



Newcastle City Marina

Terms and Conditions

CONDITIONS

1 APPLICATION AND DEFINITIONS

1.1 **These Conditions (which include the Regulations) apply to all contracts between the Company and an Owner in relation to the use of the Marina by an Owner and the Owner acknowledges that he has been made aware of these Conditions prior to submitting an Email Booking Application or acceptance by the Company of a telephone booking.**

1.2 Where the following words appear in these Conditions they shall have these meanings unless the context otherwise requires or admits:-

Berth means the space on water from time to time allocated to the Owner by the Company for the Vessel during the term of the Licence

Berthing Confirmation Form means the form signed by an Owner on arrival at the Marina confirming certain matters relating to the use of the Marina by the Owner and confirming the Owner's acceptance of these Conditions

Charge means the charges for a Berth as set out on the Company's website and confirmed by the Company prior to accepting an Owners booking request

Contract means the contract between the Owner and the Company for the provision to the Owner by the Company of a Berth at the Marina, incorporating these Conditions

Company means Newcastle NE1 Limited to whom the application for berthing is made

Email Booking Application means an email from an Owner to the Company requesting a Berth, subject to these Conditions, and including the prescribed information required to be included in the application as set out on the Company's website

Licence means the licence granted by the Company to the Owner pursuant to the Contract

Marina means the marina located at the Newcastle Quayside comprising Pontoons and related equipment located there for mooring or berthing a vessel

Notices means all publicly displayed signs, notices and information at the Marina relating to the Marina and its use from time to time



Owner includes any owner, charterer, master, agent or other person for the time being in charge of the Vessel, excluding the Company

Premises means all the land, adjacent water and buildings occupied by or under the control of the Company at the Newcastle Quayside where the Marina is located and which relate to the Marina, including pontoons, quays and car parks

Regulations means the Port of Tyne Byelaws, the Oil Spill Contingency Plan of the Port of Tyne, the Waste Management Plan of the Port of Tyne and the Port Marine Safety Code of the Port of Tyne (see [http:// www.portoftyne.com](http://www.portoftyne.com)) in force from time to time

Vessel means any form of craft, boat, ship, yacht, dinghy, multihull, or other marine structure which is in the care and control of the Owner

Pontoon means a moored and decked floating structure providing landing or mooring facilities and any related access gangways or bridges to the shore.

2 CONTRACT FORMATION

- 2.1 The Contract shall be formed when, in the case of an online booking, the Company accepts an Email Booking Application by telephoning the Owner to confirm the availability of a Berth on the requested dates and take payment from the Owner or when, in the case of a telephone booking, the Company accepts the booking by confirming by telephone the availability of a Berth on the requested or agreed dates and taking payment from the Owner.
- 2.2 Where the requested dates are not available the Company may offer alternative dates to the Owner who may decline the alternative dates, in which case the booking application shall be deemed withdrawn, or accept them.
- 2.3 Following the telephone acceptance referred to in clause 2.1 the Company will send a confirmatory email to the Owner setting out the details of the booking, including any revised dates agreed to by the Owner.
- 2.4 On arrival at the Marina the Owner shall sign a Berthing Confirmation Form. A refusal or failure to do so may mean the Berth is not available.

3 THE LICENCE AND PAYMENT

- 3.1 Berths at the Marina shall be licensed at the rates of charge from time to time published by the Company on its website in force at the time a booking is accepted.
- 3.2 Unless expressly agreed in writing by the Company in advance, a Licence shall commence at [.....] on the first day of the period of the Licence and expire at the same time on the last



day of the Licence in the case of visits longer than a day and shall commence and end at such times in the day as the Company may notify to the Owner in the case of a day booking provided that where this Contract is terminated before the expiry of that period, the Licence shall terminate at the same time as the Contract is terminated.

3.3 Payment of the charges by the Owner shall be made in full by credit or debit card by telephone in accordance with clause 2 and any failure to make payment of the charges in full before arrival may mean the Berth is not available. Payments shall be non-refundable.

3.4 The Owner shall remove the Vessel immediately on expiry or termination of the Licence.

4 LIABILITY, INDEMNITY AND INSURANCE

4.1 The Company shall not be liable for its non-performance or any loss or damage caused by any event or circumstance beyond its reasonable control (such as extreme weather conditions, the actions of third parties not employed by it or any defect in any part of a customer's or third party's Vessel); this extends to loss or damage to Vessels, gear, equipment or other goods left with it for repair or storage, and harm to persons entering the Premises or the Marina and/or using any facilities or equipment. Nothing in the Contract shall exclude the Company's liability for death or personal injury caused by its negligence or any other liability the exclusion of which is prohibited by law.

4.2 The Company shall take all reasonable steps to maintain security at the Premises and to maintain the facilities at the Premises and in the Marina in reasonably good working order. Subject to this, and in the absence of negligence or breach of duty on the part of the Company, Vessels, gear, equipment or other goods are left with the Company at the Owner's own risk and Owners should ensure that they have appropriate insurance against all relevant risks.

4.3 The Company shall not be under any duty to salvage or preserve an Owner's Vessel or other property from the consequences of any defect to the Vessel or property concerned unless it shall have been expressly engaged to do so by the Owner on written commercial terms. Similarly the Company shall not be under any duty to salvage or preserve an Owner's Vessel or other property from the consequences of an accident for which the Company is not responsible. However the Company reserves the right to do so in any appropriate circumstances, particularly where a risk is posed to the safety of people, property or the environment. Where it does so it shall be entitled to charge the Owner concerned on a normal commercial charging basis (and where appropriate, to claim a salvage reward).

4.4 **Owners may themselves be liable for any loss or damage caused by them, their crew or their Vessels and they shall be obliged to maintain adequate insurance including third party liability cover for not less than £3,000,000 and where appropriate, employer's liability cover to at least the statutory minimum.** The Owner shall be obliged to produce evidence to the Company of such insurance on arrival at the Marina and Owners warrant represent and undertake to the Company that they have or will for the duration of the licence period have in



place the insurance (against the risks and in the amounts) described in this clause and agree to indemnify and keep indemnified the Company at all times against all losses, liabilities, costs expenses, claims and damage or any kind it may suffer or incur as a result of a breach of this clause by the Owner.

5 CHANGE OF DETAILS

5.1 The Owner must notify the Company in writing of the details of any change of names of the Vessel or change of email address, postal address or telephone number of the Owner.

6 BERTH ALLOCATION

6.1 The Company shall retain absolute control of Berth allocation within the Marina. Accordingly the Owner shall not be entitled to the exclusive use of any particular Berth but shall use such Berth as is from time to time allocated to him by the Company before arrival or during the period of the Licence.

7 PERSONAL NATURE OF THE LICENCE

7.1 This Contract including the related Licence is personal to the Owner and relates to the Vessel described in the Email Booking Application or by telephone when the Owner makes a booking by telephone. It may not be transferred or assigned to a new Owner or to a different Vessel, either temporarily or permanently, without the express prior written consent of the Company.

7.2 Any agreement for the sale, transfer or mortgage of a Vessel which is to complete during the Licence period must be notified to the Company in writing on booking a Berth and in any event immediately including the name, address and telephone numbers of the purchaser, transferee or mortgagee, as the case may be.

8 USE OF BERTH BY COMPANY WHEN VACANT

8.1 The Company may have the use of the Berth when it is left vacant by the Owner and may grant a licence in respect of it to another owner but subject to providing the Owner with a suitable alternative Berth for his Vessel.

9 TERMINATION

9.1 The Company shall have the right (without prejudice to any other rights in respect of breaches of the terms of the Contract by the Owner) to terminate the Contract immediately without cause or in the event of any breach by the Owner of this Contract.

9.2 Where the Owner is in breach of the Contract, then having regard to the nature and seriousness of the breach and the risk it poses for the financial or other security of the Company and/or of the Company's customers and the threat to the health, safety or welfare of any other person or



property the Company may serve notice on the Owner requiring him to remove the Vessel from the Marina immediately.

9.3 If the Owner fails to immediately remove the Vessel on termination of this Contract or under clause 9.2 above whether under this Condition or otherwise, the Company shall be entitled:-

9.3.1 to charge the Owner at the Company's 24 hour rate for overnight visitors for each day between termination of this Contract and the actual date of removal of the Vessel from the Marina; and/or

9.3.2 at the Owner's risk (save in respect of loss or damage caused by the Company's negligence or other breach of duty during such removal) to remove the Vessel from the Marina and thereupon secure it elsewhere and charge the Owner with all costs reasonably arising out of such removal including alternative berthing fees.

9.4 Any notice of termination under the Contract shall, in the case of the Owner, be served personally on the Owner or by being left on the Vessel (if at the Marina) or sent by registered post or recorded delivery service to the Owner's last known address or sent by email to the Owner's email address provided and in the case of the Company shall be served at its principal place of business or registered office.

10 RIGHT OF DETENTION

10.1 The Company reserves a general right to detain and hold onto the Owner's Vessel or other property pending payment by the Owner of any sums due to the Company. If the Contract is terminated or expires while the Company is exercising this right of detention it shall be entitled to charge the Owner at the Company's 24 hour rate for overnight visitors for each day between termination or expiry of the Contract and the actual date of payment (or provision of security) by the Owner and removal of the Vessel from the Marina. The Owner shall at any time be entitled to remove the Vessel or other property upon providing proper security, for example a letter of guarantee from a Bank or a cash deposit, sufficient to cover the debt with interest and, where the debt is contested, a reasonable provision for the Company's prospective legal costs.

11 VESSEL MOVEMENTS

11.1 The Company reserves the right to move any Vessel, gear, equipment or other goods at any time for reasons of safety, security or good management of the Marina and Premises.

11.2 Vessels shall be berthed or moored by the Owner in such a manner and position as the Company may require and unless otherwise agreed adequate warps and fenders for the Vessel shall be provided by the Owner.

11.3 No vessel, when entering or leaving or manoeuvring in the Marina, shall be navigated at such a speed or in such a manner as to endanger or inconvenience other vessels in the Marina.



11.4 Owners, their guests and crew are advised that Vessels are at all times subject to the speed restrictions and byelaws of Marina and Navigation Authorities and the requirements and powers of regulatory authorities, including but not limited to the Maritime and Coastguard Agency and the Health and Safety Executive; there are criminal penalties for the breach of such restrictions, requirements and byelaws.

12 COMMERCIAL USAGE

12.1 No part of the Company's Marina or Premises or any Vessel or vehicle while situated therein or thereon shall be used by the Owner for any commercial purpose, except where the Owner has sought and obtained prior written agreement from the Company. Where this Contract is with an Owner whose Vessel is operated for hire or reward in the course of trading, special conditions will apply to this Contract.

13 STORAGE

13.1 Dinghies, tenders and rafts shall be stowed aboard the Vessel unless the Company allocates a separate berth for them.

14 MARINA AND MARINA REGULATIONS

14.1 The Owner shall at all times observe and comply with the Regulations, insofar as they apply to the Owner, and all Notices.

14.2 In relation to each Vessel belonging to an Owner which is berthed at the Marina, the Owner shall provide and maintain on that Vessel at least one fire extinguisher, which is approved and manufactured to EN3 standards for portable fire extinguishers and ensure it is fit for purpose for the Vessel and ready for immediate use in case of fire.

14.3 The Company will make available an electricity power point for the Vessel on the Pontoon but the Company does not guarantee continuity of electricity supply and shall not be responsible for any loss or damage caused by any interruption in supply however such interruption arises. The Company reserve the right to make a charge for electricity consumed.

14.4 The Owner shall refuel only at the designated fuelling berth (if any) and shall promptly vacate the fuelling berth when the fuelling operation is completed. Where fuel is required to be transferred or stored in portable containers, the Owner shall only use containers which comply with all relevant safety standards and shall fully comply with best practice and all relevant safety guidance and recommendations in relation to the use and storage of such fuel and the Company reserves the right to refuse the use of any container deemed unfit for the purpose or not in compliance with relevant safety standards.

14.5 Licensees and their invitees who bring pets to the Marina shall keep them under the strictest control whilst on or outside the Vessel in order not to cause nuisance to other clients or to



cause damage to the Marina. Owners with dogs must clean up after their dogs or those of their invitees. Dogs must be kept on a lead at all times. If the Owner fails to comply with this clause may be asked to remove the pets from the Marina with immediate effect and the Company's decision will be final. Strict regulations for the control of rabies exist in the UK and no pet or animal shall be landed at the Marina from abroad without prior permission from the Company and written confirmation from the Owner that the correct procedures have been observed and the relevant authorities notified.

15 WORK ON THE VESSEL

15.1 No work shall be done on the Vessel, gear, equipment or other goods in the Marina or on the Premises without the Company's prior written consent other than minor running repairs or minor maintenance of a routine nature by the Owner, his regular crew or members of his family not causing nuisance, or annoyance to any other customer or person residing in the vicinity, nor interfering with the Company's schedule of work, nor involving access to prohibited areas.

16 HEALTH, SAFETY AND THE ENVIRONMENT

16.1 The Owner, his crew, members of his family and any person carrying out work on the vessel is responsible for reporting to the Company all accidents involving injury to any person or damage to any public or private property that occur in the Marina or on the Premises as soon as possible after they occur.

16.2 No noisy, noxious or objectionable engines, radio, or other apparatus or machinery shall be operated within the Marina or Premises so as to cause any nuisance or annoyance to any other users of the Marina or Premises or to any person residing in the vicinity and the Owner undertakes for himself, his guests and all using the Vessel that they shall not behave in such a way as to offend as aforesaid. Halyards and other rigging shall be secured so as not to cause such nuisance or annoyance.

16.3 No refuse shall be thrown overboard or left on the Pontoons, or on any part of the Premises, or disposed of in any way other than in the receptacles provided by the Company or by proper removal from the Marina and Premises. The Company's further directions regarding waste management shall be posted on the Company's website and in Notices.

16.4 The Owner, his crews and invitees will at all times exercise respect for the peaceful enjoyment of other Marina users and customers. Noise and disturbance from the Vessel must be kept at a reasonable level such that it does not inconvenience or otherwise annoy others.

16.5 The Owner shall at all times navigate and control his Vessel in a seamanlike manner so as to cause no danger or inconvenience to any other person or boat. All vessels shall proceed at a speed and in such a manner which is safe in relation to the prevailing conditions and shall at all times comply with speed limits set by the Company or specified by the Port of Tyne in the Regulations



- 16.6 The Owner, his crew and invitees will ensure that Pontoons are kept clear for the safe use of others and nothing shall be affixed to the Pontoons by the Owner or his representatives.
- 16.7 Laundry shall not be hung out on deck or on the rigging of vessels at the Marina.
- 16.8 The riding of cycles, motorised cycles, skateboards and similar devices on the Marina and Pontoons is forbidden.
- 16.9 Vessels will be moored in a seamanlike manner. Any warps, fenders or other mooring devices must be capable of securing the vessel in storms, strong currents and gale force winds. Any warps, fenders and other mooring devices which in the opinion of the Company prejudice the safety of the vessel, other vessels in the Marina, persons or the structures of the Marina may be replaced by the Company and charged to the account of the Owner.
- 16.10 Vessels will only be accepted into the Marina that are in a seaworthy condition and maintained in good, safe and serviceable order Vessels should at all times kept in a clean and tidy condition and in good repair such that they do not reflect unfavourably on the appearance of the Marina and the Company's decision shall be final. No Jet-skis, personal watercraft, canoes, kayaks or dinghies or similar vessels are to be launched from the Marina.
- 16.11 The Owner shall ensure no dangerous, inflammable, poisonous or noxious substance, oil, petrol, fuel, paint or contaminated bilge water or effluent are discharged or allowed to escape into the Marina from his Vessel or as a result of his acts or omissions or those of his crew or visitors.

17 GENERAL

- 17.1 The information which the Owner provides to the Company in relation to the use of the Marina will be processed by the Company, which is the data controller for the purposes of the Data Protection Act 1998. The personal data that the Owner provides will be used in order to deal with the administration of the Contract and the provision of the Berth to the Owner. The Owner's details may also be retained for statistical purposes and to support staff training. The Company will not disclose the personal information relating to an Owner to any third party except where required to do so by law or with the consent of the Owner.
- 17.2 A person other than the Company or an Owner shall have no rights to enforce any term of the Contract under the Contracts (Rights of Third Parties) Act 1999 but this shall not affect any right or remedy available to any person apart from under that Act.
- 17.3 The failure by the Company to exercise or delay in exercising any right or remedy under the Contract shall not constitute a waiver of the right or remedy or a waiver of any other rights or remedies that party may otherwise have and no single or partial exercise of any right or remedy under the Contract shall prevent any further exercise of the right or remedy or the exercise of any other right or remedy.



17.4 No variation of these terms shall be effective unless made in writing and signed by or on behalf of the Company and the Owner.

17.5 These Conditions, including the Regulations and the Berthing Confirmation Form are the entire agreement between the Company and the Owner in respect of the use of the Marina by the Owner. These Conditions and the documents referred to supersede and extinguish any previous agreements between the parties, whether orally or in writing, in respect of the Marina which shall cease to have any further force or effect. It is agreed that nothing in these Conditions shall exclude any liability for, or remedy in respect of fraud.

17.6 The Contract shall be governed by English law and the parties submit to the exclusive jurisdiction of the High Court of England and Wales in relation to any dispute or claim arising out of or in connection with it.