

# **General Conditions**

## **1. DEFINITIONS**

Where the following words appear in these Conditions, in the Licence and in the Company's Regulations they shall have these meanings.

**Company** shall mean Charterbay Marine Services LLC and/or ART Marine LLC trading as **Ghantoot Marina**, or any of its Agents to whom the application for berthing is made which may be one or more of its Associated Companies, Concessionaires, Tenants and Assignees for the operation of the boat Repair Yard, or other Harbour Facility.

**Harbour** shall include a Yacht Harbour, Marina, Mooring or any other facility for launching, navigating, mooring or berthing a vessel.

**Premises** means all the land, adjacent to water and buildings occupied by or under the control of The Company, including docks, slipways, pontoons, jetties, quays, piers, mud berths, sheds, lofts, workshops, hard standing, roadways and car parks.

**Licensee** means the person named as owner in the Licence Application Form and if there is more than one the first named thereof shall include any charterer, master, agent or other person for the time being in charge of the Vessel, excluding The Company.

**Vessel** shall include any form of craft, boat, ship, yacht, dinghy, multihull, or other marine structure, which is in the care, and control of the Licensee.

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

**Berth** means the space on water or land from time to time allocated to the Licensee by the Company for the Vessel during the term of this licence.

**Alongside Berth** means a Berth where a Vessel of appropriate draft may be secured, with access to the shore without the need for a dinghy or tender.

**Storage Ashore Accommodation** means the land space temporarily allocated to the Licensee from time to time by

The Company for the storage ashore of the Vessel during the term of the licence.

**Pontoon** means a moored and decked floating structure providing berthing, landing or mooring facilities.

## **2. THE LICENCE**

- 2.1 Berths at the Harbour or Premises shall be licenced for the periods and at the rates or charge from time to time published by the Company at its Premises and in force at the commencement of this licence. Details of the charges applicable to the Berth at the beginning of the licence will be given to each Licensee at the time that the licence is granted.
- 2.2 This licence shall not be automatically renewed but will end at the conclusion of the period agreed if not terminated sooner by the Company or by the Licensee under the provisions of Clauses 7 or 9.
- 2.3 This licence holder must not use or allow to be used for any purpose other than the mooring of the designated vessel at any berth reserved by the Company from time to time for the berthing of the designated vessel. In particular, such reserved berth, or the designated vessel while berthed at such reserved berth, must not be used for residential purposes (unless approved by the Company) or for any illegal or immoral purpose, or for any activity which may cause nuisance, annoyance or damage to any other user of the premises.
- 2.4 The Company may terminate this agreement by giving the Owner notice if the Owner repudiates his obligations under this agreement and then refund any unused part thereof.

## **3. LIABILITY, INDEMNITY & INSURANCE**

- 3.1 The company shall not be liable for any loss or damage caused by any event or circumstance including, but not limited to, 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 Harbour and/or using any facilities or equipment.
- 3.2 The Company shall take all reasonable steps to maintain security at the Premises, and to maintain the facilities at the Premises and in the Harbour 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 Licensee's own risk and Licensees should ensure that they have appropriate insurance against all relevant risks.
- 3.3 The company shall not be under any obligation to salvage or preserve a Licensee'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 Licensee on Commercial terms. Similarly the Company shall not be under any obligation to salvage or preserve a Licensee'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 Licensee concerned on a normal commercial charging basis (and, where appropriate, to claim a salvage reward).
- 3.4 Licensees 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 AED 10,000,000 and, where appropriate, Employers' Liability cover to at least the statutory minimum.
- 3.5 By signing this document the owner indemnifies the Company against any claims arising from the Licensee's actions or negligence in using the facilities at the premises. The Licensee shall be obliged to produce evidence to the Company of

such insurance within 7 days of being requested to do so by The Company.

#### **4 CHANGE OF DETAILS**

- 4.1 The Licensee must notify The Company in writing of the details of any change of name and/or ownership of the Vessel or change of address or telephone number of the Licensee.

#### **5 BERTH ALLOCATION**

- 5.1 The physical layout of every Harbour and Premises and the varying needs and obligations of the Company and its customers requires that the Company retains absolute control of Berth allocation within the Harbour and Premises. Accordingly the Licensee 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.

#### **6 PERSONAL NATURE OF THE LICENCE**

- 6.1 This licence is personal to the Licensee and relates to the Vessel described in the application for berthing. It may not be transferred or assigned to a new Licensee to a different Vessel either temporarily or permanently, without the express written consent of the Company. This said consent shall only be given where the assignee is a member of the Ghantoot Marina Club.
- 6.2 Within 7 days of any agreement for the sale, transfer or mortgage of a Vessel subject to this licence, the Licensee shall notify the Company in writing of the name, address and telephone numbers of the Purchaser, Transferee or Mortgagee as the case may be.

#### **7 USE OF BERTH BY COMPANY WHEN VACANT**

- 7.1 The Company may have the use of the Berth when it is left vacant by the Licensee.

#### **8 TERMINATION**

- 8.1 The Company shall have the right (without prejudice to any other rights in respect of breaches of the terms of this Licence by the Licensee) to terminate the licence; a) at its sole discretion on

giving to the Licensee one month's written notice, or b) with immediate effect in the event of any material breach by the owner of this Licence.

- 8.2 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 if the breach is capable of remedy, the Company may, but is not obliged to, serve notice on the Licensee specifying the breach and requiring him to remedy the breach within a reasonable time specified by the Company.
- 8.3 Where the breach is serious or poses an immediate risk or threat to the health, safety or welfare of any person or property, the time specified for remedy may be immediate or extremely short.
- 8.4 If the Licensee fails to affect the remedy within that time, or if the breach is not capable of remedy, the Company may serve notice on the Licensee requiring him to remove the Vessel from the Harbour or Premises immediately.
- 8.5 If the Licensee fails to remove the Vessel on termination of this licence whether under this Condition or otherwise, the Company shall be entitled to charge the Licensee at the Company's 24 hour rate for overnight visitors for each day between termination of this licence and the actual date of removal of the Vessel from the Harbour and Premises and/or at the Licensee'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 Harbour and Premises and thereupon secure it elsewhere and charge the Licensee with all costs reasonably arising out of such removal including alternative berthing fees.
- 8.6 Any notice of termination under this Licence shall, in the case of the Licensee, be served personally on the Licensee or sent by registered post or recorded delivery service to the Licensee's last known address and in the case of the Company shall be served at its principal place of business or registered office.

## **9 RIGHT OF SALE & OF DETENTION**

9.1 Where the Company accepts a Vessel, gear, equipment or other goods for berthing, repair, refit, maintenance or storage, the Company does so

subject to the provisions of the Torts (interference with Goods) Act 1977. This Act confers a Right of Sale on the Company in circumstances where a customer fails to collect or accept re-delivery of the goods (which includes a Vessel and/or any other property). Such sale will not take place until the Company has given notice to the customer in accordance with the Act. For the purpose of the Act it is recorded that:

- 9.1.1 Goods for repair and treatment are accepted by the Company on the basis that the customer is the owner of the goods or the owner's authorized agent and that he will take delivery or arrange collection when the repair or treatment has been carried out.
- 9.1.2 The Company's obligation as custodian of goods accepted for storage ends on its notice to the customer of termination of that obligation.
- 9.1.3 The place for delivery and collection of goods shall be at the Company's Premises unless agreed otherwise.
- 9.2 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.
- 9.3 The Company reserves a general right ('a general lien') to detain and hold onto the Licensee's vessel or other property pending payment by the Licensee of any sums due to the Company. If the Licence is terminated or expires while the Company is exercising this right of detention it shall be entitled to charge the Licensee at the Company's 24 hour rate for overnight visitors for each day between termination or expiry of this licence and the actual date of payment (or provision of security) by the Licensee and removal of the Vessel from the Harbour and Premises. The Licensee shall 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.

## **10 TERMINATION BY OWNER**

- 10.1 This Licence may be terminated on 3 months written notice by the Licensee to the Company (for contracts less than 6 months, please refer to invoice). Following such notice the Company shall prepare an account of:
- 10.1.1 all sums owed by the Licensee in respect of services or facilities used up to the intended date of departure of the Vessel, and
- 10.1.2 in the event of the termination of this Licence the Company may in its absolute discretion and without any legal obligation, refund to the Licensee such part of any Licence Fee or Service charge paid in advance as they shall consider appropriate.
- 10.2 The company reserves the right, however, with no legal obligation, to buy back the Licence from the Licensee at the original rate paid by the Licensee.

## **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 Harbour and Premises
- 11.2 Vessels shall be berthed or moored by the Licensee in such a manner and position as the Company may require and, unless otherwise agreed adequate, the Licensee shall provide warps and fenders for the Vessel.
- 11.3 No vessel, when entering or leaving or manoeuvring in the Harbour, shall be navigated at such a speed or in such a manner as to endanger or inconvenience other vessels in the Harbour.
- 11.4 Advisory note: Licensees, their guests and crew are advised that Vessels are at all times subject to the speed restrictions and byelaws of Harbour 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 commercial activity, such as chartering, cruising, is allowed unless a written authorization from the Marina Management is obtained. The management reserves the right to terminate this licence in case this regulation is not observed by the Owner.

## **13 STORAGE**

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

## **14 PARKING**

- 14.1 Subject always to the availability of parking space Licensees and their crew may only park vehicles on the Premises in accordance with the directions of the Company.

## **15 MARINA & HARBOUR REGULATIONS**

- 15.1 The Licensee shall at all times observe the Company's regulations and in particular.
- 15.1.1 The Licensee shall provide and maintain at least one fire extinguisher, which is approved and manufactured to ISO standards for portable fire extinguishers, and ensure it is fit for purpose for the vessel and ready for immediate use in case of fire.
- 15.1.2 Licensees shall refuel only at the designated fuelling berth and are to vacate the berth when the fuelling operation is completed. Where fuel is required to be transferred in portable containers, the Company reserves the right to refuse the use of any container deemed unfit for the purpose.
- 15.2 The Company shall supply the Licensee with a copy of the Regulations current at the time of application for a Licence. The company reserves the right to introduce new regulations on grounds of legal requirement or for the safety or security or good management of the Harbour or 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 the Company's public notice board or other prominent place at the Company's Premises, and the Company shall have the same rights against the Licensee for a breach of the

regulations as for a breach of the terms of this Licence.

- 15.3 Advisory note: Licensees, their guests and crew are advised that their conduct and that of their vessels is likely to be regulated and governed at various times by statutory, local authority and harbour regulations which may be more extensive than those of the Company and the breach of which may result in criminal penalties.

## **16. ACCESS TO PREMISES/WORK ON THE VESSEL**

- 16.1 Subject to Clause 16.2 no work shall be done on the Vessel, gear, equipment or other goods while on the Premises without the Company's prior written consent, other than minor running repairs or minor maintenance of a routine nature by the Licensee, 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, not involving access to prohibited areas.
- 16.2 Prior written consent will not be unreasonably withheld where;
- 16.2.1 The work is of a type for which the Company would normally employ a specialist sub-contractor; or
- 16.2.2 The work is being carried out under warranty by the manufacturer and/or supplier of the Vessel or any part of the equipment to which the warranty relates.
- 16.2.3 Notwithstanding the foregoing, during periods of work by the Company on the vessel, neither the Licensee nor his invitees shall have access to the Vessel without the Company's prior consent, which shall not be unreasonably withheld.

## **17. HEALTH, SAFETY & THE ENVIRONMENT**

- 17.1 Attention is drawn to the Company's Rules and Regulations Handbook, as amended from time to time. The Company shall supply the Licensee with a copy of the Policy current at the time of application for a Licence. Any amendments shall be displayed on the Company's public notice board or other prominent place at the Company's Premises and further copies shall be available on request. The

Licensee, his regular crew, members of his family and/or any person or company carrying out work on the Vessel, with the permission of the Company, must comply with the Company's Health, Safety and Environmental Policy.

- 17.2 The Licensee, 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 Harbour or on the Premises as soon as possible after they occur.
- 17.3 No noisy, noxious or objectionable engines, radio, or other apparatus or machinery shall be operated within the Harbour or Premises so as to cause any nuisance or annoyance to any other users of the Harbour or Premises or to any person residing in the vicinity and the Licensee undertakes for himself, his guests and all using the Vessel, that they shall not behave in such a way as to offend and rigging shall be secured so as not to cause such nuisance or annoyance.
- 17.4 No refuse shall be thrown overboard or left on the pontoons or car parks or on any other part of the Premises, or disposed of in any way other than in the receptacles provided by the Company or by removal from the Company's Harbour and Premises. The Company's further directions regarding waste management shall be posted on the Company's Public Notice Board or other prominent place and copies will be available from the Company on request.
- 17.5 Pet owners are responsible for their pets conduct, including the soiling of pontoons, pathways etc...
- 17.6 Cleaning of boats will not be performed by Charterbay Dubai Marina staff unless a request for cleaning assistance form is completed and signed and handed into the marina office. Cleaning is to be paid for on placement of the request.
- 17.7 The marina waterway is limited to 5 knot speed limit, and the canal waterway is limited to 7 knot speed limit.
- 17.8 All safety equipment stored aboard will be fully operable, accessible and not expired.
- 17.9 No fishing or swimming will be allowed in the marina.

