



## **BERTHING/MOORING TERMS AND CONDITIONS**

### **1. GENERAL**

These terms and conditions may be cited as “The Queensway Quay Marina Rules” and represents the licence agreement entered into between the Company and the Owner.

### **2. INTERPRETATION AND APPLICATION**

2.1 In these terms and conditions:

“Company” means Queensway Quay Marina Limited and/or its agents successors and assigns.

“Vessel” means any vessel whether such vessel is actually owned by the Owner or leased or rented by the Owner from a third party.

“Owner” means any owners (whether registered or not), their crew members, servants, agents, charterers, master, licensees, successors, assigns or any person having ostensible responsibility for any Vessel and all of the Queensway Quay Marina Rules shall extend to the Owner and to any crew, family, visitors or invitees of the Owner.

“Marina” means the Marina Basin comprising all that parcel of seabed and the area of water thereon together with the piers and jetties jutting into the sea and the right of support for the said piers and jetties on the seabed and the right of support of all buildings and structures thereon inclusive of the pontoons, the breakwater, the Marina Centre, the quayside and all and any ancillary services provided therefrom.

“Berthing Fee” means the berthing/mooring charges payable in respect of berthing/mooring a Vessel.

“Manager” means the officer or agent of the Company responsible for administration of the Marina

“Day” means 12 mid-day to 12 mid-day.

“Berth” includes all berths, docks, wharves, anchorages or moorings, all buildings, walkways and public areas adjacent thereto, owned or operated by or for the benefit of or under the management or control of the Company.

“Crew” means the crew of the Vessel and any person on board the Vessel or at or about the Berth whether at the invitation, express or implied, of the Owner or otherwise.

2.2 The Queensway Quay Marina Rules shall apply to the navigation, berthing and mooring of vessels in the Marina entry into the Marina by water, land or air and entails acceptance of all of the terms and conditions set out herein and an obligation to observe and perform them.

2.3 The Company reserves the right to introduce regulations which relate solely to the administration of the Marina and which are not inconsistent with the Queensway Quay Marina Rules contained herein and to amend such rules, terms and conditions from time to time. Queensway Quay Marina Rules and any amendments to them shall become effective on being displayed on the Company’s public notice board at the building commonly known as The Marina Centre or other prominent place at the Marina.

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The headings are included for convenience only and are not to be used in construing or interpreting the rules, terms and conditions contained herein.

### **3. BERTHING LICENCE**

3.1 Berths at the Marina may be licenced for the periods and at the rates of charge published from time to time by the Company at the Marina and charges therefore will be calculated by reference to the Company's published list of charges in force at the commencement of the Berthing Licence.

3.2 The Berthing Licence shall not be automatically renewed but will end at the End Date specified in the Berthing Licence if not terminated sooner by the Company or by the Owner under the provisions of clauses 17.

### **4. RESTRICTION ON USE**

4.1 The Owner shall not use the Berth other than for berthing a specific Vessel, which shall only be used for recreational purposes.

4.2 The Berth shall not be used to berth commercial fishing boats, boats carrying passengers for hire, workboats, commercial freight carriers or for any other commercial or industrial purpose whatsoever, without the express permission obtained in writing from the Company.

4.3 The Owner will not engage in any form of advertising whatsoever in the Marina.

4.4 The Owner shall not undertake the sale of the Vessel in the Marina without the consent of the Company in writing and the Company shall be entitled to the payment of an access charge at the rate of 1% of the total sale price or any such other rate as the Company may specify from time to time. At all times the Owner shall forthwith notify the Company in the event that a sale is to take place.

4.5 All vessels in or on the Marina may be moved by the Company to any other part of the Marina.

4.6 If it becomes necessary for the safety of the vessel or for the safety of other users of the Marina or for other vessels or for the safety of the Marina itself, its plant or equipment or for the commencement of works, repairs, construction or improvement or expansions to the Marina or for any other reasonable purpose to board and/or move a vessel to an alternative berth the Company shall in such circumstances have the right and absolute discretion to board, enter or carry out any emergency work on the vessel and then moor, re-berth or move the vessel as may be necessary and the Company's reasonable charges and expenses in respect of the same shall be paid by the Owner

4.7 Owners shall notify the Company in writing when their vessel is left unattended for periods in excess of 48 hours and if the vessel is left in the care of someone other than the Owner or his permanent crew.



## **5. LIABILITY, INDEMNITY AND INSURANCE**

5.1 All vessels and other property in the Marina may be moved by the Company to any other part of the Marina or premises owned by the Company.

5.2 The Company shall not be liable whether in contract, tort or otherwise, for any loss, theft or any other damage of whatsoever nature caused to the Vessel, vehicle, goods or other property of the Owner or others claiming through the Owner except to the extent that such loss, theft or damage may be caused by the negligence or wilful act of the Company or those for whom the Company is responsible.

5.3 The Owner shall insure the Vessel in a sufficient sum against loss or damage howsoever caused and shall maintain third party insurance in respect of himself, the Vessel, vehicles, goods or other property of the Owner, his crew for the time being and his agents, visitors, guests and sub-contractors in a sum of not less than £1,000,000 in respect of each accident or damage and in respect of the Vessel adequate salvage insurance. Such insurance shall be effected and maintained in an insurance office of repute and the Owner shall produce the policy or policies relating thereto to the Company on demand.

5.4 The Owner shall not do or permit anything to be done upon the Marina whereby any policy of insurance against any damage to the Marina for the time being subsisting may be invalidated or rendered void or voidable or whereby the rate of premium thereon may be increased.

5.5 The Owner shall indemnify the Company against all loss, damage, costs, claims, expenses, legal liability incurred by or instituted against the Company or its servants or agents which may be caused by the Owner's Vessel or vehicle or by the Owner, his servants, agents, crew, guests or sub-contractors except to the extent that such loss, damage, cost, claims or proceedings may be caused by the negligence or wilful act of the Company or those for whom it is responsible

5.6 The Owner shall immediately report to the Company all damage done to the Marina by the Vessel or vehicle of the Owner or to any plant, machinery or equipment of the Marina, or any damage done by the Vessel to any other vessels or vehicles in the Marina and the Owner shall forthwith on demand make good to the satisfaction of the Company any damage or injury to the Marina, plant, machinery or equipment of the Marina or of other vessels or vehicles in the Marina or will at the option of the Company repay on demand to the Company or as the Company may direct, all costs and expenses including incidental costs and expenses incurred in making good the same which making good the Company is hereby authorised to do at the expense of the Owner and without prejudice to the generality hereof the Company may deduct from any deposit or any advance payment of the Berthing Fee all or part of any such costs and expenses as aforesaid.

## **6. VESSEL AND VEHICLE MOVEMENTS**

6.1 We reserve the right to enter on board the Vessel and 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. The Company shall not be liable to the Owner for any loss, cost or damage suffered or incurred by the Owner where such action is taken.



6.2 Vessels shall be berthed or moored by you in such manner and position as we may require and unless otherwise agreed adequate warps and fenders for the Vessel shall be provided by you.

6.3 The Owner shall ensure that dinghies, fenders, rafts and all other equipment shall be stowed aboard the Vessel, unless a Berth or storage facility is separately provided by the Company and paid for by the Owner and the Owner shall ensure that no items of boats, gear, fitting or equipment, supplies, stores or similar shall be left upon the Pontoon, jetties or car parks.

6.4 No Vessel, when entering or leaving or manoeuvring in the Marina, shall be navigated at such a speed or direction or in such a manner as to endanger or inconvenience other vessels in the Marina. Vessels are at all times subject to the speed restrictions, directions and all byelaws of Gibraltar Port Authority, Queensway Quay Marina and all Piloting Directions and General Directions, as may be amended from time to time.

6.5 The Owner must at all times comply with all and any traffic control instructions (including but not limited to VHF, traffic control signal lights or any other method that may be operational in the Marina or Premises).

6.6 All Vessels must obtain permission from the Company before entering the Marina to berth alongside the Pontoon and must at all times act in accordance with all instructions given by us.

6.7 No berthing, sail boarding, fishing, waterskiing, water scooting, diving and the like is permitted within the Marina or Premises at anytime. Small children should wear life jackets and they must have an adult in attendance at all times.

6.8 Car parking facilities are not guaranteed by the Company. In the event that parking is available, Owners and their crew are required to park their vehicles in such position and in such a manner as shall from time to time be directed by the Company. Under no circumstances may any vehicle be parked or left so as to obstruct the roadways, walkways, footpaths, slipways, craneage or access points at the Marina or on the Premises. In default, the Company reserves the right to remove any such vehicle by craneage or towing and to charge the Owner for the cost thereof. The Company shall not be liable to the Owner for any loss, cost or damage suffered or incurred by the Owner where such action is taken. No tent, caravan or other vehicle adapted for sleeping may remain on the Company's Premises for any period whatsoever except with prior written consent from the Company.

6.9 The Owner shall not permit or allow any property, gear or equipment under the control or direction of the Owner to be stored on the Marina, including the quayside, piers, pontoons, walkways, fingers or foreshore thereof, without the express permission of the Company.

6.10 The Owner shall ensure that the Vessel and all dinghies, tenders and rafts shall be clearly marked for identification with the name of the Vessel and shall also ensure that they are maintained in good condition and that all dinghies, tenders and rafts are securely stowed aboard the Vessel unless a berth is separately provided by the Company

6.11 The Owner shall not within the Marina moor, sail or manoeuvre the Vessel or any boat or dinghy so as to create a danger, impediment, obstacle or inconvenience to other Marina users.



## 7. RULES OF CONDUCT

7.1 The Owner shall at no time allow any part of the Vessel moored at the Berth to extend beyond the maximum permitted dimensions of the Berth specified in the agreement entered into between the Company and the Owner, with the length being measured from the Berth face of the walkway, pier, pontoon, jetty or quayside where the Vessel is moored. For all purposes the length of the Vessel shall be measured including all extensions such as davits, bowsprits, bumkins, pulpits and pushpits. The Company may at any time verify the length of any vessel notified to it by the Owner.

7.2 The Owner shall not, without the consent of the Company, or in contravention of any Ordinance, regulation or rule, or any local authority bylaw or restriction, live on board the Vessel at the Berth, or permit anyone else to do so. For the purposes of this clause the expression "living on board" shall mean sleeping overnight for consecutive nights or more.

7.3 The Owner shall not permit or allow any children for whom the Owner is responsible, being children under the age of 12 years, to enter into the Marina unless accompanied by an adult.

7.4 The Owner shall not engage in any sailboarding, fishing, water scooting, swimming, diving or underwater activities within the Marina, provided that this shall not prohibit maintenance of the Vessel, subject to such directions as the Company may stipulate from time to time.

7.5 The Owner shall ensure that all halyards, lines, ropes, rigging and sheets on the Vessel at the Berth are secured so that they shall not create any noise. No noisy noxious or objectionable engines, radio or other apparatus or machinery shall be operated within the Marina so as to cause any nuisance or annoyance to the Company or to any other users of the Marina or the adjoining 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.

7.6 For the purposes of mooring the Vessel to the Berth the Owner shall use only the standard mooring lines complete with anti-chafe tubes and shall at all times ensure that these are properly fitted, and that the vessel is properly fendered at all times. Any mooring lines damaged as the result of incorrect use or failure to properly position the anti-chafe tubes shall be replaced at the cost of the Owner.

7.7 The Company may serve on the Owner a notice requiring the Owner, within the time specified in the notice, to repair the fastenings on the Vessel so as to ensure that they will safely secure the Vessel, or the Company will do so and charge accordingly.

7.8 Alcoholic beverages shall not be consumed within the Marina except on private vessels, or other premises where consumption of alcoholic beverages is not prohibited by law. No illegal substances are allowed to be consumed either on board any vessel or within the confines of the Marina.

7.9 The Owner shall not use fire-fighting equipment, which may be supplied by the Company for any purpose other than for fighting of fires.

7.10 The Owner shall not store or bring within the Marina motor spirit, petroleum, petroleum products, fuel, oil, LPG, CNG, kerosene or goods of a similarly dangerous or similarly inflammable nature on any Marina structure or area under the control of the Company without the prior approval of the Company. Provided that nothing within this subclause shall prevent the Owner from carrying small quantities of fuel, in safe containers, in quantities reasonably required for small outboard engines or stoves.

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7.11 The Owner shall not carry out any refuelling of the Vessel within the Marina, unless otherwise directed by the Company. The Company has appointed an agent for refuelling purposes within the confines of the Marina.

7.12 The Owner shall not alter or modify the Berth or adjacent structures in the Marina.

7.13 The Owner shall in the use of the Marina comply with the rules, terms and conditions from time to time applicable thereto, and shall also comply with any special instructions from time to time issued by the Company, the Manager or any of the Company's agents for the efficient, safe and harmonious use of the Marina, and any of its facilities, by any persons entitled thereto.

## **8 PERSONAL NATURE OF THE BERTHING LICENCE**

8.1 The Berthing Licence is personal to the Owner and relates to the Vessel described in the application for berthing. It may not be transferred or assigned to a new Owner or to a different Vessel, either temporarily or permanently, without the express written consent of the Company.

8.2 Unless he has the Company's prior written consent, the Owner shall not lend or transfer the berth (this Berthing Licence being personal to the owner relating to a particular vessel and non-assignable) nor shall he use the berth for any other vessel.

8.3 The Owner shall remain liable for all berthing fees and costs associated with his vessels use of the berth throughout the licence period.

8.4 The physical layout of every Marina and the varying needs and obligations of the Company and its customers require that the Company retains 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 that Berths as is from time to time allocated to him by the Company.

8.5 The Company has the right in its absolute discretion to temporarily or permanently relocate any berth at any time to any other area of the marina

## **9 KEYS OF VESSEL**

9.1 For the convenience of Owners, keys of boats, which should be duplicates, may be deposited at the office, accompanied by any instructions in writing restricting their issue to third parties. Such instructions will be strictly enforced and the Company will accept no responsibility for any consequent delay or inconvenience that may be caused, in all other cases the Pier master will use his discretion as to the issue of keys, but the Company accepts no liability for such issue to persons who appear to be bona fide applicants.

9.2 The company will not beheld responsible for the loss of keys whilst issued to third parties.

## **10. WORKING ON VESSELS**

10.1 Subject to paragraph 11.2 herein no work shall be done to the Vessel whilst at the Marina (unless with the prior written consent of the Company which may be withheld at its sole discretion),

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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 any nuisance or annoyance to any other users of the Marina or any other person residing in the vicinity.

10.2 Prior written consent for work to be carried out on the Vessel at the Marina or Berth shall not without good cause be withheld in the following circumstances:

(a) Where the work to be carried out is work for which the Company, its concessionaires or those who normally carry out work on its behalf would normally employ a specialist sub-contractor; or

(b) Where the Company is satisfied that the whole of the work is remedial and not servicing and is being carried out under warranty by the manufacturer and/or supplier of the Vessel or any part of her equipment to which the warranty relates.

(c) If the Company has set aside an area of the Marina where Owners may carry out work on their vessels, and the work for which consent is sought is restricted to that area and is not to be carried out in a manner prohibited under any rules, terms and conditions for the time being made by the Company with regard thereto.

## **11. DISPOSAL OF RUBBISH**

11.1 All household waste is to be put in one of the bins inside the bin store, if the bins are not in the store waste is to be taken to the bins by the roadside that are awaiting collection.

11.2 For all non household waste a Pier Master needs to be contacted for directions on disposal including the fee for disposal.

## **12. POLLUTION**

12.1 The Owner shall not pollute or permit the pollution of the Marina and quayside or discharge into the Marina or its waters any poisonous, noxious, dangerous or offensive substances.

12.2 Without prejudice to the generality of the preceding provision, the Owner shall not discharge any sewerage or otherwise empty any latrines into the Marina waters, or otherwise dispose of any garbage, oil, fuel or other material whatsoever in the Marina.

## **13. PETS**

13.1 The Owner shall not permit or suffer any pet belonging to the Owner or in the Owner's charge to enter or to remain in the Marina, or land adjacent thereto under the control of the Owner, unless such pet be led by a chain, strap or other efficient restraint.

## **14. WATER AND ELECTRICITY**

14.1 The Company shall provide a specifically allocated metered electrical socket, which must only be used with a compatible plug. The owner is liable to pay the Company's published charge per KWH

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current at the time for all electricity consumed. Such socket is to be used in a safe and secure manner. In the event of the socket being damaged or tampered with in any way the Company shall charge to the Owner the full cost of re-testing the electrical socket, or the cost of replacing or repairing the electrical socket (as the case may be). The Company accepts no liability for misuse of the electrical sockets

14.2 Owners must only draw Fresh Water from a metered outlet specifically allocated for their use by the Pier master and are liable to pay the Company's published charge per litre current at the time for all water drawn.

14.3 The Company expressly reserves the right to terminate the supply of both water and electricity should the same be overdue for a period of four weeks or more.

## **15. LIEN**

Subject to any agreement to the contrary, the Company has the right to exercise a general lien upon the Vessel and/or its gear and equipment whilst in the Marina until such time as any monies due to the Company from the Owner in respect of the Vessel and/or its gear and equipment whether on account of storage, mooring/berthing charges, provision of services, work done or otherwise shall be paid.

## **16. ACCOUNTS**

16.1 The Owner shall pay to the Company the Berthing Fee and all amounts properly due in respect of the Vessel and for the provision of any services provided by the Company at the Marina. In the event of non-payment within fourteen days of issue the Company reserves the right to charge interest on any monies due and owing to the Company at the rate fifteen per centum.

16.2 The Owner agrees to pay the Berthing Fee monthly in advance and any other charges in respect of services provided by the Company to the Owner at the rate agreed between the Company and the Owner or as may be amended from time to time. The Company may alter the rental rate and the rates for the provision of any services by the giving of one month's written notice of such revised rental rates.

16.3 All payments must be made prior to the removal of the Vessel from the Marina.

16.4 Discounts are only valid up to seven days of the invoice start date. After seven days the discount will be removed and full payment will be expected.

16.5 All payments made in advance are non refundable, they are for the prepayment of a berth

16.6 A cancellation fee will be applied if notice has not been given with at least 24hrs of the berth being cancelled. The fee will be a minimum of one days mooring and a maximum of one months mooring, this is calculated on how long the berth is booked for.

16.7 Berth payable as from booking date not arrival date.

16.8 Deposits placed on a berth are non refundable and will only hold a berth for a maximum of two weeks. The amount of deposit will vary dependant on the size of the vessel.



## 17. TERMINATION

17.1 When no date of termination has been agreed in writing between the parties, the Company or the Owner may terminate the licence granted to the Owner by giving the other 7 days notice of such termination, at the expiration of which the Owner shall remove the Vessel from the Marina having paid all dues in full.

17.2 If the Owner fails to remove the Vessel on termination of the licence (whether under this condition or otherwise), the Company shall be entitled:

(a) to charge the Owner with the rental which would have been payable by the Owner to the Company if the licence had not been terminated for the period between termination of the licence and removal of the Vessel from the Marina and/or

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

17.3 In the event of the Owner making default in the observance or performance of any obligation on the Owner's part expressed or implied herein, and such default remaining unsatisfied after 7 days from the date of written notification specifying the default complained of, the Company may thereupon, and without the need for further notice, forthwith cancel and terminate the licence and require that the Vessel be removed from the Marina forthwith. Provided that if the default complained of shall be the non-payment of the Berthing Fee in accordance with clause 16 hereof, then the following provisions shall apply:

(a) If having been notified of a default and not having remedied such default for the non-payment of the Berthing Fee in accordance with clause 16 hereof, the Company may without incurring any liability for so doing and without further notice, remove the Vessel and recover the cost of removal from the Owner.

(b) Where the Company removes the Vessel in accordance with clause 17, it shall be entitled to a lien on the Vessel to the extent of the cost of removal and storage as more particularly set out under clause 17 hereof.

(c) Should the Owner fail to claim the Vessel within the period of one month after the date of such removal, the Company may at any time thereafter offer the same for sale and appropriate the proceeds of any resultant sale in satisfaction of such expenses as may be incurred in respect thereof.

The Company may, if the Company thinks fit, place and maintain on the Vessel such number of custodians as may be necessary, and the Company shall be entitled to a lien on the Vessel to cover the costs in so doing.

## 18. ARRANGEMENTS

18.1 The Owner shall notify the Company in writing immediately of any change of address.

18.2 The decision of the Manager shall be accepted as conclusive.

18.3 The law to which the licence agreement is subject is the law of Gibraltar and the parties submit themselves to the jurisdiction of the Supreme Court of Gibraltar.

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