



## TERMS and CONDITIONS of WINTER STORAGE

June 2020

Jack Stands and Blocking are not included in the Storage Contract. All sailboats without cradles and powerboats over 40' in length without cradles will be invoiced stand/cradle rental at \$4.35 per linear foot. All winterization/decommissioning services are sold and ordered separately.

**AGREEMENT-** This agreement is by and between Larsen Marine Service, Inc., hereinafter referred to as yard, and the Boat Owner and/or his authorized Agents, Captain or other representatives, hereinafter referred to as the boat owner. To reserve storage space, this contract must be signed and a deposit of 30% of the total storage charges received by July 1<sup>st</sup>. An additional 50% of the total storage fee is due Sept 1<sup>st</sup>, and the final 20% is due November 1<sup>st</sup>. Attached as Page 2 of this agreement is the "2020 Winter Storage Payment Form" containing alternative payment schedules and selections for method of payment. **Deposits and other payments made toward the obligations of this contract are refundable upon cancellation prior to August 15<sup>th</sup>.** All boat sizes are subject to audit by the yard, and the yard reserves the right to change the total storage charges based on actual boat measurements including overhangs.

**STORAGE-** The winter storage season is September 15<sup>th</sup> thru June 15<sup>th</sup>. The storage rate does not include any other services such as un-stepping, storing and stepping masts, installation of winter covers, winterizing engines, generators, water systems, toilets or other equipment subject to freezing, requested boat moves, or summer trailer storage. These services are available by request through a separate, agreed-upon work order. Boats, remaining in storage after June 15<sup>th</sup> will, unless previously scheduled with the service department, relinquish the spring launch included in this winter contract and will be billed additional storage at prevailing rates. The yard shall not be responsible or liable to the boat owner or any other person for injury or for property damage caused by any defect in any storage cradle or boat stands furnished by the boat owner whether or not inspected by the yard. The yard is not responsible for owner's equipment including stands, ladders, tools, canvas, dinghies, scaffolding, hoses, trailers, cradles, and other items while the boat is in storage or after the boat launches.

**YARD RULES-** Prior to lift out the boat, owner shall be responsible for removing any removable thru hull speedometers and to notify yard supervisor of any other underwater gear that could be damaged by lifting slings. The boat owner shall furnish his own ladder for access to the boat while in storage. All yard owned ladders, scaffolds, walks, ramps or other tools and equipment are for the sole use of the employees and agents of the yard, and any use by the boat owner, his family and crew is at the sole risk of the boat owner. The boat owner agrees to remove all highly combustible materials, paint/oily rags, etc., from the boat prior to storage. Tying storage covers or other items to boat stands is prohibited. At no time may boat owners attempt to adjust or reposition boat stands. No bottom sanding will be allowed inside any building without the use of a dustless sander. Electric heaters and open flames are not allowed inside or outside the boat while in storage. Electric power cords shall not be left plugged into 110-volt outlets overnight while boat is in storage. Shrink wrapping by anyone other than employees of the yard is expressly forbidden at all times. These requirements are necessary to reduce the risk of fire.

**INSURANCE-** Boat owner agrees to have the boat insured with complete marine coverage and to be responsible for any damage the boat owner or crew members may cause to other boats or other property within the boat yard. No insurance is carried by the yard on customer owned boats, equipment or other property. The yard will not be responsible for any injuries or property damage resulting from, caused by or growing out of the use of the premises and/or its facilities. In the event the Boat Owner's vessel causes damage to other vessels in the yard or yard property as a result of fire, sinking, capsizing, pollution, improper operation by anyone other than yard staff, or from any other cause not within the control of the yard, including acts of God, the boat owner agrees to be responsible for such damage.

**DISCLAIMER OF LIABILITY-** Storage and dockage is accepted at the sole risk of the boat owner. The boat owner and the yard agree the yard shall not be liable to the boat owner or boat, for any loss, damage, disruption of services or use of yard facilities for any reason, including but not limited to acts of God, fires, explosions, civil commotions, strikes, lockouts, emergencies, local or regional disasters of any kind, and third party actions, regardless of the nature or duration thereof. The yard shall not be obligated to make any refunds to the boat owner as a result thereof. It is also agreed that any liability for labor done by the yard's employees or agents shall be limited to repair or replacement of defective materials, parts, goods (directly supplied by the yard) or workmanship. The yard shall not be liable for loss of use of the boat. The yard with exception of any warranties granted in this contract, hereby disclaims all warranties either expressed or implied, including all warranties of merchantability, fitness for a particular purpose, and any other warranties that may have arisen in the course of dealing or usage of trade.

**DELIVERY OF BOAT-** Delivery of boat to the yard occurs upon lift-out, and the obligations of the yard, if any under this contract or by statutory or common law, terminate when the boat is launched and moored in the yard's dock, which mooring constitutes delivery of the boat to the boat owner. Upon such launching, the boat owner assumes all responsibility for the boat and persons on board, other than employees of the yard. Notice, the fall and spring seasons often bring strong winds and wave actions within the harbor, which can damage moored boats. Boat owners are solely responsible for damage prevention.

**SECURITY-** It is agreed and stipulated that the rights and services in this contract do not include any specific type of security guard services, other than the City of Waukegan's usual police and fire department services supplied to the community at large. The boat owner agrees that the yard shall not be liable to the boat owner or the boat, by reason of any intrusions, burglary, theft, vandalism, or other criminal acts of any kind or degree, on or about the boat, whether by land or by water. This contract does not make the yard a Bailee of the boat.

**OUTSIDE SERVICES-** The boat owner agrees that no outside serviceman, contractors, laborers or other services shall be permitted on or about the boat during the term of this contract while the boat is in storage or moored at the yard except as approved and/or authorized by the yard management. It is hereby stipulated and agreed that the provisions of this agreement pertaining to the prohibition of outside servicemen, labor, boat owner's employees, or by anyone except the yard personnel or its permittees while the boat is located at the premises of the yard are all intended as risk avoidance measures by the yard. The yard cannot undertake to determine in advance the abilities, skills, honesty and integrity, insurance coverage, and the business identity of each outside craftsman or alleged craftsman who purports to do work on boats at the yard's premises. The yard cannot assume the risk that outside craftsmen may conduct themselves negligently and cause extensive damage to other boats and the yard's facilities in a manner which is not covered by the yard's insurance or will cause an increase in premiums or cancellation of the insurance. Nothing herein shall preclude the boat owner from removing his boat to any other place for the purposes described herein or to have them performed elsewhere by anyone, including yacht brokerage, however boat move fee may apply.

**USE OF OUTSIDE CONTRACTORS-** Owner acknowledges that the yard is engaged in an entirely private business and is free to exercise its own independent discretions to the parties with whom it will deal or whom it will grant access to its premises. The boat owner acknowledges that the yard has an interest in the safety of all boats stored or docked on its premises and therefore it has established specific policies with regard to access and insurance requirements. Accordingly, independent contractors or outside labor must check in at the yard office every day before working on a boat owner's vessel. Upon checking in, all contractors will be required to demonstrate proof of insurance,

including workers compensation coverage as outlined in Larsen Marine's Subcontractor Policies (available upon request). The yard reserves the right to require all subcontractors to bill through the yard or to pay the yard a fee for use of yard facilities. The fee will be set by yard management on an individual basis after considering the size, scope, and nature of the work to be conducted by the subcontractor. A boat owner found to be in violation of these policies will be subject to immediate termination of this contract.

**BROKERAGE SALES-** The yard facilities may not be used for solicitation, advertising, or any other business purposes, except by the yard or its permittees. The boat owner agrees that the yard does not assume any liability associated with outside brokers, prospective buyers or other interested persons boarding boats at its facilities, where the yard has no reasonable way to identify such persons or to determine the scope of their authorization or to prevent damage or losses to the boarded boats or to those boats nearby as a result of such activities. If the boat owner desires, the yard will make said listing available to other yacht brokers and show such boat to the yacht broker's prospective buyer with the understanding that if the boat is sold by another broker, the yard will participate in the brokerage commission to the extent that is customary in the trade.

**PAYMENT-** All invoices under this agreement shall be due and payable at the time rendered. Full payment of all Larsen Marine invoices is required before the boat is launched or allowed to leave the yard. The yard reserves the right and shall have the power to retain possession and control of the boat, its engines, equipment and appurtenances, without process of law until all invoices are paid. The boat owner and yard agree and stipulate that if the boat leaves the yard's facilities with or without the yard's consent prior to full payment of all amounts currently due from time to time, the yard shall not lose any of its rights to payment, to any liens under State or Federal (including Federal maritime) laws against the boat, etc., or to regain possession (with or without process of law) and to hold it again thereafter until paid in full. No release of possession of the boat by the yard shall be construed as or operate to create a waiver or surrender of any rights or remedies hereunder by the yard. The boat owner further covenants and agrees that a service charge shall be payable on any and all balances due 30 days or longer, at the rate of 1.5% per month (18% per year) on outstanding balances.

**DISPUTE RESOLUTION-** The boat owner acknowledges that the withholding of payment shall not be an acceptable form of dispute resolution. In the event that the boat owner and the yard are unable to agree on the amount due for work performed or services rendered, such disagreement shall be settled as follows: Any complaint about the quality, adequacy or totality of work performed shall obligate the yard to nothing more than the correcting of such validity demonstrated defects at no additional cost to the boat owner. Any claim of unreasonable charges shall entitle the boat owner solely to a detailed written and itemized accounting of the charges. In the event that the boat has left the yard, the boat owner accepts full financial responsibility for returning it to the yard for complaints to be assessed and repairs, if any, to be made. In cases in which work is performed by another company to repair an alleged inadequacy of the yard's work, excluding repairs that are immediately necessary to the safety and welfare of the boat and its crew, that work shall indisputably release the yard from any obligation to correct or discount the work initially performed.

**ABANDONMENT-** If the boat owner fails to pay the yard any of the storage charges when due hereunder or any other charges when due for labor, materials or supplies due under any work order or additional service agreement, or if the boat owner has not launched or removed the boat at the end of the winter storage season and has not obtained the yard's consent to holdover, it is mutually agreed that the boat shall be considered abandoned. The yard will have the right to enforce an Abandoned Watercraft & Labor and Storage Lien, list and sell the boat under Illinois Compiled Statutes.

**ENVIRONMENTAL COMPLIANCE POLICY-** No person shall discharge oil, antifreeze, solvents or oily bilges into the water. Overboard discharge of heads, holding tanks or oily bilge water within the marina is strictly illegal. Maintaining and repairing your boat invariably involves the use of chemicals and generation of waste that must be stored, managed and disposed of in strict compliance with federal, state and local environmental regulations. The boat owner agrees to be environmentally responsible for all products used by themselves and their crewmembers. Toxic materials such as paints, thinners, antifreeze, fiberglass resins and solvents, used and oily rags, old fuel, used oil, and many other products must not be dumped on the ground or disposed of in the yard trash cans or dumpsters. Our service department supervisors can advise you on proper disposal. **The boat owner agrees to comply with the boat yard Environmental Policies as posted at the yard.** Copies are available upon request. The boat owner agrees to be responsible for and hold the yard harmless against any liability for any violation of the environmental policies caused by the boat owner, crew members or other authorized agents and associates.

**LAUNCHING / DOCKAGE-** Boat launch scheduling requires 7 days advance notice and is tentative depending on weather and available time. Launch date requests cannot be confirmed until all storage and service accounts of the boat owner are settled in full. Boat owner agrees to furnish a minimum of 4 mooring lines and 3 fenders of adequate size to safely moor the boat. The boat owner is solely responsible for any water damage to the boat upon launching due to drying out, open valves, disconnected or faulty hoses or underwater fittings.

**DOCK SPACE IS LIMITED-** Please arrange to move your boat from our docks as soon as possible after launch and completion of work by the yard. Boats not removed from the yard after scheduled departure date will be charged a daily mooring fee. The yard is not liable for damage to boats moored at our docks due to storms, winds, changes in lake level, or other acts of God.

**CONTRACT-** The boat owner covenants and agrees that he and/or she will comply with all the terms and conditions of this agreement and with the rules and regulations of the yard. This contract is not assignable by the boat owner to any other person or legal entity including any purchaser of the boat during the terms of this agreement. The yard reserves the right for good cause to terminate this contract and the right not to renew this contract. Yard occupancy beyond the dates of this agreement is subject to prevailing Larsen Marine storage rates, and the yard has the right, at its sole discretion, to relocate the boat from the space designated herein, and the boat owner is responsible for paying all moving and winterizing services performed on the boat along with prevailing storage rates for the space selected. In the event of litigation to enforce the terms of this agreement, the yard shall be entitled to recover all reasonable associated costs and attorney fees from the boat owner. Furthermore, both parties agree any disputes requiring litigation will occur in Lake County, Illinois courts, and Illinois law shall govern any disputes. The parties further agree that if any part of this contract is deemed unenforceable by an administrative agency or court of law, the remainder of this document shall remain in full effect and binding upon the parties.

**ACCEPTANCE-** The boat owner does hereby accept the terms and conditions of this agreement/contract. The person signing the winter storage reservation agreement on behalf of the boat owner shall jointly and personally be liable for all obligations of the boat owner under this contract, including in the event the ownership of a boat or vehicle is a corporation or entity other than an individual. These Terms and Conditions hereof along with the separate "2020 Winter Storage Reservation" and the separate "2020 Winter Storage Payment Form," comprise the entire agreement affecting the Winter Storage Reservation Agreement and no other agreement or understanding of any nature concerning same has been made or entered into. The Winter Storage Reservation and these terms and conditions shall not be modified, altered or amended in any way except in writing signed by both parties.