

# WATERSIDE MARINA BRIGHTLINGSEA

## TERMS AND CONDITIONS

All persons entering into the Marina for whatever purpose shall be deemed to do so in accordance with these terms and conditions.

### 1.0 Definitions

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| <b>Company</b> | means Brightlingsea Harbour Commissioners                                                                                                                                                            |
| <b>Berth</b>   | means the water space temporarily allocated to the OWNER by the COMPANY for the storage of the Boat.                                                                                                 |
| <b>Boat</b>    | means but is not limited to ship, yacht, dinghy, catamaran, vessel or craft whether or not its principal propulsion shall be by wind or engine.                                                      |
| <b>Manager</b> | means the person or his representative who shall be responsible for the day-to-day administration of the Marina.                                                                                     |
| <b>Marina</b>  | means all the seabed and water, bridges, pontoons, finger pontoons and equipment thereon within the perimeter walls of the marina basin                                                              |
| <b>Owner</b>   | means any person or persons or corporate body who shall have entered into an agreement with the COMPANY permitting such person or persons or corporate body to moor a Boat in a Berth in the Marina. |
| <b>User</b>    | means any person using the Marina for any purpose whatsoever.                                                                                                                                        |

### 2.0 Safety and Environment

- 2.1 The OWNER acknowledges and agrees that the COMPANY shall have the right without prior notice to require the OWNER to move and reberth the Boat and shall itself have the right to move and reberth the Boat to any new location within the Marina if the COMPANY considers it to be in the interests of the COMPANY or the OWNER or Marina users or visitors.
- 2.2 The COMPANY shall have the right to board and enter (by force if necessary) to carry out any emergency work on the Boat without prior notice to the OWNER if in the COMPANY'S opinion such work be necessary for the safety of the Boat or the safety and or convenience of other Marina users or visitors. The OWNER shall pay on demand the COMPANY'S reasonable charges for such work.
- 2.3 No dangerous inflammable poisonous or noxious substances spirits oil or petrol or other flammable fluid shall be brought into the Marina or stored on the Boat except in properly secured containers expressly designed to contain such substances against leakage.
- 2.4 The OWNER shall not refuel the Boat in the Marina.
- 2.5 The Boat shall be berthed by the OWNER in such a manner and in such location as the COMPANY may require. All necessary warps and fenders shall be provided by the OWNER and the OWNER expressly undertakes and agrees to ensure that the Boat is properly and safely secured and attached to the pontoon at all times. In particular it is the responsibility of the OWNER to check the security of warps and to replace them when necessary.
- 2.6 The OWNER shall comply with all reasonable instructions of the Manager in connection with all matters relating to the safe and efficient operation of the Marina.
- 2.7 The OWNER shall navigate and control the Boat in the Marina at all times in a seamanlike manner so as to cause no danger damage or inconvenience to any other person or boat. In particular the Boat shall proceed at a speed which is safe in relation to prevailing conditions and shall at *all* times comply with any speed restrictions displayed from time to time in the Marina.
- 2.8 The OWNER shall not operate or permit to be operated within the Marina any engine generator other machinery radio or any apparatus so as to cause any noise nuisance annoyance or inconvenience to other Marina users or any person residing in the vicinity of the Marina. The OWNER further undertakes and agrees for himself his family and his visitors using the Boat and the Marina facilities that they shall behave in a considerate manner and in such a way as to cause no nuisance annoyance or inconvenience to any other Marina user.
- 2.9 The OWNER shall ensure that at all times halyards flags banners and other items attached to the Boat shall be secured so as not to cause any noise nuisance or inconvenience to other Marina users.
- 2.10 The OWNER undertakes and agrees that no refuse shall be thrown overboard or left on the pontoon jetties or other parts of the Marina. The OWNER further undertakes and agrees that oil petrol tar paint sewage and any other similar noxious substances shall be discharged exclusively into receptacles specifically provided to receive such waste materials. In no circumstances shall such waste materials be

discharged into the water or elsewhere in the Marina.

- 2.11 Animals may only be brought into the Marina provided that they are at all times kept under the control of OWNER and dogs are to be kept on a leash and do not cause inconvenience in the form of noise, fouling of pontoons or the communal areas or otherwise. Animals insofar as is reasonably practical shall be kept aboard the Boat at all times. Strict regulations exist for the control of rabies and the COMPANY reserves the right to require the OWNER to remove any animal from the Marina without prior notice. No animal which has been taken abroad shall be brought into or landed in the Marina without the prior written consent of the COMPANY. The COMPANY reserves the right to report any suspected breach of this clause to the appropriate authorities.
- 2.12 The OWNER shall not erect any washing line on the Boat or within the Marina.
- 2.13 The OWNER shall take all necessary and reasonable precautions against the outbreak of fire in or upon the Boat. The OWNER shall provide at least one fire extinguisher in or upon the Boat suitable for the type of engines, fuel and equipment relating to the Boat and of a kind which shall be approved by the appropriate Government Department. Such extinguisher shall be at all times be kept instantly ready for use and in good and efficient working order.
- 2.14 No person shall be permitted to work on the Boat or otherwise in the Marina so as to cause nuisance or annoyance or inconvenience to other Marina users or visitors or damage to other boats and in particular OWNERS shall take steps to ensure that the minimum of dust is caused when cleaning or maintaining the Boat or as a result of any other operations. The OWNER shall himself or otherwise ensure that all waste materials shall be cleared daily after work on the Boat or otherwise and shall be deposited in suitable receptacles. If the OWNER or any agent of the OWNER shall fail promptly to clear away any such waste the COMPANY shall itself remove such waste and the OWNER shall pay on demand the COMPANY'S reasonable costs incurred in collecting and disposing of such waste.
- 2.15 The OWNER or USER whilst on the marina is to report in writing to the Manager within 24 hours any injury or accident that occurs within the marina.
- 2.16 The OWNER shall ensure that he has read and understood the COMPANY'S Health & Safety, Environmental policy and Safety First poster, which is displayed and available from the Managers' office. The COMPANY reserves the right to amend such policies from time to time without notice.
- 2.17 The OWNER understands and agrees that the COMPANY has the right to require the OWNER his family and the visitors to leave the Marina forthwith if any of them shall fail to observe these regulations upon being requested by the Manager to do so.

### **3.0 Management**

- 3.1 The COMPANY shall have the absolute right to allocate another boat to occupy the Berth without compensation to the OWNER.
- 3.2 Neither the OWNER nor his agent shall be permitted to construct or complete the construction of any boat within the Marina without the prior written consent of the COMPANY which consent may be granted or refused by the Company at its absolute discretion.
- 3.3 Dinghies, tenders and rafts shall be stowed aboard the Boat unless the OWNER and the COMPANY shall otherwise agree in writing.
- 3.4 The Boat dinghies tenders trailer and cradles shall be clearly marked with the name of the Boat. Any other equipment which is not stored securely in the Boat shall also be clearly marked with the name of the Boat.
- 3.5 No parts of the Boat or other equipment dinghies gear fittings supplies stores or similar items shall be stored or left upon the pontoons jetties or otherwise within the Marina without the prior written consent of the COMPANY which consent may be granted or refused by the COMPANY in its absolute discretion.
- 3.6 The COMPANY expressly reserves the right to introduce new regulations or vary these regulations in order to promote the better administration of the Marina in the interests of Marina users as a whole or to comply with statutes, regulations or bye-laws.
- 3.7 The OWNER shall not himself nor shall he permit any other person to live aboard the Boat.
- 3.8 If requested by the COMPANY the OWNER shall deposit keys with the Manager giving full access to the interior and locks of the Boat including engine keys.
- 3.9 The OWNER shall notify the Manager prior to his departure by Boat from the Marina together with the anticipated time and date of his return.
- 3.10 In no circumstances shall the OWNER display or cause to be displayed any "For Sale" or similar notice on or in the Boat or on any other part of the Marina.
- 3.11 The Boat shall be moored in the Berth allocated by the COMPANY from time to time and shall not be moored elsewhere in the Marina without the prior written agreement of the COMPANY.
- 3.12 The Boat may be used for private purposes only and the OWNER is not permitted directly or indirectly to charter the Boat or otherwise use it or cause it to be used commercially without the prior written consent of the COMPANY.
- 3.13 The OWNER shall maintain the Boat in good and clean condition and ensure that the Boat is able to

proceed under its own power at all times. The Boat shall leave the Marina at least twice during any period of 12 months if requested by the COMPANY so to do.

- 3.14 If the OWNER shall fail to remove the Boat at the request of the COMPANY the COMPANY shall have the right to do so and the OWNER shall pay the reasonable costs and expenses of the COMPANY including but not limited to craneage and storage charges.
- 3.15 The OWNER is required to notify the COMPANY advising it of any period when the Boat will be absent from its berth. In the absence of this communication, the COMPANY cannot guarantee the Berth to be available upon the return of the OWNER'S boat to its allocated berth.

#### **4.0 Insurance**

- 4.1 The OWNER undertakes and agrees to maintain in full force and effect public liability insurance in an amount of at least ONE MILLION POUNDS STERLING for the Boat and any other property in the Marina in the care custody or control of the OWNER together with such other insurance as is normal for a Boat of its size power and description. Such insurance to be effected with an insurance company of repute and for such additional risks as the COMPANY may from time to time reasonably acquire.
- 4.2 The OWNER shall not cancel surrender or materially alter the terms of such insurance policy without the prior written consent of the COMPANY which consent will not be unreasonably withheld.
- 4.3 The OWNER on request shall furnish the COMPANY with legible copies of the current insurance certificate and policy of insurance together with copy of receipt for the last premium paid.

#### **5.0 General Conditions**

- 5.1 All boats are moored at the SOLE RISK of either the Owner or User.
- 5.2 Fishing, water skiing, speedboat racing, hydro-planing and jet skiing are prohibited within the Marina.
- 5.3 Luggage trolleys must be returned to the designated trolley storage area after use.
- 5.4.1 Electricity (where applicable) is provided subject to the following terms and conditions:
- 5.4.2 the COMPANY cannot guarantee continuous supply as power cuts and breakdowns are not within its control.
- 5.4.3 connectors and cables not supplied by the COMPANY shall be approved by the COMPANY. The OWNER shall not seek to connect or reconnect the connectors and cables prior to receiving approval.
- 5.4.4 overloading will cause trips to activate and immediate reconnection may not be possible, and under no circumstances will be carried out outside normal office hours.
- 5.4.5 supply is provided to and for the Boat only. Shared supply is not permitted.
- 5.4.6 all electricity consumed shall be paid for by the OWNER on demand at the current rate of charges in force at the Marina from time to time.
- 5.4.7 if payment is overdue the supply will be disconnected and a reconnection charge made.
- 5.5 Subject to express agreement to the contrary any work date quoted is given in good faith and is not guaranteed.
- 5.6 Except with the written consent of the COMPANY, which may be withheld at the COMPANY'S sole discretion, no part of the Marina or the Boat shall be used by the OWNER for any commercial purposes, including hiring, embarkation of charter parties/ sale or demonstration for sale or hire of the Boat, provided that the occasional use of the Boat by a friend of the OWNER on payment to the OWNER of a contribution towards the actual running cost of the said Boat shall not be deemed a commercial purposes as hereunder.
- 5.7 OWNERS and USERS shall observe the Byelaws of BHC and Colchester Borough Council and all other rules and regulations affecting the Marina statutory or otherwise.
- 5.8 The OWNER shall be permitted to arrange a private sale of not more than one Boat (such Boat usually being berthed at the premises of the COMPANY) during any one or more periods of 12 consecutive months of the licence granted to the OWNER.
- 5.9 In the event of a private sale, the COMPANY must be notified of the name and address of the purchaser.
- 5.10 The OWNER shall not permit any contractors to work on his Boat whilst in the Marina unless the contractor had first completed the necessary registration documents, provided proof to the Manager of Third Party Liability insurance in the sum of at least one million pounds.

## **6.0 Special Conditions**

- 6.1 The OWNER shall not be permitted to have water borne access to or egress from the Marina during the Winter Season (currently 31<sup>st</sup> October to 1<sup>st</sup> April each year) unless in a genuine emergency such as storm or flood.
- 6.2 Clause 6.1 above is subject to a 1 year period of review during which access and egress will be permitted by arrangement with BHC. In extreme weather conditions the permission may be withheld on the advice of Natural England.
- 6.3 Property owners in the Waterside Development have priority berthing rights. Applicants for berths in the Waterside Marina who are not property owners will be given an annual licence for a berth which is subject to a special clause giving BHC the right to serve 3 months notice of termination of the licence and vacation of the berth in order to accommodate a property owner. Should it be necessary to invoke this clause, BHC undertake to provide a berth on their pontoons in the Harbour for the remaining period of the annual licence if this is required by the vessel owner. A refund of fees based on the difference between the rates applicable will be made.

## **DISCLAIMER**

**The Marina Regulations (“the Regulations”) as may be amended from time to time, shall be complied with at all times by the Owner(s) and User(s)**

**Without prejudice to the foregoing, the Company shall not be under any obligation to take steps to enforce the Regulations for the benefit or at the request of any Owners(s) or User(s), save to the extent that the Company may in its absolute discretion decide to do so.**

**Any person using any part of the Marina or its facilities for whatever purpose and whether by invitation or otherwise does so entirely at their own risk and the OWNER undertakes to bring the contents of this clause to the attention of his family and visitors unless loss damage or injury resulted from our negligence or deliberate act or that of those for whom we are responsible .**