

WINTER YACHT STORAGE CONTRACT 2011-2012

NO BOAT WILL BE HAULED OUT FOR STORAGE WITHOUT A FULLY COMPLETED "HAUL-OUT SHEET"

Name: _____ Boat Name: _____
 Address: _____ Make: _____ Model: _____ Year _____
 City: _____ St: _____ Zip: _____ Power Sail Length _____ Width _____
 Phone: (_____) _____ Home Work Boat will be stored on: Cradle (OUTDOOR ONLY)
 Cell Phone: (_____) _____ Trailer SW Stands Owner's Stands # _____
 Email: _____ Reg. #: _____ Doc. #: _____

Storage Type: Outdoor Indoor Indoor Heated

$\frac{\text{LENGTH}}{\text{WIDTH}} \times \frac{\text{STORAGE FEET}}{\text{RATE}} = \text{SUBTOTAL} + \$ \text{SALES TAX} = \$ \text{" STORAGE FEE"}$

**All boats are subject to measurement . Final "Storage Fee" will be based upon actual total length and width as measured.
 Total length includes bow pulpit, swim platform, outdrives, outboards etc. Length and width of trailer boats include the trailer.**

"Storage Deposit" received _____, 2011 \$ _____ Ck # _____ Cash Credit Card

THIS AGREEMENT ("Agreement") is made and entered into by and between Southwind Marine LLC ("Southwind"), and the Owner listed above ("Owner"). Southwind and Owner do hereby agree as follows:

1. Southwind shall provide storage for the above listed boat ("Boat") for one (1) winter season commencing on or after November 1, 2011 and extending to on or before May 31, 2012 ("2011/2012 Season"), subject to the terms and conditions set forth in this Agreement.
2. Owner agrees to pay the above seasonal "Storage Fee" for the 2011/2012 Season ("Storage Fee"), for the type of storage as indicated above. The Owner shall pay a non-refundable "Storage Deposit.". The Storage Deposit will not be refunded for any reason and will be applied to the Storage Fee due under this Agreement. The balance shall be invoiced upon haul-out, which invoiced amount shall be due in full upon receipt. A 2% monthly service charge shall be assessed on all unpaid accounts not paid in full when due. The Storage Fee includes haul-out, bottom wash, storage and launching for the 2011/2012 Season only, which shall not accumulate for subsequent seasons. The Storage Fee does not include jackstand rentals, un-stepping or stepping spars, laying up engines and plumbing, installing or removing winter covers and frames, or any other services ("Additional Services"), which can be performed at Southwind's prevailing rates, pursuant to a signed work order. If the Owner has Indoor heated storage as indicated above, Owner recognizes and agrees that the corresponding Storage Fee is based on the average natural gas cost per therm as provided by WE Energies in the 2010/2011 Season. Owner understands and agrees that if that cost per therm is exceeded in the 2011/2012 Season, Owner shall be invoiced for and shall pay Owner's pro-rata share of such increase.
3. It is recommended that Owner remove all equipment or other personal property on or in the Boat, which is easily removable, such as gear, marine equipment, navigational instruments, furniture, electronic equipment, heaters, clothing and similar items, from Boat prior to haul-out. Owner agrees Southwind will not be held liable for loss or damage of any kind to Boat or equipment or other personal property on or in the Boat. The storage of Boat is accepted at the sole risk of Owner and Owner hereby forever releases Southwind from any and all claims for loss or damage however caused except loss or damage caused as a direct result from Southwind's gross negligence. Specifically, Owner agrees that Southwind is not responsible for any loss or damage such as cracking, splitting or the general rotting, drying out of the hull, superstructure or interior portions of Boat while in Southwind's storage or working areas, or in the lifting processes or for the filling with water or sinking thereof upon launching due to the drying-out of Boat or due to any services performed by Owner. Owner also agrees that Southwind shall not be responsible for any scratch, gouge or abrasion whatsoever on or in the Boat while in storage or during haul-out or launching. Owner further agrees that Southwind does not assume any responsibility for the winterizing of engines, water system, auxiliary generator, marine toilets or other machinery, equipment or accessories aboard Boat subject to freezing unless such services are specifically ordered by Owner in writing. Additionally, Owner agrees that Southwind shall not be liable for damage to Boat while in or out of the water due to storms, winds, waves, the rise and fall of the lake or river level, acts of God, water, sprinkler leakage, heat, cold, frost, rust, riot, or unlawful disturbance of the peace. Finally, Owner agrees that while Southwind shall attempt to maintain reasonable security at all times and will not allow customers or other persons access to Southwind's facilities or dock unless satisfactorily identified, and only during normal working hours in accordance with posted yard rules and procedures that Owner shall abide by ("Yard Rules"), Southwind assumes no responsibility for pilferage, damage by vandals or theft.
4. Owner understands and agrees that Southwind does not warrant the quality, fitness or condition of ladders, platforms, decks, slips, moorings, walks, ramps, scaffolds, electrical wiring, plumbing, gas pumps, roads and parking lots, equipment or gear on its premises, whether owned by Southwind, Owner or other owners, which may be available to the Owner, Owner's family, guests, employees or invitees. Owner hereby jointly and severally releases and forever discharges Southwind, and its officers, employees, agents, parents, affiliates, subsidiaries, owners and members thereof from any and all liability, claims, damages or causes of actions of any kind or nature resulting from any accident, damage, injury or other occurrence to Owner, Boat, Owner's equipment or other personal property, or Owner's family, guests, employees or invites, or any combination thereof, while upon Southwind's premises unless due to Southwind's willful or intentional misconduct. Owner agrees to reimburse Southwind for any damage or loss to Southwind, Southwind's facilities, dock and other property of Southwind's caused by Owner, Boat or Owner's family, guests, employees or invitees. Owner shall indemnify and hold harmless Southwind, and its officers, employees, agents, parents, affiliates, subsidiaries, owners and members thereof from and against any and all loss, costs, damage, expense, injuries, demands, attorneys' fees, lawsuits and claims of every kind and nature whatsoever, to and/or against any of them by any person or entity, by way of damages or otherwise arising from the failure of Owner, Boat or Owner's family, guests, employees or invitees to perform, comply with and observe any provision contained in this Agreement or in the Yard Rules or by reason of any act of negligence of Owner, Boat or Owner's family, guests, employees or invitees.

5. Owner agrees to leave one complete set of keys, or a combination number for all of Owner's locks for the Boat with Southwind and grants Southwind the right of reasonable access to the Boat at all times it is within Southwind's storage and working areas. Owner grants Southwind the right to move, handle, cradle, block with jack stands, launch or operate Boat for any reason whatsoever; and if said reason concerns the safety of the Boat or other boats in/on Southwind's facilities or property then the cost of such service shall be invoiced and paid for by Owner ("Safety Service(s)"). Further, Owner agrees that for Owner's protection and the protection of others, that Southwind reserves the right to fill or empty all engine fuel tanks, decommission motors, remove any paints, thinners, solvents, LP gas cylinders, alcohol or kerosene containers, oily rags and other items of combustible nature from Boat and that services in connection therewith shall also be considered Safety Services and shall also be invoiced to and paid for by Owner.

6. Owner understands and agrees that Southwind shall not be obligated to and does not carry insurance to cover any of the risks set forth in this Agreement or any other risks whatsoever. Owner is advised to obtain property, casualty and liability insurance of sufficient amounts written by a company licensed to do business in the State of Wisconsin to cover these risks. Southwind shall be named as an additional insured on such policy and Owner shall supply Southwind with a certificate of insurance evidencing such coverage upon request.

7. Owner understands and agrees that no competitive labor or outside vendors will be allowed upon Southwind's premises, ashore or afloat, without the express written consent and prior approval of Southwind, which may be withheld for any reason or no reason. Unless done by Owner personally or members of Owner's immediate family, Owner agrees that Southwind expressly reserves the right to do all work on the exterior portions of the hull below deck level of Boat and all other work on Boat above deck level and inside Boat. Owner agrees that should this provision of the Agreement not be complied with, Owner will be liable to Southwind for liquidated damages in an amount equal to Southwind's standard rates for the work performed, plus any costs, expenses and fees associated with the collection of those damages, including reasonable attorneys' fee. Additionally, Owner understands and agrees that no broker or broker's agent will be allowed upon Southwind's premises without the express written consent and prior approval of Southwind.

8. Owner shall notify Southwind no later than ten (10) days prior to the date Owner desires to have the Boat launched to set a launch date. No launch date may be set until all amounts due under this contract are paid in full. Owner agrees to make available a minimum of four (4) good and serviceable mooring lines and four (4) fenders of adequate size for tying off Boat to Southwind's dock. In the event of Owner's failure to make said lines or fenders available, Owner agrees that Southwind may, at its option, refuse to launch the Boat or may supply said lines and fenders, charging Owner accordingly. Owner agrees that Southwind assumes no guarantees concerning launching schedules and no responsibility for destruction or damage to the Boat and/or items within or upon Boat while at Southwind's dock, and Owner hereby releases Southwind from any and all liability therefrom unless due to gross negligence on the part of Southwind. Owner shall inform Southwind prior to launching or haul-out of all information pertinent to handling the Boat as to any special underwater fittings or hull configurations or fittings or instruments above or below deck of a special nature, and Owner agrees that should damage be incurred thereto for any reason other than Southwind's gross negligence, Southwind shall not be liable for damage or loss therefore. Unless otherwise agreed to in writing, if the Boat is not launched by May 31, 2012, and if no new contract for further storage has been signed, the Owner shall pay a holdover storage rate equal to one-seventh (1/7) of the total Storage Fee under this Agreement for each and every month or partial month until the Boat is launched.

9. Owner recognizes that Wisconsin statutes grant Southwind a lien upon the Boat to secure payments of any and all amounts due and unpaid under this Agreement and for any other amounts unpaid for any work, labor, service, material or improvements provided by Southwind on the Boat for the Owner. OWNER EXPRESSLY RECOGNIZES THAT NO BOAT SHALL BE RELEASED FOR ANY REASON UNTIL THE STORAGE FEE, ADDITIONAL SERVICES, SAFETY SERVICES OR OTHER CHARGES, SERVICES, REPAIRS OR FEES ACCRUED AGAINST THE BOAT HAVE BEEN PAID IN FULL.

10. If Southwind is unable to perform its obligations under this Agreement due to circumstances beyond its control, including, but not limited to strikes, embargoes, governmental regulations, acts of God or any other circumstances beyond Southwind's control, Southwind's performance under any provisions of this Agreement shall be extended for the period of time resulting from the delay.

11. This Agreement is not assignable by Owner without the express written consent of Southwind. Owner agrees to give Southwind express written notice of sale of Boat prior to setting a launch date for the Boat. The written notice shall state in full the new owner's name, address and telephone number, the terms of the transaction for the Boat including payment of any amount due under this Agreement, and shall also include any other documents evidencing ownership and transfer of the Boat. This Agreement shall be freely assignable by Southwind. In the event of any transfer, assignment or sale of Southwind's interest in Southwind's facilities or dock, or this Agreement, Southwind shall automatically be relieved of any and all obligations and liabilities to Owner under this Agreement from and after the date of such transfer, and this Agreement shall remain in full force and effect between Owner and such transferee and Owner agrees to look to such transferee hereunder.

12. Owner recognizes and agrees that, as used throughout this Agreement, Southwind's premises, storage, shop, dock and other property shall also include property of Southwind's parents, affiliates, subsidiaries and other related individuals and entities, of which Southwind has control over, and may be used interchangeably throughout this Agreement.

13. This Agreement constitutes the entire agreement between Owner and Southwind and there are no other understandings, oral or written, outside the terms of this Agreement. Neither this Agreement nor any provisions hereof may be modified, discharged or terminated except by an instrument in writing signed by Owner and Southwind. In the event that any one or more of the terms, provisions or conditions of this Agreement is determined to be illegal, invalid or unenforceable, all other terms, provisions and conditions hereof shall nonetheless remain in full force and effect. A waiver by Southwind of any breach of any provision of this Agreement by Owner shall not operate or be construed as a waiver of any subsequent or concurrent breach of Owner. All notices, invoices or other communications shall be in writing and shall be given or made in person or mailed by U.S. mail, postage paid, and addressed as set forth on the top of this Agreement. This Agreement shall be construed in accordance with, and governed by, the laws of the State of Wisconsin, and all actions brought hereunder shall be brought in courts located within the state of Wisconsin. This Agreement is binding upon the Owner and Southwind and their heirs, executors, administrators, successors, legal representatives, and assigns.

ACCEPTED AND AGREED AS OF THE DATE SET FORTH BELOW.

SOUTHWIND MARINE, LLC:

By: _____
Authorized Agent, Southwind Marine, LLC

Date: _____

OWNER:

Signature

Printed Name

Date: _____