

# Jerusalem Creek Marina & Holiday Park P/L

501 Jerusalem Creek Road, Eildon, North East Victoria. 3713

Contact: PH 03 5774 2585

Fax: 03 5774 2798

Email: admin@jerusalemcreek.com.au

ABN: 29 081 656 692

## **ACCOUNT TERMS AND CONDITIONS**

### 1. **Interpretation**

Unless inconsistent with the context:

"Agreement" shall mean and include the terms and conditions contained herein.

"Company" shall mean and include:

**Jerusalem Creek Marina & Holiday Park P/L**

"Customer" means and includes any natural person, company, partnership or other entity, which enters into this agreement with the company.

"Goods" means the goods and / or services supplied by the company pursuant to this agreement.

### 2. **Exclusion of inconsistent terms**

Any terms and conditions of the customer's order deviating from or inconsistent with these terms and conditions (including any statement by the customer that the customer's terms and conditions shall prevail) are expressly excluded. Subject to clause 14 this agreement constitutes the entire agreement between the parties.

### 3. **Acknowledgement**

Acknowledgement having read and agree to the terms and conditions of sale of the company included in this agreement and that such terms and conditions will extend to every contract entered into by me with the company and its associated entities.

### 4. **Warrant that the information supplied is true and correct**

Authorise the company to obtain a report from a credit reporting agency which contains details of my personal and commercial credit information is permitted under the Privacy Act, as required by the company for the purpose of this application for credit and to assess my application for credit on an ongoing basis and / or to collect payments in respect of the commercial credit provided to me.

### 5. **Payment**

Acknowledge and agree that in the event that the company approves a credit account, the trading terms of the company are:

1. Payment required within SEVEN (7) Days from date of statement or when Credit limit has been exceeded.
2. Statements will be issued on the 1<sup>st</sup> of each month and in the tourist season may be issued bi-monthly at the discretion of the company.
3. If an account is more than SEVEN (7) days overdue, your credit facility will be suspended. In addition, a late payment fee of \$25 will apply for all accounts overdue for more than SEVEN (7) days and interest applied to the outstanding amount as outlined in CLAUSE 9, INTREST.
4. Where the account continues to remain overdue and legal action is commenced to recover outstanding amounts, all cost of this procedure will be charged to the customer.

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## 6. **Credit Facility and Account Fees**

Acknowledge that all account holders will incur a monthly account keeping fee of \$2.00 including GST each month and this charge will be applied to the account holder's account at the end of each month.

Acknowledge that credit facilities may at any time be suspended or withdrawn without notice.

## 7. **Interest**

Acknowledge and agree that in respect of any amounts as may from time to time be overdue the company may charge interest at the rate being two percent (2%) above the rate fixed under section 2 of the Penalty Interest Rates Act 1983 (Vic) must be paid on the money due (without prejudice to any other rights of the company);

## 8. **Costs and other expenses**

Acknowledge and agree to pay all expenses (including commission charged by a collection agency and legal costs calculated on a solicitor / client basis), which the company may incur in the process of recovering any amounts outstanding by the customer to the company.

## 9. **Security**

Acknowledge and charge in favor of the company my credit card details and expressly allow the company to charge my credit card for any account outstanding and interest payable during the term of this agreement. Acknowledge and charge in favor of the company the right to enter the customers Houseboat / Holiday Park Site and remove the goods or goods to the value of any unpaid amount.

## 10 (a). **Ownership of Goods**

Acknowledge and agree that the company reserves the following rights in relation to goods supplied to the customer until all monies owed by the customer to the company are paid in full:-

- (i) legal ownership of goods supplied"
  - (ii) to enter the customer's premises (or the premises of the associated company or agent where the goods are located) without liability for trespass or any resulting damage and re-take possession of the goods; and
  - (iii) to keep or re-sell any goods re-possessed pursuant to all above.
- If the goods are re-sold by the company, the company will be entitled to supply such proceeds of sale towards the payment of all or part of the monies outstanding to the company. Notwithstanding the provisions above, the company shall be entitled to maintain an action against the customer for the balance for monies outstanding including interest and expenses referred to in clause 9 and 10 above.

- 10 (b) Acknowledge and agree that the risk of the goods supplied shall pass to the customer upon delivery notwithstanding 12(a).

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## 11. **Changes to proprietorship / personal details**

The customer hereby undertakes to advise the company within 7 days by certified mail of any actual or proposed change in:-

- (a) the address of the customer and the address at which the goods will be located (if it differs to the business / home address)
- (b) the trading name of the business:
- (c) The person(s), the directors, the trustee of the partnership conducting the business: and
- (d) The proprietorship of the business in that the business is converted into a trust or company or is sold to a trust or company.

The customer further accepts and agrees that where such a change occurs the company will require that a new application for credit facilities will be sought and considered and the customer will sign all documents and do all acts and things appropriate for such new application for credit facilities.

## 12. **Proper Law**

The contract between the company and the customer shall be governed and construed according to the laws of Victoria and the customer agrees to submit to the jurisdiction of the courts located in the capital city of Victoria.

## 13. **Waiver**

The waiver by the company of any breach of the customer of any term of this agreement shall not prevent the subsequent enforcement of the term and shall not be deemed a waiver of any other subsequent breach.

## 14. **Returns**

1. The company reserves the right in its complete discretion to refuse to accept any returns whatsoever.
2. Goods will not be accepted unless prior authorization is obtained. A 10% handling fee will apply.
3. Non standard goods will not be accepted for credit.
4. A copy of the invoice or receipt must accompany goods.
5. Goods older than 3 months will not be accepted for credit.

## 15. **Non-Customer Accounts**

The company reserves the right to cancel any non customer accounts as the company sees fit. Non-customer accounts are those that have not been used for the past 30 days.

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## 16. **Indemnity**

The customer shall indemnify and keep indemnified the company from and against all losses, claims proceedings, damages, costs and expenses in respect of or arising directly or indirectly from:-

- (a) the goods of their use;
- (b) from any advice given to the customer by the company.
- (c) any breach by the customer of the terms of this agreement.

## 17. **Implied Terms**

**17.1** Except as required by statute (including the Trade Practices Act 1974), all implied conditions and warranties are hereby excluded. Subject to the extent that such conditions and warranties cannot be excluded under statute (including the Trade Practices Act), the customer's sole and exclusive remedy for any breach of a condition warranty or undertaking hereunder / whether direct, indirect special or consequential) shall be limited at the sole discretion of the company to any one of the following :

- (a) in the case of goods:-
  - (i) the replacement of goods or supply of equivalent goods; and
  - (ii) the repair of goods.

**17.2** Except as required by statute (including the Trade Practices Act 1974) the company does not accept any liability for any direct or indirect or consequential loss or damage caused to the customer or any other person which arises out of the negligence or carelessness of the company or any of its employees, servants or agents. For the purpose of foregoing "consequential loss" shall include but not be limited to loss of profit or good will for similar financial loss), any payment made or due to any third party and any loss or damage caused by the delay in the supply of goods or services.

**17.3** Nothing in this agreement shall be read or implied so as to exclude, restrict, restrict or modify or have the effect of excluding restricting or modifying the application in relation to the supply of any goods or services pursuant to this agreement of any other relevant Act which by law cannot be excluded, restricted or modified.

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## Applicant Details

Name / Company: .....

Address: .....

.....

Phone: ..... Mobile: .....

Email: ..... ABN: .....

Site No / Houseboat Name: .....

Car Licence: .....

## Credit Card Details

Type.....

Card Number:.....

Expiry:.....

Name on Card: .....

## Authorized Account Users

Name/s

.....

.....

Credit Amount Required .....

(All Accounts will be set at a maximum of \$200.00 unless additional credit applied for)

I/we supply the information in this form for the sole purpose of obtaining a commercial credit account with Jerusalem Creek Marina & Holiday Park Pty Ltd.

I/we acknowledge that we have read and understood the **ACCOUNT TERMS AND CONDITIONS** and by applying and signing this form warrants total acceptance of these terms and conditions.

The undersigned also warrants the truth of the particulars supplied in this credit application.

**Signed:** \_\_\_\_\_

**Print Name:** \_\_\_\_\_

**Date:** \_\_\_\_\_