

WINTER STORAGE AGREEMENT

MINMAR MARINE
14 OLD SEA ISLE BLVD
P.O. BOX 677
SEA ISLE CITY, NJ 08243
(609) 263-2201 FAX: (609) 263-1279
www.minmar.com

Date: _____

This Agreement is between Minmar Marine (hereinafter referred to as the "Yard", and the Owner and the Boat identified below (hereinafter sometimes referred to as "I").

Owner's Name: _____ Account No. _____

Address: _____

Contact Number: _____ Email: _____

Boat Make: _____ Boat's Length Over All ("LOA"): _____

State of Boat Registration: _____ Serial Number: _____

Engine Manufacturer: _____ Model: _____ Horse Power: _____

I AGREE TO PURCHASE AND TO PAY FOR THE FOLLOWING:

Length of boat: _____ x storage rate _____ = _____ x sales tax 6.625% _____ = _____ storage total

*******STORAGE MUST BE PAID UPON THE BOATS' ARRIVAL AT MINMAR OR UPON NOTIFICATION OF END OF SEASON USE. NO EXCEPTIONS!*******

OUTSIDE STORAGE:

_____ 49.00/Ft Up to 25' LOA
_____ 52.00/Ft Over 25' LOA

This includes Hauling, Pressure Washing Bottom, Boat Rinsed Topside, Blocking if necessary and Launching in the Spring.

20 ft Minimum Charge

INSIDE STORAGE:

_____ 74.00/Ft. Up to 25' LOA
_____ 77.00/Ft Over 25' LOA

This includes Hauling, Pressure Washing Bottom, Boat Rinsed Topside, Blocking if necessary and Launching in the Spring. Includes Blue Poly for Inside Storage Only.

20 ft. Minimum Charge

****SHOWROOM STORAGE IS AN ADDITIONAL \$750.00 TO INSIDE STORAGE. INQUIRE FOR AVAILABILITY (limited space, please inquire with office)**

PLEASE SIGN HERE _____

I have read and understand the terms on the reverse side of this contract.

PLEASE READ, SIGN AND RETURN THIS CONTRACT WITH SIGNED ADDENDUM.

- 1. Parking/Liveboards/Work on the Boat.** Unless otherwise agreed by Yard in writing, Owner agrees not to park any cars, trucks, trailers, or any other vehicle at the Facility, other than to load and unload the Boat, or equipment for or onto the Boat. No one, including Owner, shall live aboard the Boat while stored on Yard's premises for any length of time. Any person found living aboard the Boat will cause this Agreement to immediately terminate. No painting, spraying, sand blasting, welding or any other kind of maintenance or repair is allowed at the Facility.
- 2. Fees for Late Payment or Returned Checks.** To compensate Yard for the loss of storage fees due, for costs incurred to handle returned checks, delinquent storage fees, and consequential reports to Yard, Owner agrees to pay Yard, in addition to the storage fees due, a monthly \$25.00 late fee. Payment by means of a returned check shall not constitute timely payment. In addition, there will be a \$20.00 fee charge for payment with a returned check. Late fees will be charged each month until all storage fees and other charges are paid in full by a valid check or cash. Repeated late fees or returned checks may result in termination of this Agreement, at Yard's option.
- 3. Boat Title, Authority and Condition.** Owner represents and warrants that Owner is the lawful owner of and lawfully possessed of the Boat and has the right and authority to enter into this Agreement with the Yard. Owner represents and warrants to Yard that there are no known potential health, safety, and/or environmental hazards associated with the storage and handling of the Boat. If, as a result of a quality or condition of the Boat, the Boat is or becomes a hazard to other boats, property, or persons, Yard shall notify Owner and Owner shall promptly remove the Boat from the Facility. Pending such disposition, Yard may remove the Boat from the Facility and shall incur no liability by reason of such removal, even if such liability arises solely or partially as a result of Yard's negligence. Hereinafter, for brevity sake, the term "Yard" includes the Yard and all of its employees, officers, agents, and representatives.
- 4. Owner's Release of Liability.** The storage space for the Boat at the Facility provided for in this Agreement is to be used at the risk of Owner and Owner's relatives, guests, agents, representatives, and employees. Yard shall not be liable or responsible for the care or protection of the Boat or any loss or damage of whatever kind or nature to the Boat, even if said loss or damage is caused solely or partially as a result of Yard's negligence or that arise out of or in any way relate to the Boat, the Yard, the Facility, the Yard's equipment, employees, practices or procedures. There is no warranty of any kind as to the condition of Yard's premises, including but not limited to the yard, lot, walks, fences or lighting, nor shall Yard be responsible therefore, or for injuries to persons or property occurring at, around or near the Facility, even if said injuries are caused solely or partially as a result of Yard's negligence.
- 5. Hold Harmless and Indemnity.** Owner expressly releases and agrees to hold Yard harmless and indemnify it from and against any and all damages including, but not limited to, fires, flooding, weather conditions, or other events causing partial or total damage or partial or total destruction of the Boat and all other types of losses, expenses, fees and claims of any kind, including claims for subrogation (i.e., claims for reimbursement by the insurers of the Boat and/or the insurers of the Owner), incurred or claimed for any reason or incurred or claimed solely or partially as a result of any negligent act or omission of Owner, his relatives, guests, agents, representatives, and employees Owner further agrees to hold Yard harmless and indemnify it from and against any loss, damage, liability or expense, including subrogation, incurred or claimed as a result of any damage or loss to the Boat or Owner's personal property or equipment left in or on the Boat. By way of specificity but not limitation, Yard is not responsible for lost or stolen items. Yard is not responsible for transducers, trim tabs, antennas, or any other equipment that may be damages due to handling, blocking, or other service (if applicable) to the Boat.
- 6. Limitations on Damages to Owner.** Even if all other paragraphs in this Agreement are deemed invalid or unenforceable, the parties nevertheless expressly agree that Yard's liability for loss or damage to the Boat while in its care, custody or control, including under claims of subrogation, shall have a maximum limit of no more than Two Thousand Dollars (\$2,000.00) or the total storage charge, whichever is less, even if Yard is found to be solely or partially negligent. In no event shall Yard be liable on or for any claims, including subrogation, or damages for incidental or consequential damages, lost sales or profits or claims that arise from any damage or loss to the Boat, even if Yard is solely or partially negligent with respect to such loss or damage to the Boat.
- 7. Insurance.** Owner shall at all times while the Boat is en route, at, and after departure from the Yard, and at Owner's own cost and expense, maintain liability and property damage insurance and hull coverage (which insurance shall provide primary rather than secondary coverage) on the Boat with liability limits in amounts sufficient to insure performance by Owner of the hold harmless and indemnity provisions contained herein, and shall have Yard expressly identified in the insurance policy as an additional named insured. Owner shall, in any event, carry liability insurance and property damage insurance, with accidental pollution coverage, with limits of at least \$300,000.00. Yard requires and Owner agrees to provide before delivery of the Boat to the Facility, evidence satisfactory to Yard of compliance with Owner's obligations to insure. Owner's failure to comply, or to demonstrate compliance, with this provision, however, does not in any way constitute a waiver by Yard of this provision. In its sole discretion Yard has the right to refuse to accept for storage, any Boat for which proof of the required insurance is not presented.
- 8. Liens; Right to Refuse to Release the Boat; and No Waiver of Warehouseman's Lien.** Owner warrants, agrees and represents that Owner will pay all charges set forth in this Agreement as billed by Yard and Yard shall be entitled to a possessory lien against the Boat for any and all monies due and owing Yard under this Agreement. Marina shall have all liens provided under United States Federal Maritime Law, State Law, and such other liens, rights, and remedies including the right to sell the boat at public auction, as each may be applicable. The parties expressly agree that Yard shall have the right to refuse to release the Boat or permit the Boat to leave the Facility unless and until Owner has paid all sums due under this Agreement and arising out of or in any fashion related to storage, services, or goods supplied to Owner and the Boat. Owner also agrees to not permit any lien or other encumbrance to be created or placed against the Boat while it is in Yard's possession. The parties also agree that no part of this Agreement shall be construed or interpreted to mean that Yard has waived any rights it may have under any other provision of statutory and common law to assert a warehouseman's, repair artisan's or other similar storage lien or any federal maritime lien or any state lien against the Boat.
- 9. Assignment.** No party shall assign or transfer this Agreement without prior written consent of the other party, which consent shall not be unreasonably withheld. Nevertheless, Owner hereby agrees that the Yard may without notice to and without the consent of Owner, assign its claims for sums owed, its liens, and possessory and other rights and remedies to a third party in its sole and complete discretion.
- 10. Notice of Loss or Damage and Claims Therefore.** Owner agrees to give Yard written notice of a claim for loss or damage to the Boat and persons. Such notice is to be supplied no later than either thirty (30) days after delivery of the Boat by Yard, or thirty (30) days after Owner is given written notice by Yard that loss or damage to the Boat has occurred, whichever time is shorter.
- 11. Limits on Amount of Time to File Actions On Behalf of or Against the Owner or Yard (But Not the Boat).** Owner agrees that he cannot file nor maintain any action arising out of or relating to this Agreement, including one of subrogation, against Yard for any reason, including loss or damage to the Boat, unless such action is commenced either within twelve (12) months after the date this Agreement ends, the Boat leaves the Facility, or after Owner is notified by Yard that loss or damage to the Boat has occurred, whichever event first occurs. Yard likewise agrees that it cannot file nor maintain any action arising out of or relating to this Agreement against Owner for any sums due or any claims arising out of or relating to this Agreement unless such action is commenced either within twelve (12) months after the event giving rise to the claim occurs or twelve (12) months after it receives notice of a claim asserted by Owner. Regardless of whether Yard files any action naming the Owner as a Party in any action, Yard reserves all liens and all rights and applicable statutes of limitation and rules to perfect, assert, sue upon, enforce, recover, and collect all sums due under this Agreement of otherwise from the Boat pursuant to all applicable Maritime, Federal, State, and other liens.
- 12. Notices.** Any notice to either party to this Agreement by the other shall be deemed to have been properly given if sent by (i) facsimile or (ii) mailed to said party by certified mail return receipt requested and first class mail, to the facsimiles or addresses appearing above for Owner or YARD or such other facsimile or address or person as either party may designate by written notice to the other party hereunder. A notice hereunder shall be deemed to have been given as of the date it was received via fax or if not received as a fax and if it was also sent via mail, then four (4) business days after the date of mailing, whichever event occurs first.
- 13. Waiver of Right to Trial by Jury and Right to Appeal.** With respect to any claim arising out of or relating to this Agreement, the parties expressly waive their right to a trial by jury and the right of appeal.
- 14. Venue.** Any legal action involving this Agreement and any claim arising out of or related to sums due thereunder or in any fashion related to storage, services, or goods supplied to Owner and the Boat may only be brought in the Superior Court of New Jersey, Cape May County, Cape May Court House, New Jersey or in the United States District Court for the District of New Jersey at Camden, New Jersey.
- 15. Choice of Law.** Paragraphs Nos. 8, 9, 10, 11, 12, and 13 of this Agreement shall be construed and interpreted under the United States Federal Maritime Law and as to all other paragraphs, in the absence of controlling United States Federal Maritime Law, then only as may be permitted and appropriate, they shall be construed and interpreted under the laws of the State of New Jersey.
- 16. Attorneys Fees and Costs.** Owner agrees to reimburse Yard for any and all costs and expenses, including reasonable attorney's fees, if Yard is required to pay its attorneys for services related to collecting sums owed under this Agreement or arising therefrom and this applies to fees and costs incurred before and after the Yard brings any legal action. If Yard or Owner files a court action based upon any dispute or claim arising out of or relating to this Agreement, the party who prevails in the action (i.e., recovers a judgment for money and/or relief against the other and/or against or affecting the Boat), shall be entitled to an award by the Court of reasonable attorneys fees, litigation expenses, and costs and the nonprevailing party agrees to pay same.
- 17. Warranty of Authority/Parties Bound.** Each person signing this Agreement represents and warrants that he/she has the authority to sign for the party for whom or which he or she is executing the Agreement. Owner agrees that this Agreement shall be binding upon his heirs, successors, executors, administrators, trustees, insurers, principals, and agents. This Agreement shall inure to the benefit of and be enforceable by the Yard and its respective successors, assigns, trustees, insurers, principals, and agents.
- 18. Modification.** Any amendment or modification to this Agreement shall be effective only if in writing and signed by each party hereto.
- 19. Entire Agreement.** Neither the Yard nor the Owner have made any oral promises or agreements and this Agreement embodies the entire agreement and understanding between the parties and supersedes all prior discussions, negotiations, oral arguments, and other written or oral agreements and understandings between them relating to the subject matter hereof.
- 20. Severability.** If any term of this Agreement or any application or enforcement thereof shall be deemed invalid or unenforceable, the remainder of this Agreement or any other such application or enforcement thereof shall not be affected thereby.

ADDENDUM TO WINTER STORAGE CONTRACT

Please initial that you have read and understand the following and return with contract:

_____ Minmar winter storage is just that, storage facility only.

_____ Minmar is NOT responsible for lost cushions, covers, missing tops or items from your boat such as rafts, jackets etc. Please be sure to remove these items before you bring your boat.

_____ Minmar is NOT responsible for damage caused to boats by wild animals.

_____ Winter storage is from November 1st thru April 30th. Any boat that does not have a contract for service or storage after that period will be charged a fee of \$2.50 per ft./per day. Please be on the look out for your Spring contracts so you may choose your make ready dates to avoid additional charges.

_____ Minmar requires all customers to provide valid insurance certificate. Minmar Marine MUST be listed as an additional insured. Please send this in with the contract, we cannot store boats without it.

_____ If you are planning on selling your boat in the spring, you must notify us before we put boat away and you must store OUTSIDE. If you store inside, we cannot guarantee access to your boat before mid-April. There are NO EXCEPTIONS to this as we do not have the ability to jockey boats around.

_____ If you are scheduling an outside vendor for winter work (which there is a charge for) you must notify us when you bring your boat in for the winter so we can do our best to accommodate.

_____ All boats will be inspected upon arrival at Minmar and customers will be notified if anything is amiss.