditions set out in this License.

A copy of the current insurance certificate for the Vessel to which this License relates has been provided to the Licensee with this License along with a completed authority for direct debit for payment of the monthly Drystack rate.

\_\_\_\_\_  
 Signed (for and on behalf of the Owner)

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Signed (for and on behalf of Gulf Harbour Investments Ltd)

\_\_\_\_\_  
 Date

<sup>1</sup> Length includes the full length of the vessel plus any attachments such as outboard motor.

## TERMS & CONDITIONS GULF HARBOUR DRYSTACK

### 1. LICENCE

1.1 GHIL grants to the Licensee a non-exclusive licence only to store the Vessel in a Drystack (from time to time assigned by GHIL at the Drystack) (**Drystack**) which the Licensee acknowledges is not to the exclusion of GHIL or anyone acting through GHIL. This Licence is personal to the Licensee.

1.2 Nothing in this Licence creates any leasehold estate or interest in the Drystack or any other buildings or any of the land on which the Drystack and such buildings are erected. The parties expressly agree that none of the provisions of the Property Law Act 2007 or any other Act or Regulation (so far as they apply to leases) shall apply to this Licence and the rights and obligations of the parties are entirely set out in this Licence.

### 2. RECREATIONAL VESSELS ONLY

2.1 The Licensee shall use the Drystack only for storing the Vessel whilst the Vessel is used for recreational boating purposes. The Drystack shall not be used to store commercial fishing Vessels, Vessels carrying passengers for hire, work Vessels, commercial freight carriers or for any other commercial or industrial purpose unless otherwise authorized in writing by GHIL.

### 3. VESSEL

3.1 The parties agree that this Licence relates only to the Vessel as specified on the front page and shall not include any other equipment or gear related to or in any other way used in connection with the Vessel. GHIL shall not be responsible or held liable in any way for any equipment or other personal property left aboard the Vessel.

### 4. TERM

4.1 This Licence commences on the Commencement Date and will continue for 12 months ("**Initial Term**").

4.2 If the Licensee continues to store the Vessel in the Drystack after the expiry of the Initial Term, the Licensee is deemed to have agreed to enter into a further 12 month licence on the same terms and conditions specified in this Licence ("**Extended Term**"). This clause 4.2 shall not be included in the Extended Term.

4.3 The Extended Term will expire on the date that is 24 months from the Commencement Date.

4.4 The Licensee may terminate this Licence prior to the expiry of the Initial Term or the Extended Term by giving GHIL at least one month's prior written notice of termination.

4.5 Monthly Term Licences may be offered by GHIL on availability, these licences will be subject to a setup fee.

### 5. LICENCE FEES AND OTHER PAYMENTS

5.1 In consideration of GHIL granting the Licensee a licence to store the Vessel in the Drystack, the Licensee will pay the Monthly Drystack Rate to GHIL.

5.2 The Licensee will pay the Monthly Drystack Rate to GHIL as follows:

5.2.1 The first Monthly Drystack Rate payment will be paid on the Commencement Date; and

5.2.2 All remaining Monthly Drystack Rate payments will be paid on the first day of each month until the expiry of this Licence.

5.3 The Licensee will pay the Monthly Drystack Rate to GHIL by credit card or by direct debit to GHIL's nominated bank account.

5.4 If the Commencement Date is not the first day of the month, then the first payment shall be a pro rata payment for the broken period to the end of the month and the last payment shall be a pro rata payment for

the broken period from the first day of the month to the expiry of the Initial Term or Extended Term.

5.5 Subject to clause 5.6:

5.5.1 The Monthly Drystack Rate specified on this license will apply for the duration of the Initial Term; and

5.5.2 The Monthly Drystack Rate applicable for any Extended Term will be the current Monthly Drystack Rate as at the date of commencement of the Extended Term.

5.6 GHIL may review the Monthly Drystack Rate from time to time. GHIL will give the Licensee not less than two months' prior written notice of any change to the Monthly Drystack Rate. *Rate changes are not applicable for fixed term contracts.*

5.7 Where the Licensee terminates this Licence prior to the expiry of the Initial Term or Extended Term under clause 4.4, the Licensee will pay to GHIL an early termination fee amounting to one Monthly Drystack Rate payment plus 20% of the Monthly Drystack Rate for every month remaining on the Initial Term or Extended Term (as the case may be).

### 6. DEFAULT INTEREST

6.1 If any monies due under this Licence remain unpaid for 7 days following the due date (whether or not demand has been made) the Licensee will pay default interest calculated daily and compounding monthly from the due date until the date of payment, at the rate of 2% per month.

### 7. OTHER MONEY OWING

7.1 The Licensee agrees to pay GHIL any monies invoiced by GHIL for other goods and services provided by GHIL to the Licensee, within seven days of the date of such invoice.

### 8. ASSIGNMENT

8.1 The Licensee shall not transfer, assign, or otherwise dispose of any interest under this Licence without first obtaining the prior written consent of GHIL, which shall not be unreasonably withheld. As a condition precedent to such consent, GHIL may require the Licensee to satisfy GHIL in its sole discretion as to the following:

8.1.1 That the proposed transferee or assignee is responsible and of sound financial standing;

8.1.2 All fees and other monies payable by the Licensee under this Licence have been fully paid to the date of the proposed transfer or assignment;

8.1.3 There is no existing or likely breach of any of the terms of this Licence;

8.1.4 The Licensee procures the proposed transferee or assignee to execute a licence in the form currently used by GHIL for storing vessels in the Drystack.

8.1.5 All costs incurred by GHIL in relation to the proposed transfer or assignment (whether or not the proposed transfer or assignment proceeds) are paid by the Licensee;

8.1.6 If any proposed transferee or assignee is a company, the shareholders and/or directors of such company enter into a Deed guaranteeing the performance by that company of the terms of the proposed licence, such guarantee to be in a form acceptable to GHIL.

8.2 For the purposes of the preceding clause, any change in the shareholding or control of the Licensee (as defined in Section 7 of the Companies Act 1993) will be deemed to be an assignment of this Licence, and will require the consent of GHIL in accordance with the preceding clause.

### 9. LAUNCH AND RETRIEVAL OF VESSEL

9.1 GHIL agrees to provide the following services:

9.1.1 Lifting the Vessel in and out of the water. GHIL will not lift into the water any vessel that requiring registration to operate fails to display one.

9.1.2 Washing down the hull of the Vessel when it has been lifted from the water; and

9.1.3 Placing the Vessel on work cradles when required (**Services**).

9.2 The cost of *these services* is included in the Monthly Drystack Rate.

9.3 The Services shall otherwise be carried out in accordance with the Operating Rules annexed to this Licence as Schedule 1.

9.4 If any equipment or machinery used by GHIL to provide the Services (**Equipment**) to the Licensee fails such that GHIL is unable to

provide the Services to the Licensee, then GHIL shall use all reasonable endeavours to ensure that the relevant item of Equipment is in proper working order as soon as possible.

9.5 In the event of a failure of the Equipment the Licensee:

9.5.1 shall continue to pay to GHIL the Monthly Drystack Rate notwithstanding the failure of the Equipment; and

9.5.2 will not be entitled to a refund of the Monthly Drystack Rate for the period in which the Equipment is out of order until such time as the equipment is fixed.

9.5.3 GHIL at its sole discretion may choose to offer a credit to the licensee subject to the circumstances of the failure.

## **10. MAINTENANCE OF VESSEL**

10.1 The Licensee shall maintain the Vessel in good condition and repair and take such other steps so as to prevent the Vessel from becoming a nuisance or causing annoyance to GHIL, the other users of the Drystack, or causing damage to the Drystack, other facilities in the immediate vicinity of the Drystack, or the property of the other users of the Drystack.

## **11. INSPECTION OF VESSEL**

11.1 GHIL will have the right to inspect the Vessel and to specify any work which GHIL considers necessary to bring the Vessel into good order, condition, and repair; in accordance with the preceding clause. If any work specified by GHIL is not completed within 14 days, GHIL may itself carry out such work at the cost of the Licensee and the Licensee will reimburse GHIL upon demand.

## **12. EMERGENCY**

12.1 The Licensee agrees that in the event of any emergency, GHIL is authorised to take whatever action necessary to protect the Vessel and the Drystack, provided that GHIL at all times will act in good faith in taking such action. The Licensee agrees to reimburse GHIL for any costs incurred by GHIL in taking any such action required by this clause upon demand.

## **13. KEEP AREA CLEAN**

13.1 The Licensee shall at its expense, keep the Drystack where its Vessel is stored and the area surrounding the Drystack clean and free from any rubbish.

## **14. NO DAMAGE**

14.1 The Licensee shall not injure, cut or maim any part of the Drystack, or make or permit to be made, any alterations to the Drystack, nor install or place any equipment, fitting, fixture or machinery to the Drystack without the prior written consent of GHIL.

## **15. COMPLIANCE WITH RULES AND NOTICES**

15.1 The Licensee will at all times comply with all statutes, ordinances, regulations, by-laws, orders, proclamations, and other enactments or rules affecting or relating to the use of the Drystack or the Vessel being stored in the Drystack or otherwise relating to this Licence and with all requirements which may be made, or notices or orders which may be given by any competent authority (including, but not limited to GHIL), and will keep GHIL indemnified in respect of any noncompliance therewith whether such noncompliance was by the Licensee, its employees, agents, contractors, clients, customers or visitors.

## **16. RULES & REGULATIONS**

16.1 The Licensee shall comply with all by-laws from time to time applicable thereto, and shall also comply with any special instructions from time to time issued by GHIL or any of its agents for the efficient, safe and harmonious use of the Drystack and Marina, and any of its facilities, by any persons entitled thereto. Without limitation to the provisions of clauses 1.1 and 15, the Licensee shall comply with the following Marina rules.

16.2 The Licensee shall not pollute or permit the pollution of the Marina or discharge into the Marina or its waters any poisonous, noxious, dangerous or offensive substance or thing.

16.3 Without prejudice to the generality of the preceding provision, the Licensee shall not discharge any sewage or otherwise empty any latrines into the Marina waters, or otherwise dispose of any garbage, oil, fuel or other material whatsoever in the Marina, except into containers which may be provided by GHIL. The failure of GHIL to provide containers shall not derogate from the Licensee's obligations under this provision.

16.4 The Licensee shall not, without the consent of GHIL, or in contravention of any statute, order-in-Council, regulations or rule, or any local or territorial authority by-law or restriction, live on board any Vessel at the Berth or permit anyone else to do so. For the purposes of this clause

the expression "living on board" shall mean sleeping overnight on the Vessel for two consecutive nights or more.

16.5 The Licensee shall not permit or suffer any dog belonging to the Licensee or in the Licensee's charge to enter or remain in the Marina, or land adjacent thereto under the control of GHIL, unless such dog is led by a chain, strap or other efficient restraint.

16.6 The Licensee shall not permit or allow any children for whom the Licensee is responsible, being children under the age of 12 years, to enter into the Marina unless accompanied by an adult.

16.7 The Licensee shall not engage in any swimming, diving or underwater activities within the Marina. The licensee shall observe all international maritime rules when navigating in and out of the Marina.

16.8 The Licensee shall not within the Marina moor, sail or manoeuvre any Vessel so as to create a danger, impediment, obstacle or inconvenience to other Marina users.

16.9 The Licensee shall not permit or allow any property, gear or equipment under the control or direction of the Licensee to be stored on the Marina, including the walkways, fingers or foreshore thereof, without the express permission of GHIL.

16.10 The Licensee shall not consume alcoholic beverages within the Marina except on private vessels, or on licensed premises, or other premises where consumption of alcoholic beverages is not prohibited by law.

16.11 The Licensee shall not use firefighting equipment supplied by GHIL for any purpose other than the fighting of fires.

16.12 The Licensee shall not store motor spirit, petroleum, petroleum products, fuel, oil, liquefied petroleum gas, compressed natural gas, kerosene or goods of a similarly dangerous or similarly inflammable nature on any Marina structure or area under the control of GHIL without the prior approval of GHIL

16.13 The Licensee shall not bring within the Marina any motor spirit, petroleum products, fuel, oil, liquefied petroleum gas, compressed natural gas, kerosene or goods of a similarly dangerous or similarly inflammable character without the permission of GHIL, provided that nothing in this subclause shall prevent the Licensee from carrying small quantities of fuel, in safe containers, in quantities reasonably required for outboard engines or stoves.

16.14 The Licensee shall not carry out any refuelling of any Vessel within the Marina, other than at the fuel jetty from GHIL's pumps, unless otherwise directed by GHIL.

## **17. LICENSEE**

17.1 The Licensee, and all persons accompanying or under the control of the Licensee, shall at all times observe and perform the operating procedures and rules of the Drystack annexed to this Licence as Schedule 1 (**Operating Rules**). GHIL may from time to time amend or vary any of the procedures and rules in the Operating Rules at its sole discretion. The Operating Rules (including any amendment or variation thereto) are deemed to be incorporated into and forming part of this Licence as if repeated in full herein.

## **18. RISK**

18.1 The Licensee agrees to use the Drystack and all associated facilities at the Licensee's own risk, and releases to the fullest extent permitted by law, GHIL and the Lessor together with their servants and agents from all claims and demands of any kind and from all liability which may arise in respect of any accident, damage or injury occurring to any person; a Vessel or any property in and about the Drystack.

## **19. INDEMNITY GHIL**

19.1 The Licensee will indemnify and hold harmless GHIL and the Lessor (to the extent that GHIL or the Lessor are not insured, or if insured, to the extent that such insurance is vitiated by any act, neglect or omission of the Licensee or any person under the control of the Licensee) from and against all action, claims, demands, losses, costs, damages and expenses for which GHIL or the Lessor shall or may become liable in respect of:

19.1.1 Any breach of this Licence or the Operating Rules;

19.1.2 Any loss, damage or injury, caused by any act or omission of the Licensee or any person under its control.

## **20. INSURANCE**

20.1 The Licensee shall at all times keep the Vessel and its contents fully insured against loss or damage by fire, explosion, storm, earthquake, accidental damage, burglary, act of god and all other usual maritime risks.

## **21. DESTRUCTION**

21.1 If the Drystack is either partially destroyed or damaged, or totally destroyed, so as to render the Drystack substantially unfit for use,

then this Licence shall absolutely cease and terminate as from the date of such destruction or damage, but without releasing the Licensee from liability for the Monthly Drystack Rates and other money payable under this Licence for the period up to such date of termination.

## **22. USE**

22.1 The Licensee shall not use the Drystack for any purpose other than for the purpose of storing the Vessel.

## **23. NO WARRANTY**

23.1 GHIL makes no warranties or representations under this Licence other than those expressly set out in the Licence. The Licensee acknowledges that it has examined the Drystack prior to the execution of this Licence and acknowledges that the Drystack is in a satisfactory condition at the time the Licensee entered into this Licence. GHIL does not make any warranty that the Drystack assigned to the Licensee is or will remain suitable or adequate for any of the purposes of the Licensee and to the fullest extent permitted by law, all such warranties as to suitability or adequacy are expressly excluded.

## **24. TERMINATION**

24.1 If at any time;

24.1.1 Any monies payable by the Licensee are in arrears for a period of 14 days or more following the due date; or

24.1.2 The Licensee is in default of any condition, covenant or term of this Licence; or

24.1.3 Execution is levied against any of the assets of the Licensee; or

24.1.4 The Licensee (not being a company) is declared bankrupt or becomes insolvent or assigns or otherwise enters into a scheme of arrangement for the benefit of its creditors; or

24.1.5 The Licensee (being a company) goes into liquidation, is struck off the register of companies, enters into a scheme of arrangement with its creditors, or a receiver or manager of any of its assets is appointed or is unable to pay its debts as they fall due (as defined in the Companies Act 1993) or amalgamates with any other person or entity; then the GHIL may (without prejudice to any of its other rights or remedies) do any one or more of the following:

24.2 Terminate this Licence;

24.3 Require the Licensee to immediately remove its Vessel and other property from the Drystack;

24.4 Remove the Vessel and all of the Licensees' goods, fittings and fixtures from the Drystack;

24.5 Store the Licensee's Vessel and other property in alternative storage for which the Licensee shall be liable for the cost of storage and the transportation costs;

24.6 Seize the Vessel and a general lien shall attach over it and all other property for all monies owing under this Licence in each case without releasing the Licensee from any liability in respect of any breach or non-observance of this Licence.

## **25. TAXES ETC**

25.1 The Licensee shall pay, when they become due, any and all taxes, licenses, assessments, duties, imports and charges whatsoever, which may be levied to or otherwise imposed during this Licence by any Government or lawful authority whatsoever by reason of this Licence, including, without limitation, the obligation of the Licensee to pay goods and services tax, chargeable on any taxable supply by GHIL under this Licence.

## **26. COSTS**

26.1 The Licensee shall pay all costs, charges and expenses to which GHIL may become liable in connection with any breach or default by the Licensee in the performance of any of the terms, conditions or covenants of this Licence.

## **27. ASSIGNMENT BY GHIL**

27.1 GHIL may assign or otherwise transfer this Licence to any person without the consent of the Licensee

## **28. FORCE MAJEURE**

28.1 GHIL will not be liable for failure or delay to perform obligations under this Agreement, which have become practicably impossible because of circumstances beyond the reasonable control of the applicable party. Such circumstances include without limitation natural disasters or acts of God; acts of terrorism; labour disputes or stoppages; war; government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies; or any other cause, whether similar in kind to the foregoing or otherwise, beyond GHIL's reasonable control. Written notice of GHIL's failure or delay in performance due to force majeure must be given to the Licensee no later than five (5) business days following the force majeure event commencing, which notice shall describe the force majeure event and the actions taken to minimize the impact thereof. GHIL hereby agree, when feasible, not to cancel but reschedule the pertinent obligations for as soon as practicable after the force majeure condition ceases to exist.

## **29. DEFINITIONS**

29.1 In this Licence, unless the context otherwise requires:

29.1.1 **Drystack** is the Drystack facility situated at 895 Laurie Southwick Parade, Gulf Harbour, Whangaparaoa.

29.1.2 **GHIL** means Gulf Harbour Investments Limited and includes all its successors and assigns.

29.1.3 **Lessor** means any person who owns the freehold or leasehold of the land upon which the Drystack is situated or its successors or assigns and through whom GHIL derives its right to occupy the Drystack.

29.2 **Licence** means this licence as it may be amended from time to time.

29.2.1 **Licensee, Vessel, Monthly Drystack Rate and Commencement Date** all have the meanings or values as specified on the front page of this Licence.

29.2.2 **Marina** means Gulf Harbour Marina, Whangaparaoa.

## DRystack OPERATING PROCEDURES

### Launching

1. Phone **021 107 9905** with your Vessel Name, Drystack number, PASSWORD and your estimated time of departure and return. The phone will be answered seven days a week from 0800hrs to 1630hrs. We need a minimum of two hours notice, and if you wish to go Vesseling early in the morning we can launch your Vessel the evening before, and leave it tied up ready to go. If you leave a message on the answer phone, please leave a mobile phone contact to enable the Drystack operator to contact you by phone confirming your request to launch.
2. When we launch your Vessel we will tie it up on one of the Drystack berths, ready for you to depart. Your Vessel must depart from the berth no later than 30 minutes from your requested departure time.  
**Vessels unattended after two hours will be lifted and stored back in the Drystack.**
3. Parking for Drystack customers is available in the designated area directly in front of the travel lifts. Have fun on the water and stay safe. We do have a VHF station 73 which is manned twenty-four seven. Please note the 5 Knots NO WAKE speed limit inside the marina and keep to starboard.

### Returning

1. Tie your Vessel alongside the Drystack berth on your return.
2. Remove your personal belongings, wash down if you wish, put your covers on and close up your Vessel. There will be hoses available on the floating dock only, not on the Drystack cradle.
3. We will lift your Vessel at a convenient time, wash the hull off, and place it back in the Drystack.
4. Should you wish your Vessel to be left in the water to use again the following morning please call or text on the usual number and simply re-book. Note: during busy periods the driver may elect to store the Vessel back on its cradle to free up space until it is needed again so please be sure to advise your departure time.
5. Should you wish to carry out some maintenance or flush the motor on your Vessel we will place it on a work cradle, however this is unlikely to be immediately on your return. To protect your Vessel and others no work is permitted on the Drystack.

VESSEL NAME

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VESSEL NUMBER

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REMEMBER TO KEEP YOUR PASSWORD CONFIDENTIAL

**VHF Ch 73 24 HOURS**