

Stone Pier

MARINA

Marina Terms & Conditions

1. Definitions

In this Agreement the following words and expressions shall have the following meanings:

“Marina” means the premises situated at Stone Pier Yard above together with the adjoining pontoons, land and water under the control of the Company.

“Company” means Stone Pier Marina Management Ltd (Company Number 15266433) whose Registered Office is situated at Unit 4 Stone Pier Yard, Shore Road, Warsash, Southampton, SO31 9FR.

“Company’s Landlord” means Victoria Rampart Limited (Company Number 00330229) whose Registered Office is situated at Hamble River Boatyard, Bridge Road, Swanwick, Southampton, SO31 7EB.

“Owner” and “Berth Holder” shall for the purpose of this agreement mean the same thing and refers to the legal owner of the Vessel and any charterer, master, agent or other person in charge of the vessel with the Owners permission, excluding the Company.

“Employee” means any person engaged by the Company to conduct the duties required to fulfil the obligations under this Agreement.

“Commencement Date” means the date from which these terms and conditions become enforceable, as described on the front of this Agreement.

“Termination Date” means the date as set out on the front cover of this Agreement or any date applicable under the Terminations Clause.

“Vessel” means the craft described on the front of this Agreement which expression includes where appropriate its gear and equipment including any trailer or cradle.

“Length Overall (LOA)” means the overall length of the space occupied by the Vessel including any fore and aft projections and tenders, temporary or permanent.

“Berthing Year” means the period commencing on the 1st day of April and ending on the following 31st March.

“Annual Berth Holder” means any Owner signing a Berthing Agreement covering the entire berthing year.

“Berth Holder” means any owner signing a Berthing Agreement for any period.

2. The Agreement

- 2.1. This Berthing Agreement relates exclusively to the Owner and to the Vessel described above and shall not be transferrable or assignable to a new Owner or in respect of a different Vessel, either temporarily or permanently, without the express written consent of the Company which consent shall be in the sole discretion of the Company and on such terms as it may require including (where applicable) the creation of a new Berthing Agreement.
- 2.2. This Berthing Agreement will apply to any person in charge of the Vessel with the Owners consent as if they were the Owner, excluding the Company.
- 2.3. This Berthing Agreement will end at the Termination Date specified on the front of this Agreement if not terminated sooner by the Company or by the Owner under the provisions of Clauses 7 or 9.
- 2.4. In the event that the Company shall cease to operate the Marina for any reason then in that event all the benefits and obligations on the part of the Company contained herein shall automatically transfer and vest in the Company’s Landlord Victoria Rampart Limited aforesaid who shall stand in all respects thereafter in the Company’s place.

3. Payment of Berthing Fees

- 3.1. Annual Berth Holders shall pay berthing fees at the fixed charge above for the duration of this Agreement subject to the terms hereunder.

- 3.2. Annual berthing fees are to be paid as a single payment in advance or, in the Company’s discretion, monthly by Standing Order.
- 3.3. Annual Berth Holders paying monthly will attract a surcharge of 5% per annum. In the event that any monthly payment shall be missed for any reason then the whole sum then outstanding shall immediately fall due and payable to the Company.
- 3.4. Annual berthing contracts must be signed and returned before the contract begins.
- 3.5. All berthing fees and where applicable surcharges shall be paid in full to the Company by the termination date failing which the Company reserves the absolute right to decline to grant any further Annual Berthing Agreement thereafter.
- 3.6. Save only owners with whom the Company has entered into an Annual Berthing Agreement, all other berthing will be provided on a monthly, daily, or short stay (<4hrs) basis as the case may be, and at the prevailing monthly, daily or short stay charging rate advertised. Advertised berthing rates may change without prior notice at the sole discretion of the Company.

4. Berth Allocation

- 4.1. The Company will use its best endeavours to provide a berth appropriate to the Vessel’s size and configuration on the Marina for the period of the Berthing Agreement, with access to water, electricity, refuse and dirty oil disposal facilities, dedicated toilets and showers.
- 4.2. Whilst reasonable effort will be made by the Company to provide the same berth for the period of the Berthing Agreement neither the Owner nor the Vessel shall enjoy exclusive rights of occupation or enjoyment of any marina berth and the Company may, from time to time, at its sole discretion, require the Vessel to be removed to another berth.
- 4.3. The Owner shall promptly inform the Company whenever the berth is likely to be unoccupied for a period of more than 24 hours so to enable the Company to exercise its rights to grant third parties temporary occupation of the berth.

5. Annual berth holder’s additional benefits

Annual berth holders will receive such additional benefits as the Company will from time to time provide. Full details of additional benefits will be displayed in the Marina General Rules and/or on the Company’s website.

6. Liability, Indemnity & Insurance

- 6.1. The Company shall not be liable for any loss or damage caused by events or circumstances beyond its reasonable control (such as severe weather conditions, the actions of third parties not employed by the Company or any defect in a customer’s or third party’s property); this extends to loss or damage to Vessels, gear, equipment or other property left with it for work or storage, and harm to persons entering the Marina and/or using any facilities or equipment.
- 6.2. The Company shall take reasonable and proportionate steps having regard to the nature and scale of its business to maintain security at the Marina, and to maintain the facilities and equipment at the Marina in reasonable good working order. In the absence of any causative negligence or other breach of duty on the part of the Company, Vessels, gear, equipment and other property are left with the Company at the Owner’s own risk and Owners should ensure that their own personal and property insurance adequately covers such risks.
- 6.3. 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 in the Vessel or property concerned unless it shall have been expressly engaged to do so by the Owner on 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 any accident that has not been caused by the Company’s negligence or some other breach of duty on its part. 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, and to charge the Owner concerned on a normal commercial charging basis.
- 6.4. Owners shall be liable for any loss or damage caused by them, their crew or their Vessels to the Company or to any third parties and they shall be obliged to maintain adequate insurance including third party liability cover for not less than £2,000,000, against wreck removal, salvage and, where appropriate,

- Employers' Liability cover to at least the statutory minimum. The Owner shall be obliged to produce evidence to the Company of such insurance within 7 days of a request to do so. All annual berth holders are required to ensure the Marina office has a copy of their valid insurance, which should be updated with the Company at the time of the insurance anniversary.
- 6.5. The Owner permits the Company to, at its sole discretion, contact the Owners insurance company for the sole purpose of periodic spot checking during safety audits that valid insurance is in place for the period of occupation of the berth. The Owner remains liable for ensuring they fulfil their commitments under clause 6.4
- 6.6. The Owner and their guests occupy and use the yard, berths, car park and move vessels or vehicles at their own risk. Neither the Company or their employees shall be liable for any personal injury to the Owner, or their guests, or any loss or damage to any vessel, vehicle or other property of any Owner arising from any cause whatsoever, except where the Company is negligent.
- 6.7. The Owner shall indemnify and keep the Company indemnified from and against all actions, proceedings, claims, demands, costs, expenses, losses and liabilities occasioned whether arising from any property damage or personal injury suffered or other losses or expenses incurred by the Owners or his crew, passengers or guests, whether in respect of the use or operation of a Vessel, Vehicle or otherwise.
- 6.8. The Owner shall take all necessary precautions against the outbreak of fire on any vessel or vehicle. No vessel may be brought on to the Marina or into the yard unless it is equipped with adequate and properly maintained fire fighting equipment. As a minimum requirement all vessels with enclosed cabins and engine spaces must have at least one fire extinguisher, which is approved and manufactured to BS 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.
- 6.9. The Owner their crews and invited guests and contractors shall at all times when using the Marina facilities, observe, perform and comply with all statutory rules and regulations effecting the Marina, its associated shore facilities, the Yard and navigation on the pontoon and the adjacent River Hamble. They shall further observe and perform under the Marina General Rules regulating the safe use and enjoyment of those facilities as may from time to time be introduced, varied or altered by the Company in its sole discretion. The Marina General Rules shall be prominently displayed in the Company's Offices, and on other locations within the Marina as the Company shall consider fit, Soft copies of the Marina General Rules are available on request from the marina office and/or from the Company's Website. Owners shall ensure that they and all other persons coming on to the premises will familiarise themselves as to the Marina General Rules and at all times comply therewith.
- 6.10. The Company having taken out Public Liability Insurance, owners shall not do or suffer or permit anything to be done which may invalidate or render avoidable or void such policy, or which may result in the rate of any premium payable by the Company being increased.
- 7. Force Majeure**
- The Company will not be liable for delays in performing or any failure to perform any obligations under this Agreement by reason of force majeure, which shall include but shall not be limited to, circumstances such as war, riot, civil commotion, strike, lock out, adverse weather conditions, acts of God or any other similar or dissimilar circumstances or events beyond the reasonable control of either party. In the event that such circumstances persist for a period exceeding three months the Company shall be entitled to terminate any Agreement with Annual Berth holders forthwith by written notice.
- 8. Access to Premises/Work on The Vessel**
- 8.1 The Owner, or their contractors, is permitted to complete minor running repairs or maintenance of a routine nature provided it neither causes a nuisance nor annoyance to any other Owners or person residing in the vicinity, nor interferes with the Company's schedule of work, nor involves access to prohibited areas.
- 8.2 Prior written consent of the Company is required for any work to a Vessel other than that above which consent if given may be conditional upon the Vessel's movement to a specific berth or lifting ashore to a specific area of the premises as the Company in its sole discretion considers appropriate.
- 8.3 No contractors may work for reward on Vessels without prior permission of the Company. Permission will be granted on proof of valid insurance, as noted under clause 8.4, and should be sought at each visit, from the marina office. The Company will

not charge any contractors fees if permission to work on site is sought and received.

- 8.4 All contractors seeking consent to operate on the Marina or shore side facilities must demonstrate competence and provide proof of adequate insurance, with a minimum public liability cover of £2,000,000 and shall at all times observe the Company's General Rules relating to the premises.
- 8.5 The Company may, in cases of emergency, board, enter or move the Owners Vessel or vehicle, if the Company in its absolute discretion feel it is necessary for the safety of any vessel or vehicle on the marina or the associated shore facilities. The Owner remains responsible for the Company's reasonable charges for such work unless caused by the Company's negligence.
- 9. Terminations**
- 9.1. Annual Berthing Agreements shall start on the commencement date and shall continue until the termination date, unless terminated earlier in accordance with this Agreement.
- 9.2. Annual Berthing Agreements may be terminated with a minimum of 16 weeks' written notice by the Owner to the Company. In this event the Company will be entitled to recalculate the charge for the Berth using the rates that would have been applicable to the actual period of occupation instead of the annual rates, and any additional charge shall then become payable.
- 9.3. All other Berthing Agreements shall be of monthly or daily duration and shall terminate at the expiry of that period unless terminated earlier in accordance with this agreement.
- 9.4. The Company reserves the right to summarily terminate any Berthing Agreement by written notice with immediate effect should the Owner become insolvent, or enter into an arrangement with Creditors, become Bankrupt, fail to make payment in a timely manner of any sum due to the Company hereunder, commits a substantial breach of the terms of this Agreement or fails to comply with the Marina General Rules.
- 9.5. If upon termination any sums are due and payable to the Company then the Owner shall be required to pay that balance before removing the Vessel from the Marina. If there is a balance in favour of the Owner the Company shall pay it upon the vessel's departure from the Marina.
- 10. Rights of Sale and of Detention**
- 10.1 If for whatever cause, the Owner fails to pay all monies due to the Company under this Agreement, the Company may without prejudice to its other rights, take and retain possession of the boat and of all goods and chattels thereon and the Owner shall then be liable for all storage and other charges so incurred by the Company until the Owner has paid all such monies and charges in full.
- 10.2 The Company shall have a lien over the Vessel for all and any monies payable under this Agreement and all and any other claim against The Owner(s) arising from or in connection with this Agreement.
- 10.3 Any vessel or vehicle left at the marina is subject to the provision of the Torts (Interference of Goods) Act 1977, which confers on the company a right of sale exercisable in certain circumstances
- 10.4 Maritime Law entitles the Company in certain other 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.
- 11. Amendments**
- Subject always to the Company's entitlement from time to time to make and vary the Rules regulating the operation of the premises as referred to above, any amendment to the terms of this Agreement shall not take effect unless agreed in writing.
- 12. Limitations**
- The Company shall not be responsible under any circumstances for any indirect losses that may arise including but not limited to increased costs, expenses, loss of use, loss of profit, loss of opportunity, loss of business, contracts and revenue and whether in respect of the Owner, his guests or contractors or otherwise.
- 13. Severance**
- The invalidity in whole or in part of any clause in this Agreement shall not affect the validity of the remainder of such clause or this Agreement.
- 14. Law & Jurisdictions**
- 14.1 This Agreement shall be governed by and construed in all respects in accordance with the Laws of England and shall be subject to the exclusive jurisdiction of the English Courts.
- 14.2 Any disputes relating to or arising from this Agreement shall be referred for Mediation under the BMF Mediation Scheme.