





## HARDSTAND CONDITIONS OF USE

### 1. General Terms of Use:

- a. The applicant understands that by signing this document they are entering a binding contract between them and The Cruising Yacht Club of Western Australia (inc) (hereafter TCYC).
- b. The applicant warrants that all information provided by the applicant in the Agreement is true and correct and that it has full power and authority to enter into this Agreement including all authorities or consents needed by the applicant to enter into this Agreement from any co-owner, financial and or other entity in respect of the vessel.
- c. The applicant agrees to provide full written disclosure of any loans or other third-party interests in the boat while the boat remains on TCYC premises.
- d. **INSURANCE** – Members storing boats and property at the facility shall ensure they have Public Liability insurance to the value of \$10m. Proof of this insurance shall be submitted to the club's administration office at time of application for use of hardstand and members agree to send updates of insurance renewal certificate each year. It is further recommended to members that adequate insurance cover for loss or damage to their boat and property be in place, as TCYC does not accept any liability for any loss or damage by any cause.
- e. The applicant warrants that it has given TCYC all the information that may be relevant to TCYC in providing the hardstand facility or assessing the applicant's requirements for the hardstand and lift-out facilities.
- f. While the fees are applied to each Hardstand Bay only, a separate application shall be made for each vessel, nor shall the applicant slip a boat other than the one described in the applicants Hardstand & Boat Register form, without written consent of TCYC.
- g. A bay leased by the applicant remains the property of TCYC and may not be transferred with the sale of a boat. The applicant may not sublet or assign a leased bay.
- h. The fees payable for using the lift-out and hardstand area are set out in the current schedule of fees, a copy of which is included with this application.
- i. The application to use the lift-out/hardstand area shall not be registered until an application deposit as per current schedule of fees is paid. The deposit shall be forfeited in the event that the applicant is found in non-compliance with the TCYC Hardstand Conditions of Use and refused further use of the hardstand facility.
- j. The applicant warrants that it will not do anything which is immoral, unlawful, noxious, offensive, hazardous, or likely to cause nuisance, damage or injury to TCYC, its employees or its occupants or to any other person.
- k. The applicant acknowledges that any vehicle, or conveyance used and all property of whatever kind which may be on them or brought into the TCYC Hardstand are done so at the sole risk of the applicant.
- l. No structures may be erected on the hardstand area without prior approval in writing by the Executive Officer or a nominee of the Executive Officer.
- m. The applicant agrees not to allow rubbish or vegetation (grass, leaves etc) to accumulate in said bay. It is not TCYC's responsibility to mow within said bay.
- n. The applicant must at all times comply and must ensure that the applicant's associates at all times comply with the Rules and Regulations applicable to the TCYC Hardstand facility from time to time.
- o. When using the TCYC Tractor to launch or retrieve a vessel no part of the tractor is to enter the water.
- p. Electricity may only be connected to a vessel while the Hardstand Bay leaser is present at the Hardstand facility. E.g. Not to be left connected overnight if the leaser is not present.

Signature of Applicant: \_\_\_\_\_ Date: \_\_\_\_\_

Signature of TCYC Representative: \_\_\_\_\_ Date: \_\_\_\_\_



## 2. Maintenance Facilities:

- a. Removal of Anti-fouling, Spray painting, Sand blasting and Maintenance works which may affect other bay users are restricted to the designated Maintenance and Repairs Zone.
- b. The applicant must ensure that no damage occurs to surrounding vessels and buildings and or equipment as a result of work being carried out on the said vessel.
- c. Grit or wet sand blasting will be carried out only at the direction of the Executive Officer or a nominee of the Executive Officer. All requirements imposed by TCYC and other statutory authorities shall be complied with by the applicant. Any extra costs incurred by TCYC in administering such work shall be paid for in advance by the applicant.
- d. The applicant is responsible for leaving the lift-out/maintenance area in a clean and tidy condition to the satisfaction of TCYC representatives. This may require the applicant using ground sheets to ensure that any residue of any kind that falls to ground as a result of work being carried out on the said vessel is collected in a responsible manner and does not foul the hardstand. TCYC reserves the right to clean and tidy the area. Any costs incurred by TCYC in this regard will be paid for by the applicant.
- e. In the event of non-compliance with Hardstand rules regarding restricted activities, TCYC reserves the right to immediately cancel the lease and refuse the applicant any further use of the Hardstand facility.
- f. The applicant acknowledges that TCYC reserves the right to reject an application for use of the lift-out, hardstand area and maintenance berth, notwithstanding that the application has been previously accepted and all fees have been paid. Further that TCYC is not liable for any loss or damage which may be suffered by the applicant or any other person arising from such rejection of the application.
- g. The applicant warrants that any outside contractors shall present themselves to the TCYC Office and provide or undertake the outside contractor's obligations as a pre-condition of entry to the TCYC Hardstand facility and the applicant further warrants that it shall not permit any outside contractor to work on its vessel until the TCYC Executive Officer or a nominee of the Executive Officer has confirmed the Outside Contractors Obligations have been satisfied, i.e. Public Liability Insurance to a minimum of 10 million dollars.
- h. The applicant, or any person working on the vessel in or about the lift-out area, uses the lift-out & hardstand area at their own risk on the explicit understanding that neither TCYC nor its servants or agents will be liable in any manner whatsoever for any loss or damage by any person whilst the vessel is being lifted, is on the hardstand or is being launched from the hardstand.
- i. The applicant must at all times comply and must ensure that the applicant's associates at all times comply with the Rules and Regulations applicable to the TCYC Hardstand facility from time to time.

## 3. Lift Out:

- a. TCYC will use its best endeavours to ensure that the lift-out and/or maintenance berth is available for the time stated on the application. In the event that the lift-out and/or maintenance berth is not available. The applicant acknowledges that TCYC will not be liable for any loss or damage suffered by the applicant or any other person arising from non-availability.
- b. The applicant shall ensure that a crew of sufficient numbers and expertise are on board the vessel during the lift-out procedure. Failure to do so shall be assessed in the sole judgement of TCYC and may result in TCYC countermanding the application and denying access to the lift-out.

Signature of Applicant: \_\_\_\_\_ Date: \_\_\_\_\_

Signature of TCYC Representative: \_\_\_\_\_ Date: \_\_\_\_\_



- c. All movements or trials of the vessel are carried out at the sole risk of the applicant. It is the applicant's responsibility to ensure that all work undertaken on the lift-out and in the hardstand facility, complies with all relevant laws and regulations associated with such work. The applicant is responsible for making their own enquiries concerning the requirements of these laws and regulations. In the event that the applicant does not comply with any applicable laws and regulations, TCYC reserves the right to cancel the application and refuse the applicant the right to further occupy the Hardstand facility.
- d. Any losses or damage to equipment used by the applicant in the lift-out/hardstand area in the occupancy period shall be paid for by the applicant.
- e. Vessels shall not be launched from the lift-out without the prior approval of TCYC and until all fees in relation to that vessel have been paid to TCYC.
- f. TCYC is not liable for any loss suffered by the applicant in connection with this Agreement and in particular without limitation, as a result of the vessel being lifted out.
- g. TCYC is not liable to the applicant for any damage which the applicant may suffer because of any interruption to any of the lifting services and/or hardstand services and/or any services.

#### 4. Temporary Usage:

- a. In the event that the vessel is not removed from the hardstand by the applicant on or prior to the time and date specified in the application, TCYC reserves the right to remove the vessel from the hardstand and moor it at its discretion at the sole risk and expense of the applicant.
- b. Extensions for time for occupation of the hardstand may be granted by the authority upon receipt of a further application in writing and payment of the fee specified in the schedule of fees.
- c. There shall be no fee reductions or extensions on the basis of prevailing weather conditions.

#### 5. Forfeiture:

- a. The applicant agrees and undertakes to remove their boat, any other items within their allocated bay and any other items they have stored within the Hardstand facility, within 31 days of the following event;
  - i. Their Club membership ending, however caused,
  - ii. Failure to pay fees in accordance with this agreement, or
  - iii. A breach of these Conditions of Use.
- b. In the event of non-payment of outstanding debts, TCYC reserves the right to register a "security interest" in a member's property stored at the hardstand facility on the "Personal Property Securities Register" (PPSR)
- c. If the applicant does not remove the boat, or contents of bay(s), rented by the applicant, or other items, within the period stipulated in 5a it will constitute evidence of the applicants intention **to abandon** said boat, contents and other items, and that the applicant agrees that TCYC is then empowered **to dispose** of said property as it deems fit to recover outstanding amounts owed to the club.
- d. TCYC reserves the right to seek compensation from the applicant including;
  - i. Damages for breach of contract,
  - ii. An amount representing the lost opportunity to lease the space occupied and,
  - iii. Any costs associated with the removal and disposal of said property.

Signature of Applicant: \_\_\_\_\_ Date: \_\_\_\_\_

Signature of TCYC Representative: \_\_\_\_\_ Date: \_\_\_\_\_