

## All use of the Marina Premises is subject to these Terms & Conditions

Quay Marinas Ltd.

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- 1 Under these Terms & Conditions, the following words shall have the following meanings:-
  - "Us", "We", "Our"** etc means Quay Marinas Ltd and/or its servants and agents;
  - "You", "Your"** etc means any person using the Marina Premises and includes a charterer, master, or agent, or other persons (other than Us) for the time being lawfully in charge of a Vessel or vehicle;
  - "Harbour"** includes a yacht harbour, marina, moorings, or any other Vessel berthing facility owned or operated by Us;
  - "Licence"** means the licence granted to You to berth any Vessel on Our Marina Premises under these Terms and Conditions.
  - "Licence Fee"** means the fee payable by You to Us in accordance with these Terms and Conditions;
  - "Marina Premises"** means the Harbour, including its dock walls, and any roads, car parks, buildings and other areas, equipment and facilities owned or operated by Us;
  - "Regulations"** means those regulations (if any) made by Us as the same may be amended from time to time, which We in Our absolute discretion consider necessary to enable Us or those using the Marina Premises to comply with any legal requirements or for the safety, security or good management of the Harbour or Marina Premises.
  - "Vessel"** shall include any form of craft, boat ship, yacht, dinghy, multihull, or other marine structure which is in Your care and control.
- 2 We agree to provide to You berthing or shore storage facilities in the Marina Premises for Your Vessel for the duration of this Licence in consideration for You paying Us the Licence Fee.
- 3
  - (a) Licences will be granted for the periods published by Us from time to time and will show the licence period agreed between Us and You. The Licence Fee will be calculated by reference to Our published charges prevailing at the time of the grant of this Licence. In the event of any increase or reduction in the rate of V.A.T We have the right to adjust the fees accordingly;
  - (b) This Licence shall not be automatically renewed but will terminate at the conclusion of the licence period, if not terminated sooner by Us or You under the provisions of clause 19;
  - (c) The Licence is personal to You and relates to Your Vessel as described in the Licence. It may not be transferred or assigned to a new owner or to a different Vessel, either temporarily or permanently without Our express written consent.
  - (d) Within 7 days of any agreement for the sale, transfer or mortgage of a Vessel subject to the Licence, You shall notify Us in writing of the name, address and telephone numbers of the purchaser, transferee or mortgagee, as the case may be.
  - (e) You must notify Us in writing of the details of any change of names of the Vessel or change of Your name, address or telephone number;
  - (f) Nothing in this Licence entitles You to the exclusive use of a particular berth. You must not lend, transfer or assign any berth allocated to You by Us from time to time, nor may You use it for any other Vessel, without Our prior written consent;
  - (g) You must not use any Vessel occupying a berth provided by Us for residential purposes without obtaining Our prior written consent, which may be withheld in Our absolute discretion or granted on such terms as We shall see fit. For the avoidance of doubt, a Vessel shall be regarded as being used for residential purposes if, amongst other things, You:
    - (i) use Your Vessel as Your principal or main place of residence; or
    - (ii) stay on board Your Vessel in excess of an average of three nights per week over a twelve week period; or
    - (iii) use Our offices at the Marina Premises as Your mailing address.
- 4
  - (a) We have the right to exercise a general lien (ie. the right to take possession of and prevent You from gaining access to, using or moving a Vessel and/or other property) over any Vessel and/or other property whilst in or on the Marina Premises until such time that any sums due to Us in respect of the Vessel and/or other such property, whether on account of services provided or work done or, damages to Our property, (including interest and Our costs in enforcing the general lien and obtaining from You payment of any sum due to Us under these Conditions), are paid. If We exercise such a general lien, You shall be entitled to remove Your Vessel or other property from the Marina Premises upon providing proper security (eg a Bank guarantee or a cash deposit) sufficient to cover the sum due to us (including interest and any costs incurred and/or likely to be incurred by Us in enforcing the general lien and obtaining from You payment of any sum due to Us under these Conditions);
  - (b) We shall not have the right to exercise a general lien in accordance with condition 4(a) above unless the sums due to Us exceed £100;
  - (c) Any monies that are not paid on or before the date for payment shall attract interest at the rate of 8% per annum at Our discretion from the date for payment. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment;
  - (d) You agree to indemnify Us against (ie. pay for) any and all reasonable costs of enforcing Our rights under these Terms & Conditions against You, including but not limited to the cost of letters and telephone calls made by Us.
- 5
  - (a) You must ensure that at all times Your Vessel is maintained in a clean and tidy state and in a seaworthy condition. You are also responsible for checking and maintaining adequate and securing mooring lines at all times. If Your Vessel is stored ashore at the Marina Premises You are responsible for checking and maintaining the security of the Vessel including but not limited to the cover(s), cradle, chocks and/or other supports, for removing all loose items and for checking the security of the Vessel prior to any bad or adverse weather conditions.
  - (b) If You request Us to launch your vessel in your absence it is your obligation to ensure that the vessel is in all respects watertight and all hull openings inspected and closed prior to the planned date of launch. We will not accept any liability for the watertight integrity or otherwise of the vessel upon launch.
  - (c) The Vessel must be berthed or moored by You in a seaman-like manner and in such a configuration and position as We may from time to time require and unless otherwise agreed the necessary warps and fenders shall be provided and maintained by You. Vessels must be clearly identifiable by name or alternatively by number (to be agreed with the Marina Manager).
  - (d) If You request Us to attend Your Vessel to check it prior to any forecast bad/adverse weather We will not accept any liability for any damage and/or loss suffered as a result of such bad/adverse weather.

6. You must comprehensively insure Your vessels and vehicles against loss or damage however caused, which insurance must include cover for liability to third parties (including public liability and where relevant employers liability) in respect of Yourself and each of Your vehicles or vessels, Your crew for the time being, and Your agents, servants, visitors, guests and sub-contractors in a sum of not less than £3.0M in respect of each accident or damage and You must maintain in respect of each Vessel adequate removal of wreck insurance. You must produce the policy or policies relating to this insurance to Us on demand.
- 7 (a) We have the right to moor, re-berth, move, board, enter, lift ashore, slip or carry out any emergency work on the Vessel, if in Our opinion it is necessary for the safety of the Vessel or the safety and/or convenience of other users of the Marina Premises or for the safety of Our plant and equipment and You must pay Our reasonable charges for such work. A scale of Our charges for any such work shall be available on request from Our offices at the Marina Premises and We shall provide You with an estimate of the likely costs and charges relating to such work prior to incurring them.  
(b) If at any time during the period of this Licence the berth previously allocated by Us to You is not used by You for mooring Your Vessel, then We shall be entitled to moor or permit a third party to moor a Vessel at that berth and We shall be entitled to all income (if any) arising. You must use all reasonable endeavours to give to Us not less than 24 hours previous notice of Your intention to return Your Vessel to the Harbour.
- 8 (a) The Vessel when entering or leaving or manoeuvring in the Harbour must not be navigated at such a speed or in such a manner as to endanger or inconvenience other vessels in the Harbour. You must at all times comply with any speed restrictions and byelaws relating to the Harbour, details of which will be provided by Us on request.  
(b) You must ensure that Your Vessel is not navigated in the Harbour by anyone incapable of properly navigating it or any person who is under the influence of alcohol or drugs or otherwise intoxicated so as to render navigation unsafe.
- 9 All persons using any part of the Marina Premises or facilities provided thereon for whatever purpose and whether by invitation or otherwise do so at their own risk unless any injury or damage to person or property sustained within the Marina Premises was caused by or resulted from an act or omission of Ours or those for whom We are responsible.
- 10 (a) We shall take reasonable and proportionate steps having regard to the nature and scale of Our business to maintain security at the Marina Premises, and to maintain the facilities and equipment at the Marina Premises and in the Harbour in reasonably good working order.  
(b) We shall not be liable for the loss, theft or any other damage of whatsoever nature caused to any Vessel or vehicle or other property (whether insured or not) belonging to You or others claiming through You except to the extent that such loss, theft, or damage may be caused by an act or omission of Ours or those for whom We are responsible, save as otherwise excluded by these Terms and Conditions.  
(c) You shall indemnify Us against (ie. pay for) any loss, damage or costs reasonably incurred by, and all claims or proceedings instituted against, Us or Our servants or agents which may be caused by Your Vessel or vehicle or by You, Your servants, agents, crew, guests, or sub-contractors except to the extent that such loss, damage, costs, claims or proceedings may be caused by an act or omission of Ours or those for whom We are responsible.  
(d) Where access for vessels to and from the Harbour is via a lock gate, swing or lift bridge or other restriction, We shall not be liable for loss, damage or costs of whatsoever nature suffered by You as a result of the lock gate, swing or lift bridge or other restriction being inoperative except to the extent that such inoperation may be caused by the act or omission of Us or those for whom We are responsible.
- 11 (a) Except with Our written consent, which may be withheld at Our sole discretion, no part of the Marina Premises or any Vessel kept in or on the Marina Premises may be used by You for any commercial purpose, including hiring, embarkation or disembarkation of charter parties, sale or demonstration of sale or hire of the Vessel provided that the occasional use of the Vessel by a personal friend of Yours on payment to You of a contribution towards the actual running costs of the said Vessel shall not be deemed a commercial purpose. You must upon request by Us supply to Us full details in writing of all such use under the proviso to this condition;  
(b) You shall be permitted to arrange a private sale of not more than one Vessel (such Vessel usually being berthed at the Marina Premises) during any one or more periods of six consecutive months of the Licence granted to You. A private sale shall be deemed to be any sale that is not made in the course of a trade or business. In the event of such a private sale:
  - (i) You must be present at all times during which the Vessel is to be viewed, and You are not permitted to display a "For Sale" notice on Your Vessel in or on the Marina Premises;
  - (ii) You must, within seven days of such a private sale, notify Us in writing of the name and address of the buyer of the Vessel.  
(c) No work shall be done to the Vessel, gear, equipment whilst in or on the Marina Premises except by Us (unless with Our prior written consent, which shall not be unreasonably withheld) other than minor running repairs or minor maintenance of a routine nature by You, Your regular crew, or members of Your family, not causing any nuisance or annoyance to any other users of the Marina Premises or any other premises or any person residing in the vicinity.  
(d) No contractor may work on a vessel for reward (unless with our prior consent, which shall not be unreasonably withheld) and all contractors will have to provide current relevant insurance cover, agree to comply with the Health & Safety at Work Act 1974 and comply in accordance with the provisions of the Contractors Handbook, details of which shall be provided by Us on request.
- 12 You, Your crew, members of Your family and any person carrying out work on Your Vessel is responsible for reporting to Us all accidents involving injury to any person or damage to any public or private property that occur in the Harbour or on the Marina Premises as soon as possible after they occur and in any event no later than 48 hours after such accident or damage has occurred.
- 13 (a) No noisy, noxious or objectionable engines, radio, or other apparatus or machinery may be operated within the Marina Premises nor may animals be allowed within the Marina Premises so as to cause (or be likely to cause) any nuisance or annoyance to any other users of the Marina Premises or any person residing in the vicinity and You undertake for Yourself, Your guests and all using the Vessel that they shall not behave in such a way as to offend as aforesaid. Halyards must be secured so as not to cause such nuisance or annoyance.  
(b) Unreasonable behaviour cannot be condoned and We reserve the right to terminate this licence with immediate effect if it is brought to our attention that You, your guests and/ or any other person(s) using the Vessel cause unreasonable interference, nuisance or continued annoyance with the proper and safe operation of the Marina or use intimidating behaviour or language either directed at the marina staff or other users of the Marina Premises.  
(c) Drugs and excessive alcohol consumption are strictly prohibited in the Marina Premises. In the event that You, Your agents, servants, visitors, guests and/or sub-contractors are found to be in possession of or, in our reasonable opinion considered to be under the influence of, drugs, excessive alcohol or otherwise intoxicated, such person will be asked to leave the Marina Premises immediately and we may terminate this Licence in accordance with clause 19.
- 14 No refuse or noxious substances or sewage may be discharged or thrown overboard or left on the pontoons, jetties or car parks, or disposed of in any way other than in the receptacles provided by Us or by removal from the Marina Premises.

- 15 Dinghies, tenders and other small craft must be stowed aboard the Vessel unless a berth is separately provided by Us, and must not be used for recreational purposes under power or sail.
- 16 (a) You and Your guests are required to park their motor vehicles in such position and in such manner as shall from time to time be directed by Us.
- (b) All vessels and vehicles in or on the Marina Premises may be moved by Us to any part of the same Marina Premises without Your knowledge or consent where such movement is necessary for the proper or efficient operation of the Marina Premises;
- 17 (a) No items of boats, gear, fittings or equipment, supplies, stores, or the like may be left upon the pontoons, jetties or car parks.
- (b) The hardstanding area occupied by your Vessel must be kept clean and tidy and at the end of the storage period returned to its original condition. Any damage caused, staining from oil, antifouling, paint and any other substance must be removed. We reserve the right to clean any area not left in its original condition and charge for this service.
- 18 You shall at all times observe Our Regulations and in particular:
- (a) You must take all necessary precautions against the outbreak of fire in or upon Your Vessel and You must observe all statutory and local regulations relative to fire prevention (if any) that shall be exhibited at Our offices. You must provide and maintain at least one fire extinguisher of a government approved or BSI standard type and size in or on the Vessel in case of fire.
- (b) When on our Marina Premises You shall refuel only at the designated fuelling berth and from fuel purchased from Our supply. Where fuel is required to be transferred in portable containers we reserve the right to refuse the use of any container deemed unfit for that purpose.
- (c) We reserve the right to introduce new Regulations on grounds of legal requirement or for the safety or security or good management of the Harbour or Marina Premises, and to amend such Regulations as from time to time shall be necessary. Such Regulations and any amendments to them shall become effective on being displayed on Our public notice board or other prominent place on the Marina Premises, and We shall have the same rights against You for a breach of the Regulations as for a breach of the terms of Your Licence.
- (d) You, Your guests and Your crew are advised that Your conduct and that of your Vessel is likely to be regulated and governed at various times by statutory, local authority and harbour regulations which may be more extensive than Our Regulations and the breach of which may result in criminal penalties.
- 19 (a) In the event of any breach of these Terms and Conditions by You, We shall have the right to serve a written notice on You, at Your last known address, specifying the breach and requiring compliance within 14 days of the notice. If the breach is not rectified within the 14 day period, We have the right to terminate this Licence with immediate effect by serving a written notice on You at Your last known address.
- (b) In the event of any serious or persistent breach of these Terms and Conditions by You, We have the right to terminate this Licence with immediate effect by serving a written notice on You by posting it to Your last known address.
- (c) Upon termination of this Licence in accordance with conditions 19(a) or (b) above, We may refuse to provide any further services at Our sole discretion and You must remove Your Vessel from the Marina Premises within 14 days of the termination of this Licence. We shall not be obliged to make any refund to You of any proportion of the Licence Fee unless We are able to re-allocate the berth previously occupied by Your Vessel, in which case We will refund You a proportion of the Licence Fee in accordance with the provisions of Our Refund Policy, details of which shall be provided by Us on request.
- (d) We have the right to terminate this Licence, by the giving of written notice to You, if at any time the Marina Premises shall be so damaged, impeded, or interfered with by force majeure (as defined below) as to render it unlikely that We will be able to continue to provide a berth or mooring in accordance with this Licence. For the purposes of this condition, force majeure means any event or circumstances (whether arising from natural causes, human agency or otherwise) beyond Our control including (but not limited to) weather conditions, riots, civil commotion, fire or war.
- (e) In the event of termination by Us in accordance with condition 19(d) above, We shall refund to You part of the Licence Fee in proportion to the unexpired period of the Licence.
- (f) You shall have the right to terminate this Licence with immediate effect by serving a written notice on Us. In the event of You terminating this Licence in accordance with this condition 19(f), You shall remove Your Vessel from the Marina Premises within 14 days of the termination of this Licence. On removal of Your Vessel from the Marina Premises, We shall refund to You a proportion of the Licence Fee in accordance with the provisions of Our Contract Cancellation Policy, details of which shall be provided by Us on request.
- 20 (a) Any obligation of Ours toward vessels or goods left at the Marina Premises ends upon the expiry or lawful termination of this Licence and We accept no responsibility for loss or damage to any vessels or goods left at the Marina Premises without Our consent save insofar as such loss or damage is caused by an act or omission of Ours or those for whom We are responsible;
- (b) If You fail to remove the Vessel on termination of this Licence in accordance with condition 19 or otherwise, We are entitled:
- (i) To charge You with the rental which would have been payable by You to Us if the Licence had not been terminated for the period between termination of the Licence and removal of the Vessel from the Marina Premises; and/or
- (ii) At Your risk (save in respect of loss or damage caused by an act or omission of Ours or those for whom We are responsible during such removal) to remove the Vessel from the Marina Premises and thereupon secure it elsewhere and charge You with all reasonable costs arising out of such removal including alternative berthing fees; and/or
- (iii) To give notice to You to sell the vessel and/or other property by the best method of sale reasonably available in the circumstances. The proceeds of the sale after payment of the said money due and the expenses of the sale shall be paid to the owner of the vessel and/or property. You may obtain advice relating to this action from a Citizen's Advice Bureau, Law Centre or any firm of solicitors.
- (c) Notwithstanding clause 20(b), you hereby irrevocably appoint Us as Your agent and attorney for the sale and disposal of any vessel and/or other property belonging to You, Your agents, servants, visitors, guests and sub-contractors which is left at the Marina Premises without Our consent, so long as any money is due from You to Us, irrespective of whether such money relates to such vessel and/or property, and We shall be entitled to charge and apply all the usual commissions and expenses incurred by us or a third party in connection with such sale or disposal.
- 21 Maritime Law entitles Us in certain circumstances to bring action against a Vessel to recover debt or damages. Such action may involve the arrest of the Vessel through the Courts and its eventual sale by the Court. Sale of a Vessel may also occur through the ordinary enforcement of a judgment debt against the owner of a Vessel or other property.
- 22 The foregoing Terms and Conditions of Marina Use shall apply to all users of the Marina Premises. These Terms and Conditions shall be subject to Scottish Law and the non-exclusive jurisdiction of the courts of Scotland..
- 23 A person who is not a party to this Agreement may not enforce any of its terms under the Contracts (Right of Third Parties) Act 1999.